DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

12 October 1994

Wednesday, 12 October 1994

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

DEATH OF SIR GEOFFREY YEEND, AC, CBE

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

That the Assembly expresses its deep regret at the death of Sir Geoffrey Yeend, AC, CBE, who made a significant contribution to both the Australian Public Service and the academic community in Canberra, and tenders its profound sympathy to his widow and family in their bereavement.

It was with much sadness that I learnt of the recent death of Sir Geoffrey Yeend, at the age of 67. Sir Geoffrey had a distinguished Public Service and academic career and will be remembered for the significant and valuable contributions that he made in both of these fields. Sir Geoffrey attended Canberra High School. He received a Bachelor of Commerce degree from the University of Melbourne, which he achieved through study at the former Canberra University College, which is now part of the Australian National University. So he is an Old Canberran.

Sir Geoffrey joined the Commonwealth Public Service in January 1945. After spending time in the Department of Postwar Reconstruction and the Prime Minister's Department, he served as principal private secretary to Sir Robert Menzies from 1952 to 1955. From 1958 to 1960, Sir Geoffrey was assistant secretary at the Australian High Commission in London. On his return to Australia, Sir Geoffrey returned to the Prime Minister's Department as an assistant secretary, and six years later was promoted to first assistant secretary. By 1972 he was one of the department's deputy secretaries, and he was later appointed secretary by the Fraser Government, after the death of Sir Alan Carmody.

Sir Geoffrey was respected for his well reasoned and unbiased advice to government and received bipartisan support from both sides of the political spectrum. Sir Geoffrey was made a Commander of the Order of the British Empire in 1976 and in 1979 was created a Knight Bachelor for public service. Other honours bestowed upon him included Companion of the Order of Australia and the Order of the Rising Sun, Gold and Silver Star, by the Emperor of Japan for his contribution to the promotion of economic and cultural relations between Australia and Japan.

Sir Geoffrey retired from the Public Service in 1986, following a heart attack. He took up a number of business appointments and company directorships and was a director of the Menzies Memorial Trust. In 1988, Sir Geoffrey was appointed Pro-Chancellor of the Australian National University and was appointed Chancellor in 1990, a position that he held at the time of his death. Sir Geoffrey's wisdom and high standing within government, business and the community were greatly valued by the university. He was a forceful advocate of the mission of the university, and I am sure that he will be greatly missed by his academic colleagues.

As well as having a distinguished professional career, Sir Geoffrey was a keen sportsman and an active member of the community. He represented the ACT in hockey. In 1980, he was presented with the International Hockey Federation's medal of honour in recognition of 17 years' service to the federation. Sir Geoffrey was generous in his support of many organisations. He was a life member of the Australian Hockey Association, vice-patron of the Australian Volleyball Federation, vice-patron of the National Eisteddfod, national vice-president of the Multiple Sclerosis Society of Australia and patron of the Woden Valley Youth Choir.

Sir Geoffrey is survived by his wife, Laurel; his son, Timothy; his daughter, Julie - whom I had the pleasure of working with for some years - three grandchildren; a brother and a sister. I am sure that all members join me in expressing sympathy to Sir Geoffrey's family and friends and in acknowledging his distinguished Public Service and academic career.

MRS CARNELL (Leader of the Opposition): On behalf of the Liberal Party, with a mixed sense of sorrow and regret at his untimely death, I support this motion of condolence and express my sympathy to the friends and family of Sir Geoffrey Yeend. As one of his close colleagues remarked, Sir Geoffrey was the epitome of the ideal public servant. He expressed very high standards of personal behaviour and was renowned for giving advice that was well researched, well reasoned and without political bias. Because of his professionalism, he was able to work closely with governments of different political persuasions. He was highly respected by his political masters for giving advice and providing information that he believed to be proper and correct rather than what they may have wanted to hear. After Cabinet had made a decision, whether he agreed with it or not, he maintained his professionalism in accepting the integrity of the decision and seeing that it was properly carried out. No government could ask for more than that.

Sir Geoffrey was deeply committed to the values of an independent public service. Indeed, the colleague to whom I referred earlier noted that Geoff Yeend believed that public servants should be not the playthings of politicians but the servants of the people. I am sure that we would all share that sentiment. He set an example in public administration which, I hope, not only will be long remembered but also will be an inspiration for public servants and all people in public life in the ACT and in Australia generally.

As well as being remembered for the things that he achieved in public life, Sir Geoffrey will be remembered and respected for his personal qualities of wisdom, kindness and generosity. His colleagues recall him as a very humane and fair person, with a strong sense of duty to his family. He imparted those values to the people with whom he worked. They remarked on his integrity, honesty and frankness in dealing with everybody, from the most junior person to the Prime Minister of the day. As the Chief Minister outlined, Sir Geoffrey continued his distinguished service career in retirement with several directorships and as Chancellor of the Australian National University. The Chief Minister also outlined his sporting prowess and his commitment to various aspects of community life in that area.

We can all be grateful for having been influenced, either directly or indirectly, by somebody of the calibre of Sir Geoffrey Yeend. I think that we would all pay him the highest honour by upholding the principles by which he lived. We all have benefited by Sir Geoffrey living in Canberra.

MS SZUTY: In addressing this condolence motion I will also be speaking on behalf of my colleague Mr Moore. Madam Speaker, I did not know Sir Geoffrey Yeend well. Indeed, I did not know him at all during his years of public service to the community, for which he is well renowned. I came to meet Sir Geoffrey late in his life, when his interests and mine coincided from time to time. I first met Sir Geoffrey and Lady Yeend at the annual Town versus Gown cricket match at the ANU, held during the Canberra Festival in 1992. There was not much cricket played that day, due to the inclement weather. However, a delightful lunch was held in the marquee and enjoyed by all who attended. It was in this way that I came to know Sir Geoffrey in his capacity as Chancellor of the Australian National University, a position that he held from 1990.

Some months later, I met Sir Geoffrey and Lady Yeend again, this time at the opening of the new hockey field at the Lyneham Hockey Centre. There I learnt of the long involvement of Sir Geoffrey and his brother Frank with hockey in the ACT. My further knowledge of Sir Geoffrey was through his activities as a member of the Royal Canberra Golf Club, where some months ago he was active in promoting proposals for further development of the golf course and facilities. During the occasions on which I met Sir Geoffrey, I came to know him as a gentle man, extremely knowledgeable about the issues and interests of concern to him and always pleasant company. He will be sadly missed by the Canberra community. I would like to extend my sincere and profound sympathy to his family and friends on their loss.

MR DE DOMENICO: Madam Speaker, I also rise in support of the motion of condolence moved by the Chief Minister. I knew Sir Geoffrey Yeend very well in a number of areas. The Chief Minister, Mrs Carnell and Ms Szuty have quite well catalogued his life. I met Sir Geoffrey when he was a public servant and when I was, at that stage, doing another job of work - lobbying. He was always very courteous, sometimes abrupt - courteously abrupt - but always willing to listen. I used to seek Sir Geoffrey's advice when I took on various responsibilities in this place, especially in the sporting area. I was also one of those lucky people who received his advice on business matters. We all know of Sir Geoffrey's interest in South-East Asia, particularly in terms of business.

Sir Geoffrey and I shared some major interests such as the Multiple Sclerosis Society, which Ms Follett spoke about, and Rotary. Sir Geoffrey was always pleased to attend the various Rotary clubs and, as a guest speaker, relate his experiences to us. About two years ago, when I was first envisaging visiting South Africa, Sir Geoffrey came to me to make sure that I stuck to my guns and did go. At that stage, his son was working in the Australian Embassy in South Africa. He wanted me to go over there and see and speak to as many people as possible, to make sure that what has, thankfully, now happened in South Africa did happen.

I support the motion of condolence. I pay my respects to Lady Yeend and the family and friends of Sir Geoffrey. He will be sadly missed. The bottom line is that Sir Geoffrey was a bloody good bloke and a magnificent Australian. I, personally, will miss him, as I am sure all Canberrans will.

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

NOISE CONTROL (AMENDMENT) BILL 1994

MR STEFANIAK (10.42): Madam Speaker, I present the Noise Control (Amendment) Bill 1994.

Title read by Clerk.

MR STEFANIAK: I move:

That this Bill be agreed to in principle.

I foreshadow that I will be moving to discharge order of the day No. 18, private members business. That relates to a similar Bill introduced by my colleague Mr Westende.

Mr Moore: Why was that inadequate?

MR STEFANIAK: This is as a result of advice received after that Bill was introduced. There were a couple of technical and legal difficulties with that Bill; hence the need for a new Bill. This Bill has been worked on over a period of several months, in consultation with a number of groups and with expert opinion from both legal people and Challis and Associates, consulting acoustical and vibration engineers, who are experts in the field and whom, I understand, the ACT Government has used on a number of occasions in relation to similar matters.

Madam Speaker, there is a need for a change to the situation in the ACT. I suggest to members that the ACT is out of kilter with the rest of Australia. The Australian situation is basically that the common measurement used for motor sport is 95 decibels at 30 metres from the track. This is the Confederation of Australian Motor Sport standard. It is used Australia-wide and is certainly the standard used at New South Wales tracks.

Recently a new track was established at Wakefield Park in Goulburn, which, I am told, uses this standard. Already a number of Canberra motor sports are going to Goulburn to participate because it is far simpler for them to operate there than in the ACT, where our current situation is cumbersome in the extreme and also lacking in certainty.

Madam Speaker, it is my understanding, although I was not in the Assembly at the time, that at one stage the ACT Government deleted section 12 of the Noise Control Act. I fear that it may have been misguided in deleting that section. This Bill attempts to remedy any damage that might have been done there and puts back that section. At present, in the ACT, motor sport is regulated by a number of provisions of the Noise Control Act. The fundamental provision applying to all noise in the ACT is section 3 of the Noise Control Regulations, which prescribes noise levels at premises. Section 3 states:

For the purposes of the definition of "excessive noise" ... the following noise levels are prescribed in respect of premises generally in respect of the following times of day -

(a) between the hours of 7 a.m. and 10 p.m. on a day - the level that is 5 dB(A) above the background noise; and

(b) between the hours of 10 p.m. and 7 a.m. on the following day - the level equal to the level of the background noise.

It is very difficult for a lot of human activity to comply with a level of five decibels above the background noise. In fact, I am told by an expert in the area, Mr Louis Challis, that it is virtually impossible, given the nature of human activity. Normal conversation registers 60 decibels, and a three-metre light van in transit registers 80 decibels. That is well and truly above ambient background noise, which I understand to be somewhere between 30 and 36 decibels, depending on the circumstances. In his correspondence with me, Mr Challis has indicated that the Legislative Assembly for the ACT should understand that any Act or law that proposes that noise emission associated with any human activity can be controlled so as to ensure that it does not produce noise levels of more than five decibels above the pre-existing background sound level is fraught with danger. King Canute tried that approach with the sea, and it did not work then.

The ACT has further provisions in relation to motor sport. The Minister has in place a system of exemptions which are given to motor sports. These tend to be blanket exemptions that limit the number of days on which motor sports can use certain facilities. The exemptions are given, pursuant to section 16 of the Act, by the Pollution Control Authority, which is subject to the direction of the Minister. The authority has a number of guidelines that it looks at to assist it in making its decision. Unfortunately, each time an activity is held, an application has to be put in. The sports concerned are worried about the unnecessary bureaucracy involved in that and also about the fact that whether they are granted permission or not is very much at the whim of the authority and the Minister of the day.

In regard to motor sport, the ACT is very different from the rest of the country. I accept, and the motor sports accept too, that there is one type of racing where you will always need exemptions, and that is dragway racing. That is the case in New South Wales. In Canberra, we have the Canberra International Dragway, which is near the RAAF base at Fairbairn. That will continue to need section 16 exemptions, even if my Bill is successful, because that is the case in other States. It is interesting to note that there have been no complaints in relation to the use of the dragway although it certainly generates very loud noise.

There is a further problem, which is the lack of certainty about how noise has actually been measured. There certainly have been complaints made to my party and, no doubt, to the Minister and his department, in relation to how noise is being measured. When a complaint is made, the Environment Protection Authority has to send an inspector to the site and to the nearest residence to where the complaint is actually made, to take measurements. That might take some time. There have also been problems on a number of occasions in relation to how the measurements have been taken and whether they have been made accurately. There has been a fair bit of toing-and-froing in relation to that.

One of the big problems is that the measurements are invariably taken some minutes, and possibly over an hour, after the initial complaint is made. That is not a satisfactory situation for the complainant, and it is certainly not a satisfactory situation for the motor sport concerned. They really do not know what they need to do to comply with the requirements. It seems that there are very few real guidelines as to exactly what requirements they have to comply with. They are in a very difficult position when it comes to taking proper measures to modify their vehicles so that they satisfy the requirements. In many instances, they tend to be in a catch-22 situation.

The ACT has an interesting history in relation to this problem. I need to make some brief mention of that in relation to this Bill. A number of sites currently used in the ACT are mentioned in the Bill. One is Sutton Park, which used to be the police driver training centre and which is now a transport training centre. It is hired out to other groups on occasions. The Fairbairn Park site is used by a lot of people for go-karting. Even young people down to the age of seven use it. Motorcycle racing and certain other motor sports are conducted there, and the drag-racing is held near the RAAF base at Fairbairn.

When it was mooted back in 1989 - by Paul Whalan, initially, as Minister for Sport, then by me and then by Mr Collaery in the Alliance Government - that the Sutton Park driver training site be upgraded to include a major raceway, the protest groups became very vocal. A number of protests came specifically from the Ridgeway, and, interestingly enough, at that stage, from people at Oaks Estate in the Australian Capital Territory, who also had a natural concern that there might be a fair amount of noise coming from there. It then became a driver training establishment again. A lot of the protest groups petered out, and there were certainly no more complaints from Oaks Estate. It is interesting that Oaks Estate is just 1.1 kilometres from the motor activities at Fairbairn Park and Sutton.

The nearest house in the Ridgeway, which is in New South Wales, is some 1.6 kilometres from the motor facility. I am advised that the only complaint now seems to come from one particular person. In the last 12 months, that person has been responsible for some 36 per cent of all noise complaints made to the ACT authorities. That would indicate that the person might be somewhat eccentric or overzealous, or possibly both.

There have also been a number of allegations made by various people in relation to this matter. They range from bias in terms of what happens on the Ridgeway, to a lack of proper sound equipment being used up there, to people up there - the complainant, I understand - having a defective sound measuring device, and a number of other matters which I do not intend to canvass today. I think that is an unfortunate situation. It would seem that the ACT Government has to be very cautious when looking at the complaints by that particular person. I stress that, to my knowledge, there have been none from Oaks Estate since the idea of using the Sutton Park facility as the major raceway ceased to be on the table. It is certainly very dangerous for the ACT Government to go against the sensible wishes of many Territory citizens and be guided by what appears to be the complaint of only one person in New South Wales. That is a strange situation indeed.

Madam Speaker, there are a lot of people in the ACT who participate in motor racing. There are some 3,000 active participants in the sport here, I am told. They are riders, drivers and officials. They range from children of seven years to the elderly. In addition, in the ACT, there are many thousands of supporters and people who simply like racing and who go to these events as spectators. Motor racing in Canberra has some very big ramifications in bringing people from outside Canberra to the city. Even for go-kart racing, you might have 70 or 100 karts participating on any one day. People come from Sydney and as far afield as the Gold Coast, Albury-Wodonga, Dubbo and Melbourne for those events. Naturally, Canberra people would go to some of those places, too, for events. It is very much a family day as far as that sport is concerned. Even something as low-key as that tends to generate about $20,000 because many of the people coming to the ACT for that activity have to stay in hotels. That sport has done a number of studies, which show that about that amount of money is spent and that a lot of good hotel accommodation is used by participants from outside the ACT. That is at the lower end of the scale.

At the top end of the scale, we have the Esanda rally, which is big news for Canberra. It is very popular. It brings in a lot of tourist dollars. It positively promotes Canberra to international and national visitors as a great place to go to, because it is held in a wide range of areas of the ACT and people can see how beautiful the ACT is. There is big potential for major race meetings in Canberra. A grand prix through the streets of Canberra has been mooted. I imagine that it would need a section 16 exemption. Motor racing is big business. Many people lamented the grand prix going to Adelaide due to Malcolm Fraser's inactivity and perhaps a bit of overzealousness on the part of a couple of people in a few suburbs here who complained. South Australia was delighted to get it; but South Australia is now very upset that it has lost the grand prix to cash-strapped Victoria, which spent a lot of time and money in taking the grand prix away from South Australia. I think that is indicative of how big motor racing is and the potential it has to generate tourism and tourism dollars.

Naturally, any legislation has to be fair. It has to balance all interests. What my Bill seeks to do is to bring the ACT into line with the standard which applies throughout the rest of Australia, which is a sensible compromise, balancing all interests. I noted with some pleasure yesterday that the Minister stated that there are five sites, which he is yet to determine, which he is looking at in terms of improving motor racing in Canberra. That is welcomed, and I would certainly welcome an early decision in relation to those sites. That in itself would alleviate some of the problems which are faced at present, but certainly not all of them. Some of the current motor racing sites could be relocated, which would be of benefit. To build anything new takes time. Figures given to me by the motor racing people indicate that such a site might not be operative until the year 2000. There is certainly a hiatus period before any new sites are used.

In the ACT there are other sites, or parts of sites, that will continue to be used where, because of their very nature, sensible noise control measures and a system of measurement need to be in place. It is interesting to note, Madam Speaker, that the driver training track at Sutton Park has a facility whereby 95 decibels at 30 metres can, in fact, be measured. That is common at New South Wales race tracks and other race tracks throughout the country. There is already a properly surveyed site at that track where equipment can be set up. It would be a shame not to use it.

Madam Speaker, I would direct members to a few of the clauses in my Bill. Clause 5 revises the definition of "excessive noise". It includes provisions for premises where motor sport is conducted and indicates that the 95-decibel measure will be the measurement used there. The Bill adds to the definition of where organised sport is to be conducted a list of places known as at 1 September this year and also makes provision for any other place or places that are declared by the Minister, by notice in the *Gazette*, to be places where organised motor sport is to be conducted. Naturally, that will occur from time to time as other sites are selected. The Minister has virtually foreshadowed that.

The Bill further enables a review of decisions in relation to these particular points to be made by the Administrative Appeals Tribunal. It provides for the addition of a standard to the Noise Control Manual. That is section 12. The Bill enables that standard to be amended by the Assembly rather than just by the Minister, which would normally happen, and provides for the Assembly to put in place the required standard in the manual. It ensures that the Minister will put that standard in the manual within 14 days of the commencement of this Bill, should it become law.

The schedule, through section 12, introduces the 95 decibels at 30 metres standard. It lists the instrumentation and procedures that have to be used and the Australian standards that have to be followed. It also incorporates real state-of-the-art stuff, as a result of advice received from Australia's leading expert in this field, Louis Challis, on the best possible way of measuring noise on a motor track, by ensuring that the measurement sites will not be more than 32.5 metres away from the nearside of the vehicle being tested. That is to ensure that there can be no possible abuse by the motor sport and by drivers of the testing standards, which is known to have occurred in some parts of the country where there have been large tracks, more than 10 metres wide.

In those instances drivers have been known to go to the inside of the track, thereby getting well away from the 30 metres needed to do a proper noise reading. The provisions of the schedule will ensure that the noise reading is the most accurate possible in all the circumstances.

It also requires the measuring devices to be calibrated, not only before and after the readings are taken but also, on a regular basis, at periods of not longer than two years, so that complete accuracy can be obtained. The calibrating devices and the technical requirements involved here are very similar to the technical requirements for the breathalyser, which I had a fair bit to do with as a prosecutor. One of the big problems with current measurements of sound has been allegations of lack of use of proper procedures. If those things where absolute accuracy has to be used by the testing officer were challenged in a court, I would think that prosecutions under the current Act would be few and far between. That would involve the Government in a lot of expense - if the problems that we had when the breathalyser was introduced are anything to go by. As lawyers would know, in the ACT it took about 10 years to get the breathalyser right. This is a very technical piece of legislation. When one measures sound or anything else by means of mechanical instruments, by its very nature, in fairness to the people concerned, it has to be accurate.

This Bill brings the ACT into line with the standards used in other States. It is a Bill that will provide certainty and protection to all people concerned in this issue - not only to people involved in the motor sports but also to citizens who may not particularly like motor sports and who may be concerned about excessive noise. It is a Bill that properly represents all interests. It is well overdue. It is a Bill by which all sensible people involved in the area - whether they are residents who may not know about motor sport or whether they are participants - can have a definable, accurate means of measuring noise. Rather than having to wait minutes or even hours for someone to turn up to measure the noise, if a vehicle is emitting too much noise, that vehicle can be stopped, sent home and not allowed back on the track until such time as it is fixed. That is the procedure adopted in other States, and that should be the procedure here. This is a fair Bill, and I commend it to the house. Madam Speaker, I seek leave to present an explanatory memorandum.

Leave granted.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport): Madam Speaker, I seek leave to speak on this matter before the Minister does.

Leave granted.

MR LAMONT: I have taken the unusual step of seeking leave to comment on the Bill at this early stage, on the day that it is introduced, to raise a number of concerns that I have. First of all, some of the comment that has been made as justification for the introduction of a Bill such as this is erroneous, because it relies on what is believed to be the accepted standard adopted by CAMS in the State of New South Wales; that is, that a measurement of 95 dB(A) at 30 metres is an acceptable measurement to determine the level of background noise or the level of noise which should be agreed to at a motor sports venue.

That is not how the noise levels in New South Wales were determined. I think it is appropriate that that be placed on the record immediately. A measurement of 10 decibels above background noise at the nearest residence has generally been used as the appropriate start point for the measurement of noise associated with motor sport.

What you do then is arrive at a figure - and that figure is 95 dB(A) - at a particular distance from the track site to determine a convenient point of measurement, which is what Mr Stefaniak is attempting to do, so that people involved in motor sports will be able to identify a reasonable place of measurement, as opposed to what they consider to be the quite onerous obligations under the existing Act. If we accept that concept, that we should remain below 10 dB(A) above background noise at the nearest residence, then at every site where motor sport is conducted it will change. A unilateral provision, such as that proposed by Mr Stefaniak's Bill, would be equally as unworkable as it is suggested the current system is.

For example, let us look at Fairbairn Park. At the nearest residence, the noise emitted from Fairbairn Park is between 15 and 18 dB(A) above the background noise. If we adopt a measurement which is 95 dB(A) at 30 metres, it is still going to mean that this legislation will allow for a higher noise output than that which has basically been accepted in New South Wales.

Mr De Domenico: Rubbish!

MR LAMONT: It is not rubbish, Mr De Domenico. That is simply the fact.

Mr De Domenico: Why do you not have a proper look at the Bill? Go and talk to the New South Wales authorities.

MR LAMONT: Your ignorance in this matter, Mr De Domenico, is being demonstrated by your interjections.

Mr De Domenico: Go and talk to the New South Wales authorities.

MR LAMONT: In fact, I have done so, Mr De Domenico. The agreement to 95 dB(A) at 30 metres for places like Eastern Creek was on the basis of the establishment of a convenient measurement point. It was for no other reason. It was convenient for the people conducting motor sport to proceed 30 metres away because it meant that the noise at the nearest residence was 10 dB(A) above background noise. That is the test. That is the measurement that you should be looking for. But it is not going to help you at Fairbairn Park because you cannot get Fairbairn Park to operate where there is that accepted limit, even in New South Wales, of 10 dB(A) above background noise. Bear in mind that, for every 5 dB(A) you measure, you double the noise volume. I think that it is important to have that on the record at this stage so that you can look at that, Mr Stefaniak, before you come back and attempt to debate the detail stage of the Bill.

Mr Stefaniak: Madam Speaker, I seek leave to make a comment in response to Mr Lamont's statement.

MADAM SPEAKER: Is leave granted?

Mr Moore: It is inappropriate.

Mr Stefaniak: Madam Speaker, it is all right. I will withdraw that. I will speak when we talk about it in principle. If Mr Lamont has a sensible amendment, I would be delighted to look at it.

Debate (on motion by Mr Wood) adjourned.

DISCHARGE OF ORDER OF THE DAY

MR STEFANIAK: Madam Speaker, I ask for leave of the Assembly to move a motion to discharge order of the day No. 18, private members business.

Leave granted.

MR STEFANIAK: I move:

That order of the day No. 18, private members business, relating to the Noise Control Manual Amendment Bill 1994, be discharged from the notice paper.

Madam Speaker, this Bill, which was introduced back in May by my colleague Mr Westende, had some technical difficulties. Accordingly, on the basis of legal advice and advice from the various motor sports, I would ask that it not proceed. As I indicated earlier, the current Bill, which has been drafted with legal support and with support from experts like Mr Challis and motor racing bodies - I reiterate that for the benefit of Mr Lamont - has been substituted in its place. In relation to the Bill that I have just introduced in place of Mr Westende's, I would certainly invite any member of this Assembly who thinks they can make it better to come and see me and come up with amendments.

Question resolved in the affirmative.

MEDICAL TREATMENT BILL 1994
Detail Stage

Clause 4

Debate resumed from 21 September 1994.

MADAM SPEAKER: The question is: That Mr Connolly's amendment No. 2 be agreed to.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 5 agreed to.

Clause 6

MR CONNOLLY (Attorney-General and Minister for Health) (11.10): I move:

Page 3, lines 19 to 24, omit the words on the lines, substitute the following:

"may make a direction in writing, orally or in any other way in which the person can communicate to refuse, or for the withdrawal of, medical treatment -

(a) generally; or

(b) of a particular kind;

for a current condition.".

Madam Speaker, this is a Government amendment to clarify the way in which a direction can be set out. The reasons behind it are set out in the explanatory memorandum. It is a fairly technical amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 7 agreed to.

Clause 8

MR CONNOLLY (Attorney-General and Minister for Health) (11.11): I move:

Page 4, lines 1 to 4, omit the clause, substitute the following clause:

Other directions - requirements

"8. Subject to sections 5 and 10, a direction other than a written direction is not valid unless it is witnessed by 2 health professionals (1 of whom shall be a medical practitioner) present at the same time.".

Madam Speaker, this amendment again goes to the nature of directions, and it is consistent with the amendment which we have just picked up in relation to clause 6.

MR KAINE (11.11): Madam Speaker, I think members by now will have become aware that there is much about this Bill that concerns me, and this is just another cause - - -

Mr Moore: You voted against advance directives.

MR KAINE: If Mr Moore wants to talk, he can get to his feet and talk later, Madam Speaker. This is another case where I am concerned about the ramifications of the legislation. This Bill places the onus on two health professionals to make a decision. We will come shortly to a debate about the meaning of certain words which preclude the operation of, I think, section 17 of the Crimes Act, which has to do with assisting in a suicide. If this Bill becomes law, I can see that there will be many cases where the actions of health professionals in circumstances such as this will be challenged.

I am interested to know how, if a decision made by two health professionals under these circumstances is brought into question in a court of law, it is going to be validated. The Bill simply says:

Subject to sections 5 and 10, an oral direction is not valid unless it is witnessed by 2 health professionals (1 of whom shall be a medical practitioner) present at the same time.

Mr Moore: Come on! This is straight filibustering. You know how things work in court.

MR KAINE: Madam Speaker, I take exception to that. I have legitimate objections to this Bill, and I am debating those objections. I am not concerned about a filibuster or Mr Moore's opinion about that. I have genuine concerns about this Bill; and I intend to express them, whether it pleases Mr Moore or whether it does not. This is yet another clause in the Bill that causes me great concern. How does one determine after the event whether these conditions that are prescribed here have been met - that such directions have in fact been witnessed by two health professionals; that one of those professionals was a medical practitioner; and that those health professionals were present at the same time?

We are getting into a question of the interpretation of this law at some time perhaps long after the event. I believe, first of all, that the acceptance of an oral direction under these circumstances is quite dangerous. I have said that I object to the concept of an oral direction anyway. If it is in writing, fair enough.

