DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

7 December 1994

Wednesday, 7 December 1994

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

POSTPONEMENT OF ORDER OF THE DAY

MR HUMPHRIES (10.31): Madam Speaker, pursuant to standing order 150, I move:

That order of the day No. 1, private members business, relating to the Proportional Representation (Hare-Clark) Entrenchment Bill 1994, be postponed until a later hour this day.

MS FOLLETT (Chief Minister and Treasurer) (10.31): Madam Speaker, I understand that the reason Mr Humphries is seeking to postpone debate on this matter is that his amendments have not been prepared yet. I would make the point that that offers the rest of us in the chamber no opportunity whatsoever actually to get advice on his amendments. I have discussed this matter with Mr Humphries. I know that he has had discussions with the Electoral Commissioner, as I have. I have had advice on Mr Humphries's Bill. Mr Humphries is asking us to take on faith that the amendments that he proposes to introduce at some later stage actually will address the concerns that have been raised. I believe that we are in danger, again, of a very rushed approach to legislation. It would be much wiser if we were to adjourn the matter completely.

MR HUMPHRIES (10.33), in reply: Madam Speaker, it is very regrettable that we have to deal with this matter at short notice. I make the point that it is necessary to do so only because the Government basically has taken its time in getting the essential prerequisite legislation on the table. We could have introduced this Bill before the electoral legislation was on the table or before the Referendum (Machinery Provisions) Bill was on the table. The electoral Bill took two years, as I have no need to remind you. The Referendum (Machinery Provisions) Bill was passed just over two weeks ago.

Mr Connolly: But that is just the machinery. You could have been working on the policy details of what you want, and talking to us about it.

MR HUMPHRIES: Yes; we did. We had the Bill ready, apart from that aspect of it. The Bill was ready, except for the other mechanisms. We have done this at short notice, because that is all that we have been given by the Government. It was drafted at great speed; and, I must say, with great diligence on the part of parliamentary counsel. It was introduced in private members business last Wednesday, again at great speed.

Amendments have been suggested by the Chief Minister's officers. Those suggestions have been taken on board, and the amendments are now being drafted. There will be an opportunity to look at these matters before we come back this afternoon to debate them. I am sure that the Government finds it very convenient to say, "This is too hard; let us leave it to another day". If you felt that way, it would have helped to have had the necessary legislation in place, on the table and passed into law a long time before two weeks ago.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport), by leave: Madam Speaker, the issue raised by Mr Humphries is somewhat of a fallacy. The questions that Mr Humphries has alleged that he wished to have addressed have been capable of being debated, discussed or tabled in this Assembly since the original legislation that he spoke about was tabled in September. He has failed to do so. A committee of this Assembly has spent at least a year - I would suggest, almost two years - considering the effects of a similar piece of legislation which was dealt with in the way that Mr Humphries is proposing that we now deal with this Bill. I refer specifically to the Planning, Development and Infrastructure Committee's investigations into the legislation underpinning the Territory Plan. You may recall, because you were in the First Assembly, Mr Humphries, the great concerns that were expressed by all parties at that time about the way in which that legislation and the amendments, in particular, were rushed through. In hindsight, they were ill considered, ill conceived and - - -

Mr Moore: That is just not how it happened.

MR LAMONT: It did. The number of amendments proposed, debated and discussed without their being analysed properly as to what their effect would be, I would suggest to you, caused the most substantial of the planks for reconsideration of that legislation by the PDI Committee, Mr Moore.

Mr Moore: But they were not rushed; that is what I am saying.

MR LAMONT: But they were rushed. The majority of them were determined on the floor of the Assembly as the debate continued. That will be the way in which any variations, alterations or additions to the proposals put forward by Mr Humphries on this matter will need to be considered by this Assembly. We have two sitting days left in the life of this Assembly and - - -

Mr Kaine: And you are going to use up all today with this stupid debate.

Mr Humphries: Yes, that is right; that is what will happen.

MR LAMONT: Did you get a prescription or something overnight? The simple fact is that, in considering a matter of this substance - and it is an extremely complex, substantial matter - - -

Mr Humphries: It is your fault that it has taken so long, Mr Lamont.

MR LAMONT: No, it is not. This, Mr Humphries, is a stunt; it is a bit like wearing a bow tie. I suggest that Mr Humphries could have had these matters circulated and properly considered in September; most certainly, in terms of the policy that he has outlined. I would suggest that the most appropriate way for this to be dealt with is for it to be adjourned until his amendments are available and have been capable of assessment as to their effect. I would suggest that the adjournment be permanent.

MR MOORE, by leave: Madam Speaker, if this were almost any other Bill that we were talking about, then we would accept that the arguments being put by Labor would have much more credibility. It is appropriate for us to adjourn this matter, even if this has to be brought back quickly. As far as I am concerned, there is a great bind on this Assembly to ensure that Hare-Clark is entrenched. There is a simple reason for that. There was a clear attempt by the Labor Party to undermine the system and to undermine the referendum result that was part of the wish of the people of Canberra. To her great credit, the Chief Minister withdrew the above-the-line voting. We have heard, even in recent days, some members of the Labor Party saying that they would like to reinstitute above-the-line voting. I believe that, as an Assembly, we have a responsibility to ensure that prior to the close of business on Thursday we get this right. If we do not manage to entrench it by Thursday, then the Assembly should be recalled to ensure that we do get it right. Whatever the case, the Electoral Commissioner ought to have as much time as he possibly can.

I accept what Mr Humphries is saying, because I have discussed this matter with him time and again. We had to wait for the Referendum (Machinery Provisions) Bill to go through this house. Now is the time to consider this as carefully as we possibly can and with as much time as possible. To that extent, I agree with Mr Lamont. Within those parameters, it must be done. As far as I am concerned, if nothing else were done by this Assembly prior to our rising, I would be satisfied. The highest priority must be given to this matter. We ought to deal with it as best we can. If that means an adjournment until this afternoon, then that is fine by me.

MR STEVENSON, by leave: If the proposer of a Bill wishes to have it put off, that is a reasonable request.

MR HUMPHRIES: Pursuant to standing order 47, I would like to make some further comments. Mr Lamont made reference to the fact that this Bill could have been tabled much earlier than it was. That simply is not true. It is not referred to by name in the Bill, but this Bill relies heavily on the Referendum (Machinery Provisions) Bill that was passed just over two weeks ago. It could not operate unless that Bill had been passed. For example, there is nothing in this Bill about the question that we put to the electorate; when the referendum will be held; who will propose the Yes and No cases; how the campaign will be conducted; or the form of the ballot paper. None of those things are in the Bill, because we rely for those matters on the provisions of the Referendum (Machinery Provisions) Bill. Therefore, it would not have been possible to do this one moment before the Assembly passed that Bill. My Bill was commissioned before that Bill was passed, but it was not possible to get onto seriously drafting it until that had happened.

MS FOLLETT (Chief Minister and Treasurer): I would like to make a statement under standing order 47, Madam Speaker. The Referendum (Machinery Provisions) Bill that Mr Humphries has referred to was introduced into this Assembly in September and was passed two weeks ago without amendment. Mr Humphries clearly had at least a couple of months to consider the proposal that we have before us at the moment and to put out an exposure draft. He did not take that opportunity.

Question resolved in the affirmative.

ASSEMBLY MEMBERS - ENGAGEMENT IN OTHER ACTIVITIES

MR BERRY (Manager of Government Business) (10.44): This motion is about principles. I move:

That this Assembly endorses the following principles:

(1) Members are elected to serve the community in a full time capacity; and

(2) Members so elected should not engage in the activities of any business, trade or profession in the course of their term in the ACT Legislative Assembly.

This, I repeat, is about principles. Just a little while ago members approved the Public Sector Management Act. Pursuant to the Public Sector Management Act, a little while ago I tabled the ACT Government Service Management Standards. Contained within those standards is a provision which deals with our public servants in relation to second jobs, and it goes on to say:

... an officer must not without approval in writing from the Chief Executive of the agency:

. accept or continue to hold paid employment in the Commonwealth or under the government of any State, or in or under any public or municipal corporation;

... ...

. engage in or undertake any such business whether as principal or agent;

. engage or continue in the private practice of any profession, occupation or trade or enter into any employment, whether remunerative or not, with any person, company or firm who or which is so engaged;

. act as a director of a company or incorporated society, otherwise than in accordance with the requirements of the duties of the officer's office or otherwise on behalf of the Territory; or

. accept or engage in any remunerative employment other than in connection with the duties of their office or offices under the Territory.

Some of the examples of a second job include a second ACT government position, a part-time job done after working hours - - -

Mr Kaine: I raise a point of order, Mr Deputy Speaker. Is the member suggesting that the members of this Assembly are subject to the Public Sector Management Act? Is that what this is all about? I did not know that we were employed under the provisions of the Public Sector Management Act. Perhaps the member could clarify the relevance of what he is reading, at great length, from the standards that apply to public servants.

MR BERRY: It will come to you in time, Mr Kaine.

MR DEPUTY SPEAKER: You are coming to that, are you, Mr Berry? Very well.

MR BERRY: Mr Deputy Speaker, it is entirely relevant and it is quite stupid for the member to rise and to raise it as a point of order. This is where we come to it. It says:

. any other profitable activity outside official duties ...

and so on. We have a set of standards that we require of our public servants and, all of a sudden, the shrinking violets, the Liberals, are running away from a similar standard - one not as strenuous - which might apply here in the Assembly for all of its members.

Let us have a look at some of the history of this place and the Liberals, for example. We had the very prominent Liberal Speaker, Mr Prowse, the fluoride specialist. Mr Prowse was a great advocate for the removal of fluoride from the ACT's water supply. He continually beat that drum in this Assembly and publicised himself around the issue. Guess what his business was? Selling water filters. What a conflict of interest! That went on and the Liberals did not even blush about it because they thought it was all right for somebody to be in here promoting their business, selling their water filters, and being paid as a politician at the same time. They thought that was fine. In the Second Assembly we had the office furniture debates - who had got the contract and who had not got the contract. Where did most of these questions come from? Mr Westende. What was Mr Westende's business? He was a furniture manufacturer. Those questions were asked.

Now, this morning, we hear the Liberals trying to justify the part-time employment of one of their members as a pharmacist. I have a great deal of regard for pharmacists. They provide a great deal of community support; but, at the same time, when I vote for somebody to come into the Assembly, I expect them to perform their duties full time.

After all, this Assembly has its pay rates set by the Remuneration Tribunal on the basis of doing full-time work. If you are earning a bit of money on the side, why not give it back, dollar for dollar. You would not want to do that. Of course, the Liberals are the only ones who seem to be troubled by this, the ones who are most agitated by it.

This is a motion that sets out to show up people for not making the contribution required to this body politic. The people in the ACT pay for fairly generous salaries - salaries that most people out there in the community would love to have. For some members the salaries paid are beyond the wildest dreams of people in the community. Ministers receive salaries of a range above those of backbenchers. The Leader of the Opposition receives a salary in the $80,000s and her office costs about $300,000 a year to run; and still the community see her operating a second occupation. In fact, she manages a business and participates in a profession. Now, I do not mind it. I am sure that Mrs Carnell is a very good pharmacist. I do not think there is any question about that. But you have to make a choice in this business. I hear that this morning, on the radio, Mr Humphries raised the question of Mr Osborne, who may be a candidate in the next election. He said, "He is a football referee. Would he have to give that up?".

Mr De Domenico: No; he plays football for the Raiders, in fact.

Mr Stefaniak: He is a captain-coach.

Mr De Domenico: He is the captain-coach of West Belconnen, in your electorate.

MR BERRY: These days he has taken on the job of captain-coach for West Belconnen. I have to say to you that if Mr Osborne is thinking about a career in politics he is going to have to make up his mind whether he wants to be a captain-coach or whether he wants to be in politics. It is as simple as that.

Mr De Domenico: Nonsense!

MR BERRY: You and I both had to do that - or have you not done it yet, Mr De Domenico? Are you still practising your former trade? I am not. I am working full time.

Mr Stevenson: I am not so sure, Wayne.

MR BERRY: Dennis Stevenson seems to be a bit twitchy, too. What have you been up to? You are just a wee bit twitchy today, Mr Stevenson. Tell us a bit about what you have been up to. Where do you disappear to all the time? You are certainly not putting the effort in here. You are taking the money, but what are you doing?

My view is that we need from this Assembly a clear and unequivocal statement. The members of this Assembly are here to work for the people. We are going to devote all of our attention to it. We are not going to be distracted from the matters of this Assembly by other business interests. The community out there deserves to know whether members in this place are working for the community or working for themselves.

That is the big question: Is there a conflict of interest? The community want to know this: "Are they in there working for themselves or working for us? We elected them to work for us. Are they working for themselves?".

Mr De Domenico: They will decide, Mr Berry, in February.