Mr Moore: I raise a point of order, Madam Speaker. Mr Kaine himself draws attention to the fact that he has already put an argument and that he is about to repeat it. I draw his attention to standing order 62, which relates to irrelevant and tedious repetition.

MADAM SPEAKER: Mr Moore, I will allow Mr Kaine to continue. Please continue, Mr Kaine.

MR KAINE: Thank you, Madam Speaker. I know that Mr Moore is fanatical about this Bill. I know that Mr Moore does not intend to stop at passive euthanasia; I know that at some future time he will be moving towards active euthanasia.

Mr Moore: Because I have told you.

MR KAINE: Exactly. I have a contrary view, Mr Moore, and I am entitled to argue it. I do not have to put up with your interjections at every moment questioning my motives. Why do you not just sit quietly? If you have a valid argument, present it later.

Mr Moore: I will. You are filibustering, and you know it. You have filibustered for two days of private members business so far.

MR KAINE: You can have a go. Madam Speaker, I think I am entitled to express my concern about the fact that an oral direction under this provision of the Bill, if it becomes an Act, places a very questionable responsibility on medical practitioners in the first place. I wonder how many of them will accept the onus or responsibility that Mr Moore is proposing to put on medical professionals.

I am concerned about the later interpretation by courts of law in cases - and I am sure that there will be such cases - in which the circumstances envisaged in this clause of the Bill are under question. They will be under question, because not everybody is as enthusiastic about either passive or active euthanasia as Mr Moore is, and in many cases they are not going to accept the provisions of this law quietly. There will be many challenges to it. It is just another case of what I indicated before - medical professionals being placed in the position, in litigation that occurs after the event, of having to justify their actions. I think it is unacceptable, I think it is unreasonable and I think Mr Moore would do well to reconsider and to withdraw the clause. I make it quite clear, Madam Speaker, that I do not support this clause. I do not endorse it in any form, amended or unamended, and I intend to vote against it.

MR CONNOLLY (Attorney-General and Minister for Health) (11.17): Madam Speaker, I increasingly suspect that Mr Kaine is not in favour of this legislation, but I am intervening at the detail stage because I think he is working on a fundamental misconception of what the legislation is about. There is a lot of propaganda running about the town suggesting that this is somehow a suicide law; that this is about active death. A lot of Mr Kaine's comments suggested that this clause is dangerous because it allows two doctors, or a doctor and somebody else, to go away and kill somebody. It does not. What this law is about, Madam Speaker, is codifying the proposition that a person is entitled to refuse medical treatment. That, Madam Speaker, has always been the law. The problem has been that the common law has been vague. How you apply the common law has been a difficulty.

I would just like to run you through some cases to establish that proposition, although it is well known. The best-known example, in lay terms, is the fundamental tenet of a certain religious group, Jehovah's Witnesses, that they will not accept a blood transfusion. It is well known that Jehovah's Witnesses will not accept a blood transfusion, even though the advice of the most senior doctors may well be that if they do not have a blood transfusion they will die. It has always been the law that, when a Jehovah's Witness says, "It is my religious belief that I should not take a blood transfusion", the doctor is obliged to not give the blood transfusion.

Mr Humphries: Not for their children.

MR CONNOLLY: That goes to the question of the consent of the individual. The parent cannot necessarily consent to a child dying. That is a question that a court would have to look at in relation to what the child's wishes were, and in most cases the court would order a blood transfusion. There has been such litigation. Cases in Australia, Canada and England have constantly reaffirmed that it is the right of the individual to say whether they want medical treatment or not.

The most recent affirmation of that was in 1992, in the decision of the Northern Territory Health and Community Services Department against J. The individual was not identified because it was a case involving sterilisation of a child who had mental disabilities. McHugh J. stated, at page 337 of 1992 ALJR 300:

It is the central thesis of the common law doctrine of trespass to the person that the voluntary choices and decisions of an adult person of sound mind concerning what is or is not done to his or her body must be respected and accepted, irrespective of what others, including doctors, may think is in the best interests of that particular person.

The central point there is that it is a fundamental doctrine that an adult of sound mind - persons under a disability raise additional problems, and that is one of the reasons why we are trying to qualify this - has the right to say no. At common law, you now have the right to say, "I do not want that treatment. I do not want that machine to continue. I want that machine turned off". That has been the case for many years in Australia.

Mr Moore: Even for a blood transfusion you have the right to say no.

MR CONNOLLY: Even for a blood transfusion, a very simple procedure. It has been the common law in England; it has been the common law in Australia; it has been the common law in Canada; it has been the common law in the United States, to the extent to which the United States doctrines are valuable. But how can a doctor prove that what he did was correct? How can a doctor, if he is later sued for negligence, prove what he was doing? While the patient has the fundamental right to say no, it is also fundamental that the doctor is obliged to use all his or her skill to provide the best treatment to a person. The doctor is in a potential conflict. The doctor is legally obliged to follow the patient's wishes.

Cases have shown that, if a doctor says to a Jehovah's Witness, "I am going to save your life, despite what you say, and give you a blood transfusion", and indeed does save the life of a person who otherwise would have died, that doctor will be sued and will lose because they trespassed. They committed a tort on the person by not following their direction. If the doctor obeys the direction, there is always the risk that relatives may later sue the doctor and say, "You were negligent in not exercising your utmost skill and providing the blood transfusion". The doctor would say, "But I was obeying the wishes of the person". How do you prove that? What is the mechanism for proving that? What proof is necessary? What we are trying to do here is effectively to codify what has long been the common law and provide a workable code that makes that very difficult decision for doctors easier to apply.

It would be reasonable to have debates here about what should be the form of proof, what proof should be required, whether we need one witness or two witnesses and whether we need two doctors or one doctor and one other health professional. It is quite proper to debate all of those issues of detail in the detail stage, but Mr Kaine continues to say that fundamentally he is opposed to this measure because this is a dangerous change in the law which is going to allow doctors to kill people. "This is euthanasia", say Mr Kaine and propagandists around the town who are opposing this legislation. I have to say that it is not. That is a fundamental misconception of what the Bill and the common law do.

It seems from the interjections that Mr Kaine acknowledges and accepts that this has always been the law. He is saying, "How does this improve it in detail?". That would be a legitimate point to make, Mr Kaine, if you were focusing on improving the detail of the legislation and making it more workable; but, as you have said from day one, you are opposed in principle to the legislation. I cannot understand this, when you must acknowledge that this has always been the common law and must acknowledge the Jehovah's Witness example of the blood transfusion. It is perfectly lawful for a Jehovah's Witness to say to the doctor, "No, I will not have a blood transfusion", and it is perfectly proper for the doctor, knowing that the person will die, perhaps even within minutes, if they are not given a blood transfusion, to say, "I respect your wishes and I will allow you to die". You must accept that, because that has been the case for many years - for centuries, to the extent that we can trace back the common law of trespass.

If you accept that, I cannot understand your objection in principle to this legislation. I can understand objections to detail. There has been a lot of movement in detail from Mr Moore's original Bill through the committee stage, the Bill recommended by the committee and introduced by Mr Moore, and the Government's detailed amendments that we are now debating. Mr Moore has accepted a lot of those detail changes. Further protections have been built in at the detail stage to make it abundantly clear that the right of pain relief - and I will go to some law on that later on - is only such as is reasonable. So, we are making it very clear that this is not a suicide Bill. If you accept, as you do, Mr Kaine, that there is a common law right to refuse treatment, I find it hard to understand an objection in principle to what this Bill is trying to do.

MR MOORE (11.24): Madam Speaker, there is no doubt that Mr Kaine and some of his colleagues have simply been filibustering in this process. He knows quite well, Madam Speaker, that a couple of health professionals being witnesses can be dealt with in court in the normal way. They can be asked what happened and cross-examined. He knows quite well that that is a normal process, and Mr Connolly has certainly clarified that for him.

Let me give another example, Madam Speaker. After a private members business session on this Bill, Mr Kaine said that, shame, horror, there were 50-odd amendments to this Bill. Then, of course, the Right to Life people were on the radio all that day saying, "This must be a fatally flawed Bill, because it has so many amendments to it". That very afternoon, in this chamber, we continued the most appropriate process of debating the Commercial and Tenancy Tribunal Bill, which had over 50 amendments. There were many more amendments to that Bill than there are to this Bill; but did we hear Mr Kaine saying, "This is a terribly fatally flawed Bill because it has all these amendments."? Not at all. In this case, Madam Speaker, it is a simple filibuster. Although Mr Kaine has not actually called for a vote to be counted, he sits there calling no, no, no, as each clause comes down. That is quite flabbergasting on a Bill of this nature.

Mr Kaine draws attention to the fact that I have made it quite clear publicly and in this house that I intend to pursue active euthanasia. I think that maybe the problem is that he is confusing what is before us - passive euthanasia - with my agenda. I have no difficulty with Mr Kaine expressing his opinion on anything, but to take such an incredibly conservative stand on a Bill on passive euthanasia reflects a simpering attitude to the Right to Life movement.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 9

MR CONNOLLY (Attorney-General and Minister for Health) (11.26): Madam Speaker, I move:

Page 4, line 6, subclause (1), omit "written or oral".

Again this amendment clarifies the form of directions.

Amendment agreed to.

Clause, as amended, agreed to.

Proposed new clause 9A

MR CONNOLLY (11.27): Madam Speaker, I move:

That the following new clause be inserted in the Bill:

Cessation of direction

"9A. A direction ceases to apply to a person if the medical condition of the person has changed to such an extent that the condition in relation to which the direction was given is no longer current.".

This amendment relates to the extent to which a direction remains valid. It says that a direction ceases to be valid if it was conditional upon a condition that has ceased to apply.

Proposed new clause agreed to.

Clause 10

MR MOORE (11.27): I move:

Page 4, lines 21 and 22, paragraphs (1)(b) and (c), omit the paragraphs, substitute the following paragraphs:

"(b) any alternative forms of treatment that may be available;

(c) the consequences of those forms of treatment; and

(d) the consequences of remaining untreated.".

Madam Speaker, the amendment simply adds to the provision that a person be informed of alternative treatment provisions that they ought to be informed of the consequences of having that treatment and also the consequences of remaining untreated. Mr Connolly gave the example of somebody who wished to refuse a blood transfusion. In such a case there are clearly consequences of remaining untreated. To clarify that, I thought it appropriate to move this amendment.

Amendment agreed to.

MR HUMPHRIES (11.28), by leave: Madam Speaker, I move:

Page 4, line 18, after "informed", insert:

", by a health professional other than the medical practitioner primarily responsible for the care of the person.".

Madam Speaker, clause 10, as it stands at the moment, provides that before complying with a direction a health professional has to take reasonable steps to ensure that the patient is informed about a number of things - the nature of the illness, the alternative forms of treatment, and the consequences of remaining untreated. Now Mr Moore seeks to add a paragraph. There is obviously sensitivity about the way in which this relationship between a patient and, generally, a doctor will work. It will be important to establish in these cases that a patient has indeed made an informed decision about the way in which he or she wishes to be treated. It is extremely important in these circumstances to avoid a situation where it could be said that possibly the doctor treating the patient inveigled or influenced an individual to make a decision which was convenient to that doctor, for example.

I suggest through my amendment that we strengthen the protections available in this legislation by inserting a provision that requires that step - to inform a person about the consequences of their action - to be taken by a health professional other than the medical practitioner primarily responsible for the care of the person, so that it is possible in a sense for two opinions to be obtained by that person before they take that step. Generally, of course, the doctor primarily responsible for treatment will be taking the step of advising his patient about what the consequences of this particular direction might be. In turn, a second person will have to come in and give separate independent advice about that matter. This is equivalent to a situation where, for example, a lawyer advises a client about a benefit in a will that would benefit that lawyer. I know that it is a slightly different situation, but in those circumstances the present law provides that a second person has to come in and advise the testator about the nature of that particular gift, and a second person has to be involved in making the advice clearly independent and acceptable.

Madam Speaker, we have at least the same obligation to provide that independence in this case here. It would not significantly weaken the thrust of the legislation. It would not make it difficult for a person to impart that instruction or direction to the people giving them medical treatment. But it would mean that an additional step would have to be taken to ensure that a person was properly and independently informed of the consequences of their action. For that reason, I think this amendment is warranted.

MR CONNOLLY (Attorney-General and Minister for Health) (11.31): Madam Speaker, the Government will not be supporting this amendment. This raises the issue of informed consent, which is an area of law and medical practice which at the moment is a difficult one, I acknowledge, and one that I certainly have in mind. I am discussing with the ACT Community Law Reform Committee its taking this issue on as a major reference. I think it would take some years to look at. The Victorian Government had a look at it a couple of years ago through their Law Reform Commission, and nothing much came of it. The National Health and Medical Research Council has recently put out some papers on informed consent and what it means. That information is very useful but really focuses more on medical procedures than the law.

What we did in the original Bill was, essentially, for the first time, to bring in a legislative requirement for informed consent when withholding treatment that may lead to death. Mr Moore moved a significant amendment which we supported. Perhaps we should have spoken to it, but we were trying to speed the process up. That amendment was to the effect that information should be given not only on alternative forms of treatment that might be available and the consequences of that treatment but also on the consequences of remaining untreated. So, he has said that you have to have informed consent not only about what is available and what that might mean but also about the consequences of the downside to that, of not being treated.

Mr Humphries is now suggesting that you need a second doctor. I do not see why we should legislatively say that you need a second opinion on this, when we do not legislatively say it every day in the oncology department at the hospital when a specialist says, "I believe that you should undergo a course of chemotherapy and I should tell you that the course of chemotherapy may have the following consequences".

Mr Humphries: This is a matter of life and death very often, Terry.

MR CONNOLLY: So is this. I use that example because it is well known that chemotherapy, in the aggressive forms particularly, is used against an aggressive disease which is likely to bring imminent death. It can often have very drastic consequences for the health of the person. But we do not mandate as a matter of law that you need a second doctor there. Mr Humphries used the example of a lawyer with a vested interest in a will. That is saying that there is a conflict of interest; we do that because we cannot necessarily trust a lawyer who may himself stand to be a beneficiary. I can understand that, but I do not think it is appropriate for us to say that we do not trust the doctor.

It is certainly desirable as a matter of practice in the case of chemotherapy, as in the case here, that persons themselves get a second opinion. I can recall a couple of years ago Mr Berry suggesting second opinions in the case of elective surgery, and there were howls from members opposite, particularly Mr Humphries. Second opinions can be a very desirable thing to get, but I do not believe that we should legislatively sanction them when we are already going further into this area than has been done legislatively to date.

We are mandating a form of informed consent, which is a rather rare, positive thing to do. The Government supported the original intent of the legislation, and we supported Mr Moore's amendment, which actually takes it a bit further and requires that that informed consent be more comprehensive; but we do not support saying, "And you must by legislative mandate get a second medical opinion to go with that first informed consent medical opinion". Certainly, when the Community Law Reform Committee moves into legislation for informed consent, I would be most surprised if we ended up with a legislative model that required second opinions in every case.

MR STEVENSON (11.35): The amendment proposed by Mr Humphries is a safeguard. In my estimation, there should be no real objection to it. Mr Connolly said that it is really about not trusting the doctor, but it does not have to be. It can simply be held that it is a good idea to have a second opinion as a requirement. Mr Connolly would certainly not say that there are some cases where it might be wise not to trust the doctor, even if it was one in a thousand. From both viewpoints it is a safeguard, and a logical one, and one wonders why it would not be agreed to.

MR MOORE (11.36): I think it is important for us to try to perceive the practical situation. A doctor is dealing with somebody who is trying to determine whether or not they are going to request that a life support system be removed. Such a person ought to be informed. A patient-doctor relationship is usually established over a long time. This amendment would force the medical practitioner to say, "I cannot tell you about the consequences. I am going to have to ask somebody else to do it". Alternatively, he would have to say, "I am going to tell you, but somebody else has to do it as well". That would undermine the relationship between the patient and the health professional who has the primary care of that person. Patients are becoming more and more conscious of their right to ask for a second opinion. It is becoming more and more common. I believe that to mandate it in this Bill is pointless and harmful.

MR HUMPHRIES (11.37): Madam Speaker, I find it hard to see how it could possibly be harmful, but may I correct a couple of misapprehensions? First of all, Mr Connolly is not correct in saying that I am suggesting that there be a second doctor. I said that a second health professional should be involved. It could be one of the other people referred to in the Bill. That person could give this counselling to patients. It could be a nurse.

Secondly, I am not suggesting, as Mr Moore indicated, that the primary health carer, the primary doctor, cannot give advice to his patient about the way in which a particular course of action might turn out. Of course he can. But he has to get a second opinion on that matter. Why is a second opinion needed in this matter? It is obviously a matter in which very often life and death will be involved. It is a matter of extreme seriousness. We are talking about withdrawing treatment from a person. This might lead - from the way this is designed, I suspect that it quite often will - to death. It is entirely reasonable, in those circumstances, it seems to me, to offer some additional protections.

Mr Connolly said, "We are comparing a doctor in these circumstances to a lawyer with a vested interest". I have to tell you that one of the arguments in this area is that sometimes there is a vested interest in the profession in these matters. That is the argument that takes place - there is a vested interest. I think it is naive in the extreme to imagine that vested interests will not be a factor, even in a doctor's treatment of a patient. I have great admiration for doctors in this town and, indeed, generally. The Government would probably acknowledge that that has possibly been a problem for the Liberal Party. But the fact of life is that we cannot assume that all doctors will act on all occasions with only the best of motives. Sometimes other factors will intrude, and it is safe and it is healthy to include an additional safeguard. It is not an onerous requirement. It does not mean a lot of forms being filled in or other documents having to be passed around. It means simply getting a second opinion on a matter which could result in death. It does not seem to me to be a lot to ask.

MR STEVENSON (11.39): Once again, I think it important to understand the value of having this safeguard. Even a doctor with the very best of motives may be wrong. There would be hundreds of thousands of cases where one doctor has disagreed with another doctor on medical treatment. In a case as serious as this, there is value in getting a second opinion. Mr Connolly suggested that that may not be the case because no second opinion is required in chemotherapy. I would personally suggest that it should be, and that would be a more relevant viewpoint.

Amendment negatived.

MR CONNOLLY (11.40), by leave: I move:

Page 4, line 24, omit "person appeared", substitute "health professional believes on reasonable grounds that the person has".

Page 4, line 25, omit "to understand", substitute "understood".

Page 4, line 26, omit "to weigh", substitute "weighed".

Page 4, line 27, omit "to affirm", substitute "affirms".

I think it is worth pointing out that this is a further safeguard. This is again exactly the sort of thing that Mr Moore was talking about. We look at the Bill and we look for further safeguards. The original form of the Bill basically says that you cannot give effect to the informed consent direction to withhold medical treatment unless the person appeared to have understood it and to have weighed the options and so forth. That, when we looked at it carefully, was a purely subjective test. The doctor could have said, "He appeared to me to have understood that and yes, there could be scope for danger there". So, instead of a subjective test and the health professional simply saying, "Yes, subjectively, to me, the person appeared to have understood it", we are tightening this up by putting in an objective test requiring that the health professional believe on reasonable grounds that the person has understood the informed consent process, weighed their various options and affirmed their decision.

To the extent that members opposite who are concerned about this say that we need to look at safeguards, here is an example of a Government moved amendment - which I understand is supported by Mr Moore - further tightening up the Bill and providing safeguards to ensure that we have an objective test whereby the doctor or the health professional has to show that there were reasonable grounds for believing that the person understood the informed consent when the person made the decision.

Amendments agreed to.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole

Amendments (by Mr Connolly), by leave, agreed to:

Page 4, line 32, clause 11, omit "satisfied", substitute "the health professional believes on reasonable grounds".

Page 5, line 10, clause 11, omit "incompetent", substitute "incapacitated".

Page 5, line 23, clause 13, omit "incompetent", substitute "incapacitated".

Page 6, line 32, clause 13, omit "incompetent", substitute "incapacitated".

Page 6, line 33 and page 7, lines 1 to 9, clause 13, omit the words on the lines, substitute the following:

"any power of a guardian to consent to medical treatment, where that guardian was appointed for the person under the *Guardianship and Management of Property Act 1991* after the direction was made or the power of attorney was granted, shall be exercised in a manner that is consistent with the direction or power of attorney.".

Page 7, line 12, clause 17, add the following subclauses:

"(3) Where a person creates an enduring power of attorney under the *Powers of Attorney Act 1956*, any direction made or power of attorney granted by the person under this Act that is in effect shall be taken to be revoked.

"(4) Where a person makes a direction or grants a power of attorney under this Act, any enduring power of attorney created by the person under the *Powers of Attorney Act 1956* that is in effect shall, to the extent that it applies to the withholding or withdrawal of medical treatment, be taken to be revoked but otherwise remains in effect.".

Page 7, lines 14 to 18, clause 17, omit the subclause, substitute the following subclause:

"(1) A person who -

(a) by any deception or fraud procures or obtains; or

(b) uses violence, threats, intimidation or otherwise hinders or interferes with another person for the purpose of procuring or obtaining;

from a person (whether directly or indirectly) a direction or power of attorney is guilty of an offence punishable, on conviction, by a term of imprisonment not exceeding 5 years.".

MR STEVENSON (11.43): I move:

Page 8, line 22, clause 22, after "Territory", insert "other than the laws relating to homicide and suicide".

This amendment would make an exemption for laws relating to homicide and suicide. It has been stated by members in this Assembly that this Bill is not intended to be used for active euthanasia, notwithstanding that that may be their intention at a later stage. A legal opinion on that by the Melbourne QC Charles Francis is most pertinent. I quote from relevant parts of that opinion:

The Bill ... provides, in Clause 22, that, notwithstanding the provisions of any other law of the Territory, a patient under the care of a health professional has -

if the Bill is amended by Mr Connolly's amendments - and it will be, I suggest -

... a right to receive "relief from pain and suffering to the maximum extent that is reasonable in the circumstances".

The first question posed concerns the effect of clause 22, if it is amended by the amendments, on the law relating to homicide and suicide in the Territory.

Mr Francis states:

The first question asks, more particularly, whether the amended form of Clause 22 could have the effect of protecting a health professional from laws relating to homicide and suicide if that health professional administers a drug or engages in any other course of conduct intended to bring about the death of a patient (in order to accord that person maximum relief from pain or suffering or both).

... ...

The right proposed to be conferred by the Clause differs from rights of the sort often contained in actual or proposed Bills of Rights in various jurisdictions in that the latter generally confer on the grantee a right not to be restrained from doing something (as with a right to bear arms, for example) or a right not to be coerced into doing something (as, for example, the right to remain silent). In such cases, the corresponding duty imposed on others is relatively clear, namely a duty not to interfere with the exercise of the right.

However, the right proposed to be conferred by Clause 22 is more akin to what are often referred to as "social rights", for example, a "right to affordable housing". In such cases, without a detailed specification of the nature and extent of the corresponding duties, and the persons subject to those duties, it is usually difficult to determine what such a right actually confers on the beneficiary or imposes on others in the community.

This difficulty of interpretation is made particularly acute by the fact that the opening words of Clause 22 provide that the Clause operates notwithstanding the provisions of any other law of the Territory. Apart from overriding any parts of the criminal law inconsistent with its provisions, one might ask if and to what extent a Clause such as Clause 22 might override civil or regulatory laws of the Territory which may restrict (in a matter judged to be "unreasonable" in a particular set of circumstances) the right conferred. For example, would Clause 22 override laws limiting the quantities of analgesics or sedatives which may be provided to particular persons, or in particular circumstances?

It may well be that a court would read into Clause 22(1) after the word "receive" the words "from that health professional". Assuming this to be the case, I turn to the possible effect of Clause 22 on the law relating to homicide.

Section 12 of the ACT Crimes Act 1900 provides that a person commits murder if he or she causes the death of another person intending to cause the death of any person or with reckless indifference to the probability of causing the death of any person.

It has been said that by "intention" is meant a purpose or decision to bring something about (Hyam [1975] A.C. 55 at 74). It has also been held, in the context of the terminally ill patient, that if the first purpose of medicine - the restoration of health - cannot be achieved, the doctor is entitled to do all that is proper and necessary to relieve pain and suffering even if the measures he takes might incidentally shorten life by hours or even longer (R v. Adams [1957] Crim. L.R. 365, per Devlin J.).

In such a case, it would seem the requisite fault element for murder is not present and that the intention of the doctor is not to bring about the death of the patient but to relieve pain and suffering ...

The words "Notwithstanding the provisions of any other law of the Territory" indicate an unambiguous and unqualified intention to override the existing law, including the criminal law. The right conferred by section 22(1), as proposed to be amended by the Amendments, is qualified only by the fact that it is conferred "to the maximum extent which is reasonable in the circumstances". Thus the law of homicide is only preserved where relief from pain and suffering is granted to an unreasonable extent. What is "unreasonable" would ultimately depend upon the personal view of the judge or the particular jury with, presumably, little guidance from the judge.

... ...

In Opera House Investment Pty Ltd v. Devon Buildings Pty Ltd (1936) 55 CLR 110, 116, Latham CJ noted:

The word "reasonable" has often been declared to mean "reasonable in all the circumstances of the case". The real question, in my opinion, is to determine what circumstances are relevant. In determining this question regard must be paid to the nature of the transaction.

In the context of the criminal law the word "reasonable" has caused difficulties, and in relation to "proof beyond reasonable doubt" many judges now direct that the words simply mean what they say.

Relevant circumstances for determining whether the maximum level of relief from pain and suffering that is reasonable has been provided might include whether the provision of more relief might, in relation to the pain and suffering being undergone by the patient, be prohibitively expensive or difficult to administer or produce even less desired side effects. More obviously, Clause 22(2) indicates that "the patient's account of his or her level of pain and suffering" is a "relevant circumstance".

It would clearly not be reasonable to administer drugs or embark on a course of action with the intention of bringing about the death of a patient if relief from pain and suffering could be achieved in some less drastic way. If, however, pain and suffering could not be relieved adequately in that way (particularly as the patient's own account of his or her pain and suffering might have it) the question becomes more difficult. Might a court decide that it would be reasonable in such circumstances to take measures intended to bring about the death of the patient in circumstances where the defence in Adams may not apply, for example, when the patient is not terminally ill (see Skegg ... p. 136, footnote 55).

Given the terms of Clause 22, I do not think that this possibility can be excluded. It is not impossible to imagine circumstances where a court might hold that a sick or disabled person's pain and suffering, physical or mental, could not be relieved except by the bringing about of death, whether or not that person is terminally ill, and that this might be "reasonable" in the context of Clause 22, particularly where this was also the view of the patient. In the case of Re B [1990] 3 All ER 927, 929, the English Court of Appeal determined that it was in the interest of a child with Down's Syndrome to have an operation to relieve an intestinal blockage but Templeman L left open the possibility that:

There may be cases, I know not, of severe proved damage where the future is so certain and where the life of the child is so bound to be full of pain and suffering that the court might be driven to a different conclusion ... (at 929)

Here the QC refers to statements in the house by Mr Connolly indicating that it is not the intention of the Government to bring about active euthanasia through the Bill. Mr Francis goes on to say:

Official records of debates in the Legislative Assembly may be considered to determine the meaning of a legislative provision when the provision is ambiguous or obscure (sections 11B(1)(b) and (2)(dd) of the Interpretation Act 1967). But Clause 22 is clearly drawn to override other laws of the Territory. Since the existing law allows, at least in the context of the terminally ill patient, the administration of whatever drugs are necessary for the relief of pain and suffering, even if such drugs have as one of their consequences a shortening of life, Clause 22 must be taken to intend to permit something further than that. It is possible that a court might hold that the interpretation of Clause 22 in this way was by no means ambiguous or obscure, and thus that no contrary indication in the official records of debate would be taken into account. The meaning is, however, at least sufficiently uncertain for a judge, when determining its meaning, to be strongly influenced by his own personal views on euthanasia.

MADAM SPEAKER: Mr Stevenson, your time has expired. Do you wish to speak a second time?

MR STEVENSON: Yes, Madam Speaker.

MADAM SPEAKER: You may start again.