MR BERRY: Indeed they will. When they look at all the candidates who line up at the next election they ought to make a judgment - "Is this person going to work for me or work for himself?". I feel confident that most people out there will make the decision that - - -

Mr De Domenico: All the punters will decide in February, Mr Berry.

MR BERRY: For the likes of Mr De Domenico, whom they pay something in the order of $70,000 a year, they will say, "We reckon that we deserve to have his undivided attention for the whole year for that sort of money". They might not want him doing something else for the whole year. The same applies for Ministers, backbenchers, managers of government business, and so on.

Mr De Domenico: Prime Ministers?

MR BERRY: And Prime Ministers. The Prime Minister has made that clear. He gives his undivided attention. As far as this place is concerned, we do not get that from the Liberals. We heard them arguing the case this morning. My position on this is that this is a statement of principle which this Assembly can adopt or reject. The first thing the Liberals do is to come out and defend Mrs Carnell, saying, "What a damned good idea it is to be behind the cash register on Saturdays and Sundays. How good it is to be close to the community".

Mrs Carnell: Yes.

MR BERRY: That is your job here. That is why you have an office here. The community pays over $300,000 to maintain it so that you can do your work here. It gives you a great big luxurious office with lots of staff. What we end up with is an Assembly where some members are being given support to run their political affairs - fair enough - but they are then going out and involving themselves in other business affairs. I think the community would have a question mark over their head about that. They would be saying to themselves, "Is this person working for me or is this person working for himself?". There are the issues of principles that you have to address in the debate on this matter.

There is no question that there is plenty of work here for people who are interested in doing it. If people choose to oppose this motion we will take the free kick. It demonstrates that people are prepared to say to the community out there, "Look, when I am elected I deserve the rate of pay that has been determined by the Remuneration Tribunal; but I can go out and take on any other business interests that I like, even if they create a conflict of interest, or a potential conflict of interest, in this place". I say to you that if you go down that path you will be judged on the merits of your case. It is unacceptable, and that is why the motion has been put forward.

It is a sensible motion. It did not need all the hyperbole that went around from the Liberals, which, of course, demonstrates their frailty on the matter.

Mr Stevenson: What is that, Wayne?

MR BERRY: Mr Stevenson is starting to look a bit frail too.

Mr Stevenson: Ha, ha, ha!

MR BERRY: The maniacal laugh. We always hear that when you are a bit nervous. We will find out what you have been up to, in due course. Mr Deputy Speaker, this is an issue of principle. For two Assemblies there has been much criticism of this place. In the last week we again had criticism of this place. Some of us - Trevor Kaine and I, and many others - have been working hard to bring credit to this place. When we saw the loopy law-makers at work a week or so ago on this issue one could have said, "Mrs Carnell, it would have been better if you had given your undivided attention to this issue". If she had given it her undivided attention, would she not have done a better job? Maybe she would have. That is the obvious answer.

It boils down to whether you support, in principle, putting all of your efforts into the body politic after being elected or whether you think it is quite okay for politicians to work in a spare time job. Can you imagine a motor mechanic, for example, out there putting rings and bearings in motor cars between sitting times and then popping in here for the sitting dates? Would that be all right? If an electrician was out there between sitting times putting in a few power points, would that be all right? You can conjure up in your own mind a whole lot of events where people might be doing part-time jobs. People seem to think that it might not be all right to get out and undertake a blue-collar activity in your spare time, but it would be okay to run a professional career in your spare time, because that is a far more honourable thing to do. Both are wrong.

In this Assembly you are paid to do a job. The Remuneration Tribunal has determined a salary for full-time work, and the people of the ACT community deserve to get your undivided attention. Why is it that there is so much nervousness amongst the Liberals on this issue? How much time do you spend on other activities? I do not know. We have Mrs Carnell saying that she spends 10 hours a week or something, or works at weekends during the shift penalty hours because it is too dear for her to employ other employees. If that is the way she wants to operate, that is fine; but you have to make up your mind about whether you want to be in business or in politics. I do not think there is a good mix between the two. I think it is quite appropriate to separate yourself from all of those things and to deal with the matters that you are elected to deal with and are paid handsomely for.

MR DEPUTY SPEAKER: Before I call the next speaker I would remind members of standing order 55, which says:

All imputations of improper motives and all personal reflections on Members shall be considered highly disorderly.

Mr Moore: I raise a point of order, Mr Deputy Speaker. Perhaps you should rule the debate out of order.

MR DEPUTY SPEAKER: No, I do not believe that we need to rule the debate out of order, Mr Moore; but I would remind speakers - I repeat - that all imputations of improper motives, under standing order 55, will be, in my case, considered highly disorderly.

MR KAINE (11.00): Mr Deputy Speaker, I will be brief because the subject does not warrant very much of my time or anybody else's, quite frankly. There is no question of principle here. I must say that I am disappointed that Mr Berry would bring up such a subject because, by bringing it up, there is an imputation that some members of this Assembly are doing something wrong or reprehensible. If that is not the imputation, what is the purpose of this motion? Mr Berry says in his motion, "Members are elected to serve the community in a full-time capacity". Nobody is questioning that. I am quite happy for Mr Berry to do a full review of the time that I have put into this job since I was elected to it six years ago. As a Chief Minister, as a Leader of the Opposition and as a backbencher, I have consistently put into the business of the affairs of this Territory 80 to 90 hours a week, and in some weeks more.

Mr Berry: Have you another job, too?

MR KAINE: No, I do not.

MR DEPUTY SPEAKER: Order!

Mr Berry: Fine. What are you worrying about?

MR KAINE: No, I do not, Mr Berry. That is the point that I am making. I do not think that there is anybody in this place who shirks their responsibility to do what they were elected to do. If Mr Berry is suggesting otherwise, he is impugning the personalities and the characters of people here. I do not accept that anybody is shirking their responsibility. When he says "full-time capacity", does he mean 168 hours a week? Is that what he means by full-time, or is he talking about a 40-hour week like all of his union mates demand, or less, and if they work more than that they get triple time or double time and a half? Is that what he is talking about by full-time employment? I do not see it in that sense. I put into this place, and I will continue to put into this place, as many hours as it demands, and so, I suggest, does everybody else. It is a pity that Mr Berry has to suggest that somehow or other we are shirking our responsibilities. I deny that.

He says in his motion, "Members so elected should not engage in the activities of any business, trade or profession". I am, by profession, a qualified accountant; so if I choose, in an honorary capacity, to maintain some books for a charitable organisation, in accordance with Mr Berry's motion I have to stop doing that; I am not allowed to engage in anything to do with my profession. What rubbish! What absolute rubbish! I would challenge Mr Berry to give me any facts on any other parliament in Australia that has this kind of prescription. People come into this place as individuals. Some of them come from farms. Is he saying that if a farmer or pastoralist is elected to a parliament he should sell off the farm, that he can no longer run the farm? What a load of codswallop!

The same thing applies to anybody else who is engaged in a business of any kind when they are elected to parliament. They run businesses. They have responsibilities to people. They have employees. Mr Berry suggests, obviously, that the minute you are elected to this place you should fire all your employees and throw your family business aside.

This motion is unacceptable. It might be all right for somebody who never had a business, who never worked for himself in his life, who never had to be worried about employees that he had to pay. That might be all right. That might be an attitude that would be reasonable. I do not accept it. I think this is a nonsense motion. I do not even manage a portfolio of properties. I have no interests outside this place, except what I do here. How many of us in this place came here with property portfolios and share portfolios that they manage and which bring them in a very nice income, thank you? They are not all on this side of the house. Is Mr Berry suggesting that that is an improper activity? This is absolute nonsense. The motion is a nonsense motion. It is not a question of principle at all, and the sooner we vote on it and vote it out the better.

MR MOORE (11.04): I would like to have a couple of words on this silly motion and to explain why I supported it coming on at this time in private members business during a discussion in the Administration and Procedures Committee, Mr Deputy Speaker. The reason I supported it coming on at a reasonable time was that Mr Berry pointed out that this is the first time that he has sought to put private members business on the notice paper as a private member. Many other people have had a chance to have business brought up and therefore he ought to be entitled to have some business up as well. It was a good argument, Mr Deputy Speaker, which is why it was carried by the Administration and Procedures Committee; but what a waste! What a waste of private members business, that he should put on something so silly! After all the arguments Labor put this morning about things being sprung on and so on, he puts a motion like this on the notice paper, clearly with no real intention of it having any effect. Mr Deputy Speaker, such a motion can never bind anybody here anyway. Secondly, such a motion - even an Act of this parliament - could not bind the next parliament if they did not want it to. This whole concept is silly. It was clearly designed as an exercise to have a go at a few people, which is what Mr Berry seems to be keener and keener to do as we get closer to an election. I think the motion deserves disdain.

MR DE DOMENICO (11.06): Mr Deputy Speaker, I agree with Mr Moore. This is a silly, simplistic motion. Let me tell you why it is silly and simplistic. Look at some definitions, Mr Deputy Speaker. The first one that comes to mind is "fanatic". I think the best definition of a fanatic I have heard came from the late Winston Churchill, who said that a fanatic is one who cannot change his mind and will not change the subject. When you read Mr Berry's motion again you think, "Yes, it is fanatical; but it is also a stupid motion". That tends to make one go to the dictionary and to say, "What is the definition of 'stupidity'?". There are a few of those that I came up with as well. One of them was from Charles Dickens. Charles Dickens said, "He would be sharper than a serpent's tooth if he was not as dull as dishwater". There are other definitions of stupidity too. Human stupidity, Mr Deputy Speaker, consists of having lots of ideas but stupid ones. "Against stupidity the gods themselves struggle in vain", is what we can say about this silly, stupid, simplistic motion. When you see who is responsible for the motion you are not terribly concerned, just as the people of Canberra will not be concerned.

Let us have a look at Mr Berry's motion and consider how it may affect other members, not necessarily just of this house but of all other houses in all other places. Earlier this morning, having read this silly motion on the notice paper, I did a little bit of research. "Consider Paul Keating and the piggery", everybody will say. Well, he sold the piggery, but he still has a company called Pleuron and he is a director of Pleuron. Do we expect the Prime Minister to give away his directorship of Pleuron? Of course not. Stephen Loosley writes a column in the *Sunday Telegraph* for money. What about Alan Griffiths? Do we all remember the sandwich shop that went broke? The president of the Liquor and Allied Trades Union, John Morris, was a senator. Does this mean that no Labor member can hold a union position, or union membership perhaps, Mr Berry? Con Sciacca still has a stake in a legal practice. Phil Cleary, the Independent member, writes for a newspaper and is paid for his radio talkback segment. Andrew Theophanous derives substantial income from rental properties. One wonders whether any members of this place get substantial incomes from rental properties. One wonders, notwithstanding what side of the house they are on, whether that means that they all sell those properties and get rid of all that income?

Mr Berry: No.

MR DE DOMENICO: Mr Berry says no. This is what your silly motion would make them do, Mr Berry. As Mr Kaine quite adequately indicated, what if you win a seat in this place and you are a farmer? Do you sell the farm? Do you sack all your staff just because you can come in here and work another 100 hours a week on top of what you might or might not do in your spare time? What utter simplistic nonsense! Then again, when it comes from Mr Berry, is there any wonder?

MR CONNOLLY (Attorney-General and Minister for Health) (11.10): Mr Deputy Speaker, I was interested in Mr De Domenico's tirade about silliness and stupidity. I think they are harsh words to use against Prime Minister John Major, although he is a conservative and a man whom one would generally disagree with. The reality of this sort of concept is that opinions have changed. One hundred years ago parliaments were gentlemen's clubs and everyone was expected to have outside business interests. Now it is expected that we have full-time politicians who will devote themselves to their duties. In the British House of Commons the Prime Minister has stated that action needs to be taken in relation to the practice that has developed there and that is being proved in British courts - that members offer themselves as consultants to get questions up in question time. This issue of restricting outside business interests of members of parliament is a live issue which is being addressed in Britain.

In the United States for some decades it has been accepted practice that members of the executive government put all their business affairs in blind trusts for the duration of being in office. I accept that that has not yet been extended to the legislative branch. It is notorious that senators are virtually all millionaires. If they are not when they become senators, they seem rapidly to become so while they are senators.

MR DEPUTY SPEAKER: I do not know that they can become senators otherwise, Minister.

MR CONNOLLY: I think that may well be the case. There is a lot of disquiet there about the money impact and about business interests impacting on public life. Attitudes have changed in the last 30 or 40 years. When Sir Robert Menzies was Attorney-General of Victoria he took private briefs. When he appeared for the Victorian Government in Privy Council cases in London - he was paid to go to London to appear in those cases - he also took private cases.

Mr Stefaniak: Doc Evatt did too. He was involved in a very important case for a long time.

MR CONNOLLY: No, Doc Evatt did not do it while he was a Minister; but he did do it while he was Leader of the Opposition.

Mr De Domenico: That is all right, is it?