MR STEVENSON (11.53): Mr Francis states:

I turn now to the issue of whether the amended form of Clause 22 could have the effect of protecting a health professional from the laws of the Territory relating to suicide in certain circumstances.

Clause 16 of the ACT Crimes Act abolished the rule of law that it is an offence for a person to commit or to attempt to commit suicide.

Clause 17(1) provides that a person who aids or abets a suicide is guilty of an offence. On the same reasoning as set out above in relation to the protection of a health professional from liability for homicide, the possibility cannot be excluded that a court will hold that there are circumstances in which aiding a patient to bring about his or her own death is "reasonable" in the context of Clause 22. Again, if this is not intended by the legislature, Clause 22 should be amended ... by adding a specific provision preserving the law relating to suicide.

... ...

The third question posed concerns the effect of various provisions of Part II and Part III of the Bill (as they may be amended by the Amendments) on the law relating to suicide and homicide.

In responding to this question I have had the benefit of an Opinion given by J.D. Merralls, Q.C., dated May 1989 and a Supplementary Opinion dated August 1989, both relating to the effect of various provisions of the Victorian Medical Treatment (Enduring Powers of Attorney) Bill.

Clause 6 of the Bill (if amended by the Amendments) provides that a person over 18 years of age and of sound mind may make a direction in writing, orally or in any other way to refuse medical treatment generally or of a particular kind for a current condition. Clauses 10 and 11 of the Bill (if amended by the Amendments) provide for certain conditions to be met before a health professional may give effect to a direction - for example, the health professional must take all reasonable steps to ensure that the patient has been informed of certain

matters such as the nature of the illness and the consequences of remaining untreated and the health professional believes on reasonable grounds that the person has understood the information, weighed the options and affirmed the decision to refuse treatment.

... ...

I am asked whether the authority given by Clause 12 of the Bill to a grantee to consent to the withdrawal or withholding of treatment has the effect that the grantee who gives such consent in the circumstances set out in the Bill and with the intention of causing death may not be guilty of murder or manslaughter.

My view is that since Clause 12 confers on the grantee authority to consent to the withholding or withdrawal of treatment, it would be a good defence to a charge of murder or manslaughter to plead justification by virtue of Clauses 12 and 15.

I am also asked if a health professional who acted in compliance with Clause 21 would be protected against a charge of murder if he or she acted in accordance with the request of a grantee to withhold or withdraw treatment and intended the patient to die. As noted above, the meaning of the words "in good faith" in Clause 21 is not entirely clear but in my opinion it would be possible for a health practitioner to withdraw and withhold treatment in order to bring about the death of a patient, believing honestly on reasonable grounds (and without ulterior motive) that a request by the grantee has been made in accordance with the Act.

As I mentioned earlier, all members in this house have stated that their intention, if they agree with the Bill, is not to have it used for active euthanasia. We see from the legal opinion from Mr Francis that there is ambiguity here. That interpretation means that other possibilities are open. I suggest, on the basis of the advice of Mr Francis, that the amendment that I propose to clause 22 specifically inserting "other than the laws relating to homicide and suicide" would prevent homicide and assisted suicide. If the intention of members is not to allow that, I would hold that they should agree with the amendment.

When I surveyed on this Medical Treatment Bill, the question I asked was:

Should someone be able to refuse medical treatment (an operation, drug or any other medical procedure) even if it was considered vital to support their life?

The result was seven to two in favour of a person being able to refuse medical treatment, with approximately 10 per cent being unsure. I did not ask about active euthanasia, because the indication was that the Bill was not about active euthanasia. The reason I voted for the Bill in principle was that it was held by members supporting the Bill not to be about active euthanasia. However, I hold that the legal opinion of Mr Francis shows

that there clearly could be confusion in this area that would be removed by the amendment. I do not think anyone would suggest that the amendment would cause other problems. Mr Moore might have something to say about that. I invite members to make their comments on this particular clause and amendment.

MR CONNOLLY (Attorney-General and Minister for Health) (11.59): Madam Speaker, the Government will not be supporting this amendment, because we believe that it is redundant. The amendments which have previously been put and explained make it clear - put it beyond doubt, if there were any doubt - that this is not a Bill about active euthanasia. The objection to that is based on an opinion from Mr Francis, QC, of the Melbourne Bar. Mr Francis's opinion acknowledges, at page 5, that if a court looks at the debates it will be clear from my statements in bringing in those amendments what the intention of the chamber was. He then says that you can go to the debate only if there is doubt and that a court may think that there is no doubt that clause 22 was meant to totally abolish the rules on murder and suicide and to mean active euthanasia. I think that is an enormous leap of faith. Having said that at page 6, he then goes on to say:

The meaning is, however, at least sufficiently uncertain for a judge, when determining its meaning, to be strongly influenced by his own personal views on euthanasia.

If the fear is that it is so uncertain, that is an acknowledgment that the legislative trigger for bringing in the external debates has been sprung and you go back to those paragraphs that Mr Francis himself quotes on page 5, which make it clear that it is not our intention.

On this question of double intent, as it has been referred to by the law, Mr Francis refers to Adams's case. Although he says that it is well established, he raises some doubts as to whether it would be changed by the enactment of clause 22. Again for the purposes of any court further looking at this, let me say undoubtedly that that is not the intent; that clause 22 is not meant to interfere with the law in Adams's case. While one lawyer does not like to criticise another lawyer, and in particular an Attorney-General does not like to criticise a queen's counsel, I find it striking that the advice does not refer - - -

Mr Humphries: That is why you abolished them.

MR CONNOLLY: I think it was you who suggested that in your committee report, Mr Humphries, and we tend to agree with it. I find it surprising that in this opinion - and it is a very learned discussion of the doctrine of double intent - Mr Francis does not refer to the most recent authority on the matter, which is a decision of the English House of Lords in 1993 in the Airedale National Health Service Trust against Bland, reported in the 1993 volume of the Appeal Cases at page 789. That decision very accurately restates the so-called doctrine of double intent. The leading speech of Lord Goff states:

The doctor who is caring for a [terminally ill patient] cannot, in my opinion, be under an absolute obligation to prolong his life by any means available to him, regardless of the quality of the patient's life. Common humanity requires otherwise, as do medical ethics and good medical practice accepted in this country and overseas.

I would insert in parenthesis the seven to two result in the opinion poll in which people said that it is appropriate for treatment to be withheld. Lord Goff goes on:

As I see it, the doctor's decision whether or not to take any such a step must (subject to his patient's ability to give or withhold his consent) be made in the best interest of the patient. It is this principle too which, in my opinion, underlies the established rule that a doctor may, when caring for a patient who is, for example, dying of cancer, lawfully administer pain killing drugs despite the fact that he knows that an incidental effect of that application will be to abbreviate the patient's life. Such a decision may properly be made as part of the care of the living patient, in his best interests; and on this basis, the treatment will be lawful. Moreover, where the doctor's treatment of his patients is lawful, the patient's death will be regarded in law as exclusively caused by the injury or disease to which his condition is attributable.

He goes on:

The question is not whether the doctor should take a course which will kill his patient, or even take a course which has the effect of accelerating his death. The question is whether the doctor should or should not continue to provide his patient with medical treatment or care which, if continued, will prolong his patient's life.

It is a restatement of the proposition that, where you are providing pain-killing relief which has the incidental effect of hastening a death, it is not regarded as causing it. There is a distinction between that and the lethal injection which proponents of active euthanasia would support. Proponents of active euthanasia would say that you should have the ability to say, "I want a lethal shot". There is no question that, as the law stands and as the Act as passed by this Assembly stands - if it is passed in the form the Government is supporting - it would be murder to give a lethal pain-killing injection.

But the doctor may provide reasonable pain relief under the principle of Adams's case. Mr Francis correctly cited that case but questioned whether it was affected by clause 22. Given the most recent reaffirmation of Adams's case by the House of Lords in the 1993 decision in the case of Bland, which Mr Francis does not cite, and given the extent to which in a court case somebody may look at these speeches, it is clearly the intention of the Government, as I said when we first introduced these amendments and as Mr Francis cites in his opinion, to seek to lock in that principle of double intent. We are seeking to draw a very clear distinction between an injection which is administered for the purposes of pain relief but which may clearly have the effect of hastening death and the giving of a lethal injection. That distinction is, in my view, very clearly established in law, as Mr Francis says it is. He refers back to the 1957 House of Lords decision. I would say that that decision is further strengthened by the 1993 reaffirmation of that principle and further strengthened, to the extent that there is any doubt, by the very clear views of the proponents and the opponents of this Bill that that is what we are intending to do here.

The fear, I suppose, of the Francis opinion is that a court may not have regard to these clarifications and these qualifications, that a court may not have regard to what has been said in this Assembly, because the court is overwhelmingly of the view that this was a Bill that authorised active euthanasia. But even Mr Francis has to say that that could occur only because the meaning is, however, at least sufficiently uncertain for a judge to form that view. If the judge takes the view that the meaning is uncertain, counsel have the ability to go to the debates. I was party to a case in the High Court in which counsel sought to say to the court, "You should not have recourse to the explanatory memorandum and the parliamentary debates, because in order to have such recourse there must be uncertainty, and in my submission to the bench there is no uncertainty". In response to that argument the bench said, "Well, counsel, you say one thing and your opponent says the other. There is uncertainty. We will go to the debates to see whether they are any help".

It is a fairly tortured argument to say that, in a matter involving such a fundamental issue as whether a Bill intended and publicly portrayed as a Bill to allow for natural death in fact authorises active euthanasia, a court could ever say, "There is no uncertainty here. We will not go to the *Hansard*". In every case you would have the party on one side saying, "Hang on! This is not about active euthanasia". Almost certainly, public interest groups would intervene, even if you had concert between the doctor and a patient, or a patient's family who were wanting active euthanasia and trying to slip the matter through. Almost certainly, you would have intervention by somebody seeking a court order to say that this was not appropriate. You would have somebody saying, "The law is not clear". The court would then say, "The law, as we have been told, is not clear. We will look at *Hansard*". A look at *Hansard* would show that my introductory remarks, which Mr Francis cites in his opinion, clarify that this is not a Bill about active euthanasia.

The Government is not supporting these amendments, because we think that this Bill is intended to override the law of murder or of suicide, and we are not supporting them, because we believe that they are redundant; but we are supporting the provisions in the Bill, because we believe that they sufficiently clarify the position.

Mr Stevenson: Madam Speaker, I seek leave to table the opinion by Charles Francis, QC.

Leave granted.

MR KAINE (12.08): Madam Speaker, this clause is one of those which concern me most about this Bill. It is headed, "Adequate pain relief". That is what it purports to talk about. The fact that the Attorney-General felt it so necessary to spend so long talking in some very detailed technical legal terms in justification of it terrifies me. If he feels it necessary to justify it in those terms here, you can imagine the debates that are going to go on in the courts in the future when this is a question of contention.

Mr Connolly and Mr Moore put this forward as an innocuous thing. If it is so innocuous, why do they think it necessary to set aside criminal law, and which criminal law do they purport to be setting aside? It is quite clear that they are setting aside those sections of the Crimes Act which talk about killing people. If that is not the case, which law do they

purport to set aside? It is only the criminal law that is being overridden by these innocuous words "Notwithstanding the provisions of any other law of the Territory". Why do they feel it necessary to set aside these specific provisions of the criminal law? I suppose that we can argue that no doctor of good repute is going, as Mr Connolly put it, to inject the lethal dose. So, one could argue that the homicide bit is drawing a long bow, but the other side of it is not.

Subsection 17(1) of the Crimes Act makes it a crime for a person to aid or abet a suicide. To aid or abet a suicide is to be guilty of an offence under the criminal law. That is what we are setting aside when we accept this clause in its present form. Why are we doing that? If there is no problem, if doctors are not going to aid and abet suicide, why are we moving here to set that provision of the criminal law aside? It is quite deliberate. It is being done to allow doctors to do just that. If that is not the case, let me have the argument why these words are here. Mr Moore's mealy-mouthed words about this not being an active euthanasia Bill are just that. They are rubbish. It is intended to be an active euthanasia Bill, and this is the clause that will permit it. The doctor can aid and abet a suicide, and under this provision he or she will not be guilty as he or she would otherwise be under the criminal law.

If I could have another argument from our learned Attorney-General that tells me that what I have just said is wrong, that I have misunderstood, that this is not the intention of the Bill, then I would like to hear it. I would like to hear his justification for setting aside the criminal law. In the advice that Mr Stevenson quoted at length and that the Attorney-General referred to, it is noted that it is quite likely that the withdrawal of medical treatment culminating in death can occur even when the patient is not terminally ill. In other words, we are not talking about a 97-year-old man who is within minutes of death. We can be talking about an 18-year-old youth who has had a motorcycle accident, who is not terminally ill and who, once through the period of pain and stress, may have a long life ahead of him. Under this provision we will permit the doctor to do what otherwise would be a criminal offence under the Crimes Act and take action that will terminate the life of that young man. I do not accept that as being reasonable at all.

Mr Moore: That would not be considered reasonable.

MR KAINE: Despite what Mr Moore says, I do not accept that, with those words in it, this Bill is not an active euthanasia Bill. It is an active euthanasia Bill, and this is the clause that makes it into such a Bill. Unless Mr Moore and Mr Connolly can justify their position and demonstrate to me that that is not what this clause is about, I will not support it and I will support Mr Stevenson's amendment.

Mr Stevenson's words, in effect, achieve the same objective. "Notwithstanding the provisions of any other law" is okay if it does not specifically exclude the criminal law relating to homicide and suicide. I do not believe that Mr Connolly or Mr Moore can show me or anybody else that those words are as innocuous as they seem. They are not. They are quite deliberate. They deliberately set aside elements of the criminal law. Madam Speaker, I will not vote for the clause, and I think no sane person will either.

MR MOORE (12.13): Mr Kaine raises the question of sanity; but I think it is far better that, rather than dealing with that, we deal with the issue. He raises some very important questions. Madam Speaker, whereas I accused him of filibustering earlier, I accept that with this clause it is appropriate to have a detailed debate. The first question that Mr Kaine raises is why we would put in "Notwithstanding the provisions of any other law of the Territory". Let me refer Mr Kaine to the House of Lords decision that Mr Connolly quoted. The decision in the Airedale NHS Trust v. Bland, the Bland decision, may well have come down the other way. If that had been the case, then we would be talking about a change to our laws that comes into effect through the common law. Although it did not happen in that particular case, in another case we could see a reversal.

First of all, this law needs to be clarified in terms of the common law. Secondly, I think it is also important to look at section 18 of the Crimes Act in terms of the words "Notwithstanding the provisions of any other law of the Territory" and also in terms of the words in Mr Stevenson's amendment, "other than the laws relating to homicide and suicide", because section 18 refers to suicide. In fact, the title of it is "Prevention of suicide". Section 18 says:

It is lawful for a person to use such force as is reasonable to prevent the suicide of another person or an act which the person believes on reasonable grounds would, if committed, result in the suicide of another person.

Somebody could conceivably say, "If I believed that somebody was going to use adequate pain relief in order to assist somebody to commit suicide, I could use whatever force I could possibly find in order to stop that". Certainly, members of the United States Right to Life movement find it appropriate to use homicide. Therefore, one could conceive of a case in which on personal moral grounds a person could indeed feel that this was an appropriate action to take. For that reason alone, it is important that we ensure that there is appropriate legislation that does not have the exclusions that Mr Stevenson puts up. They are not necessary. In fact, it was Mr Kaine who, in giving his example of the young person, said, "It would not be reasonable". Yes, Mr Kaine, that is exactly why it is that Mr Connolly put up, and I accepted, the amendment adding the words "on reasonable grounds". The example you gave would not be reasonable, and that is adequately taken care of by Mr Connolly's amendment. What we have here, Madam Speaker, is an amendment that adds nothing. It causes some further difficulties and should be rejected by this house.

I understand Mr Kaine's concerns about active euthanasia. This Bill is not about active euthanasia. This Bill is about ensuring that people have adequate pain relief. Our committee heard again and again that there were people who were not getting adequate pain relief. We determined that it was appropriate that we address that situation and that the pain relief should not be just a decision of a doctor who says, "Usually this amount of morphine would provide this person with pain relief; therefore, I think they have enough pain relief". We know that that has been inadequate. The medical profession is moving generally in that direction, so it is appropriate that we provide adequate pain relief.

When we put this clause into the Bill, we knew that there was the difficulty of the doctrine of double effect. Our committee spent a great deal of time dealing with a whole range of people on that issue of the doctrine of double effect. In fact, Mrs Carnell asked question after question. In the last sitting of the Assembly she actually read from the transcript in order to explain the position that the Catholic Bishop of Canberra, Pat Power, had taken on this issue and to explain where it was acceptable and where it was not acceptable in terms of intent. The intent here is quite clearly relief of pain; it is not death. That is why it is a part of passive euthanasia. If indeed somebody did die - and I suggest to you that it would be a very rare occasion - according to Bishop Power's words, as quoted from the transcript, it would indeed be passive euthanasia.

MR HUMPHRIES (12.19): Madam Speaker, I want to indicate that I will not be supporting the amendment moved by Mr Stevenson. Having read Mr Francis's opinion, as others in this debate have, I must say that I think it is quite true that this legislation modifies possibly the law relating to homicide and certainly that relating to suicide. At least it appears to do so. It is clear that a person who declines to receive medical treatment may, in certain circumstances, be causing their own death. It would seem to me to be a form of suicide if by saying, "I do not wish to receive this blood transfusion or have this operation or receive this life saving drug" a person necessarily brings about their own death. That is the common law as it stands at the moment. It is, as Mr Connolly indicated, quite possible for any person to decline treatment and, by doing so, cause their own death. Indeed, suicide and attempted suicide are not illegal. I certainly view them as morally wrong; but I do not think it is appropriate to build into the law of the Territory what is not there now, which is a provision making it illegal to commit suicide. It follows that it should equally be not legal for a doctor, following the clear, carefully guarded instructions of a patient, to withhold treatment which might bring about that patient's death. That is both the common law and, I would submit, a rational position to take.

The extent to which this legislation makes it clear that ordinary law relating to suicide does not affect this legislation is necessarily part of this legislation's operation. Section 18 of the Crimes Act makes it clear that a person may act to prevent the suicide of another person. If we were to accept that a person is entitled to refuse treatment, as they are now, and thereby bring about their own death and that a doctor is entitled to accept an instruction of a patient and thereby abet that process, it would be ridiculous for a third person to be able to come in and say, "No, I am stopping a person committing suicide; I am going to push the tube back in or force the pill down the patient's throat". That clearly does not make sense. To that extent we are setting aside certain sections of the Crimes Act, but only in relation to the instructions that a patient gives to his or her doctor and only to the extent that the Medical Treatment Bill covers those circumstances.

I accept absolutely that this is not a Bill about active euthanasia. Although I have sympathy for the idea of preserving those elements of the Crimes Act which clearly ought, as a matter of public policy, to remain in place - for example, the provisions about inciting somebody to commit suicide and so on I - do not think that this Bill actually touches on that question. Therefore, to legislate to somehow preserve those particular aspects of those sections would be unnecessary in the framework of this legislation.

Amendment negatived, Mr Stevenson dissenting.

Amendments (by Mr Connolly), by leave, agreed to:

Page 8, line 23, clause 22, subclause (1), omit "maximum relief from pain and suffering", substitute "relief from pain and suffering to the maximum extent that is reasonable in the circumstances".

Page 8, line 32, after Part III, insert the following Part:

PART IV - AMENDMENT OF POWERS OF ATTORNEY ACT 1956

Principal Act

"24. In this Part, "Principal Act" means the *Powers of Attorney Act 1956*.

Guardianship and consent to medical treatment under enduring power of attorney

"25. Section 13 of the Principal Act is amended -

(a) by omitting from subparagraph (1)(b)(i) 'or';

(b) by adding at the end of subparagraph (1)(b)(ii) 'or'; and

(c) by adding at the end of paragraph (1)(b) the following subparagraph:

'(iii) the withholding or withdrawal of medical treatment.'.

Schedule

"26. The Schedule to the Principal Act is amended -

(a) by inserting in Part C of Form 2 ', or to the withholding or withdrawal of medical treatment,' after 'treatment' (first occurring);

(b) by inserting in Part C of Form 2 before clause 11 the following:

'If you sign this Part, any power of attorney under the Medical Treatment Act 1994 that you have previously signed will no longer have any effect.'; and

(c) by inserting after paragraph 15 in Part C of Form 2 the following clause:

'**Authority to consent to withholding or withdrawing medical treatment**

15A. My attorney or attorneys may consent on my behalf to -

(a) medical treatment generally being withheld or withdrawn; or

(b) the following medical treatment being withheld or withdrawn:

[Set out here any medical treatment the withholding or withdrawal of which you want your attorney or attorneys to consent to.

If you wish to authorise your attorney or attorneys to consent to the withholding or withdrawal of medical treatment generally on your behalf, cross out (b).

If you wish to authorise your attorney or attorneys to consent to the withholding or withdrawal of specified medical treatment on your behalf, cross out (a).

If you do not wish your attorney or attorneys to consent to the withholding or withdrawal of any medical treatment on your behalf, cross out paragraph 15A.

If you sign a direction or a power of attorney under the **Medical Treatment** Act 1994 after you have signed this form, paragraph 15A may no longer have effect.]'.".

Page 9, line 4, (Form 1), before clause 1, insert the following:

"**IMPORTANT NOTICE**:

If you have previously given a power of attorney under the Powers of Attorney Act 1956, that power might be affected by filling out this form. You should note that the power to make decisions relating to the withholding or withdrawal of medical treatment for the condition to which this form relates will now be exercised according to your instructions on this form and not the form you previously filled in under the Powers of Attorney Act 1956.

If you give a power of attorney under the Powers of Attorney Act 1956 after you have filled in this form, this form will no longer have any effect.".

Page 9, line 5, (Form 1), clause 1, after "that", insert ", in relation to my current condition (describe current condition)".

Page 9, line 31, (Form 2), before clause 1, insert the following:

"**IMPORTANT NOTICE**:

This form will allow your chosen attorney (who must be over 18) to make certain medical decisions for you if you become incapable of making those decisions yourself.

This form allows your attorney to make decisions about withholding or withdrawing medical treatment.

You can provide that this is to include medical treatment generally, or you can specify a particular kind of treatment which you wish to be withheld or withdrawn.

To create a power of attorney this form must be signed and dated either by you or by another person you have asked to sign and date the form for you. If you ask another person to sign and date this form for you, they should do so in your presence. You must also have two (2) witnesses sign the form. The person to whom you are giving the power of attorney, or any of that person's relatives, cannot be witnesses.

If you have previously given a power of attorney under the Powers of Attorney Act 1956, that power might be affected by filling out this form. You should note that the power to make decisions relating to the withholding or withdrawal of medical treatment will now be exercised according to your instructions on this form and not the form you previously filled in under the Powers of Attorney Act 1956.

If you give a power of attorney under the Powers of Attorney Act l956 after you have filled in this form, this form will no longer have any effect.

Before signing this form, you should read it carefully.".

Page 9, line 34, (Form 2), clause 1, omit "incompetent", substitute "incapacitated".

Remainder of Bill, as amended, agreed to.

Bill, as amended, agreed to.

Sitting suspended from 12.24 to 2.30 pm

ABSENCE OF CHIEF MINISTER AND LEADER OF THE OPPOSITION

MR LAMONT: Madam Speaker, I wish to advise the Assembly that the Chief Minister will be absent from question time today in order to attend the memorial service for Sir Geoffrey Yeend. I understand that the Leader of the Opposition is attending the same service. Madam Speaker, in the absence of the Chief Minister, members may wish to direct to me any questions which they would normally have asked the Chief Minister.

QUESTIONS WITHOUT NOTICE

Kangaroos - Culling

MR MOORE: Mr Lamont will not get the opportunity to answer, on behalf of the Chief Minister, my question, because I direct my question to Mr Wood as Minister for the Environment, Land and Planning. I indicate that I did give Mr Wood notice that I would be asking a question of this type. A unanimous report of the Conservation, Heritage and Environment Committee has recommended a species specific culling of kangaroos. No-one likes the thought of this type of action. Long-term solutions such as fencing out need to be explored. In September members of this house, in a non-partisan way, urged action. The *Canberra Weekly* last week urged in its editorial, "Culling the only answer to kangaroo invasion". The Minister may be aware of a serious accident yesterday in the ACT in which a motorist hit a kangaroo. Minister, when will you make a decision on, and indicate to this house, the controls that you intend to put into place to allow culling of kangaroos?

MR WOOD: Madam Speaker, I understand that there was an accident yesterday, and I am sorry if it was caused by hitting a kangaroo. Accidents of that nature, of course, can happen at any time. Mr Moore said that no-one likes the thought of killing kangaroos. That is certainly the case. Therefore, the Government, through my department, has been giving a great deal of attention to management policies for kangaroos. It may be the case that over recent seasons the numbers have increased, and that, with the drought, they are more common around the city area. Some time ago I issued a discussion paper. It was passed around interested groups in the community. When that was refined I sent that paper to two committees; one being the Government's Animal Welfare Advisory Committee, and the other the Standing Committee on Conservation, Heritage and Environment. Each of those has reviewed the matter. It is now back in my hands to further examine the issue and consider all options ahead of deciding what course the Government will take.

MR MOORE: I have a supplementary question, Madam Speaker. It is quite clear that the Conservation, Heritage and Environment Committee recommended in a unanimous report that culling go ahead. The report has been with the Government now for quite some months. The real question that has not been answered is: For how long, Minister, are you going to sit on your hands while this problem grows?

MR WOOD: I think it is rather too simplistic for Mr Moore to say that, because it is a significant and sensitive problem. Therefore, it is one to which I am giving the appropriate amount of treatment.

Design and Siting Approvals

MR DE DOMENICO: Madam Speaker, my question is also to the Minister for the Environment, Land and Planning. I refer the Minister to two recent applications to his department by a Canberra firm seeking design and siting approvals for a carport and a garage to be constructed in the Tuggeranong area. Minister, these applications were lodged in June - four months ago - and the company still has not received any response from the department. When the Minister was asked about these kinds of delays on 13 October 1993 - almost a year ago to the day - he said, "We can look at the processes". I ask the Minister: If his department has looked at the processes, why, one year later, does it still take 16 weeks or more for DELP to process an application for a humble carport?

MR WOOD: Madam Speaker, I remember the occasion when this was raised before. I think Mr Kaine raised it at the time; perhaps Mr De Domenico did. As a result, at about this time last year, did we not amend the legislation to allow a faster flow? Mr De Domenico has not been specific; and he does not need to be, because it is a matter of principle about how things are done. It would be my instant response that, if it has taken a long time to get an approval, there is something wrong with the application; that it somehow does not fit in with the guidelines. If it were a simple matter of approval, I would be confident, Mr De Domenico, that it would have been handled properly.

Mr De Domenico: For a carport, Minister.

MR WOOD: I can tell you, Mr De Domenico, that the backyard carport - - -

Mr De Domenico: No; this is at the front of the house.

MR WOOD: A fabricated one, a metal one, creates more neighbourhood disharmony than almost any other type of building extension. They create quite a deal of angst. There are some people who claim that they are not the most attractive structures in the world. I know that they are wonderfully versatile and useful and, no doubt, necessary; but there are many who object to them.

I undertake to get back to Mr De Domenico. If he will give me the details of this later, I will come back to him. If it has been sitting unattended in a tray, I will apologise. On the other hand, I will explain to him what might be the reasons that it does not fulfil the basic requirements. That, I would suspect, is the reason for the delay.

MR DE DOMENICO: I have a supplementary question, Madam Speaker. Can the Minister also provide details of how many applications for carports and garages are currently being assessed by his department, and the average waiting time for responses?

MR WOOD: Madam Speaker, if I am asked, I will provide the information. It is going to take some time to get the information, and I am afraid that that is time that will be taken away from the approvals process. It might exacerbate the problem, if there is one, that Mr De Domenico mentions.

Woden Valley Hospital - Bed Numbers

MRS GRASSBY: Madam Speaker, my question is to the Minister for Health. He has been written up today as the Lone Ranger. As some wild figures were thrown around the Assembly yesterday, could the Minister inform the Assembly as to the true number of beds that are available at Woden Valley Hospital?

MR CONNOLLY: In short, I could say, "I gave the true answer yesterday". Given the quite outrageous slurs, innuendoes and suggestions of misrepresentation and misleading that were levelled against me and against officials, it is important that I provide the Assembly, as I promised yesterday, with the full answers.

Mr Kaine: Why did you not do it in response to yesterday's questions?

MR CONNOLLY: Again, if you really wanted to know the story, you would have approached me and asked me the question. I would have had the research done. Instead, Mrs Carnell got up here and grandstanded. You thought you were on a censure motion or a motion of no confidence, with your documents that you were waving around. Mrs Carnell should be very embarrassed by what is about to come out. I would hope that Mrs Carnell would apologise for the slur on me and on officials, particularly on officials.

Madam Speaker, I received a document late yesterday; in fact, in the evening session of the Assembly. It is a report from Mr Fraser, the Secretary of the Department of Health, which I will table. It said:

You asked me to provide an urgent report on the discrepancy in bed numbers between my previous advice to you, which formed the basis of information you provided to the Legislative Assembly, and information tabled by Mrs Carnell today.

Mr Fraser says:

As I advised previously, there are currently 787 public hospital beds available in the ACT.

This will expand to 803. The breakdown is: 584 at Woden - as I have said, and on which I have been accused of misleading - 192 at Calvary, and 11 at QEII. The advice continues:

The total of 584 at WVH is fully consistent with the figures included in the section for sub-program 26.1 of the Department of Health 1993-94 Annual Report.

There were allegations yesterday that the annual report, which said 560, showed that I was lying. The 560 referred to in the annual report does not include the 13 detox beds, which are listed separately in the annual report, taking us to 573. A further 11 beds have opened since that time. I was advised in June 1992 that a further 24 beds at Woden Valley Hospital would open, bringing the total to 600. I will read that. This is what it says:

You were advised in June 1994 that a further 24 beds at Woden Valley Hospital would open, bringing the total to 600. Those 24 included:

3 Surgical/Urology

11 Paediatric

4 High Dependency

4 Oncology

2 ... bone marrow ...

To date -

that is, to today -

14 of the 24 beds have opened and the remaining 10 will be opened when the necessary staff have been recruited.

I explained yesterday, as I repeatedly said both here and publicly, that we are having some frustration, shared by other health services, in recruiting staff. The advice continues:

In addition, a further 6 beds in the Neonatal Intensive Care Unit ... are also scheduled to open ...

This will bring us to 600. Here we come to the interesting part:

Mrs Carnell has tabled some internal information bulletins produced by the Casemix Development Unit at Woden Valley Hospital.

Casemix, of course, says Mrs Carnell, will solve every problem. The advice continues:

Unfortunately, these bulletins are not accurate as they have not been updated in accordance with changes in the hospital since 1 July 1994.

Mr Humphries: But they are your documents, Minister; your department has produced them.

MR CONNOLLY: Yes; they are internal working documents, basically for the purpose of working up an accounting system. They do not, and do not purport to, represent the true state of hospital beds. If you had really wanted information and had asked me, I could have told you. Instead, Mrs Carnell came into this Assembly to preside over a silly little political stunt. Because Ron Phillips was being gone after in the New South Wales Assembly, you decided that you would have to go after me in this Assembly. You were accusing me of misleading the Assembly. You wanted to move a censure or no-confidence motion. But members were not particularly interested in such an obviously foolish political statement. You got up here, each one of you, one after the other, and accused me of misleading. You sit down and listen to this. The advice continues:

To emphasise the problems with this document -

do your research in future -

you may notice that the total of 562 beds cannot be achieved by adding up the individual bed items listed. They actually total 574 beds.

The major inaccuracies in the document tabled yesterday include: The 20 neonatal nursery beds are not included.

Mr De Domenico: They are not beds; they are cots.

MR CONNOLLY: The 12 high dependency unit beds, which, in fact, have not been open, are incorrectly included. Four of those beds are to open.

Cots are beds and have always been counted as such. You foolish little politician. If you were interested in health, you would not have raised this matter. I am not referring to your physical manner; I am referring to an intellectual manner. Cots in neonatal intensive care have always been counted as beds here, in New South Wales and everywhere else. There are a number of other inaccuracies in the medical, surgical and short-stay beds. The material that you tabled yesterday and accused me of misleading the Assembly over is totally wrong. I look forward to your apology, but I will not hold my breath. The advice continues:

In relation to paediatric bed numbers, the WVH bulletin shows a total of 49 paediatric beds at WVH in August 1994. Since that time, a further 7 paediatric beds have opened (these are included in the 11 that I refer to above). In addition, a further 4 paediatric beds are amongst the 16 beds scheduled to open when staff have been recruited.

We have funded this. The advice continues:

This will bring the paediatric unit to 60 beds.

I referred to a 60-bed unit and was accused of misleading the Assembly. I asked for some further data to be made available today, because of an article I read in the *Canberra Times*. Mrs Carnell does not have the grace to say, "I was wrong. I was looking at an internal working document, which had a number of inaccuracies. I apologise for accusing the Minister of misleading the Assembly". More to the point, she did not say, "I really apologise for the grubby little tactic I used yesterday of saying that officials have been lying to the Minister, who has then been lying to the Assembly". I do not mind being the brunt of Mrs Carnell's accusations of misleading, because it is my job to take that sort of nonsense from Liberals. But, when she starts saying that officials are cooking the books or giving misleading information, she can stand before the public of Canberra on that. She said, again in the paper, "There are only 560 beds. Everything that has been said is wrong". I am relying on officials' information. I told you that yesterday. I have given you that additional information.

I received a further note today, which expands on the 584. It makes the point that we are talking about neither a monthly average nor a high point or a low point. The number of beds throughout the month of September was 584. On a Saturday or a Sunday the situation does change somewhat, because the practice in this hospital, as in every hospital in Australia, is that you tend not to have elective cases on a Saturday or a Sunday. Doctors actually like to spend some time with their families; nurses actually like to spend some time with their families. You structure around weekends, holiday times and the like. I could quote to you what Ron Phillips said in the New South Wales Parliament when explaining why that is a sensible practice. Perhaps it is not necessary. Of the 584 beds, 47 are open only on a Monday to Friday basis. A further 20 beds used for renal dialysis are open six days a week. There are 20 renal dialysis beds - not the 80 which Mrs Carnell claimed in the paper today. "Look, 80 of those beds are not beds; they are renal dialysis couches", says Mr Humphries. There are not 80; there are 20. And they are properly counted as beds. A bed is a place in a hospital where you receive occasional treatment. You are wrong - - -

Mr Humphries: Do you count trolleys as beds?

MR CONNOLLY: You can. Every bed is a trolley, because they all have wheels on them. Mrs Carnell said in the paper this morning, "There are 80 renal dialysis beds". There are not; there are 20. Once again, Mrs Carnell is wrong. Mrs Carnell, again in the paper today, said, "Thirty-five per cent of Woden Valley patients are from New South Wales". She is wrong again; it is about 20 per cent. Most significantly, Mrs Carnell in the paper this morning says that day surgery is for "things like warts and moles".

Warts and moles tend to be dealt with in general practitioners' rooms. Having a wart or a mole removed is not what happens in the day surgery unit at Woden Valley Hospital. Day surgery processes now are very complex procedures that only a few years ago would have involved a one-, two- or three-day stay in hospital.

Again, if you want, I can quote to you what Ron Phillips said when explaining all this in the New South Wales Parliament. Productivity of a hospital, the effectiveness of a hospital, says Ron Phillips, is important; you do not blandly count beds. If you want to count beds, Liberals, at least get it right. Do not mislead. Be sufficiently strong in yourselves to admit that yesterday you were wrong, and apologise for the innuendo and for accusing me of misleading. Every time we come into this place we all use some political rhetoric. You say things about us, and we say things about you. When I quote numbers, I quote from information given to me by my officials. I do not mind if you call me a liar. But when Mrs Carnell says, as she did yesterday, "Oh, the officials! It is wrong information. I know the truth. What you are saying is wrong" - when she knows that it was official information - she should apologise.

Madam Speaker, I table the note that I received late yesterday evening, showing where Mrs Carnell and the Liberals are wrong, and the note that I received today, showing where Mrs Carnell and the Liberals are wrong. I will run through the breakdown of the 584 beds in the hospital. There are 309 medical/surgical; 56 paediatric; 87 neonatal/obstetrics; 27 rehabilitation; 32 psychiatric; 30 intensivist care, being intensive care and high dependency; 23 geriatrics; and 20 - not 80; wrong again, Mrs Carnell - dialysis; a total of 584 beds. The number of scheduled beds for which funding has been provided but in regard to which we are having problems recruiting nurses, as I have repeatedly said, includes: two in medical/surgery, four in paediatrics, six in neonatal/obstetrics and four in intensivist care; a total of 16. That totals the 600, which I said in this Assembly earlier was our target. Mr Fraser advised me that in June we had the funding in place to achieve it. I table those documents.

Finance Brokers Licence

MR HUMPHRIES: My question is to the Attorney-General. On 16 June I asked the Attorney-General what the hold-up was which prevented consideration by the Consumer Affairs Bureau of the granting of a finance brokers licence to Mr Rick Reeks of Capital Business Services. The Attorney-General told the Assembly at the time, "It often may take a long time to approve a company for a credit licence". First of all, it needs to be pointed out that Mr Reeks was not applying for a credit licence - not that you get it wrong, Minister, of course; I realise that that does not happen. I am sure that there was no adviser who gave you the wrong information either. In fact, he has applied for a finance brokers licence, which means, of course, that he wants to deal in securities, not credit. I ask the Attorney-General: Given that Mr Reeks still has not received a hearing before the Credit Tribunal, why has it taken over eight months for the application by Mr Reeks, a businessman proposing to employ Canberrans, to be considered? How many other examples are there of businesses unable to proceed because they are waiting eight months for a licence? When will Mr Reeks's application go before the Credit Tribunal?

MR CONNOLLY: Madam Speaker, Mr Humphries's question presents me with certain difficulties, and they relate to the extent to which I breach Mr Reeks's privacy and let this house into a whole lot of details of Mr Reeks's behaviour, antecedents and dealings with the Credit Tribunal. Mr Reeks has chosen to go public on this. He has made all sorts of highly partisan attacks on the Labor Government. But I will avoid the temptation to go too deeply into it. Suffice it to say that the documents are documents relating to a person's private business application. I am not going to table them here. They show that Mr Reeks has repeatedly refused to provide information that he is required to provide. He has either not provided it or consciously refused to provide it. He has provided information that has turned out to be wrong, and we have had to go back to him and get these things clarified.

I did use a loose term; I said a "credit licence". It is a statutory permission to engage in a broking service as a principal, not an employee. Dealing in such a manner is a very responsible issue. We do have probity checks; we do have checks on background; we do want to ensure that we are not letting people into this area willy-nilly. We take our responsibilities to protect consumers very seriously. I can assure Mr Humphries and any other business person in Canberra that, if they are full and frank and provide the information required in a timely manner, their applications will be dealt with in a timely manner. When we have to keep going back to them and saying, "Look, you have refused to answer this question", et cetera, et cetera, backwards and forwards, it does take a little longer.

I was most alarmed, I must say - and, obviously, this will be looked at - at Mr Reeks's statement on radio that, while he does not have his licence, he is conducting the business on somebody else's licence. I hope that he meant that he is an employee, although he said, "I am having to pay 30 per cent of my profits to the bloke whose licence I am operating", because, if he did not mean "I am an employee", he meant that he is ghosting on somebody else's licence; and, in credit, building or any other area, ghosting on somebody's licence is an undesirable practice. In many cases it is illegal; but certainly it is very undesirable and something which I am sure that Mr Humphries would not condone.

On the documents that I have seen and the information that I have been provided with, Mr Reeks is, to a very large extent, the author of his own problems, because he has chosen not to give information that he is required to give; he has given information that we have had to go back to him on and say, "It is wrong". We could have, at those points where he gave wrong information, just said, "No; you are out". But we came back and said, "No; look, we are trying to help you. You have to provide us with this", backwards and forwards. The matter will go before the tribunal in due course. That impartial body will make whatever decision it makes. It is not for me to comment on what decision they may make when apprised of all the facts.

Mr Humphries is trying to say that it takes eight months to deal with a simple process. It does not. Business people who provide the information that they are required to provide and cooperate in this sort of probity check are dealt with much more rapidly. It is going to take people who choose not to give information a bit longer.

MR HUMPHRIES: I have a supplementary question, Madam Speaker. I ask the Minister: Is he aware that Mr Reeks paid his application fee when he was making the application to obtain a licence early in this period of eight months; and that, subsequently, after, I think, a period of about a month, he was again asked to pay the same licence fee as he had already paid $300-odd? Does the Minister accept that it is remotely possible that some of the delay in this matter has not been of Mr Reeks's doing but because of incompetence within his department?

MR CONNOLLY: Mrs Carnell says that the bureaucrats are lying; Mr Humphries says that the bureaucrats are incompetent. Keep it up; it is a great Liberal campaign tactic in the ACT; we love it. No, Madam Speaker; I do not believe that there has been incompetence in my department. I would acknowledge that it does appear that somebody asked twice for the money, but it has not been the fee or the money that has caused the delay. The delay, on the advice that I have received, relates to the issue of the application. What I say to Mr Humphries is this: If he would like to be briefed privately about this, I am happy to do that; but I am not going to produce all these details of documents in a public forum.

Mr Humphries: He is sitting over there. Go and talk to him. Tell him personally what the problem is.

MR CONNOLLY: This is a little political stunt. I am not going to engage in that political stunt and table all these documents going to a person's private business affairs. I am hamstrung. Mr Humphries can pull the stunt; but I am not going to come in here and table the Consumer Affairs Bureau file which contains a lot of this detail, because it is a probity related matter. It contains some fairly sensitive information relating to him, which, obviously, he would not want to have in the public domain.

Legislative Assembly - Computer Network

MS SZUTY: Madam Speaker, my question without notice is to you. It relates to how the new computer network is being implemented in the Legislative Assembly. It is an installation which has the potential to be, and has already been, highly disruptive to the normal working days of Assembly members and their staff. My question is, Madam Speaker: Can you inform the Assembly who has the role of managing the installation of this computer network from the Assembly's perspective; and what is the duration of this appointment?

MADAM SPEAKER: Thank you for the question, Ms Szuty. With absolutely no warning, no, I cannot inform anyone of anything right here and now. I will take the question on notice and produce the information as soon as I can.

Aboriginal Deaths in Custody - Implementation Report

MR KAINE: Madam Speaker, through you, I have a question to Mr Lamont, in the absence of the Chief Minister. I take him at his word. I do not expect him to be able to answer it, but I would like the answer as quickly as possible. It has to do with the Royal Commission into Aboriginal Deaths in Custody. This afternoon we may get to debate the implementation report for the year 1992-93. I would like Mr Lamont to take the question. In connection with the 1993-94 implementation report, which is now long overdue, when did the Chief Minister's Department ask Territory government agencies to provide material for incorporation in that report? Given that it took the Government just a fortnight short of a full year to table the report for 1992-93, does the Chief Minister see merit in getting Territory agencies working on preparing their contributions a good deal earlier than was the case for the preceding year? Finally, if she does not think so, is this an indication of the priority that she applies to the question of Aboriginal deaths in custody?

MR LAMONT: I thank the member for his question. I do not have specific details of the dates on which the information was sought, Mr Kaine, but I undertake to provide that to you. However, I would reject out of hand the spurious assertion, that you attempt to roll into your question, that this Government has not been a proactive government in dealing with issues associated with Aboriginal peoples and Torres Strait Islanders.

MR KAINE: I have a supplementary question, Madam Speaker. I asked what the Chief Minister's priority was on this matter. It does not seem to be very high. It was a specific question in connection with the 1993-94 implementation report. It is now October. Would the Chief Minister assure the Assembly that she will produce the report for 1993-94 before we go into recess, leading up to the next election? If she does not, the report will, like the last one, be useless.

MR LAMONT: Madam Speaker, in relation to the detail of Mr Kaine's question: Obviously, the Chief Minister will be back at question time tomorrow and will, in her answer, wipe the floor with Mr Kaine once again.

Education - Liberal Party Policy

MS ELLIS: Madam Speaker, my question is directed to the Minister for Education. I ask the Minister: In today's *Canberra Times* there was an article entitled "Carnell's vision for the future of our schools". Given the Liberals' history of failure in education during the Alliance Government's term of office, is this latest Liberal vision a clear and correct vision or a totally blurred vision?

Mr Kaine: On a point of order, Madam Speaker: I do not believe that anybody sitting on that side of the house is responsible for, or can answer for, Mrs Carnell's opinions on anything. It is totally improper that they should be asked to comment on them.

MADAM SPEAKER: It is a perfectly valid point of order; but Mr Wood will take that into account when he answers and will refer to his own responsibilities, not Mrs Carnell's.

MR WOOD: Certainly. I would begin by saying that I am not sure that it is a blurred vision so much as a totally impaired vision. Mrs Carnell has been very careful to spell out Liberal policy. She has done it in this article. She did it in a much more detailed way in a speech, which she distributed later, to the Institute of Education Administration. She has been, I imagine, proudly expressing this view.

The Government has great concerns about this, as we care for the system of education that we are currently running well. It is interesting to note that it is Kate Carnell running this issue. Where is Mr Cornwell? Where was Mr Cornwell? Where was Mr Cornwell in April, I think it was, when Mrs Carnell presented Liberal education policy to the association that I mentioned? This seems to me to be a very strong vote of no confidence in the education spokesperson; but there is nothing different about that, because it is the same vote of no confidence that this leader gives to all members of the Liberal Party.

Mr Stefaniak: I take a point of order, Madam Speaker. I think it is my first in this Assembly. Madam Speaker, you made a ruling that the Minister answer the question and refer to his own portfolio. So far all he has done is refer to Mrs Carnell and Mr Cornwell. I would ask you to ask him to get to the point.

MADAM SPEAKER: I call Mr Wood.

MR WOOD: Madam Speaker, the key issue is the issue that has been promoted on two occasions now. It seems to be official Liberal policy, if Mrs Carnell speaks for the Liberals, that per capita funding of ACT government schools is the way to go. It is not the system of funding that we have at the moment.

For the information of members, I would indicate that all schools are staffed on a basic entitlement, regardless of size. After that, staffing is built up in terms of enrolment. Mrs Carnell wants to change that to per capita funding. If she did that - if our school system, of which I am the Minister, suffered that - the impact would be the death knell of small schools. On that basis, there would be enormous pressures on those schools; they would lose staff and they would have impossible burdens that they could not carry; and inevitably closures would follow. That is the impact on our school system of this policy. It is the Gary Humphries "Close 25 schools" philosophy re-emerging.

In both documents that I have referred to, Mrs Carnell spells out very clearly and very carefully her pupil based recurrent funding on enrolments. I think this community needs to understand fully the impact of per capita funding. There was a report that came out after the change of government some three to four years ago, and it had a recommendation - - -

Mr Kaine: On a point of order, Madam Speaker - and I come back to the point: The Minister is talking about the Liberal Party's policy. The Liberal Party will explain it; we do not need Mr Wood to give his opinion on it when it has not yet been properly spelt out. He is merely speculating, Madam Speaker, and he is speculating about something that is not his property. I again ask you to call him to order and tell him to stick to his business, not ours.

MR WOOD: Madam Speaker, I note that. Government schools are my responsibility, and I am here to protect them. I am delighted that the Liberals are so anxious about this; they should be anxious about it, because I have no doubt that the community will utterly reject their elitist approach. It is an elitist approach; it is a case of throw the schools to the wolves, and the survival of the fittest. That is what their approach is. That is what you are promoting, and you will go down in a heap once more.

Mr De Domenico: Go and make a decision. Get some carports built; get a decision on some carports.

MR WOOD: Mr De Domenico should not interject, because he does not know the history of it. The Liberals will go down in a heap once more on this issue. With per capita funding, the future of every school below a set number would be immediately threatened. That is something that we are not going to do.

Mr Cornwell is absent. I am not criticising Mr Cornwell's absence; he is representing me somewhere, and I am pleased about that. The Liberals have an obsession with numbers. Schools are either too large or too small; and we are criticised because some of our new schools are, it is alleged, too large. He does not seem to want us to have larger schools; he does not want us to have smaller schools. Why cannot they get away from this obsession with numbers? Why cannot they think about what schools are really all about? They should look at what happens in schools. That should be the focus for the Liberals. I am afraid that any Liberal Minister in this town, if ever such a creature emerged again, would be disastrous.

Home Help Service

MR STEVENSON: Madam Speaker, my question is to Mr Lamont and concerns home help. I am aware of a couple in their 70s - the wife can barely walk; and the husband has difficulty doing the more vigorous chores around the house - who have been unable to receive home help, even though their doctor has interceded on their behalf. I will certainly supply the Minister with specific details of this case. I would like the Minister to inform the house about the general situation with regard to home help. Have there been any budget cutbacks affecting the provision of home help?

MR LAMONT: I thank the member for his question. Let me say at the outset, in answer to the last part of your question, Mr Stevenson: No, there has not been any cutback in relation to the HACC program for 1994-95; nor is it envisaged that that be the case. What we have done, Mr Stevenson, is provide an additional $580,000, which would be required to be matched by the Commonwealth, for the period 1994-95. At the moment, because the ACT Government's additional amount was in excess of what the Commonwealth was originally prepared to meet, dollar for dollar, we are now awaiting their reassessment. The ACT Government has committed $580,000 additional.

That will, in fact, take to $7.1m the total amount available in this financial year for HACC services. The Home Help Service is probably the largest single community based service provider in the HACC network. It is in receipt of in the order of $1.5m per annum and, in fact, has picked up an increase in funds of $28,513 already this year. There has already been an increase this year, as far as their additional funding is concerned.

I am concerned, because I, too, have received a number of representations. I understand that an officer of the Home Help Service wrote to persons on their waiting list, saying that they actually overspent in the last year by some $37,000; and that, because they had that overexpenditure and they did not necessarily get what they had sought in this year's funding round, they would not be able to provide any home help services to a number of people on the waiting list. My department and I have some concern about, firstly, that statement; and, secondly, the ability of the Home Help Service actually to analyse its own internal administration in regard to reassessing the appropriateness of the level of service that it is providing to each of the people who are currently receiving service and whether or not a reorganisation of some of those priorities may allow them to expand the service within the framework that I have already outlined. I have made that offer to the Home Help Service. I am confident that we will be able to identify exactly any additional resources that are needed. That is something that I must do, Mr Stevenson, if I am to provide additional funds to the Home Help Service. Obviously, where that need is identified, you can rest assured that I will be providing additional funds to enable them to conduct their business for the remainder of this financial year.

Government Schools

MR STEFANIAK: My question is directed to the Minister for Education. I refer the Minister to the 1993-94 annual management report of his department, in which it is indicated that the Government expected savings of $3.5m in the government schools program, program 23. I can provide that to the Minister if he does not have a copy. Can the Minister tell the Assembly why the budget for this program has, in fact, blown out by $2.75m in the last financial year?

MR WOOD: Madam Speaker, I will confirm the figures; but I think the clear answer would be that the budget was amended - and some members might remember that.

Education - Liberal Party Policy

MR BERRY: I refer to the horror story described as Mrs Carnell's vision for education in the ACT. I understand why the Liberals are sensitive about this issue, because it is very clear that they are going to be exposed. We had the former Education Minister threatening to close 25 schools.

Mr Humphries: On a point of order, Madam Speaker: Mr Berry is in full flight. I hate to stop him, but he is not asking a question; he is making a statement. I would ask him to come to the question.

MR BERRY: I will get to the question; do not worry about it. You will get the question; and I am sure that you will get an answer from the relevant Minister. The education spokesperson talked about 17 schools. My question is directed to Mr Wood and relates to this horror story, this vision, whatever you want to call it. I would like the Minister to go just a little further on a few matters of detail. These will be the sorts of details that will worry the Liberals; it will get them off their seats, I am sure. I would want to hear a little about the impact of this competition that Mrs Carnell has been talking about in relation to the schools system.

MR WOOD: Mr Berry commented that this would worry the Liberals. I did notice earlier, after my previous answer, that Mr De Domenico scurried to photocopy the article that I referred to. He was looking at it in a most worried manner. I am not surprised. He might also go back a little further to an item in the *Canberra Weekly* which quoted Mrs Carnell as saying, about health and education, "We've got to take a big, big re-look and look at whether the Government should be providing those services at all".

Her notion of competition seems to be to pick up the schools and throw them to the wolves. Look at the words she uses: "Marketing our schools", "good solid bit of competition", "corporate sponsorship", "benchmarking". Mrs Carnell sees schools as a business; she does not see schools as caring, humane, educational places. She has been asked to give her vision, and her vision is of money and numbers. Mrs Carnell has a vision of unfettered competition among government schools. She sees schools competing for students in the same way as small businesses might compete for customers.

Surely Mrs Carnell is not suggesting that each school, particularly schools with declining enrolments, should market specialised products or find a niche market like specialised soap shops, a hamburger shop or a corner store. That seems to be what she is saying. I wonder what the result of such a policy would be in five, 10 or 20 years' time. If we look to the big, wide world of commerce that she envies so much, the answer is quite plain. Some small businesses do survive and grow; they may open up other branches and become major institutions. But many small businesses fail. That has been the norm over many years. They will lose customers, not have enough turnover and go bankrupt. A lot of their customers will be hurt in that process. Mrs Carnell, with her business-oriented approach, is suggesting that this is the path for schools.

The main point is that Mrs Carnell's "vision" of healthy competition is superficial and flawed. Any close analysis of the real world reveals that her view is an idealised myth. It seems that a lot of Mrs Carnell's ideas come, Bronwyn Bishop-like, from this book. Remember that it was their hero, Bronwyn Bishop, that the Liberals brought into this Assembly to tell them how to do things.

Mr De Domenico: What books do you read? Noddy? Do you read Biggles? Do you read books, or do you get your information off whiteboards, like Mrs Kelly?

MADAM SPEAKER: Order!

MR WOOD: If you pay attention, Mr De Domenico - - -

Mr De Domenico: I am still waiting for you to make a decision, Mr Minister.

MR WOOD: The response I give to Mrs Carnell is that she should have read the whole book. Perhaps that was a bit beyond her. This is one of the fix-it books that are pretty popular in America. I might say that it has some good stuff in it, too; there is no question about that. She speaks the same language as this book. There are some quite interesting comparisons between her speeches and this book - "service delivery", "funding outcomes", "benchmarking", "competition"; they all appear here. It is clear that this so-called vision is not even Mrs Carnell's own vision but one purloined from the latest US management craze.

That is not to say to Mr De Domenico that we cannot learn from textbooks or from the experience of others. But Mrs Carnell has not even read the whole book. The authors, in their introduction, make the point that they believe deeply in equity and in a real opportunity for all. That is not the impact of Mrs Carnell's competition and per capita funding; there is a lack of equity in that. The authors believe that equity is important. We are not going to threaten it; we are not going to challenge that in the ACT by allowing the Liberals to take control.

The authors also note that they believe in government action. Remember Mrs Carnell's comment, "Why is the Government in here at all?". The authors believe in government action - not, as Mrs Carnell sees it, as a necessary evil but as a means of solving the problems facing our society. They say, "How will we solve these problems?". By acting collectively. "How do we act collectively?". Through government. Mrs Carnell should go back and read the book in some detail, or perhaps sponsor Mr De Domenico to do that. The language of Mrs Carnell's vision is one of business, of numbers and of dollars. I suggest that the Liberals pay some attention - let us have a backbench revolt - to what schools are really about.