MR DEPUTY SPEAKER: Order!

MR CONNOLLY: Just calm down. When Menzies did that, nobody objected. That was acceptable practice in the 1930s. But now, if any Attorney-General also took private briefs, that would be regarded, clearly, as inappropriate behaviour. Indeed, I think there would be difficulties with Opposition leaders conducting private legal actions. Mr De Domenico rants and raves, and says that it is silly and stupid and all the rest of it. If we are silly and stupid, we are silly and stupid in line with what is going on in the British House of Commons; we are silly and stupid in line with what has been the practice for a long time in relation to the executive branch in the United States, and is being increasingly looked at in relation to the legislative branch. This is an idea whose time is emerging.

MRS CARNELL (Leader of the Opposition) (11.12): Mr Deputy Speaker, this is an unusual motion, and I will not make a comment about it being silly. Mr Berry has done it for a particular reason, and that is, fairly obviously, to cast certain imputations and aspersions upon me about whether I am a full-time member of this house. I challenge Mr Berry to show once, one day, that I have not worked more hours than he has - not the same hours, but more hours. I challenge Mr Berry to have a look at the records in this Assembly of when I leave this Assembly every night. I challenge Mr Berry to show where he was here both Saturdays and Sundays, every Saturday and Sunday, as I am.

I am not standing here trying to justify my position, although Mr Berry has attempted to make me do so. I think the really important thing and the issue that is here is this: What are our roles as politicians? The roles of politicians are to represent the community, to know what the community thinks, and to know what the community feels; and to understand, to the best of our ability, what is actually happening out there in the various sectors of our community. Sitting here in our offices, as we would all know, is not the

best way to know what is actually happening, or what people are saying, thinking or feeling out there. The only people we deal with on a day-to-day basis are each other, our staff, the staff of the Assembly, and constituents who come to see us. We also go to functions - something that we should do - to talk to people; but, again, that does tend to somewhat narrow the focus of the people that we talk to.

I would have assumed that everybody in this house - I would be absolutely stunned if this is not the case - would use absolutely every capacity or every opportunity that they have to speak to members of the public, average everyday members of the public; not necessarily people with a burning issue who feel that they have to make an appointment and come to the Assembly to see us. Lots of people find it quite daunting to come and see a politician. I find, as I have often said, that the times that I spend behind my counter saying, "Hello, Mrs Jones; how are the children?", or "How is your back?", or whatever, are some of the most useful times that I spend in terms of my role as a politician. I find that a time when people are willing to talk without the difficulty of having to come into an Assembly situation. It is very useful, just as I am sure that members are finding at the moment that the time they are spending in shopping centres speaking to people about the issues that affect their lives is very important. The difference is that I spend every weekend in a shopping centre, speaking to people about their concerns from 9.00 am until 1.00 pm on Saturdays, and from 9.00 am to 12 noon on Sundays. I think I am very lucky to have the opportunity to be able to do that, not just at election times but every week.

Mr Berry seems to believe that this is about making money. That shows how little he knows about what is happening to small business in Canberra at this stage. It shows that he does not understand what is happening out there in neighbourhood and group centres in Canberra. It seems that it does not matter if you are involved in charity work, it does not matter if you are involved in sporting things; but, if you are involved in anything that might make a quid, that is a real problem. I can guarantee to Mr Berry that I do not take any money out of the business, because, quite seriously, like most small businesses in Canberra at the moment, particularly in group centres and in neighbourhood centres, it is not all that easy.

Mr Berry, I do not always work for those seven hours, I must admit, because regularly I have Assembly functions on both of those mornings and I pay a reliever to do those; but when I do not have to attend Assembly functions, rather than have a sleep in or go to see the soccer, or do the other things that many of the Assembly members do - go for a run or whatever - I go to my pharmacy. If I did not do that, Mr Berry, there would go one of my part-time staff, and that is as simple as it is. You can ring my pharmacy and speak to my manager. I do have a manager who runs the business. Weekends, for me, are about making sure that all of my staff continue to have jobs; that the business continues to be able to pay its bills. And every small business person in this town at the moment would be able to back me up when I say, "It ain't easy out there". Penalty rates on Sundays are prohibitive. If I were to pay penalty rates, and I often do, as I say, if I have Assembly business, it would mean that one of my junior staff would end up either without a job or part time. Personally, my staff are my family. My staff matter. They have been with me for a long time, and I am quite willing to get up on Sunday mornings and work for three hours so that they continue to have jobs. Whether you care about that or not, I do.

Again I come back to the issue involved here. You might think that is all terribly sad. The fact of the matter is that it is not terribly sad. I find those times some of the most useful and best times of my political life because people can come in and talk without fear or favour. I believe that it would be useful for everybody in this Assembly to go out and work behind a counter and to find out what the people of Canberra are thinking. As you would be aware, people like talking to their politicians. They like having input. That is exactly what the pharmacy is about. Recently we brought forward a policy which suggested that members of this Assembly should spend five to 10 days a year out there in the private sector. The private sector is saying, "Yes, because we do not believe that you politicians know what it is like. We do not believe that you know what you are legislating about half the time". Whether that is right or wrong, the point is that it does broaden horizons. I would like to finish with a quote from Voltaire. Voltaire said:

Never having been able to succeed in the world, he took his revenge by speaking ill of it.

That is Mr Berry.

MR STEVENSON (11.20): I take a contrary view to that of many of the Liberal speakers, and Mr Moore, on whether or not this is a silly matter. There is no doubt that this is an important matter to discuss in the parliament. That is a reasonable thing. It is right that a member of parliament should bring it up. I do not doubt that there are people in the community who from time to time think about whether or not members should be working. We would all understand, as Mr Berry would, that there are dozens of members of parliament in various houses around Australia who work at other jobs, or who sometimes work at other jobs. I do not doubt that there have been other debates on this subject. I think it is a reasonable and proper debate to bring up.

I am not going to comment as to why I think Mr Berry brought it up. It is relevant to talk about whether or not members have the capacity to do their job correctly. There is no doubt that, if some members work at a full-time job in another area, that may well cause problems for what they are supposed to be doing in serving their electorate; but people have different capacities. I know that some people can get more done in a day than some people can get done in a week. Some people have more time available. There is no doubt that a single mum in parliament with young children would not have as much time as a single man, because there are other responsibilities. That is perfectly acceptable. If someone had a job for 20 hours a week and worked another 80 hours a week in the Assembly, would anybody feel that they were getting short-changed? I would say not.

When I read the motion I felt that I might move some amendments to change it around the other way. It would read something like this:

Members so elected should engage in the activities of any business, trade or profession in the course of their term in the ACT Legislative Assembly so that they would have a greater understanding of the effects of the laws they pass.

Some people might think this is funny, but it is not funny in Switzerland because that is exactly what happens. They are not required to do so by law, but nearly all members of both - - -

Mr Berry: Why do you not move it, Dennis?

MR STEVENSON: Why do I not move? I love working here with you, Wayne. It is not a requirement that members of the two houses of the Federal Parliament work, but the vast majority of them do. They are real life people. They can talk about day-to-day business activities and what is currently happening in schools - not from the point of view of someone looking at the bureaucratic side of things, which also is important, but from the point of view of people with their feet on the ground, handling the problems that come up.

Let us look specifically at Mrs Carnell's role in this Assembly. Mr Berry may not know that Mrs Carnell often burns the midnight oil and is in here of a weekend. We are not talking about just people who have other jobs. Mrs Carnell puts in as much time as anybody in this Assembly. She spends a great deal of time here. I wonder sometimes why she does not do it at home, and then I think of the kids and all the things that happen. I think she probably does it so that she can get peace and quiet. That probably is sensible. Let us look specifically at the role that Mrs Carnell has in her outside job. It is that of a pharmacist. I cannot think of any other job that would be more worth while for someone who wants to get a real understanding about what ails society. After all, people come along about their headaches, their anxieties, and the depression caused by things that we do in this Assembly. What a wonderful way to find out what the problems are.

Mr Berry thought he had latched onto a really good point when he thought, "What I will do is get Mr Prowse. We will call him the Liberal Prowse. We will not mention Duby because everybody knows that Duby was the Labor Duby before he was the Liberal Duby. So, we will not mention that at all. We will hope that people forget". He mentioned Mr Prowse, who often pushed against fluoride in this Assembly. What a heinous thing to do! Imagine doing that! Fancy pushing against compulsory rat poison in the water supply! Heavens above; what reasonable representative would ever tell the people that putting a product that is called a rodenticide, insecticide, fungicide and bactericide in the water supplies would be a good idea to fight against? After all, politicians know what drugs the population should take - at least, so they think. Mr Prowse stood up for many things in this Assembly and it is no more unreasonable to suggest that he only thought about fluoride than it is to suggest that Mr Berry only thinks about unions and supporting them. That is not true. There are many things that Mr Berry brings up in this Assembly.

Mr Berry said that Mr Prowse had a second job selling water filters. That is not true. His partner had a job selling water filters. But why are we splitting hairs? What has whether someone is running a business or not to do with a good political debate? That is not the key point to the whole thing. The key point to the whole thing is that Mr Berry used this as the basis of his argument. He started with it. He had fervour in his eyes and he thought, "Boy, I have a good one here". I do not know whether anybody else has worked it out; but what happens when you take the fluoride out of the water, as Mr Prowse tried to do again and again? Many people would not buy a filter.

But Mr Berry did not think of that one. He just saw a chance to grab onto the idea that Mr Prowse was selling filters, when he was not, and he would say, "That was a conflict of interest". There would be a conflict of interest if someone kept putting fluoride in the water supply, like you have, because then people would be more inclined to buy the filter. Mr Prowse was working against that, against his partner's business, by trying to get it removed. But, once again, who is to split hairs about these fine points in debate?

As I said, I support Mr Berry's right to bring up this matter. It is an important thing to think about. I believe that Switzerland operates in a far better style than we do, and I think it is because they work in the real world. All of us can get cut off from the real world if we are not out there amongst people. It is all very well someone telling you that they have a problem with income tax and the dozens and dozens of other taxes that we impose on those gallant individuals who get out there and try to work at their own business. That is commitment. If anybody in the Assembly is prepared to do that, you have to admire them. It is something that most people could not confront. In fact, many people in this Assembly have never done it. I would suggest that that is one of the best requirements you could ever have for making laws governing what happens in a community, particularly in a business community. After all, that is what keeps the society going. It is not the parliament; it is the business community. If you have had experience in the business community, I think that that would be nothing but a benefit. It is an important point to bring up, and a quite reasonable one. It is good to debate it. I thank Mr Berry for the opportunity to do so.

MR STEFANIAK (11.30): I will be brief. Mrs Carnell, and even Mr Stevenson, in a weird roundabout way, have made probably one of the most important points in this debate. Firstly, members are expected to serve the community full time, and they do. I think that no-one does that better than Mrs Carnell in the hours she puts in. I think everyone in this Assembly, as Mr Kaine has said, is here full time; but that does not mean that there is any harm, if there is no conflict of interest, in a member doing other work.

Mr Berry, all I am going to do is to refer you to that very good talkback show after your comments on ABC radio this morning. Many people rang up and said that they were very much in favour of members having a second job because it got them out into the real world. In effect, they queried whether you could do your job terribly well if you had only one. The clear view there was that if members had no outside interests, apart from this place, they would be in an ivory tower; they would be devoid of reality. I think the point that those people were making is that it is very important for members here to get out amongst the community. Mrs Carnell works for only a brief period in her pharmacy, but it is terribly important to get out into the community and to hear the real concerns of people. What possible harm can that do? That is, I think, what the community expects of its politicians. Mr Berry, the final comment I would make is to agree with what the commentator of the particular show said, and that is that some people can do a number of things well, and some people can do only one thing at a time. Maybe in your case you might even be doing that rather badly.

MS SZUTY (11.32): I, too, will be brief. I also am not going to attack Mr Berry for putting up a silly motion. I think that he has raised an issue that is worthy of this Assembly's consideration. I would like to make some points about it. The first clause of Mr Berry's motion notes that members are elected to serve the community in a full-time capacity. I think every member of this Assembly today has acknowledged that we all serve this Assembly in a full-time capacity, but there are other elements of our lives that we are all involved with. Nonetheless, I understand where Mr Berry is coming from. Certainly, the community has expectations that all of us will work long hours and will serve them to the best of our ability, and I believe that we do that.

I have some difficulty with the second clause of Mr Berry's motion. It states:

Members so elected should not engage in the activities of any business, trade or profession in the course of their term in the ACT Legislative Assembly.

I believe that that is unnecessarily restrictive and prescriptive and that it locks out a number of various opportunities that are available to members and that they might like to pursue in the other hours of their days.