Finance Brokers Licence

MR HUMPHRIES: My question is to the Attorney-General once again. Again, it is about the ongoing saga of Mr Rick Reeks's application for a credit providers licence. Mr Connolly has suggested in this chamber, in an answer earlier today, that, in fact, Mr Reeks's problems are due to the fact that he has failed to supply information to his department; has supplied incorrect information; has not been forthcoming; or whatever. I refer the Minister to a letter he sent to Mr Reeks dated 9 May, in which he indicated:

I expect that you will be contacted in the near future in relation to the outcome of your application.

That was on 9 May. Can the Minister explain to the house - given that it is Mr Reeks's fault that he has not received this licence and that all the time between May and August he had absolutely no contact with the Minister, the Minister's department or the Credit Tribunal concerning the application - why it is that that period of three months is Mr Reeks's fault? Can the Minister also explain why - when Mr Reeks was contacted finally in August, and on 18 August he supplied further information, which, to the best of his knowledge, was the complete information required to complete his application - on 12 October, almost two months later, he has still heard nothing about his application for a credit providers licence? Will the Minister concede that it is remotely possible that there has been some incompetence in his department's handling of this matter?

MR CONNOLLY: Once again, attack the public servants. Again, I am not going to come in here and table private files relating to an individual's private business dealings. To give the other side of the story would involve breaching a whole lot of those sorts of confidentialities. I would have to say that the process here is something of an arm's length one. We have created a tribunal that makes the decision; the tribunal acts on it; there is a process through the department of assessing the information and making certain recommendations. I need to keep well clear of that, and it needs to be abundantly clear that I do not peruse the individual portfolios of those files and say, "I recommend that you approve or not approve this application". That is an arm's length process that goes before a tribunal.

When I inquired of a very senior officer in the Magistrates Court, who serves as the registrar for this process, the advice that I was given was, in effect, what I gave earlier: It has been a process of not getting the right information; wrong information being given; a whole lot of concerns about getting these matters sorted out; and it is in no way the normal process for these matters. This matter will proceed in the ordinary process. Mr Reeks will get neither more rapid nor more slow, neither more favourable nor less favourable, treatment, because of the various claims and assertions that are being made in the public domain. I go back to my original position on the advice that I received from the senior officer of the Magistrates Court. The problems here have essentially come about as a result of incorrect information being given, or information that should have been given not being given; and the necessary checking that goes on of a very serious application.

Canberra Capitals

MRS GRASSBY: My question is to the Deputy Chief Minister in his capacity as Minister for Sport. Is the Minister aware of the reports that the Canberra Cannons have withdrawn support for the Canberra Capitals team in the Women's National Basketball League?

MR LAMONT: I thank the member for her question. Yes, my attention was drawn to the Cannons' owner's decision, reported in today's *Canberra Times*, to drop sponsorship and support of the Canberra Capitals. I must say that I find it surprising in the extreme that this has occurred, particularly when women's sport is enjoying increased

media attention. Women's basketball, in particular, in this country is also achieving higher recognition and acceptance rates than it ever has. I find it surprising, with that increased supporter profile, that the Cannons' owner can afford to be seen to be dropping sponsorship of a major women's team in the national competition.

Madam Speaker, there are a number of other inaccuracies in the report this morning. Contrary to some of those reports, the Cannons have not backed the Capitals since 1986. The original backing was by ACT Basketball Inc. When the Cannons took over the Capitals in about 1990, the association, in return, took over responsibility for the Canberra Gunners, which is the Cannons' major development squad. Surely this arrangement imposes at least a moral obligation on the Cannons' management to continue their support for the Capitals. I believe that the owners and backers of major national league teams in any sport have a responsibility to support the other developmental aspects of that sport. This should be a major consideration from the start, and not just an option which can be dropped at any time. ACT Basketball will now be left with the difficult task of finding the wherewithal to fully support both teams - both the Capitals and the Gunners - or, in fact, dropping sponsorship of one or the other.

I have been advised that there are some concerns as to the financial viability of the Capitals, but I share the basketball association's belief that the Capitals are essential to the development of women's programs and participation in sport in this Territory. I have today directed officers of the Bureau of Sport, Recreation and Racing to meet with ACT Basketball to discuss this situation. However, I am confident that the Capitals will rise to the challenge and continue to be a force in the Women's National Basketball League in the future.

I wish to reiterate, Madam Speaker, that the owner of the Cannons and the Cannons themselves have received substantial community support over many years in this Territory. I believe that the owner of the Cannons and the Cannons organisation have an obligation to assist in the promotion and development of that sport in this Territory and that a great deal of their attention to this should be in the promotion and development of women's participation in basketball in the Territory. I am sorely disappointed at this decision, which appears to be taken for some short-term financial gain, as opposed to the long-term developmental interests of basketball in the Territory.

Madam Speaker, I request that further questions be placed on the notice paper.

PAPER

MADAM SPEAKER: Members, for your information, I present the Legislative Assembly Members Superannuation Board 1993-94 annual report, pursuant to section 22 of the Superannuation (Legislative Assembly Members) Act 1991.

COUNTRY TOWN POLICING - TRIAL COMMUNITY POLICING PROGRAM
Paper

MR CONNOLLY (Attorney-General and Minister for Health) (3.24): Madam Speaker, for the information of members, I present "An introduction to Country Town Policing in the Australian Capital Territory" - a document prepared by the Australian Federal Police - and I move:

That the Assembly takes note of the paper.

Madam Speaker, this is a booklet on an Australian Federal Police ACT Region initiative which has been termed "Country Town Policing". On 4 October 1994 I participated in the launch of the country town policing pilot which is being trialled in the suburbs of Kaleen and Ainslie and Campbell. The concept involves the stationing of an experienced police officer in the specific area or suburb to allow them to dedicate their resources to that particular community. They will use their skills and knowledge, in consultation with the community, to develop strategies and utilise their resources to effectively police their country town. Many of the traditional functions of the supervising sergeant will be devolved to the constable, to provide him or her with the authority, autonomy and flexibility to develop and pursue their own policing plan. They will have available to them the full range of resources of the ACT Region of the AFP to assist them in the implementation of strategies developed in consultation with their own community.

The residents of the ACT continue to give strong endorsement to the idea that the ACT Region of the AFP should involve the community in resolving problems and concerns. Country town policing now gives the ACT community a greater opportunity to participate in the policing of their own community. It is hoped that the residents of Kaleen and Ainslie and Campbell will become familiar with their designated constable through frequent contact as they patrol their neighbourhood on foot or bicycle, participate in community activities and respond to calls concerning criminal activity. The success of this pilot will ultimately depend on the willingness of the two communities to assist their constables by reporting crime and by actively participating in the process of solving problems being experienced in their own community.

The booklet contains a discussion paper written by the Chief Police Officer for the ACT, Assistant Commissioner Peter Dawson, entitled "An introduction to Country Town Policing in the Australian Capital Territory". This paper discusses the various aspects of the concept and how the model will work in this Territory. It also contains profiles of the two constables selected to undertake the venture, what they hope to achieve in the 12-month trial period of the pilot, and how they can be contacted.

This Government, Madam Speaker, is committed to keeping Canberra safe. In this context, country town policing is consistent with the Government's community safety strategy's vision, which is to maintain and enhance a safe community by reducing the level and fear of crime in the ACT. I have in recent months tabled the Community Safety Council's report *Civic by Night*. In part, country town policing will enhance

this vision. A constant police presence in the suburbs will go some way to addressing the fear of crime in our community, especially among members of the community with the highest fear of crime - the elderly and women. These perceptions represent people's reality and must be addressed.

A joint evaluation of the pilot will be conducted by the Australian Federal Police and the Australian Institute of Criminology. An independent consultant has also been commissioned to collect comparative data through community surveys. Further community evaluation of the pilot will be undertaken through the ACT Community Safety Committee. As the Assembly is aware, the Government established the Community Safety Committee to assist in identifying, solving and evaluating local safety issues. If the pilot is successful and is accepted by the community, Assistant Commissioner Dawson will introduce the scheme into other suburbs as resources allow. Madam Speaker, I believe that this is a very innovative approach to community policing which has the full support of the ACT Government and community.

MR HUMPHRIES (3.27): Madam Speaker, I am happy to join with the Government today in welcoming this initiative and commending it on its way. I was fortunate, with other members, to be present at the launch of the scheme in Belconnen a few weeks ago. I was impressed with the way in which the scheme was outlined and the goals which the scheme is designed to achieve, and I am confident that there is considerable opportunity here for success to be the hallmark of this endeavour. I believe, in particular, that the principle of bringing police operations down to a level where they interact with and are part of the community that those police serve is an extremely important development, and one which I feel confident, in theory at least, should produce positive results for policing and the fight against crime in this community.

I note in the introductory paragraphs of this paper that the Attorney has tabled a quote from Sir Robert Peel, who founded the first police force in 1829. Those words are:

The power of police to fulfil their duties is dependent upon public approval and on their ability to secure and maintain public respect. The police should strive to maintain at all times a relationship with the public that gives reality to the tradition that the police are the public and the public are the police.

It may be that we have come a long way since those words were first uttered; but the principles ought to be the same, even with the great changes that have occurred in the way in which police provide protection of various sorts to our community. Madam Speaker, I think that the two police chosen to pilot the program are very well equipped to do that job, and I look forward to seeing the success that they will enjoy in embarking on their respective beats.

The one note of caution that I sound in this matter, Madam Speaker, is simply a question about the resourcing of this exercise. I think that if this is successful there will need to be a capacity for all suburbs to have this kind of localised policing capacity, and for those police to have the time and the energy to be able to get around their suburbs and talk to individuals, to shopkeepers, to householders, at schools, and make themselves a part of the fabric of their local community. It will not, obviously, be possible to achieve that if

those police are constantly being called out to deal with other matters. It seems to me that there is a very serious resourcing question entailed in the idea of country town policing in a community like the ACT, where so many other duties of our police are Territory-wide, or even beyond the Territory, and where we need to be constantly considering ways of treating those resources flexibly.

I note that there are many things that our police do. We have had, in recent years, some stability in the turnover of police in this Territory. There have not been such a large number of resignations as there were at one time a few years in the past. I hope that that is a sign of a permanent state of affairs and that if a policeman or policewoman adopts a particular area they will be a feature of that area for a long time to come. I do emphasise, again, that the question of resourcing this exercise needs to be carefully considered, and I look forward to more information from the Minister, in due course, about how that would be achieved if further steps were taken down this path - that is, if we were to expand this to other areas or to the whole of Canberra. I commend the exercise. I see it as a very positive way of advancing a method of policing which will have some important impact on some of the problems faced in the Territory at this time.

Debate (on motion by Ms Szuty) adjourned.

PAPERS

MR BERRY (Manager of Government Business): For the information of members, I present the following papers: Errata to the Department of Health annual report 1993-94; the Milk Authority of the Australian Capital Territory annual report 1993-94, including financial statements and the Auditor-General's report, pursuant to subsection 93(1) of the Audit Act 1989; Canberra Theatre Trust annual report 1993-94, including financial statements and the Auditor-General's report, pursuant to the Audit Act 1989.

HOUSING ASSISTANCE AND SERVICES
Ministerial Statement

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport): I seek leave to make a ministerial statement on a major reform of ACT housing assistance and services.

Leave granted.

MR LAMONT: I also seek leave to table a copy of - - -

MADAM SPEAKER: You just table it, Mr Lamont. That is fine.

MR LAMONT: Madam Speaker, I wish to make a ministerial statement outlining a major reform of ACT housing assistance and service arrangements provided by this Government. The Follett Government is committed to the principle that access to appropriate, affordable and secure housing is the right of every Canberra citizen, regardless of income. The Government is committed to having an efficient public housing system in conjunction with a range of other effective housing assistance measures. A key component of government housing objectives is support for a robust and innovative private building sector.

The principal form of housing assistance in the ACT is the public rental housing system. Other forms of housing assistance include rent relief assistance to tenants renting privately; home purchase assistance through the issue of home loans, and the provision of loan repayment assistance and mortgage relief assistance for private borrowers; special needs services for disadvantaged people in the community, including Aboriginals, youth, single parents, people with disabilities and our aged residents; and separate programs to encourage and support community association and cooperative housing. In total, around 20,000 ACT households are in receipt of similar types of assistance.

The Government announced in its 1993-94 budget a resource review of the ACT Housing Trust, the housing review. The objective is to improve the client services provided by the Housing Trust and to ensure the most effective utilisation of the resources that are available for housing assistance and services. The terms of reference endorsed by the Government for the housing review were wide, for they envisage extensive reforms which will enhance every aspect of the Housing Trust's operations. The Government's first priority has been to drive operational improvements for the more effective delivery of service to Housing Trust clients.

It is important to recognise, however, Mr Temporary Deputy Speaker, the improvements to housing that the ACT Government has already delivered to the community, and I would remind the Assembly of some of those achievements: The significant task of rehousing over 300 public tenants living in the former Melba Flats and the rejuvenation of this site with a mixture of public and private housing; providing tenancy and property services to over 12,000 public tenants and 4,000 mortgagors, most of whom require financial assistance with their rent and loan repayments; developing an extensive range of home loan options to meet people's different home financing needs; developing innovative financing arrangements for new housing, including private rental leasing arrangements and the Calyan model for shared home ownership for people with disability; implementing a detailed plan to develop and support the growth of the community housing sector; increasing the quality of information provided to Housing Trust clients, including the introduction of well-supported home purchase information nights; and the Housing Trust itself earning deserved recognition as a leader in the design of new housing, particularly in aged persons units, energy efficient housing for public tenants and home buyers, and various medium density redevelopments.

These specific achievements have been significant. The Government has felt that it is important not only to ensure the effective operation of the Housing Trust but also to establish a strategic focus whereby the Housing Trust continually improves the services it delivers and the manner in which it delivers and evaluates them. It is for this reason that I am pleased to outline the major changes that are now being implemented.

Mr Temporary Deputy Speaker, the housing review initiated by this Government has occurred at a most opportune time, as public housing is undergoing the most significant change in the 50 years since the first Commonwealth-State Housing Agreement in 1945. Over the next 12 to 18 months the ACT Government will be negotiating a new Commonwealth-State housing agreement with the Commonwealth and other State governments, to operate from 1 July 1996. The outcomes of this process will be incorporated into the ACT Government's reform agenda for housing.

The housing review has been undertaken in a climate of major social and micro-economic reform at the national level. Major national reviews have contributed to the ACT's review process, the most notable of these being the Industry Commission inquiry into public housing, the Hilmer report on national competition policy and the national housing strategy. There has also been the significant influence of the ACT Government's 2020 vision document. The principles put forward in these reports have strongly influenced the measures proposed by the housing review.

In shaping an agenda for reform, the housing review has closely considered the operational and organisational changes occurring in other State housing authorities as well as the ACT Auditor-General's reports on the home loan schemes and asset management. Having undertaken the housing review, the ACT Government is in a sound position to make significant policy, operational and organisational changes which will ensure that the people of this Territory gain appropriate access to affordable housing, and that the community benefits from the good management of the major housing assets.

The housing review has delivered to the Government a resource paper outlining current arrangements and a report which recommended extensive improvements. This final report fleshed out the interim report released by the Government after the 1994-95 Budget. The key findings are: Firstly, a client service improvement strategy which integrates the range of housing assistance options and the delivery of programs and improves social justice outcomes - it is a strategy that will improve the client contact environment and the culture of service delivery; secondly, a range of better housing assistance measures to better target public housing to people assessed as having a long-term need for housing assistance and providing alternative options for private rental, home ownership and community based assistance to those people who seek a different manner of assistance; thirdly, an asset management improvement strategy focusing asset management resources on more effectively preserving and refurbishing dwellings and redevelopment projects to maximise the portfolio of well-located public housing stock; fourthly, a financial management improvement plan radically improving the current accounting and financial arrangements to implement accrual based budgeting - the plan will measure commercial and social justice performance, and allocate appropriate resources to activities which achieve the best client outcomes; and, fifthly, a strategy for organisational improvements which reshapes the organisation and operations of the Housing Trust to achieve a fundamental focus on client service, business management and strategic policy.

Mr Temporary Deputy Speaker, the housing review is aimed at improving services to clients of the housing programs and ensuring that the administration of the program is cost-effective and accountable. In this context, improved service to clients includes, for example, a one-stop shop for seeking housing assistance and associated services, and flexibility and choice in matching client needs and preferences with various forms of assistance. The housing review recommendations are wide ranging. Key reform measures include:

. Integrating service delivery through the establishment of client service teams in the Housing Trust's district offices. This means that decisions will be made by staff at the service delivery level. Clients will be able to receive the full range of services at the one point and know the outcome of their requests quickly.

. Improving the communication of information on options for housing assistance and services to clients. This means that staff and clients will have a better understanding of the programs and schemes that can help people and be guided by the rights and responsibilities of tenants and mortgagors.

. Developing effective links with public and community sector providers of related services. This will result in a better understanding by staff of the professional services that can help those clients who require other support services provided by government and non-government agencies. It will inevitably make for a better living environment in public housing.

. Restructuring the Housing Trust's organisation structure along functional lines. This will see the separation of client services, asset and financial management, and strategic housing policy functions in ACT Housing.

. Changes to funding and financial management arrangements for housing programs by adopting accrual accounting techniques, applying business principles to the commercial activities and by transparent recording of costs and subsidies.

. Improving housing asset and debt management. This recognises the significant investment that the ACT community has made in its public housing stock and the need to strategically plan its good management for the benefit of current and future generations.

. Major adjustments to procedures and systems to support the diversity of changes. This will be crucial to ensuring efficient and effective housing services, and to using appropriate technology to support the staff of the Housing Trust to better deliver services.

Mr Temporary Deputy Speaker, having received the report of the housing review, the Follett Government has taken immediate steps to commence implementing its recommendations. A number of revised tenant account management arrangements were announced as part of the 1994-95 budget. These were aimed at rent arrears, improving tenant accountability and recovering sundry debts from public tenants. New recovery processes were also introduced for rent bond loans provided to private tenants by the Housing Trust.

I have taken a number of further steps in response to the housing review recommendations. These include creating a new senior position of General Manager, ACT Housing, to manage the housing group, including the Housing Trust. This decision recognises the enhanced client service role now required of the Housing Trust and the broader role of strategic planning and asset and financial management which have emerged from the findings of the housing review. I have established a housing policy unit within the Housing and Community Services ministry which is separate from the Housing Trust. This unit is responsible for advising the Government on broader housing and related policy and strategic planning issues, and it will coordinate through that one agency within my portfolio area those functions currently provided across a range of services within my own areas of responsibility.

I have commissioned a program structure review across the Housing and Community Services ministry, to restructure the housing group to deliver the improvements identified, as I have announced, by the housing review. It will also result in better linkages by the regional offices to deliver housing and community support services to clients. I have created new senior officer manager positions in each of the Housing Trust regional offices to provide local management for the client services delivered in those regions. We have introduced the bank direct debit facility and a new sundry debtors system for Housing Trust clients, which will assist tenants and mortgagors to better maintain their accounts. We have developed a pilot private leasing model for the provision of more low cost rental housing. This will provide the opportunity for the private sector to work closely with the Government in providing housing to lower income people.

I have established an advisory committee on the design and location of public housing. This comprises industry and community representatives and will advise me on proposals and initiatives for the proper physical management of the public rental stock. I have established a financial management advisory committee. This committee includes external specialists from the business, capital markets and management accountant fields and will advise on and monitor the financial performance of the housing group. We have established the entitlements review unit which, as its first task, is developing an entitlement monitoring plan for the Housing Trust.

Mr Temporary Deputy Speaker, an implementation team has been formed to oversee the implementation of the client service and the organisation improvements outlined in the report of the housing review. This team will set the direction for the other housing review strategies. This team comprises a core team of full-time Housing Trust staff with the necessary commitment and skills to deliver the housing review strategies. The implementation team has a six-month life and will address internal processes as a first priority.

In informing this Assembly of the changes the Government is implementing in the housing area, I would like to outline the framework through which future public housing developments are to be undertaken. The housing review has identified the need to revitalise the existing stock of public housing and to change the profile of stock to meet the needs of future tenants. There are a number of key features in undertaking this task. It will involve a planned process on a precinct scale and will facilitate community participation in this planning process. Individual public housing projects will be consistent with precinct strategies, taking account of the need for heritage-sensitive and environmentally sound upgrades, together with the development of mixed communities and the overall development plan.

Residential redevelopment activity in the inner Canberra suburbs will be an evolving process as tenants relocate and therefore will occur over the longer term rather than as a swift or crude change to the face of neighbourhoods and precincts. Renewal of public housing stock will take place in various manners, dependent upon that precinct plan. This may include a mix of replacements involving heritage works, one for one replacements, dual and multi-unit developments and a mix of densities, with the possibility of some higher densities.

The Government is determined that the new era for housing assistance and services in the ACT will see client-friendly regional offices where clients will be able to obtain correct information and access to the full range of services they require from professional and trained housing officers; streamlined processes within the Housing Trust with decisions made on the spot wherever possible, and vastly improved response times for repairs and maintenance; the development of a wider choice of housing options which will better match the financial and life-cycle circumstances of clients. This will ensure that subsidies are targeted to those in greatest need and for the periods when they are required. There will be a solid businesslike approach to the management of assets and debt which will complement the social objectives of delivering a housing program to this community; changes to the profile of public housing stock to better meet the needs of current and future public tenants; greater and more transparent accountability; increased and innovative opportunities for the private and community housing sectors to work in partnership with the Government in the provision and delivery of housing assets and services to clients; and a new organisational structure which will allow the Housing Trust to concentrate on operational issues, and a housing policy unit to develop the broader strategic policy and asset and financial management plans for ACT Housing.

Mr Temporary Deputy Speaker, since ACT self-government the ACT Housing Trust has delivered an important social justice program on behalf of our Government. Its staff are committed to assisting those members of our community who have low income or are disadvantaged in other ways when it comes to securing affordable housing. The Follett Government is now making reforms which will ensure that the Housing Trust delivers a high standard of service to clients for the future. The Government looks forward to the major changes that will occur over the next six to 12 months which I have described here this afternoon. I undertake to keep the Assembly and the community advised and involved in the process of reform.

Public housing seems to have its enemies in this community. For instance, the Kaine-Collaery Government in 1990 was urged to sell off public housing stock. The Follett Government values public housing as an essential ingredient of a socially just city. We will ensure that public housing is effective and efficient. We will respect the housing rights of all members of our community. As I stated earlier, Mr Temporary Deputy Speaker, this Government is committed to the principle that access to appropriate, affordable and secure housing is the right of every Canberra citizen irrespective of their income. The Follett Government is proud to support public housing reform in the terms that I have outlined today. I present a copy of this statement, and I move:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

GOVERNMENT SCHOOL ENROLMENTS
Discussion of Matter of Public Importance

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

The failure of the ACT Government to effectively manage government school enrolments.

MS SZUTY (3.51): Mr Temporary Deputy Speaker, in addressing this matter of public importance, I would like to begin my remarks by stating my support for the concept of priority enrolment areas from which, in most cases, government schools draw the majority of their enrolments. The establishment of priority enrolment areas for schools has enabled parents and students to be cognisant of their neighbourhood school, while recognising that opportunities exist for parents to enrol their children in schools other than their neighbourhood schools. I believe that this policy is preferable to a zoning policy, which gives parents and students no flexibility about which government school students can attend.

Schools have, over the years, effectively developed policies in relation to out-of-area enrolments which provide them with criteria by which they can select particular students who meet those criteria as students for their schools. I have just been involved as a parent in examining the secondary college options available to my son, who is completing Year 10 at Charnwood High School this year. If secondary colleges are able to accommodate out-of-area enrolments once their priority enrolment area students are accommodated, they can select additional students on the basis of confirmed intention to study in particular subject areas, on the basis of sibling attendance or an earlier family

attachment to the college, or in some instances on the basis of groups of friends attending particular secondary colleges. These may not be the exact criteria for these enrolments; but they are certainly close to the mark. I have also had personal experience of the appeals process for secondary college placements, having served as a parent representative on the appeals board some years ago.

Mr Temporary Deputy Speaker, I also wish to say at the outset that I believe that considerable damage was done to any effective examination of this issue to date by the Federal Government in the time before the ACT achieved self-government and by the Alliance Government in raising community expectations about school closures being the answer to the management of school enrolments. There is no doubt that this approach has caused disquiet, resistance and opposition from school communities and has resulted in a general lack of will by the current ACT Government - and, in particular, the Minister for Education and his department - to examine constructively the issue of school enrolments in an existing environment of, at times, intense competition between what are seen as competing schools.

The Minister cannot argue that the issue has not received attention by others over the years. I was a member of the Belconnen Region High Schools Task Force, which, in 1991, in the report entitled *Drawing Together*, recommended that the issue of the distribution of enrolments in Belconnen high schools warranted active consideration by the department. Indeed, the task force made a number of recommendations which the Government could pursue. I would like to quote some of them. Recommendation 1 stated:

Regional promotion of Belconnen high schools should be encouraged and funded, possibly through the Belconnen Regional Support Centre, with attention to the regional coordination of information and to the promotion of regional meetings of parents and citizens. There is no reason not to extend regional promotion of high schools to the rest of the ACT.

Further recommendations of that task force were:

9. Principals of the eight northside high schools, with Ministry support, should establish an appropriate procedure for monitoring enrolments and distribution of out-of-area applications.

10. Representatives of high school boards in the Belconnen region are encouraged to meet at least annually to review enrolment procedures, to provide mutual assistance and to resolve any matters which may affect enrolments.

11. Written advice on enrolment monitoring and the results of review procedures should be provided to the Belconnen Regional Support Centre.

12. The Principal of Yass High School or his/her representative should be invited to participate in the procedure of cooperative enrolment.

13. The application of out-of-area quotas is recommended only as a means of achieving cost savings or for reducing inequities in the geographical distribution of the high school intake.

14. All procedures for application of out-of-area quotas should be carefully monitored and recorded as a public document.

Little evidence exists that the Government or the department have effectively addressed those recommendations since that time. In a subsequent report by the Schools Restructuring Task Force, entitled *Coming to Terms*, on how a school system should respond to tough times, the task force stated at recommendation 2:

That:

a) The principle of freedom of choice of government schools be maintained

b) priority for enrolment is given to students living within the schools designated catchment area (Priority Enrolment Area)

c) the cost of transporting students travelling to a government or non-government school from outside that school's designated catchment area should be borne by the students or their families.

The recommendation about the cost of transporting students has been reiterated in the report of the Ministerial Advisory Council on Public Education of May 1994. In part, recommendation 8 reads:

Inappropriate and inequitable subsidisation by ACT taxpayers of particular groups of public education users, for example, out-of-area bus users and children of diplomats, should cease.

The question can be asked, "What has the Government done to effectively manage government school enrolments in the ACT?". I am afraid that the answer is, "Very little indeed". In 1993, Griffith Primary School closed because of exacerbated difficulties within the school community which were not effectively addressed or resolved by the Department of Education or the Minister. This was at a time when the Government had in place a policy that there would be no school closures during this term of an ACT Labor government.

Madam Speaker, I have indicated to the Assembly that the Government appears to be doing little to effectively manage government school enrolments in the ACT. In the report of the Select Committee on Estimates 1994-95, the committee reiterated its concerns about peak enrolment levels at government schools, pointing to

a Commonwealth Schools Commission survey of 1984 which indicated that primary schools functioned best below 600 pupils and high schools below 800 pupils. Similar arguments can be presented about the desirability of maintaining small schools in the government school system - primary schools with perhaps less that 150 pupils and high schools with perhaps less than 400 pupils.

Madam Speaker, I have no wish to draw specific attention to the individual government schools which could be considered to have more or fewer enrolments than the optimum. I believe that individual targeting of schools for attention is destructive and soul destroying for those particular school communities. However, I would like to indicate to the Assembly that the 1994 school census data indicates the following: Two government primary schools currently have fewer than 150 enrolments, and enrolments at another four government primary schools must be giving cause for concern. One government primary school currently has 600 enrolments, and high enrolment levels at another one government primary school must be giving cause for concern. One government high school currently has fewer than 400 enrolments, and two government high schools currently have more than 800 enrolments. One secondary college with falling enrolment levels must be giving cause for concern, while four others maintain high enrolments of over 800 students. I have used these figures illustratively, Madam Speaker, because I wish to make the point that, of our 96 government schools, a number could be perceived to be experiencing difficulties, with either low numbers of enrolments or high numbers of enrolments, respectively.