I would make the point that inequities can exist between members of this Assembly who are elected from various bases. Some of us have business backgrounds; some of us have community backgrounds. It is not always easy to transfer the experience that we have gained prior to coming into this Assembly to our lifestyles in the Assembly. So, I do acknowledge that inequities can exist between members, given the backgrounds that they come from. I would also like to make the point that many of us, apart from business, trade, or various professional interests, have other components to our lives which might involve a study program or which might involve caring for our families and other important people in our lives, and we certainly should not lose sight of that.

I will take the opportunity to comment on Mrs Carnell's proposition about giving the opportunity for MLAs to experience various activities outside the life of this Assembly. While I think that some experience in the business sector would be beneficial to a number of members of this Assembly, I also can think of another range of experiences which would assist other members of this Assembly. When Mrs Carnell first proposed this I thought it might be very useful for Mr Humphries, for example, to spend a week in a classroom, given Mr Humphries's recent experience as Minister for Education. That, to me, seemed like a useful activity for Mr Humphries to do for a week. I am sure that there are other activities that members could think of that would be suited to various members of this Assembly. Mr Humphries, I believe, has not completed his Christmas adjournment speech for this year, but perhaps I have given him an idea for a topic that he might like to address this year, and that is the various work experiences that he thinks might be suitable for members of this Assembly. I will not be supporting Mr Berry's motion because I believe that it is unnecessarily restrictive and prescriptive.

The final point that I would like to make is that one thing I value very highly in this Assembly is the diversity of backgrounds and experience that various members of this Assembly bring to this chamber. I think it would be a great pity if the composition of this Assembly became restricted to a few people from particular backgrounds. One of the strengths of our Assembly and of our democracy is that we have such a range of people with various experience who come into politics and who seek to make a contribution to the life of the community.

MR BERRY (Manager of Government Business) (11.36), in reply: This motion, as I said at the outset, is about principle, and the people who were most nervous about it were the Liberals. They, of course, stooped to ridicule to try to kick up a bit of a smokescreen about it. The fact is that it is an issue of principle; and it is whether you support your full-time dedication to the duties here, or whether you have a different position which says that you can be involved as much as you like in some other business, trade or profession.

I do not believe Mrs Carnell when she says that she goes to her pharmacy for nothing. Why would you own a business if it was for nothing? I think that that is a lot of nonsense. You seem to be the one most sensitive about this issue. It was not aimed at you; it was aimed as an issue of principle. But you are the one who seems to have the biggest guilt complex. I heard you say that you do a lot of hard work here, and so you should; you are the Leader of the Opposition and you get paid a lot of money to do the job. It is the same with the Ministers here. They do a lot because they get paid a lot of money to do a lot of work. They do a lot of work; there is no question about that. I would raise a question about Dennis, but backbenchers generally work hard as well.

Mr Stevenson: Do not be unkind, Wayne.

MR BERRY: As for Mr Stevenson, it is very hard to find him in the ACT. I do not know how he can be representing the people of the ACT when he is in Sydney, Chinchilla, north-western Victoria and so on. How can he claim to be doing his duty? I am not surprised that he would get up and oppose this motion, because he would, I suspect, be exposed. I am a little bit surprised by the Independents. I would have thought that they would be supportive of this principle, given the facts; but events in recent weeks have not put them in a good light, so I am not surprised that they are not terribly enamoured of Labor Party propositions.

Members will remember a former Deputy Chief Minister, Mr Whalan, who left this place. He left it because he could not conduct a business as well as work in here. He returned to his business affairs. I think he expressed the view that there were possibilities of a conflict of interest and it was not a course that he wanted to take. Mr Westende left this place and went back to his business. Fair enough; that was his choice. That was a choice that they made. Despite all the noise that has been made around the place, ridicule is a very poor weapon. Ridicule is a very poor weapon when it comes to discussion of these issues of principle, and every one of you who used that approach showed the shallowness of your contribution to the debate. The fact is that the community out there expects all of us to make a full contribution to the place. They do not expect us to accept the money that we are paid and to support principles that would allow people to do those sorts of things.

I can count and I am sure that the community will be very interested in those members who suggest that it is okay for people to have a part-time occupation in this Assembly. People will be very interested. I think that they will have a bit of a think about this issue and they will be considering very soon whether they will vote for people who intend to carry on some sort of an occupation. One candidate who has presented himself, one of the Democrats, is a GP around the place. I do not know whether he intends to give up his general practice to come in here and work as an Assembly member. If he does, good on him. I think it would be wrong for him to retain the business, but that is a position that is entirely up to him.

Mr Humphries: You are attacking your opponents from the coward's castle, are you, Wayne?

MADAM SPEAKER: Order!

MR BERRY: I have not named anybody, Mr Humphries. I am not as gutless as you are on that score. The issue here is whether you support the principle. I can count. You do not. We do. I am not surprised that the conservatives did not, because I knew, in my heart of hearts, that they would be most sensitive about it. I saw a demonstration of it over here the other day when Mr De Domenico came over and asked me what it was all about. He was most anxious and nervous. That raises some questions in my mind which we might discover a little bit more about in due course. Again, I go back to that initial position. Mr Kaine, if you wanted to do a little bit of accounting work and to donate a bit of your accounting skills to somebody, you would not be prevented from doing so. Do not use that one. The fact is that this is about people who are operating businesses, trades or professions, and working in this place, risking conflicts of interest and presenting an image to the community that you and I, Mr Kaine, have been trying to remove for some time.

Question put:

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

The Assembly voted -

AYES, 8	NOES, 9
Mr Berry	Mrs Carnell
Mr Connolly	Mr Cornwell
Ms Ellis	Mr De Domenico
Ms Follett	Mr Humphries
Mrs Grassby	Mr Kaine
Mr Lamont	Mr Moore
Ms McRae	Mr Stefaniak
Mr Wood	Mr Stevenson
	Ms Szuty

Question so resolved in the negative.

GOVERNMENT CONTRACTUAL DEBTS (INTEREST) BILL 1994
Detail Stage

Debate resumed from 24 August 1994.

Bill, by leave, taken as a whole

MR HUMPHRIES (11.45), by leave: Madam Speaker, I move the following amendments together:

Page 4, line 4, after clause 7, insert the following new clause:

Exclusion of inconsistent contractual terms

"7A. A term in a contract to which this Act applies that -

(a) excludes the application of this Act to the contract; or

(b) provides for the payment of interest on an unpaid account that has been rendered under the contract

is void.".

Page 4, line 13, clause 8, add the following subclauses:

"(2) Where a commercial account is payable out of moneys standing to the credit of a relevant account, the payment of an amount that, under section 7, is payable in relation to the commercial account shall be deemed, for the purposes of section 83 or subsection 85(10) of the *Audit Act 1989*, as the case requires, to be made for the purposes of the same relevant account.

"(3) In subsection (2) -

'relevant account' means -

(a) the Trust Fund established by section 82 of the *Audit Act 1989*;

(b) the Trust Account established by subsection 85(1) of that Act; or

(c) a Trust Account established under subsection 85(2) of that Act.".

These amendments pick up concerns raised by Ms Follett on the previous day on which this matter was debated. Ms Follett was concerned about the possibility that a term in a contract to which the Government was a party would provide for the payment of interest and that interest would be running both on that contract and under the terms of this Act. I have, therefore, provided in the first of these amendments that a term in a contract to which this Act applies, which will be a contract for less than $10,000 for goods or services provided to the Government, that proposes to exclude the operations of the Act is void - that is fairly obvious - and one that provides for the payment of interest on an unpaid account that has been rendered under the contract is also void. That means, in effect, that this Bill's provisions will apply, irrespective of what other contract arrangements might be made.

The second amendment deals with the question of payment from the trust account. The Chief Minister, in her remarks, referred to the trust fund. I assume that she meant "trust account and trust fund". I pick that up by indicating that the moneys payable pursuant to this Act are payable out of trust accounts and trust funds operated by or under an ACT enactment as well as straight from Consolidated Revenue. Madam Speaker, I think that these amendments strengthen the Act and make the provisions applicable across the board to all those who deal with the Government and its agencies. They provide an effective way of making dealings with the Government fair and on the same footing as those that governments have to engage in when they deal with other people or those that citizens engage in when they deal one with another.

MS FOLLETT (Chief Minister and Treasurer) (11.48): I would say at the outset that, whilst the amendments which Mr Humphries has just moved pick up some of the technical difficulties that existed with the original Bill, I still consider that the Bill itself contains more fundamental problems. When I spoke on this Bill when debate resumed on 24 August, I stressed that the Government actually shares Mr Humphries's concern. We understand that the late payment of accounts does have the potential to adversely affect local businesses. We also believe that the Government, through its agencies and departments, ought to pay its bills on time. I also know that, in the overwhelming majority of cases, that is what happens. Even when Mr Humphries first introduced this matter, he was able to point to only a tiny handful of cases where bills had been paid late. My recollection is that the majority of them were to do with the former health arrangements. As Mr Humphries and other members know, the Department of Health has now been brought into the central financial management arena. I believe that that will be of assistance in helping them to ensure that they pay their bills on time as well.

Madam Speaker, the last time I spoke, I explained that, in recognition of our responsibilities to the local business community, the Government has instructed agencies - I stress that these are legally enforceable Treasury directions - to ensure that all accounts are paid by the due date. During that debate, Mr Humphries stated that Treasury "directives", as he called them, do not carry the force of law. That was a key plank in his argument for this legislation. As a point of clarification, I would like to stress that my reference was to Treasury "directions". I think Mr Humphries has confused Treasury directions with Treasury directives. As far as I am aware, the term that he used has no specific meaning at all. On the other hand, Treasury directions have a particular definition

and, very importantly, they carry the full force of law. The directions are issued pursuant to the provisions of sections 125 and 126 of the Audit Act 1989 and Finance regulation 81. Paragraph (d) of subsection 126(1) and Finance regulation 81 are quite explicit on this matter. They say that failure to comply with a direction shall be deemed to be a contravention of the Finance regulations.

Madam Speaker, as it is apparent that the thrust of what Mr Humphries is trying to do here is to seek a legally enforceable method to ensure prompt payment of government accounts, and given that the Treasury directions already achieve that objective - they are legally enforceable - I consider that his Bill is unnecessary. But that is not the only problem with it. As I stated during the in-principle debate, the Bill has been poorly thought out, and it appears to include a number of serious oversights and unintended consequences. A number of clauses - in particular, those dealing with the due date - are convoluted and may, in fact, provide a disadvantage where the due date is actually specified in the contract.

Furthermore - I would like to thank Mr Moore for raising this matter during the in-principle debate - there is the important matter of the application of Mr Humphries's Bill to accounts which are the subject of dispute. Mr Humphries indicated that the Bill covered that matter. He further indicated that, as a consequence of his proposed legislation, the Territory would be required to resolve any disputed matter via the courts. Madam Speaker, this approach, which is completely at odds with normal practice, where the claimant would need to litigate where an amount is in dispute, is, thankfully, and despite Mr Humphries's assurances, not actually present in his Bill. There is, in fact, no dispute settlement provision. So, where a dispute is able to be resolved without reference to the courts, a determination of when the account became payable may be very difficult to ascertain from this Bill.

Madam Speaker, there are numerous other definitional and practical problems present in what is, I consider, a poorly drafted piece of proposed law. Despite the fact that Mr Humphries is well intentioned - and I recognise that - his Bill effectively achieves nothing that the Treasury directions have not already achieved, with perhaps one exception. I think that what Mr Humphries's Bill does do is to send a completely inappropriate message to public servants. That message is: If in doubt, do not risk an interest penalty for late payment; just pay the bill. This is completely at odds with the Government's financial management principles, which place the protection of public moneys above this sort of expedient and inappropriate advice.

I reiterate that the Government does share Mr Humphries's concern about late payment. We acted some years ago to introduce what are legally enforceable arrangements to ensure that the Government's trading clients are properly protected from the effects of late payment. For those few accounts which are paid late, I think that the further delay that would be required to calculate penalty interest can hardly serve the interests of business, particularly where the overdraft rates paid by businesses may greatly exceed the Supreme Court rate that is specified in the Bill. So, we remain unconvinced that business would be better off under the arrangements that Mr Humphries has proposed. Accordingly, I find myself still unable to support this Bill.

Madam Speaker, I mentioned earlier that there are some definitional problems with the Bill, and I would like to give members some indication of what they are. Under the definition of "contract", I consider that the definition that Mr Humphries's Bill provides is very vague. In fact, it may well lead to disputes as to whether a contract exists. The next definition is of "due date". I think that, where Mr Humphries has used the term that the account is "taken to be payable", you should also look at clause 6 of his Bill, because clause 6 does not actually say what "payable" means, and you have to ask: Can an amount be payable if it is not yet due, and what if the account is, say, partly payable? So, there is a definitional problem there.

Further on, at clause 4 of Mr Humphries's Bill, he says:

This Act applies to a contract entered into by the Territory or a Territory authority, whether before or after the commencement of this Act ...