There are particular advantages and disadvantages for both students and teachers with respect to both of these working environments. I am sure that we have all heard these arguments before. I will reiterate them very briefly. The small schools tend to have difficulty offering a broad curriculum range for their students. This can happen at all levels of schooling - at primary school, high school and college level. There is often a commitment of the school community over and above other school communities because of low numbers of enrolments at those schools. Working conditions for teachers at small schools can be considerably less desirable than those at larger schools. With smaller schools there is no particular advantage of smaller class sizes, not necessarily any economies of scale with staffing and no time allowances for teachers, as there could be with larger schools which offer extra activities. In the case of larger schools, individual students can experience isolation. There can be difficulties with student welfare, overcrowding problems and perhaps additional cost to the system itself with the provision of transportable buildings being necessary. Also increased wear and tear problems can be experienced by larger schools.

Madam Speaker, I would like to remind members of the Assembly of the principles and goals of government schooling in the ACT. I think that the MACPE report is very illustrative in this regard. As I am running out of time, I will quote just one reference. The mission statement of the ACT Department of Education and Training reads:

The ACT public education system will work in partnership with parents and the community to empower students to live in, and contribute to, a rapidly changing society and to act as responsible, independent children, young people and later, self-sufficient adults who care about others and their environment.

In fact, this mission statement about government schooling is relevant to all students in the government schooling system and includes students attending schools with both low enrolments and high enrolments. The whole point of having a government school system is that it equips all students with the necessary skills and expertise to take their places effectively in a changing society. Of course, it is up to each individual school within the government school system also to provide students with these skills and expertise.

Madam Speaker, the issue of the effective management of government school enrolments has become topical, to such an extent that the ACT branch of the Australian Education Union, in its September newsletter, identified five points that it wanted adopted as policy. The five points that it recommended were:

1. That developing management strategies for school enrolment is a system responsibility.

2. That an in principle decision be made by the Department that maximum core enrolment in schools should be for primary 500 students and for secondary 800 students.

3. That these core enrolments will have to accommodate movement generated via demographic, town planning and other factors such as school amalgamations over time.

4. That the Department carry out its management strategies with advice from a Joint Policy Committee with Union, Departmental and parental representation. This Committee should have responsibility for development, implementing and monitoring of policies covering Priority Enrolment Areas, transport issues, capacity issues, holding arrangements, exemptions and appeals processes and other issues related to Enrolment Policy.

5. That the Department develop, in conjunction with individual schools, parents and the Union, a comprehensive strategy for promoting the ACT public education system. This to include publications that articulate not only the system philosophy but also promote the schools within the system to the ACT community.

Madam Speaker, I am pleased that the Department of Education has agreed, in line with the recommendations of the Australian Education Union, to establish a committee to address this issue. I also understand that the union has arranged a time in November to meet with the Minister for Education, Mr Wood, to discuss this issue and other issues. The Government has the opportunity now to address this issue, as it has had numerous opportunities in the past to address the issue.

Mr Wood: We have been doing it for three years.

MS SZUTY: I will look forward to hearing about it, Minister. I note that existing Labor Party policy indicates that the current commitment to maintain existing schools does not extend beyond the term of this Government and puts the community on notice that school closures will be contemplated in the future. Madam Speaker, I will not accept future school closures because, to date, the Government has failed to effectively address this issue and other related issues such as bussing policy and community use of schools. It remains for the Government to identify effective strategies to manage government school enrolments in the future. I trust that it will eagerly accept the challenge which lies ahead.

MR WOOD (Minister for Education and Training, Minister for the Arts and Heritage and Minister for the Environment, Land and Planning) (4.04): Madam Speaker, Ms Szuty has raised a question; but she has not provided an answer. She has claimed that the ACT Government has been doing nothing for three years; but she has been complaining madly about what we have been doing. I think that, more than being an education matter, this is a planning matter; but she has raised it as an educational debate, and I will answer it predominantly in that mode. She has provided an answer in only one respect - that a bussing policy would have some impact. The bussing policy is the one that she mentioned from the task force report which said that there should be no government funding of students who leave their local area. That is the only answer that she provided in 15 minutes of debate. Nevertheless, I thank her for raising the issue, because it is one of significance in Canberra. It is, however, one that will always be with us. I have to tell Ms Szuty that it will always be with us because, in a free and democratic society, where people exercise choice, there will always be free movement of people.

Ms Szuty did mention freedom of choice of enrolment. That principle is at the top of the list of principles in this community in respect of school education. As much as anything else, the community and parents appreciate the chance to enrol students where they wish to. That has been a long-term policy. It has not been just my policy; it has been a long-term policy that you can take your child where you like. There are only a couple of inhibitions to that. Firstly, every school must enrol everybody in its priority area and, secondly, a school should not enrol students beyond the limit of that school. In broad terms, that is the policy that has been re-established as we have looked at college enrolments. Ms Szuty said that we have done nothing. In respect of college enrolments, we have had a policy group meeting during the year. A policy is now out for discussion. In the broadest terms, that is what it says. So, we do attend to things. We do not propose, and Ms Szuty does not propose, to put a fence around the school area, to establish a school zone and to lock everybody into that. That is no answer. This is a free society. People can move about, as they wish, and I would not think of changing that.

More significantly in this debate, this issue highlights a fundamental difference in approach to managing government schools between the Follett Government and the Opposition. Ms Szuty and I do not have too many differences of opinion on this matter. She does not have any particular answers.

Ms Szuty: I have.

MR WOOD: She has one little bit of an answer. There is a fundamental difference between us and the Opposition. School enrolments will always fluctuate while the city and suburbs are growing and young people grow up and move away from home. Newer suburbs traditionally have had larger school-age populations, while older suburbs have had declining enrolments in their schools. In particular, because of the nature of Canberra's development, suburb by suburb - in the past, at any rate - that has always been an exacerbating factor.

Because parents have the choice as to what school they send their children to, more popular schools will attract more students. Schools can become popular for a number of reasons. One of those reasons is that some parents prefer the old-fashioned school design. They do not like the "open plan" design of some of our schools, if that term is still relevant. More frequently, a school is popular because the parents believe that it has a high-quality education program. Sometimes it might simply be as a result of good marketing. Evidence suggests that secondary colleges situated at a bus interchange adjacent to a town centre are more popular. You will note that some of these factors do not have a great deal to do with the quality of education being offered at the school. The fact is that school populations can fluctuate markedly.

The key issue is that governments should ensure that all students have access to quality education programs. That is what it is all about. That is what I said during question time today and it is what I have been saying all the time that I have been in this Assembly. Numbers do not count; it is what happens in that school that counts. The best way to ensure that all students have access to quality education programs is to maintain a pattern of schools across our city in such a way that each operating school is accessible to all those who want to come. It is also important that each school offer high-quality education programs which meet the needs of those students who do come. That is the real management question - managing schools so that students have access to quality programs; not managing enrolments to stop schools getting too large or too small. We should get the right focus. Managing quality education, while being mindful of resource constraints and shifting enrolments, is a priority for this Government.

You will recall that on 18 May this year I tabled in the Assembly the report of the Ministerial Advisory Council on Public Education. I sought the advice of the council on precisely this issue, and they have responded at length. The Government is currently considering that advice. The Government is addressing this issue and other planning issues at both macro and micro levels. Because schools are part of the fundamental infrastructure that governments provide for the community, the initiatives taken to control the urban sprawl of Canberra will have an influence on the demographics of school-age children. We have adopted a policy, in part, to use our existing infrastructure. I know that Ms Szuty has supported that 50 : 50 policy. We have all had some concerns about the way it is going; but that has been an important thing. Yet she stands up and says that we have not done anything. What more significant step than that could we take? Surely, we could take no more significant step.

The Government is also committed to providing new schools in new suburbs when the need arises. The Government is attempting, through its urban planning measures, to maintain as far as possible stable population levels in existing suburbs. This is to ameliorate the traditional decline in the population of school-age students after a suburb has been in existence for some years. So, we have been acting. We have been doing things.

Mr Moore: Urban infill does the opposite.

MR WOOD: No. You have to understand that, at the same time as we are doing things, there is a very significant decline in family numbers. The Government strongly believes that parents should be able to choose which school their children attend. We do not favour draconian measures to make students attend certain schools simply to manage enrolments. I do not think Ms Szuty intends that we should. She gave a list of recommendations from the Belconnen task force; but basically the recommendations were to monitor it, talk about it and consult. They did not really address the issues, except that one that I mentioned.

The Government and the Department of Education and Training recognise that competition between schools does exist. I am not against that. I have said that before. The key issues are how this competition manifests itself, what effect it has on school programs, how it affects access and equity for students with learning disabilities, and whether the marketing and advertising divert the use of public funds from teaching. Do the people of the ACT want an integrated system of public schools which is able to plan comprehensive school programs that offer clear and distinct choices for students in the learning pathways that they may follow from kindergarten to Year 12? Do they want one which is able to deliver on equity and access so that all students, no matter where they live or what are their attributes and background, are given a fair go when it comes to schooling? Or do the people of the ACT want an archipelago of competing "pseudo private" schools which aggressively promote themselves, using glossy prospectuses and promotional brochures as part of their marketing?

Mr Moore: No, we do not.

MR WOOD: Thank you, Mr Moore. I was most interested to read today Mrs Carnell's *Canberra Times* article on the vision for schools. In it she said:

A good, solid bit of competition between our schools can only mean a better education for our kids.

She also said that people who want to keep small schools going will have to market their school to attract more students. That is an alien idea in this city, based on numbers and based on dollars. The Liberal Party has presented no policy at all for monitoring school enrolments or even recognising that it might be an important issue to ensure that students have access to quality education, no matter what part of Canberra they live in. They just want open competition, with schools closing down, regardless of suburban need and all sorts of other factors. They would just close schools down if they cannot survive. The bottom line of their policy is unfettered competition between schools, with survival of the fittest. That is turn of the century, populist Darwinism.

What would such a policy produce? I have already mentioned the slick marketing and glossy prospectuses which will entice new enrolments. We can add to that the token regard for equity and access. What happens to students with special needs when their school closes? What happens to those students who depend on public transport or ride their bike to school when that school closes? Unfettered competition among schools will have serious deleterious effects on many of them. Some will prosper, and many will fail. Perhaps the worst aspect of a school stumbling and threatening to fall by the wayside is the terrible uncertainty that this generates for all concerned - students, parents, teachers and other staff. When rumours start to fly, the self-fulfilling prophecy of closure eats away at all confidence in the school. Ms Szuty, in commenting on the Belconnen task force report, said that there should be regional promotion. But that is still the same principle. What she was talking about was not schools within an area or schools across the whole system promoting each other, but regional promotion. It is still promotion. It is keeping Belconnen kids stuck in Belconnen. That may be a good thing; but I do not think you can make that argument and at the same time criticise movement across boundaries.

It is difficult for any school to remain viable if the story is out that the school is in difficulty, that it cannot present high-quality education programs or that it is likely to close. If parents think that there is a likelihood of a school closing while their children are there, they will simply take the children away. The Government is providing an integrated system of schools which ensures that students, no matter where they live in the ACT, have access to high-quality education programs from kindergarten to Year 12. We know that parents want, and expect, the right to choose where their children go to school. We support that. We know that parents of students with specific learning needs expect that those needs will be met in a comprehensive and professional way. We support that. Children in primary school who start to learn a language other than English - for example, Japanese - should have a reasonable expectation that they can take that language through to Year 12. This requires planning and coordination among schools, not unfettered competition between them.

Certainly, more can always be done to balance enrolments, particularly in the high school and college sectors. As well as the urban planning aspects of maintaining as stable a school-age population as possible, this Government is supporting initiatives taken by the Department of Education and Training to ensure universal access to quality programs. Access to quality programs is the key to this issue.

MR STEFANIAK (4.19): Madam Speaker, firstly, I must congratulate Ms Szuty for finally realising that there is a problem with enrolment levels in government schools.

Mr Moore: Which Bill Stefaniak recognised four years ago!

MR STEFANIAK: It has been a problem, on and off, for longer than that. There certainly has been a problem over the last three years, as is becoming very apparent. To point that out, I intend to go through some figures which my absent colleague, Mr Cornwell, has spoken about in this Second Assembly. For Mr Wood, the Minister, to say that Ms Szuty has no answer is a little bit rich. Perhaps he should look in the mirror. Here is a Minister who cannot even decide whether or not a carport should go up.

The Minister did raise a number of points. I will deal with a couple of those and also with the criticism of Mrs Carnell's article in the *Canberra Times* today. I was quite amazed by the incredible interpretation placed on Mrs Carnell's article by certain members of the Government. It was very far-fetched. One must question their literary standards. This article has some excellent ideas and suggestions for our education system into the next century. They are very worthy of debate and consideration. But Government members have come up with some incredible interpretations of the article which I have great difficulty in understanding.

Mrs Carnell seems to me to be proposing that we have in our community a number of small schools, which, we accept, will probably need to attract students. Mr Wood himself talked about students moving from one area to another to go to a school of their choice. We live in a free society, and there is choice. Whilst, I suppose, it would be hoped that most students who lived in an area would go to the local school, there are going to be some parents who do not want their children to go there. Accordingly, at present, some schools have more students than others because they have a better reputation, for whatever reason.

What Mrs Carnell is saying in her first point seems to be that schools that happen to be small might need to develop a certain niche to attract students. I think that would be commonsense even with our current system. We have seen some very successful schools which have developed a certain niche in the market in terms of students. Even parents from out of the area tend to send their kids to those schools. The Mawson Primary School is an Australian-Chinese primary school. When I was in practice, I had several Chinese clients, one of whom was a teacher there. It does not have just children of Chinese extraction; it has many children of other extractions as well. Certainly there is a niche there. The Red Hill school provides a French language course. Telopea Park High School has some specialised programs. Narrabundah College is at the top end of the scale with its baccalaureate. These schools all have a certain niche, and people come from all over Canberra to go to them.

Mrs Carnell was also saying something which, I think, most educationalists in Australia realise. It is just commonsense. It is something that Mr Wood, no doubt Ms Szuty, and certainly I had when we went through the school system. I am not quite sure whether Mr Wood went to a state school. He went through the Queensland system and I went through the local ACT system. At primary school level, there certainly was some type of testing for basic numeracy and literacy skills to enable people to progress. I think that Mrs Carnell is quite right in saying that there can be improvements made at the primary school level. Some type of testing is needed to see whether children have the required skills to go on to high school so that they will not just be lost in the system. As she quite rightly said, sometimes it is a tragedy if a kid cannot read by Grade 6, as there may be no hope for them after that. That is a real problem which needs addressing. I cannot, for the life of me, see how anyone could take umbrage at that.

She referred to alternatives for those who do not necessarily have an academic bent. Again, that is something that is quite basic. I can recall that, in the 1960s, here in Canberra you had a number of subjects available. Some students in high school did not necessarily have an academic bent. They worked out more or less what they would like to try - not university, but something more practical - and tended to do a series of practical subjects that might help them get a job when they left school. They probably had every intention of not going on even to college. Other students, including me, I suppose, did not have much of an idea of exactly what we wanted to do. We tended to do other subjects too. That is something that has been in our system for many years.

Perhaps too much emphasis on just getting an education, rather than at some stage focusing on the end result, is an area where improvements can be made as well. Certain schools might like to pick up a certain area of expertise, especially with the way our system has gone now, where more kids go to schools out of area. That practice is far greater now than it was 20 or 30 years ago in Canberra. Most students tended to go to their local school and there was very little out-of-area movement at all. That is certainly something that has happened over the last 20 years. Mrs Carnell's comments in relation to skills, jobs, a practical link to the work force and the one-week work experience could be extended. They are good, practical, sensible comments, in which I think any educationalist would see merit.

In relation to the specific matter that Ms Szuty raised - the failure to effectively manage government school enrolments - over the last three years there has been a problem. My colleague Mr Cornwell has commented on the census figures which are put out by the department early in the school year. Each year these figures have clearly demonstrated a trend towards dropping enrolments in some areas and rising enrolments in others. The Follett ALP Government's gift to the ACT is severe overcrowding in some schools and a booming emptiness in others. I will go through some of Mr Cornwell's figures. His press release of 5 May 1994 stated:

Despite another creative effort the 1994 ACT Government School Census showed an increase of 1,193 surplus spaces on the 1993 figures ... even allowing for legitimate deductions from the surplus space total of 11,840 places for special cases (1,275 spaces) and unused spaces in new schools (330) there were still 10,235 excess student places in 1994 compared with 9,072 excess places in 1993.

In an earlier press release, of 27 April 1993, he commented:

The census shows 1,098 surplus spaces in colleges, 2,518 places in high schools and 5,456 surplus spaces in primary schools. This is in spite of the Government's efforts to hive off additional surplus spaces for use by all sorts of special or even non-educational purposes ... however the Government tries to cover it up, the bottom line is a minimum of 7,846 or a maximum of 9,072 surplus student capacity.

That applied to schools at that time.

I heard Mr Connolly or someone say something about closing schools. Let us set the record straight. The Alliance Government, which you so readily knock, closed four schools, two of which were reopened. Under this current Government, which promised not to close any, Griffith Primary has been closed. Mrs Carnell's article says absolutely nothing about closing schools. It most likely offers a real chance of no schools being closed, because it offers a number of options which can make them viable and which can do a lot more than has been done to date in relation to that particular issue.

In a press release in May 1992, Mr Cornwell stated:

Despite various attempts to reduce or fudge the numbers, surplus student spaces in ACT Government schools continued to grow.

He said that in that year there were some 10,418 surplus student places. So, this has been a continuing problem, which this Government has not addressed.

Mr Moore: What do you mean by "surplus spaces"?

MR STEFANIAK: You can actually fit a lot more people in there. If there are 10,000 surplus spaces, you can put 10,000 people in there. There are peak enrolments for new primary schools in new areas; for example, in Gungahlin and Tuggeranong. These will jump from 600 to 750 pupils. High schools will go up to 1,000. Compare that with the older schools, where there are very few students indeed. This Government's policy seems to be that, where you have too many students, you put in a few demountables. This Government does not seem to have any real answers when the numbers are dropping. I can appreciate the demographic argument. I can appreciate all those issues raised there. But you people might like to look a little more closely at Mrs Carnell's article, because that shows you a few things you can do to even out this problem of schools, especially where there are lots of spaces available and underutilisation of resources.

MR MOORE (4.29): Madam Speaker, in speaking to the matter of public importance, which is the failure of the Government to effectively manage government school enrolments, I will begin by taking up the issue of surplus spaces, which Mr Stefaniak raised. I think that Mr Stefaniak should look at the surplus spaces around him here. Should we close down this Assembly? I know how Mr Stevenson would respond to that question. Of even greater concern than surplus spaces in schools is the surplus space in the heads of the Liberals, who think that there are 7,000, 9,000 or 10,000 surplus places in Canberra schools that you can fill in some way. They do not exist. If we had the same educational philosophy as we had 20 years ago, there might be some argument for having some extra space in schools; but we have an entirely - - -

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

GOVERNMENT SCHOOL ENROLMENTS
Discussion of Matter of Public Importance

Debate resumed.

MR MOORE: Madam Speaker, talk about surplus spaces in schools does not take into account things like after and before school care, which is a very important and integral part of schooling in the ACT at the moment. It does not take into account the different ways in which schools operate. Mr Stefaniak may not have been in a school since they sat kids in nice, neat rows, when we all stood up to speak, and some of us even did what we were told. I should say "some of them even did what they were told". Madam Speaker, as you well know, things do not operate in that way in schools these days. To suggest that you can cram kids in, in the way they were crammed in 20 years ago, is just ludicrous; but it represents where Liberal educational philosophy is - about 20 years back, if not further back. In fact, it is further back, because 20 years ago we were actually developing the ACT Schools Authority. I think that the ACT educational system at that stage was more advanced than the Liberals are now.

Madam Speaker, the crux of today's matter is access versus choice. We would all like to see people having as much choice as possible; but at the same time we have to recognise the need for people to have appropriate access to schools. One of the problems that we are facing at the moment, with students moving widely from one school to another or going outside their normal school area, is that, where a school is left with a small and diminishing population, we wind up with a situation where the only people who will not move are those to whose parents education is not so important. The students that are left will effectively be in a marginalised education system. That is the thing that it is critical for us to avoid. You have to balance that carefully against the need for choice. What we have at the moment is a system that actually encourages people to move and to make choices, instead of encouraging people to stay with their neighbourhood school. Mr Wood raised some of the issues around that. That is where we have to look for the appropriate balance.

Mr Wood said that Ms Szuty had not come up with any ideas at all. In raising this issue, Ms Szuty rightly pointed out that the Government should be making decisions about this; but, because Mr Wood seems so bereft of ideas, as he is bereft of decision making ability, on behalf of Ms Szuty and on my own behalf, I will present some ideas to get him moving. I will do that in a short while. First, I would like to raise this issue. He said that the Government is trying to provide some solution through its infill planning process.

I think it is time Mr Wood read a little more about urban infill and its impact on populations, particularly school-age populations. If he looks back over the last little while, since the development of Kingston, he will realise that what has happened there is that in the 1950s and 1960s, if my memory serves me, there were 3.84 people per square kilometre, but the figure is now down to about 1.8 in that area where we are redeveloping.

More importantly, what happens with urban infill is that, wherever it occurs - whether it is in the ACT or even in Sydney, where we have had massive increases in urban redevelopment - we do not get an increase in the number of people in the area. We certainly do not get an increase in families. That is one of the problems that Mr Wood should have faced. I hope that it will be faced by Mr Lansdown in his inquiry. I hope that he will raise those issues with Mr Wood and, in his report, explain to Mr Wood just how wrong he is in thinking that urban infill is, in some way, going to improve enrolments in schools. If that were the case, we would not have seen the closing down of the Griffith school. I would argue that the redevelopment of Kingston has contributed significantly to that school having to close.

When people make decisions about which school they are going to send their children to, they make them on many grounds; but certainly the planning of Canberra and access to schools is one of the most important issues. If your local primary school or local high school does provide for you an appropriate facility, obviously that is the facility you are going to use. When we get glossy marketing suggesting that there are good reasons to go elsewhere, of course people are going to be lured away from those schools. When that is facilitated as well by bus services that support the movement of children around the ACT, of course we are going to see more and more of that sort of movement, which is likely to leave some schools with marginalised populations. So, for some ideas, Mr Wood could look at those bus subsidies that we currently have. It is not a new idea. Ms Szuty has mentioned that to him again and again; but, of course, that is not convenient for him or he just does not want to make any hard decisions because he is bereft of decision making ability.

The other possibility he has is to look at a policy of controlled perimeters for enrolment, allowing exemptions - because we want to find a balance between choice and access - on such grounds as incompatibility with a teacher or a school or, more importantly, where a school does not offer a specific curriculum which a student is very keen on. For example, it might be a special music curriculum that is not offered in one high school but is offered in another. Exemptions could be allowed there. That, in turn, would encourage people to use their local primary school and high school. So, there are ideas around which the Minister could adopt. I offer those ideas to him.

I have one other little piece of news for a Minister who, just a minute ago, said to us that the whole notion of glossy marketing was something that we all should be particularly careful of. It already goes on. There is certainly glossy marketing of colleges in the ACT. As far as I am concerned, it is a great waste of money and resources, particularly teaching resources, to put them into that sort of process, when the process that we should be

looking for is one that provides appropriate curriculum choices for students within schools. But, even before providing those curriculum choices, it should provide teaching that reaches out to students and teaches the students the subjects, rather than teaches the subjects to the students. When we get that sort of attitude in our schools - it applies in many of our good schools - then we will have a reasonable chance of ensuring appropriate enrolment policies across schools.

MS ELLIS (4.39): Madam Speaker, as the Minister has pointed out, it is vital that we maintain our excellent public school system while providing the community with a genuine range of educational options. Our policies aim to do just that. They support a clear choice of schools, and they support this choice with transport options, where viable, while retaining a strong commitment to the priority enrolment area concepts. Priority enrolment areas for ACT schools have, for many years, helped to ensure that all students have access to an excellent standard of education. In recent years, they have also facilitated the development of strong links within school clusters. These links are increasingly providing a coordinated curriculum from kindergarten to Year 12 and supporting students in their transition between schools in their cluster.

In term 1 this year, the Department of Education and Training established a working party specifically to further examine college enrolment policy and procedures, and to ensure that these would provide the best possible outcomes for students. The working party, which included school, department, union, student and parent representatives, considered information from a number of sources, submissions, demographics, past procedures and issues raised in discussions and debate. The draft policy reflects a continuing commitment to the belief that all schools are part of the ACT public education system and operate within the supportive and equitable framework provided by the ACT Government and the Department of Education and Training.

As the Minister has already mentioned, it is essential that all our schools remain a part of this framework and do not become, as the Opposition would seem to wish, merely a group of quasi-private schools competing, in whatever manner they wish, for student enrolments. While each college and high school in the ACT offers students a quality education program, it is also necessary to recognise that students may choose the course offerings which they consider best meet their needs. These choices may require students to travel outside their priority enrolment areas. The availability of this option is still subject to school capacity and the needs of local priority enrolment area students; but it is an option which, in the ACT, is considered to be a fundamental right. Ms Szuty seems less concerned with the rights of students and their parents than with rigid rules and regulations to try to tighten them up. All schools must provide for and accept students from their own priority enrolment area before accepting students from other areas. The guidelines on this are very clear and are designed to ensure that schools do not become overcrowded with out-of-area students.

It is important to note that changing demographics also reflect on school enrolments and that fluctuating enrolments are a fact of educational life. Because of this, it is neither desirable nor practical to operate a system of rigidly determined enrolment areas or to encourage a total free-market approach which could place them at the mercy of flashy

advertising and changing fads and fashions. Our schools must have both the freedom to respond to their communities' needs and the ability to plan, which comes from a knowledge that they will be influenced by the changing demographics and their priority enrolment areas. We cannot totally protect schools from these factors. What we can do, and have done, is to seek a balance. It is because of this balance that, over the past 20-odd years, the ACT has developed an education system which is the envy of other Australian States and Territories.

We can be confident that our schools are offering courses which will equip students with the skills and knowledge to fulfil their individual potential. Our colleges, in particular, are recognised as being leaders in the education of young adults. Retention rates here in the ACT run at well over 90 per cent and reflect the ability that colleges have to respond superbly to the needs of a very wide range of students. It is important to note that our colleges prepare students for further education and for the workplace, and hence provide students with academic, vocational, employment and social and recreational options. They are vibrant institutions which, like other sectors of the education system, respond to the needs of their community. This responsiveness encourages the development of specialist courses and facilities and makes each one different; but they all operate within a solid framework of policies and procedures which ensures access and equity for ACT students. Each also has the full support of the Department of Education and Training.

As I mentioned earlier, Madam Speaker, students do not lightly make the choice to attend a college outside their priority enrolment area. Strong cluster links, continuity of friendships and travel time must all be taken into account, along with subject choice and availability of places. The excessively restrictive rules on who may go where, that Ms Szuty and others seem to be advocating, would undermine student and parent choice. The ability of, and capacity for, forward planning is important to our education system; so guidelines which set down schools' maximum capacities and enrolment procedures are both necessary and desirable. This becomes more apparent when we recognise that, in the next six years, it is anticipated that six new government schools will open in new areas of the ACT. That is a mammoth planning task. We must retain the ability to plan sensibly for the future so that we can provide, in a timely and cost-effective manner, the education facilities to which our students are entitled. However, we must also retain some degree of flexibility if we are to respond to a changing society.

Madam Speaker, this Government and the Department of Education and Training are working with all sectors of the community - unions, teachers, students, parents and schools - to ensure that a consistent management policy continues to provide ACT students with the best possible education opportunities. We are taking a balanced and sensible approach to enrolment issues, to ensure that school and college programs are viable and that the best possible use is made of educational resources. In doing this, we are weighing the needs of all stakeholders and ensuring that we retain a cohesive and coordinated education system which helps students achieve positive outcomes.