That is clearly a retrospective approach, and I know that, from time to time, other members have found great difficulty with retrospectivity of legislation. Madam Speaker, in subclause 5(2) of Mr Humphries's Bill, he has a definition of "administrative head". Under the Public Sector Management Act we do not have administrative heads. The terminology is "chief executive officer". So, Mr Humphries's Bill has not picked up that later legislation. In clause 6 he has again used the term "payable", but has not included in that clause of his Bill any provision for disputes. Madam Speaker, as I said before, "payable" does not necessarily mean "due". There is a definitional problem there, and you have to ask again: What if the account is partly payable? Do you have no interest if it is partly payable, or what is the arrangement there?

Madam Speaker, on the final clause of Mr Humphries's Bill - clause 10 - I have to say again that the proposed legislation is unnecessary, because the whole of that clause is already covered by purchasing policy and by Treasury directions, and I do not consider that Mr Humphries has shown that those mechanisms have proved to be defective or that his Bill is in any way superior. So, Mr Humphries has not addressed the fundamental concerns that the Government has with his legislation, although I accept his good intentions and, indeed, I share fully his intentions in drawing this matter to attention.

MR HUMPHRIES (11.58): Madam Speaker, I am very disappointed in the Chief Minister's comments, because they indicate, I think, to be frank, a desire not to take this matter seriously and to deal with these matters in a less than forthright fashion. I was criticised earlier today for dealing with amendments to the proportional representation Bill, which is on the program today, without giving a great deal of notice to the Chief Minister. This Bill has been on the table for some months.

Mr Moore: Since 20 April.

MR HUMPHRIES: From 20 April, in fact. I have indicated in previous debates that I am very happy to discuss my Bill with the Chief Minister. She raised a couple of matters in the debate on the last occasion, a couple of months ago. I have addressed those matters. Today she comes back and raises other matters which she says should have been

addressed as well. Madam Speaker, I think that exhibits a desire to knock off this troublesome concept of having to pay your debts on time and to pay interest if you do not, and instead to leave it to the so-called Treasury directions, which apparently deal comprehensively, she claims, with that problem.

I will make a further point about the drafting of this document. It may surprise the Chief Minister - it may not - to know that I did not draft this Bill. I gave instructions for what I wanted, and a very experienced and competent draftsperson from the Office of Parliamentary Counsel drafted it. I think it is a little unfair to impute your problems with the Bill to the work of the draftsperson. I think that this Bill has been carefully prepared. It was a complex matter to begin with. I do not accept any of the criticisms levelled at these particular definitions or the terms of the Bill, because I have discussed them extensively and I believe that they are sound and are workable. I think it is unfair for her to attack the public servants who were responsible for the drafting of this legislation.

Madam Speaker, I will come back to some of the specific clauses in a moment. The Chief Minister has made the point that the Government shares the concerns of the Opposition about the late payment of accounts and considers that only a tiny handful of cases have been demonstrated to warrant the legislation. Point 1: Surely that is a very good reason to pass it. It does not occasion a great impositional burden on the public service, because they are meeting these obligations, for the most part. Therefore, the number of occasions on which it would impose some time burden on a public servant to calculate interest or to comply with the terms of the legislation would be very small. Point 2: When this Bill was first mooted, the Attorney-General said, "There are no cases of late payment. We have eliminated late payment. You prove that there are any cases of late payment". Well, we did. We indicated that, in fact, there were at least half-a-dozen cases in the Department of Health alone in the course of last year that would breach the terms of this kind of legislation. So, with respect, the ground has shifted. First of all, you said, "Prove that there are any cases". Now you are saying, "Well, there are not very many, and we have fixed up the problem. It will not happen again".

With great respect, I think that you place too much emphasis on Treasury directions. What is the consequence of a public servant failing to comply with a Treasury direction? Do they face dismissal? I think not. Do they have to pay interest or do they have to arrange for the payment of interest to the person who has suffered from the failure to comply with a Treasury direction? The answer is clearly no. There is no provision at all in those Treasury directions for payment of interest. So, how do we come to the point where those directions can cover the point of this legislation? They clearly do not.

Let me come back to a number of other matters that the Chief Minister raised. As to matters subject to dispute, it is true that there is no mechanism here, in regard to matters that are subject to dispute, for the interest component arrangement to be put on hold while the dispute is being sorted out. But, of course, the point is that it is not possible to have a mechanism to do that. While the parties are in dispute, there has to be an incentive for them to resolve the matter quickly. You must bear in mind that the

Government is in a much stronger position than poor Fred Bloggs the plumber, or poor Mr Jones the printer who has provided paper to the Government for printing or whatever. They are in a much weaker position. A dispute dragging on does not matter two hoots to the Government. It probably helps its position quite nicely if it happens to be in a tight budgetary arrangement. But it does hurt that person very badly indeed.

So, what this Bill does is to provide that interest starts to run after that period of 30 or more days from the rendering of the account. If the Government has a dispute, it refuses to pay the bill and forces the person who provided the goods or services to take the matter to court to resolve it. It says, "We are not paying this bill, and that is it" or, "We are paying only part of the bill, and that is all you are getting". That puts the onus back on the supplier or the contractor to take the Government to court and sort it out. Similarly, if there is no dispute and the Government simply cannot get around to paying the bill, clearly, these provisions should apply to make interest start to run.

We certainly have had a concern, and continue to have a concern, about retrospectivity, but only where it is adverse retrospectivity. We passed legislation yesterday, which Mr Kaine talked about, which conferred beneficial retrospectivity. We were 100 per cent behind the Bill. We always are, where the result is that a citizen of the Territory benefits in some way from doing that. This is a case where that happens. Here, people who already have accounts outstanding will benefit from the operation of the Bill.

The Chief Minister claims that some definitions are vague. With great respect, they have been drafted by, I think, the same competent people who work on Government Bills. Again, I say, "Why were these matters not raised before?". As far as the definition of an administrative head is concerned, the Chief Minister should look down to subclause (2) of clause 5, where she will see that "administrative head" is defined. It means the Head of Administration, which is a position referred to in our legislation, or it means an Associate Head of Administration, which is also a position defined in our public service legislation. So, whoever has given you advice, Chief Minister, has not done a very thorough job.

Madam Speaker, this Bill is important. It is important to send a signal that we believe that the Government should live by the same standard as it expects those in the community to comply with. Mr Connolly, as consumer affairs Minister, is constantly saying to business, "You must meet your obligations. You must meet the standards that people expect. You should honour your agreements. You should pay your bills on time. You should do the right thing by your clients and customers". That means doing the right thing, as governments, by the same people when the position is reversed. That is what this Bill does.

MS FOLLETT (Chief Minister and Treasurer) (12.05): Madam Speaker, I would like to make the point, first of all, that in my criticism of Mr Humphries's sloppy legislation there was certainly no criticism implied of the legislative counsel. I am quite sure that the legislative counsel are only too well aware that they draft what they are asked to draft, warts and all. I most certainly do not hold them responsible for Mr Humphries's lapses. I am sure that the legislative counsel themselves would understand that point only too well.

Madam Speaker, Mr Humphries has made a great deal of the fact that I have raised additional issues with him at what he perceives to be a fairly late stage. I would like to comment that Mr Humphries's amendments were received very late on 5 December - just a couple of days ago. So, we have had very little time in which to look at them and comment upon them.

Mr Humphries: They are two very brief amendments.

MS FOLLETT: Although Mr Humphries comments that they are very brief amendments, it was Mr Humphries's assertion that his amendments would fix up all of my concerns with his Bill. They do not. Madam Speaker, I have continued to say that the Finance directions, which Mr Humphries was unfamiliar with, are legally enforceable mechanisms for ensuring that bills are paid on time. Mr Humphries has misunderstood, or failed to take on board, that fundamental point.

Madam Speaker, I have a further difficulty with part of what Mr Humphries is suggesting. It goes to one of his amendments, which is the declaration in proposed clause 7A that terms in a contract to which the legislation applies which provide for the payment of interest on an unpaid account are void. I believe that that could be argued to be not only unnecessary but completely undesirable, because it appears to me to be an intrusion into what could be quite normal commercial arrangements. What if the Territory and the supplier, for instance, would both prefer to forgo interest on the bill to their perceived advantage, if there were to be discounting arrangements or whatever? Madam Speaker, I think that suppliers can actually also contract to receive interest if they are concerned about the possibility of late payment. That is another arrangement that could be made between the purchaser and the supplier which Mr Humphries's Bill appears to cut across. So, I retain my concerns about Mr Humphries's legislation, Madam Speaker. I do not believe that his amendments address all of the concerns that I have.

MR MOORE (12.08): I find this part of the debate rather extraordinary, Madam Speaker. This Bill was passed in principle and has been on the table. Mr Humphries has worked to address the concerns that were raised during the debate. He discussed those amendments with me as he drew them up, and I certainly perceived them to be satisfactory. If we have problems with a Government Bill, either that Bill goes through or we put up our amendments to it. I think the same responsibility exists here. I really believe that, if there were genuine concerns that there were major difficulties with this Bill, we would see amendments from the Government, instead of simply trying to knock it off. It was quite clear that it was the intention of the Assembly to put this Bill through, because it passed the in-principle stage. If there really were those genuine concerns, if the Chief Minister believed that this was going to have such an impact on the way this Territory does business and on the way the public service operates, then I think we would see those amendments. I am afraid that I find the arguments put here today a little shallow.

MR STEVENSON (12.09): Madam Speaker, I can only echo the words of Mr Moore. As the Bill was passed in principle, it is obvious that it is going to go through. If the Chief Minister or other members of the Labor Party have concerns about the legislation, the logical thing to do is to present amendments. This is basic bread-and-butter stuff for the Assembly. It is obvious that the Assembly was concerned about the issue and felt that something should be done about it. I know that the Government has said in the past that there is no problem here; that these things are not happening. But, as Mr Humphries quite rightly mentioned, that is not true. It is something that I have brought up in this Assembly a number of times over the last five or six years, because we kept getting contacted by people who were concerned about these things.

It is one thing for the Chief Minister to say that there are problems; but why not move amendments? If the Chief Minister or any other Minister feels that there are amendments that should be moved, I am prepared to put the matter off until later this day or tomorrow to give them time to move those amendments. The Liberals and the Independents would probably be prepared to do the same thing if a decent argument were raised to say that the Bill should be amended.

MS SZUTY (12.11): I concur with the comments made by both Mr Moore and Mr Stevenson. The point was made in the debate that we passed this Bill in principle. It was clear that the Assembly agreed with the spirit of what Mr Humphries proposed to do. He has come back to the Assembly today with two very sensible amendments which address the concerns which were raised during the debate. As a result of the debate on the matter last time, Madam Speaker, I sought a briefing on this Bill from the Chief Minister's Treasury officers. The briefing was on 7 September. Certainly, at that time, the Chief Minister's Treasury officers appeared to have some difficulty with some of the provisions of the Bill. However, I take Mr Moore's point. The Chief Minister has had quite some time - over two months, in fact - to come back to this Assembly with further amendments to Mr Humphries's Bill, if those amendments have been deemed to be necessary. I find it quite astounding that the Chief Minister has not presented to this Assembly further amendments to Mr Humphries's Bill for consideration today.

Amendments agreed to.

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

Bill, as amended, agreed to.

PUBLIC INTEREST DISCLOSURE BILL 1994

Debate resumed from 9 November 1994, on motion by Mrs Carnell:

That this Bill be agreed to in principle.

Motion (by Ms Ellis) negatived:

That the debate be adjourned.

MADAM SPEAKER: The question before us is: That this Bill be agreed to in principle. Does anybody else wish to speak?

Mr Connolly: Can we seek leave for the Chief Minister to speak again, as she is the person on the Government side who has the carriage of the matter? It would make sense to hear the Government's view from the Chief Minister.

MADAM SPEAKER: Yes.

Leave granted.

MS FOLLETT (Chief Minister and Treasurer) (12.15): Madam Speaker, I have to say that I viewed the appearance of this matter on today's business paper with a great deal of concern. That concern has deepened because of the receipt only last night of the report of the Standing Committee on the Public Sector. The amendments to the legislation have been foreshadowed by the Leader of the Opposition, but they have only just come to light. In spite of the many hours of debate and discussion that we have had in this chamber and that occurred in the committee over recent months, it seems to me that the distinction between government and governance is still very poorly understood by some members of this Assembly. Governance - if members are not aware of it - is about the manner and function of governing, and it is about the systems and the institutions that underpin the way in which we go about the business of government. Sir Frank Cooper, who was a Whitehall expert, said as long ago as 1986:

These institutions and decision-making procedures "represent the litmus test of the credibility, competence and acceptability of government".

I believe that we, in this Assembly, were presented with a rare and wonderful opportunity to fashion a modern and professional public administration, one which drew on the best of tradition without being restrained by its shackles. Yet, it seems, the fundamental principles that we achieved in that process have not been recognised by the majority of the committee and, one would assume, also Mrs Carnell.

Over the past few hours we have received in this chamber the first report of the Standing Committee on the Public Sector, the subject of which is very pertinent to the matter that is under consideration. It is quite unacceptable, in my view, for this Assembly to be presented with a report which deals with both the existing legislation and the

proposed legislation and to be asked to debate and decide upon appropriate amendments barely 12 hours later. That is what is occurring here. I realise that, if it is the will of the non-Government parties in this Assembly that that is what should occur, then they have the numbers to do that. But I ask them to think very carefully about what they are doing.

The report, which was presented only last night, raises some very important issues, as my colleague Mr Berry pointed out in his dissenting report to the committee's conclusions. I believe that the recommendations of the report, if adopted, would require a fundamental reassessment of the approach that was endorsed by this Assembly in establishing the ACT Government Service. Madam Speaker, that Bill was voted on and accepted by this Assembly. As members may recall - they may not, it appears - the Public Sector Management Act was premised on the concept that the ACT would be best served by a unified public sector with a common employment framework contained in a single piece of legislation. The Public Interest Disclosure Bill and the majority recommendations of the standing committee seek to vary those arrangements less than six months after their enactment. This is because the Bill, if enacted, would remove from the Public Sector Management Act 1994 the provisions pertaining to protection for public sector employees and incorporate them into separate legislation.

Madam Speaker, the Government's position on this is not necessarily oppositional. It may well be that the public interest and accountability would be better served by stand-alone legislation. It is just that we believe that this needs careful consideration. We received the committee's report last night. We need to be confident that we all understand the ramifications before taking what I consider to be a serious step. After all, we are concerned not just about government but also about governance. The latter often requires a sustained and deliberative effort. As a government, Madam Speaker, we most certainly are concerned with governance. We have made it an obligation for the ACT public sector employees to report fraud, corruption and maladministration. If members care to refer to Part IX of the Public Sector Management Act, they will discover for themselves that they have actually made the failure to report fraud, corruption and maladministration a disciplinary offence. We voted on that. We have adopted that. It is in the Act. Nevertheless, Madam Speaker, I certainly recognise that, in certain circumstances, fulfilling that obligation may expose individual officers to risk of reprisal. That is why we have included special protective measures, again, in the Public Sector Management Act. That is simply part of our responsibility as an employer.

These two provisions and the statement of the values and principles that this Assembly enacted in the Public Sector Management Act, I believe, lay the groundwork for the cultural change that Mr Kaine called for last night. I thought that his point was very well made, if somewhat belated. But there are two assumptions that are inherent in Mrs Carnell's Bill. The first is that we have established a public service that is rife with corruption. I do not accept that. The second assumption is that we do not have the established mechanisms to deal appropriately with that corruption. I regard both of those underlying assumptions as an insult to this Assembly and certainly to the public service that we created not six months ago. So, Madam Speaker, in the interests of good governance, it is our belief that the debate on this whole matter ought at least to be held over to allow proper consideration of the Assembly committee's report and proper

consideration by the Government of our response to that report. What we are seeing here, I believe, is an attempt to ram this matter through in an opportunistic fashion, when we have had less than 12 hours to consider the Assembly committee's report. It is an insult to the Assembly committee system and an insult to a committee that was chaired by Mr Kaine, a member of the Opposition's own party.

MRS CARNELL (Leader of the Opposition) (12.22), in reply: Madam Speaker, I think that this whole process has been totally the opposite to an insult to the Assembly. As the Assembly would be aware, this Bill was first tabled in February this year - not exactly two minutes ago. It was then subjected to a committee process, which was conducted with public hearings and all of the usual bells and whistles of Assembly committees. In June this year, the committee came forward with recommendations on the Public Sector Management Bill, the Public Sector Management (Consequential and Transitional Provisions) Bill and my Bill - the Public Interest Disclosure Bill 1994. We then passed the Public Sector Management Bill. One of the recommendations of that committee was that the committee should look further at stand-alone whistleblowers legislation; that the committee should report to the Assembly; and that stand-alone whistleblowers legislation should then be debated and enacted in this place. The process has taken from February until December - not exactly overnight.

The second set of recommendations of the Public Sector Committee was tabled in this house yesterday. My staff worked with people from the legislative drafting area for a number of hours yesterday, after the report was tabled, to come up with the amendments, which were distributed in this house last night, in an attempt to give everyone an opportunity to have a look at them before today - the last private members day of this Assembly. I think that process has been an appropriate process. The members of that committee and members of the Assembly will remember that a number of those amendments had already been drafted and had gone to the committee. So, they were not drafted just last night. They were drafted a number of weeks ago and given to the committee as recommendations for the way that the Public Interest Disclosure Bill could be brought into line with the original committee's recommendations.

Madam Speaker, the recommendations that were part of the report on whistleblowers legislation for the ACT, tabled in this place yesterday, have been addressed. I have taken on board all of those recommendations. My amendments totally reflect all of those recommendations. I do not step away from any of them. Recommendation 1 is reflected in the amendments; recommendation 2 is covered by clause 9 of the Bill; recommendation 3, as in the Public Sector Management Act, is covered by the PID Bill's definition of "public interest disclosure", which is clause 3; recommendation 4 is in clause 4; recommendation 5 is covered by amendment No. 8; recommendation 6 is clause 9; recommendation 7 is clause 33; recommendation 8 is clause 10; recommendation 9 is clause 22; and recommendation 10 is amendment No. 11. Recommendation 11 is that a committee of the Third Assembly inquire into the need for legislation with regard to private sector whistleblowers. The Liberal Party would be very happy to be part of that committee process. We believe that that is the next step in legislation in this area. We do not believe that it stops with the public sector.

I think it is important to recap exactly what this legislation does. First and foremost, we believe that this Bill sends a message to every public servant in the Territory - not that they are all doing a bad job; quite the opposite - that there is now something happening. It says to them that, if there is something happening in their workplace that they do not believe is right, now there is something that they can do about it, without fear of reprisal.

Mr Berry: What about the legislation that is already there?

MRS CARNELL: I will talk about that, if you like, as the committee reports did. It gives our public sector employees real power to act on any sort of improper conduct that happens in their particular areas of influence. We believe that that is very appropriate. Not only does it protect them in times when they are looking at a promotion, Madam Speaker; it also stops them being hassled in the workplace and it stops transfers that a particular public servant does not want. My Bill goes beyond the public service as well, Madam Speaker, as, I am sure, everybody in this house would be aware.

The legislation will establish procedures to encourage employees to disclose any illegal or improper conduct or to identify waste of public resources. It protects people who come forward from any reprisals they might face because of these disclosures, and it ensures that any disclosures made about improper conduct will be properly investigated and acted upon. It also protects persons who resist any efforts by an employer to make them commit a crime or to conceal any sort of offence. This sort of legislation is being looked at, or has been enacted, all over Australia. As we know, there has been a quite significant committee process carried out in the Federal parliamentary area. A very good committee report was tabled in August this year. Many of the parts of my legislation here are paralleled by the recommendations made by the Federal committee in the area.

The amendments were circulated last night, as everybody would be aware. They are not dramatic amendments, but they are the amendments that were recommended by the committee. A recommendation of the committee that I totally support is to substitute for the word "corrupt" the word "disclosable". I agree with the Select Committee on the Establishment of an ACT Public Service when they expressed some concerns about the word "corrupt". I think that, when I actually appeared before the committee, I also made the comment that I could see the problems. I am sure that Nick Greiner shares the concern about that word, because a lot of the problems from which he suffered were due to the fact that the word "corrupt" has all sorts of connotations in the community generally. They were certainly connotations that I did not anticipate when I used that word initially in the definitions. I think that changing the word "corrupt" to "disclosable" is substantially better, and it gets over any of the connotations that could exist with that particular word.

MADAM SPEAKER: Order! It being 12.30 pm, the debate is interrupted in accordance with standing order 77, as amended by temporary order.

Sitting suspended from 12.30 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Harcourt Hill Development

MRS CARNELL: Madam Speaker, my question without notice is directed to the Minister for the Environment, Land and Planning. I refer the Minister to the now infamous Harcourt Hill joint venture, in which the ACT Government had to provide the Commonwealth Bank with an irrevocable unconditional guarantee of $25m before the bank would agree to finance the venture. Can the Minister confirm that Harcourt Hill is the only project currently being undertaken by the Government's joint venture partner, Cygnet Pty Ltd - a Sydney company - and its directors?

MR WOOD: Madam Speaker, I believe that that is the case. We have a number of joint ventures that represent a very good investment return to the ACT. To the best of my knowledge, Cygnet's only interest is in Harcourt Hill. I will check that they are not partners in some other joint venture - if it is the case, I will let Mrs Carnell know - but I think that is correct.

MRS CARNELL: I have a supplementary question, Madam Speaker. The question was whether it was the only project - not the only joint venture project - anywhere in Australia that Cygnet was involved with. Is it not true, Minister, that the reason why the Government was forced to underwrite Cygnet Pty Ltd was that the company was unable to raise the capital or assets to satisfy the bank's concern about the risk?

MR WOOD: No. That is absolutely not right. I do not know whether Cygnet is involved in other ventures around Australia. I will ask some questions about that. The bank actually sought the guarantee - not for the reasons indicated by Mrs Carnell, but because, in its view, the ACT Government was in the unique position of being able to determine land supply and thus influence outcomes for the joint venture. The bank believed that this could be seen as a weighted risk against the financier. Further to that, the Harcourt Hill project differs significantly from other projects in the ACT in respect of the size and extent of the development. Mrs Carnell seems to be wanting to drum up an issue, once again, on entirely spurious grounds.

Educational Information Technology Grants

MS SZUTY: My question without notice is to the Minister for Education and Training, Mr Wood. Not long ago, I gave Mr Wood's office notice that I would be asking this question this afternoon. The question relates to recent calls for expressions of interest in projects in educational information technology. I understand that $60,000 was made available through a grants process to foster action oriented projects in educational information technology in the ACT public education system. Minister, according to what criteria were proposals assessed, and do you consider that $60,000 is an appropriate amount of funding to be made available to meet educational information technology needs in government schools?

MR WOOD: Yes, it is an appropriate amount of money as we expand what we do in our schools. The particular criteria are: Relevance to changing learning processes in classrooms; expected outcomes benefits for students and the ACT public education system; relationship with the department's priorities for education and strategic directions in information technology; and favourable conditions offered by applicants. Some additional information that was required was the total cost of the project, including the amount sought from the project fund; risk analysis; timetable for implementation; and the contact officer. I will pass the further details that I have to Ms Szuty.

MS SZUTY: I wish to ask a supplementary question, Madam Speaker. Given that only $60,000 is available, Minister, how can you ensure that, as far as possible, children attending government schools will have equal access to information technology?

MR WOOD: Madam Speaker, I think the assumption there is that this is the only money that we are spending on information technology. This is money for innovative new projects. There is quite a range of other information technology projects happening in our schools.

Harcourt Hill Development

MR DE DOMENICO: Madam Speaker, my question without notice is directed to the Minister for the Environment, Land and Planning, Mr Wood. The Minister has previously referred to his Government's joint venture with Cygnet Pty Ltd at Harcourt Hill as a sound business decision, and he reiterated that this afternoon in response to Mrs Carnell. Will the Minister confirm that the private nominee for the joint venture is a Mr Ray Waterson, who is a director of Cygnet Pty Ltd? Can the Minister confirm that Mr Waterson is also a senior director of National Commercial Management Services, the project manager for Harcourt Hill? Is it a fact that National Commercial Management Services has sustained continuous operating losses, for the past three financial years, of $22,625, $32,268 and $32,327?

MR WOOD: I have met a gentleman of that name. I will check to see whether he is the same gentleman as the one you are talking about and I will check the relationship to other companies. As to the operating losses, I do not know about those, and I do not know the nature of those companies. You can write all sorts of information into your balance sheets. I think the key thing to consider here is the Opposition's absolute reluctance to accept the fact that the ACT people should get a fair return from their assets. Opposition members do not seem to want to recognise that. They do not want to know that there are better ways of doing things than the ways they were using in their brief period in government.

MR DE DOMENICO: I have a supplementary question, Madam Speaker. Minister, is it not true that the Commonwealth Bank required the ACT Government to underwrite the joint venture because it was aware of the project manager's financial losses and the lack of assets of Cygnet Pty Ltd? How could your Government sign such

a financially dangerous agreement, knowing all these facts? Madam Speaker, I seek leave to table, for Mr Lamont's interest, the 1993 annual return of the company and also the financial statements of Cygnet Corporation Pty Ltd and reports for the financial year ended 30 June 1993.

Leave granted.

MR WOOD: Was it a supplementary question, Madam Speaker?

MADAM SPEAKER: There was a question there.