I sincerely hope that members of the community who may peruse this debate at some time in the future will think terribly carefully when they start to consider different options that are going to be put in front of them in terms of the running of the education system in the ACT. It is a system that has done us proud for many years. It is a system that we must protect. I, for one, will be doing all in my power to ensure that this system of education in the ACT receives that protection and is not open to the abuse and the pillage that I believe may be possible, given some of the options put by those opposite.

MADAM SPEAKER: The discussion is concluded.

STUDY TRIP
Paper

MADAM SPEAKER: Members, for your information, I table a study report by Mr Gary Humphries on travel undertaken in July.

BAIL (AMENDMENT) BILL 1994

Debate resumed from 15 September 1994, on motion by Mr Connolly:

That this Bill be agreed to in principle.

MR HUMPHRIES (4.47): This Bill is a technical Bill, for the most part; and, as a result, it will not attract too many problems or receive too much critical attention. Obviously, with the passage of the Bail Act in early 1992, it was inevitable, with a very large and fairly new scheme, that there would be a number of problems that would emerge in the operation of the new bail regime. These are being addressed through the Bill before us today. The Bill has the broad support of the Liberal Opposition. There is one amendment which has been circulated, and I will speak about that amendment when the detail stage is reached.

Madam Speaker, there are a number of things worth mentioning briefly with respect to this Bill. Principally, the Bill deals with unintended omissions or weaknesses in the legislation. This would be one of the more frequently used and applied pieces of legislation in our community. Every day of the week there would be many instances of persons being granted bail as a result of summonses or charges or warrants and the need for their liberty to be provided for, and therefore an application of the terms of this legislation.

From time to time problems have emerged. For example, those who have been charged with breaches of the peace do not, at present, have a capacity for bail. Technically, they are supposed to be held in custody until they can be brought before a magistrate. In fact, the practice has developed of providing for these people to sign undertakings. The undertakings have been given by the police to be executed by the offender, and those undertakings have resulted in the release of the person. Those undertakings, however, do not have any basis in law, and it is obviously undesirable that they should be issued when they do not have any legal status.

Similarly, there have been problems with the use of forms under the legislation. I understand that only one form has been prescribed through the proper process, perhaps in part because of the awkward and cumbersome nature of trying to find a form which suits all circumstances; and a number of other forms, I understand, have been used informally - this is according to the explanatory memorandum - to overcome short-term difficulties, again without any legal basis. A new regime is proposed in the legislation for dealing with the issue of the use of forms. I note that the Government now is tending towards a policy of having forms made by, effectively, subordinate legislation and tabled on the floor of the Assembly. That, I must say, is a much simpler way of dealing with what is, for the most part, a fairly perfunctory process of deciding in what way one accesses a particular provision in legislation. That obviously is an important provision to deal with.

There are some loopholes in provisions dealing with the capacity of a person to contact his or her lawyer. At present, through one of those loopholes, it is, in effect, possible for a person to contact their lawyer even though another section of the legislation provides that police should have a discretion not to do so where doing so might result in evidence being destroyed, or threaten some important witness, or result in an absconder leaving the jurisdiction. This legislation is designed to ensure that that loophole is closed.

Madam Speaker, it is important to acknowledge also that there have been some other public problems with the legislation. Members will recall an incident a few months ago when an individual was arrested pursuant to a warrant and he was held, I think, for 36 hours or so, when in fact the warrant really should not have been issued against him. He was, in effect, falsely held. An earlier suspect had been pulled up for a motor vehicle offence and had given that second person's name, date of birth and address. The police, having no means of verifying these details - the person not carrying their driver's licence - took them as gospel, as the truth. When the person failed to appear at the station as required, or to answer a summons, there was a warrant issued for his arrest and he turned out not to be the person who was sought after all.

The Government is dealing with this problem by providing for new mechanisms. It will be possible now to provide for a person to be released only in certain limited circumstances - for example, where a court is not sitting, say, on a Saturday; where the offence is minor; or where the court has not previously ordered that there not be a release. The Minister makes the point in his presentation speech that this ought to avoid circumstances like those that arose in the case of the person I referred to before, Mr Henry. I think that these changes would not have avoided the problem in Mr Henry's case because, in fact, Mr Henry was arrested on a Saturday anyway. There is a very good chance that he might have been held over the weekend anyway. So, probably that problem would not have been avoided. It seems to me that there need to be stronger guidelines for seeking details of a person's identity in these circumstances, where a person is pulled up in a car in these sorts of situations. That is a debate for another day. Certainly, that problem is not yet overcome, even with these amendments.

Madam Speaker, generally speaking, these amendments are, as I indicated, technical in nature. They provide for a better operating Bail Act, and they deserve the support of the Assembly in order to ensure that the many uses made of the Bail Act every day of the week in this Territory are both in accordance with good practice and strictly within the terms of the law. As I indicated, some things done at the moment are not quite within the terms, strictly speaking, of our existing bail legislation.

MS SZUTY (4.54): I wish to speak very briefly to this Bill. This is the first major set of amendments to the Act that the Government has brought forward since this Assembly enacted the Bail Act in 1992. It is appropriate that the Government has reviewed the operation of the Act and come back to this Assembly with a series of amendments to facilitate the processes and procedures in relation to it.

Mr Humphries, I notice, has circulated an amendment which he foreshadowed in his remarks. He raised this matter with me a day or so ago and expressed his concern about this provision. My understanding of Mr Humphries's foreshadowed amendment is that he wants to omit paragraph (a) of clause 5, which reads:

an accused person who, in relation to the commission of the same offence on a previous occasion, failed to comply with any undertaking to appear or bail condition given or imposed in relation to that offence on that occasion;

He wants that provision removed from the Bail (Amendment) Bill. My understanding, Madam Speaker, is that that provision is a similar provision to one which is contained in the New South Wales Bail Act. I think it is primarily for that reason that the Government has put it forward. I think the point the Government is making, too, is that people should not be unnecessarily penalised for offences that they may have committed in the past and then be in a position where they will not automatically be granted bail for a minor offence on a subsequent occasion.

Mr Connolly also has circulated a number of amendments which, I am sure, he will speak to in the detail stage. My understanding is that these arise from a matter that the Scrutiny of Bills Committee considered. It drew to the Attorney-General's attention the fact that forms prescribed under the Bail (Amendment) Bill would not be subject to the scrutiny of this Assembly. I am very pleased to see that the Attorney-General has proposed these amendments to further improve the Bill.

Madam Speaker, I would like to raise one particular issue, and that is in relation to domestic violence situations. My understanding is that the granting of bail in situations where domestic violence has occurred, or has been deemed to occur, will still be at the discretion of both police officers and magistrates. The Attorney-General may be able to inform the Assembly as to how that area has been going in terms of bail provisions which have been granted to offenders or to people who may well have breached domestic violence orders. I would like the Attorney-General to keep that area of the bail provisions under review and to report to this Assembly from time to time on that matter.

MR CONNOLLY (Attorney-General and Minister for Health) (4.58), in reply: I thank members for their support for the legislation. This is, as Ms Szuty noted, the first major review of this legislation. The Bail Act 1992 was a very significant piece of legislation. It was an attempt to codify what had been previously very disparate common-law provisions. It was based very closely on the New South Wales codification of bail law - their Bail Act - but we did make certain departures in some cases to be a little tougher than New South Wales, and in some cases perhaps to be a little more liberal than New South Wales. In many cases when the Assembly passes that sort of landmark legislation it is likely that it will come back and revisit the situation in a few years' time.

I have foreshadowed and circulated amendments. These amendments give effect to some comments in the fourteenth report of the Scrutiny of Bills Committee, which was handed down after the Bill had been introduced. The committee noted that, while what we were doing when we simply made forms was legally appropriate, these forms do go to issues of personal rights. While falling short of having to go through a process of making regulations for forms, the committee felt that there could be some benefit in having a provision that at least they are tabled in the Assembly and are subject to disallowance, so that members can make any comment if there is a problem. While the Government would not necessarily say that in all cases all forms of all bureaucratic processes should have to go through this, in a case like this, where it does go to personal liberty, it is appropriate. We have acknowledged that point made by the Scrutiny of Bills Committee and my amendment does that.

We will be opposing Mr Humphries's objection to changing clause 5 of the Bill. The original form of the ACT Bill departed from the New South Wales model and was somewhat tougher. Automatic entitlement to bail for minor offences is a very important principle because there are a lot of low income people. Mr Kaine, in question time, was very concerned about the report of the Royal Commission into Aboriginal Deaths in Custody. I think Aboriginal people, historically, have been particularly affected by this sort of thing. Historically, and particularly in isolated parts of Australia, but here too, Aboriginal people spend a lot more time in the lockup than non-Aboriginal people, often for minor offences; and often, at the end of the day, they have been found innocent, or, if found guilty, the maximum penalty that might have been imposed has been less than the period they spent in the lockup.

To say that bail should always be given for minor offences could be a little draconian, or a little too liberal, because you may have a repeat offender who just keeps offending, and the state has to have some way of controlling that. Our original provision said that if you have previously breached your bail for an offence you can miss out. An offence may be too broad because it really covers anything, any minor offence. We are following the New South Wales model, which hones it a little and basically says that you will lose the right to bail if you had a breach for the same offence - obviously, not the same individual offence, but the same category of offence. All I can say is that we are going to the New South Wales model, which seems to have worked well. I note Mr Humphries's concerns, but we will not be supporting his amendment.

Ms Szuty made a point about bail in domestic violence situations. This is an issue that the Community Law Reform Committee is looking at in relation to its review of domestic violence. I can report on some discussions I have had with the chair, Mr Justice Higgins. What is emerging is that the problem is not so much with granting bail when people are arrested for breach of domestic violence matters; it is the fact that people seem to be rarely arrested for those matters. We have done a lot of good work in changing police culture in the Australian Federal Police, and the Australian Federal Police have done a lot of good work. The Australian Federal Police now, generally, use arrest as a mechanism of last resort. They are far more likely to proceed by way of summons or the voluntary attendance of court scheme - all of these measures falling short of arrest. That is a very good thing. Again, the Royal Commission into Aboriginal Deaths in Custody said that overuse of arrest where there are alternative mechanisms of bringing a person before a court is to be discouraged. Police, the Royal Commission into Aboriginal Deaths in Custody, and a range of commentators on criminal law say that it is a very good thing if police are minimising the use of the arrest power and maximising the use of voluntary attendance at court, or proceeding by way of summons.

There does seem to be an issue emerging, in that we are markedly different from other States in the extent to which we use the arrest power for domestic violence. I do not think the problem is that in those cases where there is an arrest we are being over liberal with bail. The arrest cases have probably been confined to the most serious cases. But it does seem that there are many cases in the ACT where in any other State there would be an arrest, but in the ACT police are proceeding by way of voluntary attendance at court or a summons. It is a matter that, as I say, is emerging from the work that the Community Law Reform Committee is doing. It is a matter that the Chief Police Officer is very conscious of. He is discussing it with the Community Law Reform Committee and measures, principally in terms of education and training in the Australian Federal Police rather than law reform, are being developed to address this.

Ms Szuty, quite properly, raised the concern we all share about protection of survivors of domestic violence. I think the problem is not so much the legislative form. In fact, there is no problem that bail is being denied in appropriate circumstances where there has been an arrest, but it does seem that we are relatively light in using the arrest powers. Generally, that is a very good thing and indicates a police force that is properly reluctant to use a power of arrest when it has lesser powers available to it; but it may be that we need to be a little bit careful about not sending the right signal in domestic violence cases, and perhaps powers of arrest should be used a little more frequently in a domestic violence circumstance to send that firm message.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR HUMPHRIES (5.04): Madam Speaker, I move:

Page 2, lines 24 to 30, clause 5, omit paragraph (a).

I am not sure why, because members spoke to the amendment before I had moved it and indicated their opposition to it; but I will be a mug and have a go anyway. Madam Speaker, the fact is that the legislation, as it presently stands, provides a sort of two-tier structure. For minor offences there is an automatic right to bail. For offences which are not minor, that is, offences which carry maximum terms of imprisonment of more than six months, there is a requirement for the person to apply for bail, and then there is a discretion on the part of the court or a police officer to grant that bail. The first level is very easy to obtain. There is no problem. The second is slightly more difficult, but it is not necessarily a terribly onerous burden to have to meet. As I indicated, a police officer in a police station can grant bail, and very often does.

Madam Speaker, the point is that at present one of the exceptions to this entitlement to automatic bail is where a person has previously failed to comply with an undertaking to appear, a bail condition or a bail undertaking in respect of any offence. In those circumstances they do not lose their right to bail; they lose only the right to automatic bail. They have to apply for it, and that may be a slightly more difficult process, but only slightly. The concern I have is that, by removing those conditions and saying that the person is entitled to bail unless they have previously breached bail on that particular offence, one makes it impossible for police to deal with a particular circumstance of somebody who has repeatedly breached bail in the past. Somebody is arrested for an alleged offence and the police have records indicating that this person has breached bail a dozen times and they have no confidence that the person is going to honour the bail conditions on the basis of their dozen previous encounters. The police have no capacity at all to deny bail, even though commonsense would tell you that they should not receive bail, or at least they should have to apply for bail and have it considered as a discretion by the police or by the court.

It seems to me that we do not impose a significant burden on the individual concerned. He does not lose his right to bail by removing the automatic entitlement; but we do ensure that, where persons are chronically unable to comply with bail conditions, they do have some chance of being restrained when it is the view of the police, based on very good evidence, that they should not receive that bail, at least not automatically. Madam Speaker, I commend the amendment to the Assembly and I hope that it will still be considered seriously.

Amendment negatived.

MR CONNOLLY (Attorney-General and Minister for Health) (5.07): Madam Speaker, I move the amendment circulated in my name, as foreshadowed. It deals with a point picked up by the Scrutiny of Bills Committee and reads as follows:

Page 7, line 29, clause 21, proposed new section 57A, add the following subsections:

"(2) The Minister shall publish in the *Gazette* notice of his or her approval of the form of an instrument under subsection (1).

"(3) A notice under subsection (2) shall include the text of the approved form.

"(4) A notice under subsection (2) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989.*

"(5) Where there is no approved form for an instrument under this Act, the instrument shall be framed to the satisfaction of the Registrar.".

MADAM SPEAKER: I understand that you wish to present the supplementary memorandum.

MR CONNOLLY: Yes.

Amendment agreed to.

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

Bill, as amended, agreed to.

DRUGS OF DEPENDENCE (AMENDMENT) BILL (NO. 2) 1994

Debate resumed from 15 September 1994, on motion by Mr Connolly:

That this Bill be agreed to in principle.

MRS CARNELL (Leader of the Opposition) (5.08): Madam Speaker, the Liberal Party will be supporting this Bill. It is a sensible piece of legislation. It cleans up a bit of a mess that was left after the Board of Health was abolished in rather quick time. Unfortunately that has meant that respective Ministers for Health have ended up with a quite large amount of administrative duties that are not appropriate. Unfortunately, as duties cannot be delegated, as powers and other things can, the Minister must have had some fairly interesting times trying to administer this piece of legislation.

This amendment Bill will achieve a much more sensible approach. These duties will now be delegated to a new position, the Director of the Alcohol and Drug Service. I assume - taking into account that there are no financial implications from this Bill - that an existing position will be retitled. I am sure that the Minister will enlighten me on that. We support the Bill. It is a sensible piece of legislation.

MR MOORE (5.09): Madam Speaker, I have taken some interest in the Drugs of Dependence Act since I came into the Assembly. This amendment Bill gives me an opportunity to comment on the important system we have within this Act whereby it is possible for drug users to be considered as people rather than as objects, as has happened in many other places. I think it is important to put on the record, Madam Speaker, that that is an important part of our rather advanced legislation in the ACT. The legislation does contain some things that I will seek to modify over the next few years, if I have the opportunity. The proposal put up by the Government today, Madam Speaker, will strengthen the Act rather than weaken it. Really, it just establishes the Director of the Alcohol and Drug Service as the person who is to take over the work that has been a direct responsibility of the Minister. I think that is a very sensible step.

MR CONNOLLY (Attorney-General and Minister for Health) (5.11), in reply: I thank members for their support, but I thank Mr Moore particularly for reminding us that the drugs of dependence legislation and its forerunners pre self-government have always been very enlightened pieces of legislation. We have been seen historically as leading Australia in the area of dealing with drug addiction as a health issue rather than dealing with the consequences of drug addiction as a criminal law issue, and that is very encouraging.

I have noticed that various members have said that this Bill will save Ministers a lot of work. I should say, from my perspective - I am sure that Mr Berry would share this - that actually neither I nor Mr Berry had to do much work in these circumstances; we just had to sign a piece of paper that was shoved in front of us. But Ms Baker, my principal adviser, and Ms Robinson, who served Mr Berry for many years, spent many hours late at night, charging all over Canberra, picking up various documents and tracking down their Ministers. While it may save me and future Ministers for Health the odd inconvenience of answering a knock at the door or being tracked down to a restaurant to sign a piece of paper, it will save successive staff members and bureaucrats countless hours in tracking down Ministers and pointlessly running around town with pieces of paper. It is not to save the Minister as much as to save staff and bureaucrats.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ABORIGINAL DEATHS IN CUSTODY - ROYAL COMMISSION
1992-93 Implementation Report

Debate resumed from 22 September 1994, on motion by Ms Follett:

That the Assembly takes note of the paper.

MR KAINE (5.12): This is a continuation of the debate in connection with the Government's first implementation report concerning matters arising from the Royal Commission into Aboriginal Deaths in Custody. It deals with the year 1992-93, but was tabled in this Assembly on only 16 June this year. Madam Speaker, the Chief Minister's last words in the chamber about the Government's first report on the implementation of the recommendations of the royal commission were, I would suggest, a skilful bit of weasel-wording. The Chief Minister did not table the report covering the year 1992-93 until 16 June. That was two years, two months and one week after she tabled the ACT's policy response to those recommendations, or, to put it differently, a year after the end of the period which the report covers. When she told the Assembly that the tabling of this report was a milestone in the process of redressing the disadvantage suffered by Aboriginal peoples and Torres Strait Islanders, I am confident that she felt embarrassed that she did not also say, "and about time too".

The first substantive remark I want to make about this report is that I hope that we get the next one in the series rather more quickly. It does surprise me that the Chief Minister's office got around to asking Territory agencies to provide input for the 1993-94 report on implementation of the recommendations only early in September, three months after the year to which it relates. I should have expected an administration with its eye on the ball to have asked agencies very early in June to provide input for incorporation in an annual report as wide-ranging and as important to the community as this one. It is called coordination.

In the normal way of things a topic with a key word like "Aboriginal" should, I would have thought, have been pretty near the head of the list. It was only yesterday that we talked about the Native Title Bill and the Chief Minister told us how important she thought the Aboriginals in our community were. I gather that the Government expects agencies to submit input for the next report by the end of 1994. I asked the Deputy Chief Minister some questions on this matter today, and I am waiting with interest to see what the Chief Minister tells us, presumably when she answers those questions tomorrow. To submit information by the end of 1994 for a period that ends in June 1994, I think, indicates the degree of priority that the Chief Minister is giving to this matter. Add a couple of months to draft the report, a couple more to clear it around the agencies and a few to get it cleared through the Cabinet, and 1995-96 will be well along before we get the report for 1993-94. I must say that I am less than impressed, and so too, I am certain, are our Aboriginal and Torres Strait Islander citizens, some of whom have been to me asking me when the Government intends to do something about this report. I presume that they have also knocked on the Chief Minister's door.

In describing the action of tabling this or any other report as constituting a significant milestone, I think the Chief Minister rather overstates the case. When you conjure up a mental image of a milestone you think of a solid object that spends eternity sitting in one place telling passers-by just one thing. I hope that the Chief Minister does not intend that to apply in the present case. Some of the actions that the report announces may indeed be important points on a journey, although I wonder even about that; but you cannot call the mere tabling of it a milestone in the sense in which the Chief Minister used the term. Maybe a traffic delay sign, "roads work in progress", might have been better.

Members should not allow the size of the report to impress them. In its 206 pages the report not only tells us what the Government claims that it has done - I use the word "claims" advisedly - to implement the 339 recommendations of the commission; it also regurgitates all of them in their entirety. Of the residue, much is repetition, mixed with sighs of relief, I would imagine, that the matter is for the Feds or for the States or for the Northern Territory. It is as if the Chief Minister is trying to overwhelm us with verbosity in the hope that, after a few mind-numbing pages, we will not look too closely to find where the meat is. Perhaps the next report in the series can cut the cackle and leave out the irrelevant bits.

It is appropriate, I think, to divide the achievements claimed in the report into four groups: What the Government probably would have done anyway in the normal course of events; what it did not have to do anyway because the recommendation has no application in the Territory; what it has done badly; and what it has yet to do. The first group - what the Government would probably have done anyway - covers actions affecting all Territorians, whatever their ethnicity, such as aspects of police and corrective services procedures, and things about which the Government need do nothing more than make motherhood statements. I suppose that it is fair enough for the Government to report that certain actions have the effect of implementing segments from one or more of the royal commissioner's recommendations, but it would have been more honest had the report identified actions taken as a direct response to them - not only more honest but also a more accurate picture of what the Government has actually done to address the issues in the report for their own sake, rather than based on some other motivation - and it would have needed fewer trees to come down to provide the paper.

Group two - what the Territory does not have to do because it does not apply here - hides an important consideration that is highly relevant simply because of factors that do not apply here. Few, if any, of the Aboriginal and Torres Strait Islander people living in Canberra would match the profile of the people the royal commissioner made recommendations to help and protect. I acknowledge that perhaps some of the Aboriginal people living in the ACT at Jervis Bay just might fit the profile. Canberra has no Aboriginal and Torres Strait Islander fringe dwellers. The Aboriginal and Torres Strait Islander people living here are significantly more advanced economically, educationally and socially than those living on the fringes of small townships in remote parts of Australia, or even further away from a community infrastructure, such as in their homeland centres. This does not mean that the Territory can get off lightly in what it does to implement the recommendations.

Indeed, the local community is eagerly awaiting the Government's action; but it has not seen much yet. It does mean that many, although not all, of the problems that the recommendations addressed perhaps weigh less heavily on the Aboriginal and Torres Strait Islander people living in Canberra than on those living further from urban environments or in less ameliorated urban circumstances. When the Government tells us that a recommendation has no application in the Territory or is a Commonwealth matter, what it is really saying is that a few more trees have come down for the sake of telling us nothing. Leaving out the inapplicable will save trees and may even get the report out more quickly.

Group three - what the Territory has done badly - is, I am relieved to say, relatively small. The most significantly badly done matter, however, is of some importance, and it centres on increasing the awareness of law enforcement, judicial and custodial officers about Aboriginal society, customs and traditions. Several recommendations touch on that need, and it is fundamental to dealing with the root cause of what the recommendations are designed to correct. Throughout the report there are references to Aboriginal and Torres Strait Islander community based bodies consulting with government agencies and becoming actively involved in the enforcement, judicial, custodial, health education and employment processes; in other words, we latecomers involving Aboriginals and Torres Strait Islanders in the processes that we have established under our laws and our social structures.

What has the Government done about showing people at the sharp end of the matter - the police, the courts and custodial staff - that they are dealing with people whose customs, societal structures and family values have evolved from different spiritual and material values, different mind-sets, different traditions and different origins, in no way wrong, just different, and needing different and respectful handling? What the Government has done, or at best has not prevented the Australian Federal Police from doing, is to fail to provide Aboriginal and Torres Strait Islander members with a role in explaining their society, customs and traditions to the groups with which they are most likely to come into antagonistic confrontation. I call this a major disempowerment of Aboriginal and Torres Strait Islander people living in the ACT, totally at odds with the spirit and intention of the royal commission's recommendation. It is absurd - in fact, ridiculous - to give responsibility to the same institutional groups who were most closely involved with the genesis of the royal commission for providing very complex cross-cultural awareness instruction to their members among whom the risk of prejudice may well still persist.

There is a second sort of risk in this, Madam Speaker. Members receiving awareness training from colleagues may well think, "Well, we are listening to these people only because the royal commission has said that we must". Hearing it from an Aboriginal or Torres Strait Islander will carry greater conviction, and the information will be more accurate and it will offer the prospect of better informed answers to questions. It would, Madam Speaker, in a sense, be as if I turned up at the airfield tomorrow for a flying lesson to find the Chief Minister there and telling me that she is to be my flying instructor. God help me! Only a highly-qualified instructor pilot can teach me how to fly an aeroplane, and only an Aboriginal can convey cultural awareness of Aboriginal society,

customs and traditions to enforcement, judicial and custodial officers, or, indeed, to any of us. Aboriginals must be directly and significantly involved in the design and delivery of awareness training in those subjects. I call on the Chief Minister and the Attorney-General to see to it that they are, and without delay. I ask them, further, to report to this Assembly when they have achieved it.

If I were to list all the matters in group four, Madam Speaker - things the Government has yet to do - I would far exceed my time in this debate, and it would be unfair, I suppose, to attack the Government over matters with which the report for 1993-94, when we get it, may adequately deal. I will just take a quick look at some of them. Recommendations 3 and 100 deal with Aboriginal positions - Aboriginals advising chief executives and the like. The Chief Minister, in her response, said that in the Aboriginal Affairs Unit of the Chief Minister's Department there are two Aboriginal identified positions; but do they fit the classification that was set down in recommendation 3 of the royal commission? I suspect not. But this report does not tell us. All she says is that there are two positions. It is indicative, Madam Speaker, of how little information this report conveys to us about what is being done in the areas where this Government is supposed to be doing something.

Recommendation 47 talks about relevant Ministers reporting annually to their State and Territory parliaments with some pretty good statistics as to the "numbers of persons held in police, prison and juvenile centre custody with statistical details as to the legal status of the persons so held" - for example, on arrest, on remand, and so on. What is the position? The Chief Minister says that the ACT is keen to implement this recommendation. We are now two years downstream. Where is the first set of statistics? We have not seen any. I hope that the 1993-94 report - again, when we get it - provides the information from the system that the Chief Minister is so keen to implement.

Recommendation 52 was "that funding should be made available to organisations such as Link-Up". The ACT Government has not received any such requests for funding to date, but it will give sympathetic consideration to any future request. Bear in mind that this is for the year 1992-93. I have to ask the question: Has the Government yet received any requests for funding for a body such as Link-Up to establish family and community links broken or damaged by past government policies? Two years downstream all we have is more platitudes from the Government.

Recommendation 56 was:

The Commission notes that many Aboriginal people have expressed the wish to record and make known to both Aboriginal and non-Aboriginal people aspects of the history, traditions and contemporary culture of Aboriginal society.

This is a beauty, of course, because this involves the $2.5m that came out of the casino premium nearly three years ago, and where is it? What is the status? This report does not say anything about it, except that $2.5m has been set aside. It just goes on and on with all the motherhood statements, all the platitudes; but so far we have not seen one single thing that the Government has actually done. I submit that it is getting a bit late.

Recommendation 81 says:

That legislation decriminalising drunkenness should place a statutory duty upon police to consider and utilise alternatives to the detention of intoxicated persons in police cells.

The Chief Minister's response was that the ACT Government has agreed to the development of legislation which will give effect to this recommendation. What stage has been reached in imposing a statutory duty on enforcement officers to consider alternatives? The answer is that we do not know. I could go on for page after page, Madam Speaker, about things that this Government is supposed to be doing as a result of this report, and all we get is, "We are considering it. We have hired a consultant. We are looking at the question. We will do it at some time in the future".

Madam Speaker, I have spoken at some length about a matter which I consider to be of national importance. In the ACT we are fortunate to have escaped the kind of blight that other more remote, less fortunate communities have experienced. The Opposition notes what the Government says that it has done - I repeat, says that it has done - in response to these recommendations. We eagerly await the next thrilling chapter, which we hope, first of all, will consume fewer trees, and come to this chamber without delay, such as befell the report we are now debating, and with the gaps filled in with truly useful information instead of a lot of platitudes. Our Aboriginal and Torres Strait Islander friends in this community are equally as eager as we are to see some positive results, but we have not seen any yet.