MR WOOD: It was only a repeat of the earlier question that he or Mrs Carnell asked. I will undertake to answer the questions that Mr De Domenico poses. The clear fact is this: The Harcourt Hill agreement was signed about a year ago. It is well known, because I have been promoting it actively around the area. I have been very proud to talk about it. Questions were asked at the Estimates Committee quite some time ago. The matter is coming up now because it seems to me that the Opposition are looking to raise any issue at election time.

Mr Connolly: Anything but marijuana.

MR WOOD: Anything but marijuana, as you say, Mr Connolly. They chose not to raise this long ago, when it was - - -

Mr De Domenico: Give us a copy of the contract. Is this another VITAB, Minister?

MADAM SPEAKER: Order! Mr De Domenico, you have asked your question.

MR WOOD: They want to drum up any issue before the election. They chose not to run the issue some time ago, when they had the information. The proximity of this to the election is not coincidental.

Group Apprenticeship Schemes

MR BERRY: My question is to the Minister for Education, and it concerns vocational training in the ACT. I hope that Mrs Carnell and Mr De Domenico will be silent and let him answer the question. Is the Minister aware of reports in the press this morning concerning the operation of the Master Builders Association's group apprenticeship scheme?

MR WOOD: Madam Speaker, I am aware of the allegations raised by a member of the Federal Parliament last night and reported in the *Canberra Times* this morning. The matter was raised by Mr Peter Duncan, the Parliamentary Secretary to the Attorney-General. I should point out that the group apprenticeship schemes are excellent vehicles for providing a wide range of training opportunities for apprentices where there are not enough apprenticeships offered by individual employers in a particular industry.

The scheme allows apprentices to be placed for short periods of time with any number of appropriate employers. Businesses, especially very small businesses, benefit through being able to take on apprentices where they would not otherwise have the resources to do so.

The schemes operate according to a funding agreement drawn up between the Commonwealth and the States and Territories. Across Australia, there are about 102 group apprenticeship schemes, employing approximately 30,000 apprentices and trainees. These schemes assist about 40,000 small and medium sized businesses. In the ACT, there are currently two group training schemes funded by the Government. The ACT MBA group apprenticeship scheme employs 140 apprentices and is one of Australia's oldest schemes. This scheme receives support from both the ACT and Commonwealth governments. In particular, this body receives about $60,000 in base administrative funding from the ACT Government and a matching amount from the Federal Government. The bulk of the funds for apprenticeship wages is supplied by the Commonwealth Department of Employment, Education and Training.

While noting the importance of these schemes, I am concerned at the allegations raised. I have directed the Department of Education to refer the matter to the Australian Federal Police for investigation. I have also asked officers of my department to contact the appropriate Commonwealth bodies to determine the extent of the concerns and the appropriate form of administrative action to be taken.

Schools Authority Budget

MR CORNWELL: My question is to Mr Wood, as Minister for Education. I refer to the Auditor-General's report on financial audits with years ending to 30 June 1994, where it is noted that the Schools Authority in 1993-94 spent $2m over budget, achieved by running down current asset balances and increasing trade creditor liabilities. I ask the Minister: How did this blow-out occur, and what implications does the correction have for current asset balances and particularly for trade creditors?

MR WOOD: Madam Speaker, Mr Cornwell uses the sensational word "blow-out", but there has been no blow-out. I think it represents about one per cent of total budget. It is clearly indicative of the pressures in education as we continue to make savings. The money has been well covered. I point members to page 113 of that same report, which, in the second paragraph, indicates how the department is on track to ensure that it covers that cost in the current financial year.

MR CORNWELL: Madam Speaker, seeing that we are quoting pages, I would like to ask a supplementary question based on page 110 of the same report, where it says that the authority has advised - presumably, the Auditor-General - that its non-salary budget has been increased by $1m and that planned internal efficiencies and resource allocations will achieve an improvement of $2m. Could the Minister explain how this $2m will be achieved by internal efficiencies and resource allocations?

MR WOOD: Madam Speaker, over the years of self-government, the Education Department has been constantly looking at its efficiencies. Every agency of government has been doing that. I do not know where Mr Cornwell has been if he is surprised by that fact. All agencies are required to make savings. Given the Federal funding constraints, there is constant pressure for them to do so. The department is looking across a whole range of areas. You see some of those in reflection when you get a letter from a school saying, "Our oval has not been watered as well as it was formerly". These are the sorts of measures that are undertaken, and they will continue to be followed.

Starlight Drive-In Site - Redevelopment

MR MOORE: Madam Speaker, my question is to Mr Connolly in his capacity as Minister for consumer affairs. I refer, first of all, to the question that I asked of Mr Wood yesterday with reference to the Starlight Drive-in site. I might also point out that I gave Mr Connolly some notice of the style of question that I was going to ask. Mr Wood gave me a further written answer today to the question that I asked, in which he said that an application for design and siting approval is under consideration at this time but that the application cannot be approved until an application for variation of the relevant lease has been finalised. Madam Speaker, I have with me a copy of that application for design and siting approval, which has one square ticked, indicating that there will be no need for a change in lease purpose. It asks, "Is your proposal consistent with the terms of the lease of the land to which your application relates?". The answer there is yes. Madam Speaker, I also happen to have with me a copy of the lease, which I showed to Mr Connolly earlier today. The lease purpose stated is to use the premises only for the purpose of a tourist accommodation centre. Considering this background, considering that there has been a very glossy brochure put out to sell the 330-odd units on what is known as Karelia Park and considering that the sales agents are telling people that all the approvals are through, what action will the Minister for consumer affairs take on this sales gimmick?

MR CONNOLLY: Madam Speaker, I thank Mr Moore for letting me know that he was interested in this matter. I will ensure that the Director of Consumer Affairs or one of his officers contacts Mr Moore's office and gets hold of the detailed information that Mr Moore has. There is nothing inherently wrong in selling off the plans, as it were, and saying, "We are proposing this development. This is what we are proposing to build. We are offering these for sale" - subject to the person being told, if it is the case, that approvals have not yet been obtained. People have made the allegation to Mr Moore that, in this case, a product has been offered for sale without that warning, and that potentially raises problems with the Fair Trading Act. I will ensure that that matter is appropriately investigated.

MR MOORE: I have a supplementary question, Madam Speaker. Minister, having investigated this matter, will you make a public statement so that people are warned to take care? Will you personally investigate whether or not such approvals have been given and, since it is not in any of the brochures, give people a warning - having checked that, obviously - that such approvals have not yet been granted on this particular site?

MR CONNOLLY: Yes. We will ascertain the facts first. But let me say, as a general statement, that a person who is contemplating purchasing real estate off the plans in this way should always, prudently, ask whether planning approvals have been put through. Equally, anybody who is offering to sell such a product should, prudently, advise any potential purchaser whether or not they have obtained all the necessary approvals.

Garbage Collection Service - Drivers

MR KAINE: Madam Speaker, I have a question for Mr Lamont, as Minister for Urban Services. It is in connection with our new garbage collection system. Minister, is it a fact that drivers employed by Thiess Pty Ltd who operate the new vehicles are required to empty 1,500 bins in a 10-hour shift, while in other centres where Thiess has contracts to provide garbage services, using the same one-person system, drivers are required to empty only 1,000 bins in an eight-hour shift? That means that our drivers are expected to empty 150 bins an hour and in other places drivers are expected to empty only 125 bins an hour.

MR LAMONT: I thank the member for his question. It once again provides me with the opportunity to promote what is, indeed, the best total waste collection system that has yet been devised and implemented in any city in this country. In response to the specific issue, the difference in the hours worked is an obvious position that you would need to take into account when establishing what is commonly called the "darg", which is the daily average requirement of garbage.

Mr Wood: We get our share from over there do we not?

MR LAMONT: I was about to go on to suggest that the other side of the house has been exceeding its darg somewhat monumentally over the last two weeks; but I will leave that for another stage. The daily average requirement of garbage has not been set taking into account what has come from the other side of the house, but is, indeed, a realistic assessment of the capacity of the vehicle and the driver over a given time.

Mrs Carnell: Why is it taking them 22 hours to complete a shift?

MR LAMONT: If Mrs Carnell will stop carping, she may be edified. We established the darg from a realistic assessment of the trials that were undertaken for over a year in Kaleen, Melba and Dickson. As you would recall, Mr Kaine, in that quite magnificent trial that this Government authorised, we trialled a range of collection systems. I am pleased to say that none of those vehicles is required to lift, as part of their garbage load, your colleague Mr Stefaniak. It would probably take them 25 hours to get through the full daily average requirement. I remember at some stage in the past seeing a photograph of Mr De Domenico hiding Mr Stefaniak in one of the bins.

The reality is, Mr Kaine, that the daily average requirement of garbage is tested and is a provision within the contract that was tendered for. As you would appreciate, with any new system of garbage collection, there are variations between systems. As an example, in Queanbeyan, I think, a 250-litre bin or a 310-litre bin is used for garbage collection.

The weight of the bin, the weight of materials, the time it takes to lift the hoist and so on vary. On that basis, looking at the trials, it was established that there would be an appropriate daily average requirement of garbage for this type of system, taking into account the type of service that we have introduced, this magnificent total waste collection system, the one that even your members, Mr Kaine - outside this chamber, admittedly - have been congratulating the Government for implementing.

I understand that, in an attempt to take the gloss off this great advance in waste collection that this Government has introduced, you would attempt to denigrate the operators of the system who are now taking a longer period than the 10 hours to complete all of the requirements. But that is exactly the same situation as applied in Brisbane when this system, or a not dissimilar system, was introduced in that city. It is similar to the situation that applied in Queanbeyan where the system was introduced. It does take time for the operators to get up to speed to ensure that that daily average requirement of garbage is able to be collected in the prescribed number of hours. I am confident that, in a very short period of time, the experience of those drivers will increase to ensure that the 1,500 over a 10-hour shift is able to be achieved. Do you have a supplementary question, Mr Kaine?

MR KAINE: Yes, I have a supplementary question. Madam Speaker, I preface it by the comment that this Government has no peer in producing garbage. Mr Lamont makes much of the fact that this is the best garbage collection system in the world and that he does expect each driver to pick up 1,500 bins in each 10-hour shift, which is a greater workload than is expected of anybody else in the country. Minister, is it true that it is taking some operators as long as 16 hours to complete their darg - to use your word? If this is true, will you table the tender document that commits operators to working that many hours a day to make your system the best garbage collection system in the world?

MR LAMONT: No. In fact, Mr Kaine, I thank you again for the opportunity to sing the praises of the comprehensive waste recycling system that this Labor Government has introduced. The simple fact is that the contract provides for a stipulated pick-up per day. In relation to the hours of operation, the contractor is expected to be able to complete that within a prescribed period. However, it is obvious that there will be no additional cost impost upon the ACT Government. As far as I am advised, there would not be any additional cost because it took 14 hours, say, instead of 10. That cost is borne by the contractor and not by the ACT Government. There is a contract price per pick-up for that. With my background in the transport industry, which you would recall, Mr Kaine, I have always been extremely concerned about the numbers of hours that may - - -

Mr Kaine: It sounds like it! You are making them work 14 or 16 hours a day. You are really concerned, obviously! Delete that, and now give us the right answer.

Mr Cornwell: It is funny what happens when you change your hat, is it not?

MR LAMONT: No. It basically says, "Keep it up. They look like nongs". With that reasonable daily average requirement of garbage that has been negotiated to be picked up, the contractor is required to meet his contract obligations. As far as the employees are concerned, I understand that there has been an enterprise agreement negotiated in relation to - - -

Mrs Carnell: You said yesterday that it was the award.

MR LAMONT: I am sorry; there is a base award. Do you want a lecture on industrial relations? You have proved your ignorance in pharmacology, marijuana and a range of other issues in the last couple of weeks, Mrs Carnell. Do not demonstrate again this afternoon your ignorance in relation to the industrial relations process.

The simple fact is that an enterprise agreement in relation to this area has been negotiated between the employees and their employer. That enterprise agreement is in place, and it provides for appropriate rates of pay and conditions. There is a difference, Mrs Carnell, between what an employee gets to complete a day's work and what a contractor gets when he contracts to the Government. This may be a subtlety that escapes you. It certainly does not escape most other people in Canberra. The simple fact is that you either do not know or do not understand.

Hospital Waiting Lists

MS ELLIS: Madam Speaker, my question is directed to the Minister for Health. I refer to recent media reports. Would the Minister inform the Assembly whether the allegations that Mrs Carnell made on camera - that he had misled this Assembly on the waiting lists question - are true?

MR CONNOLLY: I thank Ms Ellis for the question. We are halfway through the second question time of the week, and this is the first question addressed to me about health. Mrs Carnell, in a desperate attempt to divert attention from her marijuana madness of last week, was on every TV channel in Canberra on Monday, saying, "Mr Connolly has misled the house. I am going to move no confidence. I am going to move censure. I am going to do this. I am going to do that". And, of course, there was not a question yesterday about health or waiting lists. There was not a question today about health or waiting lists. I was staggered to read in the newspaper this morning the statement from Mrs Carnell, again in a desperate attempt to divert attention, "Mr Connolly has been playing politics with medicine". After three years of listening to Mrs Carnell, I say to her, "Mrs Pot, do not call this kettle black", because, if there is somebody who knows about playing politics with medicine, it is you, with the appalling performance you have put in.