MS FOLLETT (Chief Minister and Treasurer) (5.28), in reply: I did not realise that there were no other speakers. Madam Speaker, I believe that the tabling of the 1992-93 ACT Government implementation report in June of this year has demonstrated that we have made significant progress - that is, progress by the Government in consultation and in cooperation with the Aboriginal and Torres Strait Islander community - towards implementing the 339 recommendations of the royal commission. In the course of that implementation, as I am sure members are aware, the real task that is before us is to redress the economic, social and political disadvantage that has been suffered by Aboriginal and Torres Strait Islander peoples over many years.

Mr Kaine has made much of the fact that, in his view, this report was tabled very late. What I will say, Madam Speaker, is that each of the 339 recommendations has been addressed. They have been addressed, I believe, in a substantial manner, and they cover an enormous amount of ground. Mr Kaine appears, on the one hand, to be arguing for a greater level of detail in the response under each recommendation and, on the other hand to be saying that we should not have included so much detail in the report. I was unable to discern the logic of his position, Madam Speaker; but, as usual, I think it is a case of Mr Kaine's bile getting the better of him rather than a reasoned approach to what is a substantial document.

Madam Speaker, most of the recommendations suggesting amendments to instructions or procedures have been fully implemented. If Mr Kaine had read the report he would know that. Other recommendations suggesting substantial changes, such as legislative amendments, have been taken on board and procedures have been commenced to implement them. These procedures, Madam Speaker, do involve extensive consultation with the Aboriginal and Torres Strait Islander community, and I think this is the root of a great deal of Mr Kaine's problem. Clearly, Mr Kaine would not wish us to undertake that consultation. It is a slow process. It is an intensive process. I am afraid that I would decline to insist upon a pace of consultation and decision making that our Aboriginal and Torres Strait Islander communities clearly would not be comfortable with. Mr Kaine is impatient about that. I acknowledge that sometimes progress is slower than you would like, but that consultation is essential. The whole issue of the Aboriginal deaths in custody report is empowerment of those people themselves. I am not going to go out there and bawl them out, the way Mr Kaine regularly does the other Assembly members, insisting that they rush in and give us their views and their decisions on 339 different recommendations to suit his timetable.

Madam Speaker, there are significant initiatives in the implementation report, and some of them include the implementation of a substantial number of legislative reforms which are in accordance with the recommendations of the royal commission. We have brought the majority of Australian Federal Police ACT Region instructions and procedures into line with the royal commission's recommendations. ACT schools at all levels now actively reflect Australia's Aboriginal history. An Aboriginal viewpoint is conveyed both in specific curriculum areas and as a perspective dealt with across all curriculum areas, and the establishment of cultural awareness training programs for providers of government services to increase sensitivity to Aboriginal and Torres Strait Islander issues and cultures, and to raise public awareness of Aboriginal peoples and Torres Strait Islanders, is well under way. Mr Kaine made one valid point, Madam Speaker, which was that perhaps more of the training, more of the cultural awareness programs, could be delivered by Aboriginal and Torres Strait Islander people. I will certainly take up that point - it is one that is worth checking - and ensure that we do the maximum that we can.

The main theme of the royal commission's report, as I said, was the elimination of disadvantage and the empowerment of Aboriginal peoples and Torres Strait Islanders. The report highlights the priority that, as a government, we have given to empowering Aboriginal peoples and Torres Strait Islanders through the establishment of a number of consultative mechanisms to encourage active participation by members of those communities in the decision making process. It is very important that, along with the Commonwealth, State and Territory governments, Aboriginal and Torres Strait Islander communities themselves are also able to monitor and to comment on the implementation of the commission's recommendations. In line with that, the ACT Aboriginal and Torres Strait Islander Advisory Council will be holding discussions with all ACT Ministers regarding progress in the ACT on implementing the recommendations. Following that series of meetings, the council will be providing me with the report.

I have made arrangements for the 1992-93 implementation report to be tabled in Federal Parliament and also to be made available to other State and Territory Ministers responsible for Aboriginal and Torres Strait Islander affairs. I think it is fair to say that, from the responses I have from other States, our report seems to be being very well received. Some other States have commented that they would like to have done as well. Madam Speaker, I would like also to mention that work has begun on the preparation of the 1993-94 implementation report. I will be tabling that document in the Assembly as soon as it is completed.

There are a number of new initiatives that are in train and which do further reflect the Government's commitment to redressing the disadvantage that has been suffered by Aboriginal peoples and Torres Strait Islanders. As members are aware - I discussed the matter yesterday - we have drawn up a draft social justice agenda which has been handed over to the Aboriginal and Torres Strait Islander community for consultation and in order to get their views on how the agenda, when it is finally drawn up, can best enhance the empowerment of Aboriginal peoples and Torres Strait Islanders; how it can best enhance their participation in decisions that affect them; and how it can support the maintenance and the development of their cultures. The draft agenda, as I said, has been widely circulated for comment. I have no doubt that Mr Kaine will be frustrated with the pace of that consultative process. I will await the outcome of the process in the time that is required by the Aboriginal and Torres Strait Islander people themselves to form a view on it.

Madam Speaker, in the 1994-95 Social Justice Statement, which was released with the budget this year, there are further initiatives which are important to the ACT community, including Aboriginal peoples and Torres Strait Islanders. These include issues like the funding to introduce the supported accommodation assistance program mark 3, the expansion of the ACT Jobskills program, the learning assistance to improve literacy and numeracy in primary schools, and, as members would be aware, last night we passed the ACT's Native Title Act, which is a significant step forward for the Aboriginal and Torres Strait Islander communities. So, there has been a fair amount done.

Madam Speaker, could I just offer, by way of explanation in relation to the 1992-93 implementation report, that that report flows from a decision by Aboriginal Affairs Ministers in November 1993, so it was well after the beginning of the actual period for all jurisdictions to produce reports in a consistent format. So, this is what we have done. Work on those 339 recommendations did not start until well towards the end of the 1992-93 year. Mr Kaine, I think, was probably wrong about the timetable for the next report, Madam Speaker, when he claimed that it was begun only at the end of September. The memorandum which I have - a departmental memorandum which requested input - is dated 17 August. So, work is proceeding in my own department and I expect that there will be another detailed report ready for release by the end of this year. I know that members look forward to that.

I would like to address a couple of the specific recommendations that Mr Kaine touched upon. *(Extension of time granted)* Thank you, members. I will not go through all of the recommendations, but there are a couple that I think are worthy of comment. Recommendation 56, to which Mr Kaine drew attention, relates to the proposal for an Aboriginal keeping place, or cultural centre, to be constructed in the ACT in order to maintain and express aspects of Aboriginal history, culture and traditions. Madam Speaker, as I have previously advised members, money from the casino premium is set aside for that project. It will not be used for any other purpose. It is there, and it will remain there.

There has been a lengthy process of consultation by the Aboriginal and Torres Strait Islander Advisory Council with groups both within and without the ACT on how they wish those funds to be applied. Madam Speaker, I only very recently received a response from the Aboriginal and Torres Strait Islander Advisory Council which I am currently considering. Members can be quite confident that the money will not disappear; that the funds will be applied for the purpose that the Aboriginal and Torres Strait Islander communities wish, and in a manner with which they agree. So, again, it is a matter of a lengthy process of consultation, but one which is very necessary. If you are serious about empowering people, you cannot go out and tell them what to do and when to do it. You have to say to them, "Here are these funds. How do you wish them to be expended and what kind of a structure, a centre, a vision, do you have for this cultural centre?". That is what I have done. It does take a while. I am prepared to wait.

Madam Speaker, one other recommendation Mr Kaine drew attention to is recommendation 81, and again I think it is worthy of response while I am on my feet. Recommendation 81 relates to legislation decriminalising drunkenness and alternatives to the detention of intoxicated persons. Madam Speaker, I share Mr Kaine's frustration, and, I know, the Attorney-General's frustration, with the slow pace in drawing up legislation for proclaimed places in the ACT. I have just now had a quick word with the Attorney-General. We have decided on a concerted attack to see whether we cannot quicken the pace. That legislation is essential. I know that it is complex. It is a matter of balancing human rights and the need to maintain law and order. I think it is preferable to go ahead even if our legislation may need revision later on. I would like to say that we do have a sobering up place which is being run by the Alcohol and Drug Service. There are only four beds. It is being run on a trial basis, without the legislation, so even there we are making some progress.

Madam Speaker, I will conclude by saying that I believe that we have done a great deal to implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody. I would be the first to say that we have a long way to go. I think the process of reconciliation and of addressing all of the wrongs, all of the disadvantage that Aboriginal and Torres Strait Islander peoples have suffered in this country, is going to take decades yet before we can consider it to be complete; but I think this is a very good sign of progress.

Question resolved in the affirmative.

INTERNATIONAL YEAR OF THE FAMILY
Ministerial Statement and Paper

Debate resumed from 23 February 1994, on motion by Ms Follett:

That the Assembly takes note of the papers.

MR HUMPHRIES (5.43): Madam Speaker, it is a great delight to start to debate the Government's ministerial statement on the International Year of the Family something like 9½ months after the international year began. That is more of a comment on the way in which the Assembly has conducted its work than on the International Year of the Family. This is a significant year and one which, I hope, has been successful. Since it is now almost over I can say that. It has been successful in attempting to focus some policy and community work on the nature of problems facing Australian families and the way in which we, as an Assembly, can move towards strengthening the environment in which those families live and work and ensure that there is more resilience in those family structures than, unfortunately, has been the case in the last few decades.

We would all share the view that stability in these structures is in the broader community interest; that it is important for us to work towards that; and that the International Year of the Family presents some opportunities to start to put those strategies in place. I attended a conference, organised by the Federal coalition a few months ago, on the International Year of the Family. There was considerable discussion about the way in which families were under pressure; what sorts of issues they were facing; and how those pressures could be alleviated. Even at that conference, there was some of the broader debate that has been, I think, destructive in trying to define exactly what it is that a family might be. I certainly have a view about that. No doubt all of us in this place have a particular view about what a family might be.

An author called Henry Thowless - I think he was an American - wrote a book called *Straight and Crooked Thinking*. He argues that one of the fallacies, often advanced in debate to help to defeat an argument about what something is, is that, because you cannot clearly define it, it therefore cannot possibly exist. The argument that he used to disprove that is this: If you take a tin of paint, which is 100 per cent black, and make it one part white and 99 parts black, then 98 parts white and two parts black, and so on, over a period of time you go from fully black to fully white; and the fact that you cannot say that it stops being black and starts being white at any particular point does not prove that either black or white does not exist.

Mr Moore: Why do we have black and white families?

MR HUMPHRIES: Black and white families? No; Mr Moore, you must go back to sleep. I am sorry to wake you. The fact is that we apply the same logic in respect of families.

It is often said that you cannot define precisely what a family is because everyone has a different definition of what a family is; and that, therefore, there is some difficulty in actually advancing with the concept of promoting families, supporting families or giving them a better environment in which to operate. My definition is that, where adults care for children on a permanent basis, that is a family. We would all acknowledge that the relationship between adults and children is a very important part of a family relationship and that it is possibly more important than the relationship between adults who might not have any other link between them. That is not to say that all sorts of families work as well or face the same pressures. For example, it is undoubtedly true that single-parent families face a great deal more pressure than do what I might call traditional families. It is a fact of life that the ACT has the highest proportion of one-parent families in the whole of Australia.

At this time last year 11,900 people, or 4 per cent of the entire Territory's population, identified themselves as single-parent families. In addition, at that time, Canberra had 63,900 couple families; 30,300 families with dependent children; 4,900 families with dependent and non-dependent children; 5,400 families with non-dependent children only; and 23,300 families with no children at all. The percentage of one-parent families with dependent children was the second highest in Australia. The ACT had the second highest proportion of those sorts of families, with 8,100 families, or 6.4 per cent of our population. Canberra also had the second highest proportion of de facto couples in Australia; 10.9 per cent of our population identify in that category. There were 1,900 de facto couples with children, constituting 3 per cent of our population. These figures indicate a huge number of combinations of people living with children and caring for those children, or people living with other adults in some kind of permanent domestic or caring relationship.

Some would argue that these are not really families at all and that there should be some limits on what you call a family. I note that in an article in the *Canberra Weekly* a few months ago - in March, in fact - one Matthew Abraham, whose name rings a vague bell, wrote:

Yet what is a family? When faced with this question, our policy makers have, quite understandably, grasped the Vague Thesaurus with both hands, using language so all-embracing, so fuzzy, that it loses any value.

The appalling TV ditty for the International Year of the Family is the syrupy invention of an advertising system that applies the same feel-good manipulative techniques to convince us that cigarettes are suave, tampons are exciting, and ice creams are orgasmic. Somehow, it really says it all - families are everything and nothing.

However, it is equally true to say that what is vague and undefinable, nonetheless, can have a great deal of meaning for individuals. Another correspondent, Marion Frith, in the *Canberra Times* of December last year, wrote:

Once upon a time in Australia the word family was an easy one to understand. It simply meant a group of biologically related people who all lived together - happily or not - in the one house. A couple of kids. A dad. A mum. For better or worse. Forever.

But things changed. Times changed. Families changed ...

So what is a family? Well ... it seems the definition really comes from within. If you see yourself as a family, congratulations. The very best of them, however, are the ones that define themselves only by the love, loyalty and tolerance they generate.

I would probably identify more with that second view than with the first view. I certainly support the concept of a traditional family, a nuclear family. I started one only last year. I recognise that the care and support which people offer to others, in particular to children, is more important than marital status. What is important is that there is that level of support. A good indication of how a traditional family model sometimes can be exclusory or off-putting for others was contained in an article by Susan Kurosawa, who wrote in the *Australian Magazine* on 16 April this year that she proposed renaming 1994 the Year of the Good Parent. I quote a chunk out of her article:

A good parent is a person who stays up all night making fancy-dress frog costumes from one roll of giddy green crepe paper, two saucepan lids and two bent coat-hangers. A good parent is someone who sits eating pies on a wind-whipped hill risking pneumonia and ptomaine poisoning to cheer on the under-12s footie team (ditto for marching girl mums and dads). A good parent wears the same clothes year in and out to buy his or her kids the sort of wardrobe that won't make them feel like nerds ... This same crazed individual spends more on the kids' pump-up out-of-sight sports shoes than on his or her best footwear. A good parent goes on holidays to places where they have buffets with ice carvings of mermaids and junior volleyball on the beach instead of dreamy destinations with fine food and palm trees a perfect hammock's-hoist apart.

And this good parent does all those things because he or she wants to do the best by his or her children. To qualify as a participant in my Year of the Good Parent, you must have graciously involved yourself in activities similar to those above in the past 12 months. I don't care a fig for your marital status, your gender, whether you are heterosexual or homosexual, if you set out to be a Murphy Brown-style single parent or just ended up as one.

Families take all shapes and sizes and it's ridiculous to say only one configuration can work.

Madam Speaker, the Government's definition of a family, I suppose, goes some way down that path. The Government says:

... that for the purposes of the International Year of the Family a family is any group of people who consider themselves to be a family.

That might be slightly too broad. Perhaps we have a family here on the Opposition benches; I do not know. I am not sure that there is much of a family on the Government benches.

Mr Connolly: A great big, happy one; that is for sure.

MR HUMPHRIES: We do not have the fights that you have, Mr Connolly. We do have to get away from the debate about what the definition of what a family is and get onto the debate about how we can help those relationships where people are providing care and support, particularly to children.

The Government has put out a package on the International Year of the Family. I have to support Mr Kaine's comments that this Government does not have many notches on its belt when it comes to achievement in these important areas. He quoted the Aboriginal deaths in custody report. I reached the same conclusion in respect of the International Year of the Family initiatives. In respect of this initiative, the Government has listed existing programs or already planned programs and projects to indicate that it has a great number of initiatives to cover the International Year of the Family.

For example, the Chief Minister lists the establishment of the Tuggeranong Youth Resources Centre as proof of its support for the International Year of the Family. That is a slightly long bow to draw. Would the Tuggeranong Youth Resources Centre have been built if this had not been the International Year of the Family? I very much doubt that it would not have been. The indication is that the school integration program to allow young people with a physical or behavioural disability to be educated in the mainstream is something that came about because this is the International Year of the Family. I know that that has taken a very long period of time to plan, I suspect long before the International Year of the Family was thought about.

I note that the Chief Minister made this rather extraordinary statement in her presentation speech some time ago:

The Government is tackling head-on the complex issues which need to be addressed in our aged care system.

If what this Government has done in the last year or so is tackling an issue head-on, then I would hate to think what sitting on one's hands might amount to. I do not think that much of what I see in this program amounts to a very heady pace of innovation and change in dealing with the problems that are faced by ACT families.

I note also that the booklet that was released by the Chief Minister, "A Focus on ACT Families", is described in a subheading as "ACT Government Policies, Programs and Services with a Family Focus". To be quite frank, I do not see much about policy in it. What I do see is, basically, a list of descriptions of government services in different areas and phone numbers so that you can contact those services to work out how you get access to them. Some of the services have a fairly tenuous connection to the International Year of the Family. For example, there is a listing for ACT Forests. I do not know whether the Government is suggesting that we should be breeding children or raising children in forests, but I do not think it has an enormous amount to do with the International Year of the Family. True, families can go and enjoy forests; but, then, so can everybody else.

Madam Speaker, let me say, in conclusion, that there is something much more important that the Government can do to assist and support ACT families. It should not concentrate on peripheral programs, things which have a marginal benefit through assisting particular areas where families might have some passing contact; rather, it should provide an economic environment in which families in this community can prosper and grow in a personal sense. This Government's major achievement, if it were to embark on this, would have to be the improvement of the economic environment in which families in this community are operating.

For example, we could achieve infinitely more for ACT families by bringing down that appalling rate of one in three of people aged between 18 and 24 who cannot get a job than we could achieve by implementing all the programs which are outlined in this booklet produced by the Government. *(Extension of time granted)* Youth unemployment places huge pressures on Australian families, particularly those in the ACT; it places absolutely enormous pressures on them. The problems that that in turn leads to include crime and youth suicide, about which I spoke yesterday. All those issues are, of course, of enormous importance to families. If we attempt to deal with the causes of some of those problems, I believe that we make an impact on the pressures that are faced by ACT families. That will be the sort of thing that we, the Liberal Party, will target very heavily if we are successful at next year's election, because we believe that taking those pressures off families is a matter of extreme importance. Improving the economic environment in which families operate is paramount in that process.

I commend the concept of the International Year of the Family to the house, but I hope that we can actually achieve something a little more substantial than the programs that are outlined in this paper.

MS SZUTY (5.59): Madam Speaker, it was the United Nations General Assembly which proclaimed 1994 the International Year of the Family and set the theme for the year as "Family: Resources and responsibilities in a changing world". This international year is about stimulating local, national and international actions to strengthen families as "the smallest democracy at the heart of society". At the official Australian launch of the International Year of the Family, on 6 December last year, the Prime Minister, Mr Keating, said:

We recognise that families have their own unique needs, and that the Government has a special role to assist them.

The Government, together with the National Council for the International Year of the Family, will be looking to strengthen the partnerships between families, governments, education and community services, businesses, unions, religious organisations and community groups.

Ultimately out of our work we hope will come the basis for family policy for the future - an Australian Agenda for Families.

In support of the Federal Government's direction, in July 1993 the Minister for Family Services, Senator Rosemary Crowley, established the National Council for the International Year of the Family as an independent advisory body with broad terms of reference. The council's theme for the year is "Supporting the Many Faces of Families". It embraces two fundamental principles, namely, inclusively recognising the diversity of family life according to family composition, stage in the life cycle, ethnicity, race, culture and religion; and promoting social justice and social responsibility, as reflected in the words, "The responsibility for families rests on the shoulders of us all".

In support of its theme, the national council has identified nine priority issues for discussion, consultation and action in 1994. These issues, which were published in full in the February issue of the newsletter of the International Year of the Family, *Focus on Australian Families*, are, in summary: To recognise the diversity of families in Australia and to celebrate their central contribution to Australia's social and economic welfare and cultural heritage; to acknowledge the value of caring and nurturing provided by families; to strengthen the partnership between families, governments, education and community services, business, unions, religious organisations and community groups; to address the circumstances and needs of disadvantaged families; to promote policies which recognise and support the choices which families are making in combining paid work and family care; to promote gender equality issues; to recognise the rights of families and all family members; to address the needs of families facing personal crises; and to address the significant problems of family violence and abuse.

Madam Speaker, I was fortunate enough recently to attend the annual general meeting of the Belconnen Community Service, where the guest speaker was Ms Rosemary Delahunte, who addressed the International Year of the Family. For the information of members, Ms Delahunte indicated that a discussion paper incorporating these nine key priorities was circulated in March of this year and that, from it, broad community consultations were held in 65 locations over a three-month period. The final report of the National Council for the International Year of the Family will be presented to the Federal Government at the end of this month.

The ACT Government's initiatives for the International Year of the Family identify five key themes around which efforts are to be focused during the year. These themes are: Improving services to families; helping families to care; making families safer; supporting workers with family responsibilities; and supporting families experiencing economic disadvantage. These themes draw the national council's nine key issues together and provide a framework for the International Year of the Family in the ACT. We are now well placed to take positive action to improve the quality of life for families in the ACT.

Madam Speaker, in her ministerial statement on the International Year of the Family on 23 February, the Chief Minister argued that concentrating on trying to define a family leads to arguments about semantics rather than to solutions to the challenges facing families today. The International Year of the Family should be about action and not words. I accept the thrust of the Chief Minister's argument. However, there is a basic need to understand what a family is so that the right actions can be taken. This argument is well made in the paper "Varying the Definition and Weighting of the Income Unit: How Much Does it Affect Measures of Poverty and Income Distribution" by Professor Ann Harding, head of the National Centre for Social and Economic Modelling, or NATSEM, at the University of Canberra. In this paper, Professor Harding notes that the Australian Bureau of Statistics defines an income unit as:

1. a married couple with or without dependent children;

2. a sole parent with dependent children;

3. all other persons (who are regarded as single person income units).

In this definition, dependent children are either under 15 or full-time students in the 15- to 20-year age range. This means that an unemployed 16-year-old or a 21-year-old full-time student living at home is regarded as a single-income unit rather than as a part of the family. Similar considerations apply to the elderly when living in the homes of their children or other relatives. Despite the narrowness of the ABS definition, the fact that the ABS provides plentiful data on these income units means that they are used in most Australian studies of poverty and income distribution.

Professor Harding explores two alternative definitions of the family in her paper. The first expands the definition to include all children still living at home; and, the second, all individuals related by blood and marriage living in the same household. She also looks at weighting the income unit to see whether different approaches change the outcome. Professor Harding concluded that, depending on the definition and weighting combination selected, the proportion of the bottom 10 per cent of unadjusted gross family income represented by single-income units varied from 10 to 63 per cent. The share of married couples with dependent children varied from 16 to 56 per cent. The composition of the upper 10 per cent of family income was largely unchanged. This wide range in the bottom 10 per cent has quite different implications for social policy, depending on the definition chosen. Professor Harding stated further that analysis of poverty rates and numbers suggested that the exact definition or weighting combination used would change our image of who was poor and our perception of trends in poverty over time.

Madam Speaker, it is clear that, for the Government to support families experiencing economic disadvantage, it needs to know how many families fall into that category and what they look like. It is not good enough, in this instance, to simply dismiss concern about the definition of the family as an exercise in semantics. The Chief Minister, in her ministerial statement, said of the International Year of the Family:

It provides us with the opportunity to celebrate family life, to recognise the importance of families, and to work to support and strengthen families. It presents us with the challenge of openly discussing the changing face of families, of responding to the pressures on families and their needs, and of tackling the issues affecting families today.

The International Year of the Family certainly presents us with opportunities and challenges. It presents us with the opportunity to improve family life and the challenge to apply scarce resources to this task. I welcome the Government initiatives for the International Year of the Family announced in the 1993-94 budget; specifically, the concessions reforms, the establishment of the Child At Risk Unit, the campaign to address violence against women, and the new home loan programs. However, I feel that more could have been done for families.

From the Chief Minister's answer to a question on notice of 16 March, it seems that Government activity has been aimed mainly at coordinating the activities of government agencies; at seeking sponsorship for the International Year of the Family activities; and at PR activities, including repackaging existing Government programs into the family oriented categories set out in the booklet "Focus on ACT Families". This booklet brings together many current Government programs under the following headings: Education of Children, Caring for Children, Families as Carers, Healthy Families, Supporting Families, Informing Families, Transporting Families, Facilities for Families, Recreation for Families, Families and the Environment, and Protecting Families. Mr Humphries referred to this booklet in his remarks.

Madam Speaker, I would like to take two of the programs which are mentioned in this booklet as exemplifying areas in which further expenditure could be warranted in the International Year of the Family. These are the priority schools program and the home and community care program. The priority schools program is now included in the national equity program for schools, or NEPS. Unfortunately, this repackaging has not resulted in increased funding for the priority schools program. The dollars are still the same and are clearly inadequate. What this means for disadvantaged schools in the ACT is that they can receive funding for only three years and then they leave the program to make way for another school in need. Due to limitations in funding, only three or four schools at a time can expect funding under this program.

In its 1993-94 budget submission, the Council of Parents and Citizens Associations called on the Government to introduce the ACT's own priority schools system to address the fact that there are insufficient resources for schools serving communities with high concentrations of socioeconomic disadvantage. Surely, in this Year of the Family, we should be funding all disadvantaged schools in the ACT on the basis of need. While I am talking about the national equity program for schools, I understand that the ACT is missing out on Commonwealth funding for at least one program, namely, the secondary students at risk program. The International Year of the Family provides a perfect opportunity for the Government to gain access to this funding, and I would urge them to do so. *(Extension of time granted)*

I turn now to the home and community care program. All members would agree that this area of need is substantially underfunded. I noted in an article in the *Canberra Times* of 17 May that a joint Federal-State report entitled *The Price of Care* was released during that week. This report found that the value of unpaid care provided by about 1.2 million Australians was around $6 billion a year. The report noted that some 70 per cent of carers suffered a decline in health. It foreshadowed the possibility of wide-ranging changes in the income support system for carers. Additional funding from the Commonwealth Government and, in turn, by the ACT Government of the home and community care program would not only reinforce the Government's commitment to social justice but also put the ACT in a leadership role in this area. It would be a lasting monument to the International Year of the Family.

Madam Speaker, I welcome the Government's focus for the International Year of the Family on a sustained, long-term effort to increase awareness of family issues and to strengthen and enhance the effectiveness of support for families. However, it seems that the National Council for the International Year of the Family will present to the Federal Government later this year its extensive comments on the nine key priorities and the results of its community consultation process - this is something I mentioned earlier - and that the Government will then assess its programs and funding priorities for families for the future. This, of course, will most likely not occur in 1994, the International Year of the Family.

It seems to me also, Madam Speaker, that much time has gone by in the International Year of the Family with little or no celebration by the general community of family life. This is unfortunate. I believe that substantial opportunities, which would have enabled general celebrations to occur, have been missed. On a final note, Madam Speaker: 1995 is the International Year for Tolerance. I certainly hope that, if policy development is going to be a key focus for the year, efforts are made sooner rather than later to establish appropriate working groups to do the work, and that more is made of including the general community in celebrating the international year and in participating in a wide range of activities.

Madam Speaker, I have covered a lot in my remarks about the International Year of the Family. I note Mr Humphries's comments publicly in recent times that here we are, in October, finally addressing the International Year of the Family during the Assembly's business. However, there are substantive points to be made about the recognition of international years, and I certainly think Australia and the ACT have some way to go before we maximise the opportunities that the international years present us with.

Question resolved in the affirmative.

ADJOURNMENT

Motion (by Mr Connolly) agreed to:

That the Assembly do now adjourn.

Assembly adjourned at 6.12 pm