However, Mrs Carnell's statements - on camera, but not in here - that I have misled the Assembly are a serious matter. Normally, an allegation of misleading the Assembly is a serious matter that results in a motion of no confidence or a censure motion, instead of these little media stunts. Then, also on camera, she made a more serious allegation - one that I regard more seriously. I am used to these silly no-confidence and censure motions from the Opposition; but she also accused my senior officials of fiddling the books. I think that that is a fairly grubby sort of a thing for an Opposition leader to do; but it is the sort of thing we would expect from Mrs Carnell.

So, I asked my officials to prepare for me a very clear advice. I am going to read part of it, and then I will table it. I asked for advice on the allegation that Mrs Carnell had made, that I had misled the house and that the figures that the department had produced were wrong. I have offered Independent members of this Assembly a briefing on this matter, and a number of them have taken that up. Mr Stevenson was not able to take it up, but he did request that we write to him and set out this information. I have done that. Mr Fraser's advice reads as follows:

Mrs Carnell has alleged that the waiting list and other data released by the Department in the Quarterly Report is misleading. The data in the Quarterly Reports is produced by the Planning and Resource Management Branch in the central office of the Department and is thoroughly checked for accuracy and the integrity of the data. The Department provides a truthful analysis of activity and financial data over the previous quarter. I can assure you that neither I nor other senior managers seek to manipulate these figures to present a more favourable result than might have occurred. The Quarterly Report reflects the figures as they come to me.

So, there is Mr Fraser's statement, quite effectively refuting Mrs Carnell's low allegations. He continues:

It seems, from the report in the *Canberra Times*, that Mrs Carnell is quoting some data compiled at WVH with an incorrect figure for the month of June 1994. The June figure was in fact higher than the 4141 quoted by Mrs Carnell. It did not include 193 waiting list patients at Calvary who had been allocated an admission date ("booked patients"). Booked patients are always included in Quarterly Report data. The actual waiting list figure for June was 4334. A copy of Mrs Carnell's information is at Attachment A, and the Department's official statistics are at Attachment B.

That is refuting Mrs Carnell's rather lengthy press release that was issued on Monday, accusing me of misleading. She has not had the guts to come into this chamber and ask me a question about it for two days. Mr Fraser continues:

The September 1994 Quarterly Report, which is based on quarterly averages rather than the raw end-of-month position, indicates that the waiting list appears to have plateaued and was in fact slightly coming down during the September quarter.

Mrs Carnell: That is not what you said.

MR CONNOLLY: That is what I said. Mr Fraser continues:

The June quarter of 1994, based on the averages in April, May and June, indicated a waiting list average of 4416 across the system. The September quarter figure, produced on a similar basis, was 4387.

As I said the other day, we had seen a plateauing of recent months' increases, and the September figure was encouraging because it was trending in the right direction. Mrs Carnell - shock, horror! - I have some October figures. I will continue quoting from Mr Fraser:

The end of month October figure was 4513, of which 3462 was at WVH. The October figure for WVH was an increase of 57 over the September figure.

"Shock, horror!", says Mrs Carnell. Mr Fraser goes on:

The end-of-November raw figure for WVH alone ... is 3380, a reduction of 82.

I am not running around, saying, "When October was up by 57, Mrs Carnell says that I have misled the Assembly; the hospital system is collapsing; it is all in chaos; it is the worst ever". I have the November figures, which I have just produced to you, which show that it is considerably better - - -

Mrs Carnell: When you said that it had plateaued - - -

MR CONNOLLY: But I am not running around, saying, "Gee, this is wonderful. We have solved the problems. Everything is solved", because over the last several years the quarterly figures have been the basis for making comparisons.

Mrs Carnell: Nobody believes you, Terry.

MR CONNOLLY: I do not think that anybody believes you after your absurdity over the last week. When Mrs Carnell moved in this place that we publish quarterly figures, it was on the basis that they were the accurate and reliable figures, and those trends are significant.

Mrs Carnell: We wanted monthly figures.

MR CONNOLLY: Now we want monthly figures. We want daily figures. Mrs Carnell, your carping and whingeing is just over the top. Let me continue. Mr Fraser says:

It is important, however, that not too much emphasis is given to these figures.

that is, the reduction of 82 in November. He continues:

Month to month variations can tend to distort overall trends. This is why we examine things like the waiting list on a quarterly basis and average data over the quarter.

That, of course, is why last week I reported the quarterly report, and why the Opposition has not asked a single question since the tabling of the quarterly report. I think it would be a world record that, in this Assembly a health quarterly report has been on the table now for four question times and the Opposition have not asked a single question on health - and nor would they. I continue to quote:

The waiting lists are still affected by the VMO dispute which occurred 12 months ago. At the end of November 1993 there were 3522 on the list. By January 1994 this had increased to 4348 - - -

Mr Moore: Madam Speaker, I draw your attention to standing order 118. I accept that Mr Connolly is directing his answer to the subject matter; but conciseness is also part of it, because he does have the opportunity to make ministerial statements.

MADAM SPEAKER: Thank you for bringing that to my attention, Mr Moore. Continue, Mr Connolly.

MR CONNOLLY: This is an answer to an allegation made outside this place that I had misled this place, and that is a very serious allegation. I will continue, concisely:

By January 1994 this had increased to 4348, a raw increase of 826 people. It will be sometime before the enormous loss of productivity as a result of the dispute is made up.

Mrs Carnell has made some further statements about end-of-October data.

Her statement that the average length of stay has increased in October needs to be seen in the light of overall trends rather than fluctuations in individual months. The preliminary end-of-month figure for November, which is only available for WVH, indicates that the average length of stay has decreased from 4.22 in October ...

That was a one-hundredth increase over the September quarter. Shock, horror! It has gone to 4.02. So, again, we have these monthly blips, which really are statistically insignificant when we look at quarterly trends. Mrs Carnell, what I said about the quarterly trends last week was correct. Mr Fraser says:

With regard to activity levels, I am confident that activity across the system is within an acceptable range to ensure that the annual activity targets are met. Again, any conclusions about the projected activity level needs to take into account trends and seasonal factors. The VMO dispute unusually distorted last year's activity, so that by the end of November 1994, WVH is 10% above where it was at the end of November 1993.

Mrs Carnell was getting greatly excited over the fact that in October - shock, horror! - the system was collapsing because we had about 150 fewer surgical procedures, thus indicating, she said, a lack of confidence in me and all the rest of it.

Mrs Carnell: No; that is not right. We had 755 fewer for the first four months.

MR CONNOLLY: In October we had 756, compared to 905 for the same month last year - a reduction of 156 for the month of October. One factor that Mrs Carnell should be aware of is that from 4 to 24 October 1994 there was a major anaesthesiology conference held in Australia, and between 10 and 12 - - -

Mrs Carnell: That is what you said last month. What about the 16 per cent reduction for the first four months?

MR CONNOLLY: You make these wild assertions. If any television camera will look at it, you prattle on with your wild, unsourced allegations. Your shoot-from-the-lip approach has got you into a lot of trouble and has held you up to ridicule in this place. I come in here, usually a couple of days after you have had your prattle on, and try calmly and rationally to put the facts on the table to let the public decide.

So, we had a situation where, with a total complement of 26 anaesthetists, we had between 10 and 12 of them out of the system for about 10 days, which obviously had an impact on activity in October; but, by November, we were back on track. Madam Speaker, I stand by the statements I made in this place last week in relation to the quarterly report. I stand by the fact that those quarterly reports indicated that the waiting lists, which had been increasing, had plateaued in the September quarter. Mrs Carnell's "shock, horror!" statement, "But it had gone up in October", needs to be balanced against the statement, "But it had come down significantly in November". These monthly fluctuations are not what we look at. We look at quarterly data. On quarterly data, it shows that the hard work that we are putting into the hospital system is starting to show dividends.

Mrs Carnell, you carp, whinge, sensationalise - shock, horror! - while hiding from the people of Canberra that you plan to slash over $30m in health expenditure. It is in your counterbudget. It amounts to about 13 per cent of health expenditure, which is pretty much equivalent to what Jeff Kennett has done by slashing 15 per cent over three years from the Victorian health system. It just goes to show that your slip of the tongue the other week, when you said that you wanted to be just like Jeff Kennett, was probably very accurate, because, on health expenditure, that is exactly what you are doing. It is in your own document, your promise to the people of Canberra. You want to slash $30m from the health system and give away $30m of handouts to business. That is your health policy.

Above-the-Line Voting

MR HUMPHRIES: Madam Speaker, my question is to the Chief Minister. I refer her to a statement made by Mr Berry on ABC radio yesterday. On the subject of above-the-line voting, he told ABC listeners, "We have dropped that". Can the Chief Minister assure the Assembly that her Government will not - now or ever - seek to reintroduce any form of above-the-line voting as an option under Hare-Clark without first holding a referendum on the subject?

MS FOLLETT: Madam Speaker, this is part of Mr Humphries's little stunt. What he could not stand, of course, was Mr Berry having said, quite accurately, that we have dropped that, as indeed we have. Madam Speaker, given that the Government is running up until 18 February, I can most certainly give Mr Humphries that assurance. If he wants to ask questions about any future government, then I suggest that he is out of order. I would indicate to him, Madam Speaker, that, having comprehensively dropped that matter, as we have, we certainly have no plans to revive it.

Ambulance Service

MR STEFANIAK: My question is directed to the Minister for Health, but it extends into another one of his portfolio areas as well. Minister, is it true that the resources of the ACT Ambulance Service are frequently stretched beyond acceptable limits? Is it not the case that, on an increasing number of occasions, police officers are having to drive ambulances to Canberra hospitals because of a shortage of ambulance crews? Can the Minister advise why this is occurring?

MR CONNOLLY: Madam Speaker, Mr Stefaniak is a significant improvement on Mrs Carnell - just about anybody would be a significant improvement on Mrs Carnell - in that his question is about half right. He is right in saying that, increasingly, police officers are driving ambulances; but he is quite wrong in suggesting that it is because of some resource or staffing crisis within the Ambulance Service. The fact is that the ACT Ambulance Service, uniquely in Australia, has all of its officers who are out on the road trained at the very highest level of paramedical training. Both members of the two-person ambulance crews are very highly trained. In some parts of Australia, ambulances operate with lower levels of training or with one officer who is very well trained and one officer who is, effectively, a driver.

Recently I happened to witness a very serious incident from beginning to end. I was out with the ambulance supervisor, and they responded to an emergency call. In the event of a serious motor vehicle accident, in particular, where you may have a number of patients injured who may be suffering from multiple traumas, what tends to happen in the ACT is that the ambulance crews work very hard to stabilise the patient at the scene of the accident, with the cooperation of fire officers and police officers. It is wonderful to see

that interservice cooperation since the ACT Government made some fairly difficult decisions - against massive opposition from the Liberals - to rationalise the police rescue service, to give the Fire Service prime responsibility for road rescue. All of those tensions that we saw a few years ago are no longer there. The services are operating together like clockwork.

It is quite common, in a situation where you have very badly injured people in the ambulance, for the senior ambulance officer in charge to request police or fire officers to drive. The request is frequently made to police officers, as it is usually traffic officers who are on the scene because of the various duties at a motor vehicle accident, and it is fairly generally accepted, and properly so, that those men and women in the traffic squad are probably the best drivers in Canberra. They are all very well trained drivers. Apart from their other duties, they are just very good drivers. It is not uncommon for the ambulance officer to say to the senior police officer on the scene, "Could we please have a police officer to drive the ambulance so that we can have both our paramedics in the back, providing a service to the badly injured people?". In the spirit of cooperation that is now present in the emergency services as a result of the efforts of this Labor Government, which some years ago you people tried to stop, the police will do that. It is quite common, as Mr Stefaniak says, that a police officer will drive the ambulance to Woden Valley Hospital - this is almost always done in major trauma cases, so it is almost always to Woden Valley Hospital - while the two paramedics are in the back, providing emergency treatment.

That is a very sensible, cooperative arrangement. It is not an indication of resource problems in our ambulance services. Our ambulance services are of a very high standard, although Mr Humphries would prefer us to spend the money on buying a helicopter, which we hardly ever use. We prefer to put the money into our road ambulance services. All of them, for example, have heart-starting equipment. Members may recall a few years ago that one of our media tycoons who had to be heart-started after a game of polo, with great fanfare, presented a few of these kits to the New South Wales Ambulance Service. They had to rely on the charity of a media baron, because the New South Wales Government had not provided them with the gear. That gear is on any ACT ambulance.

MR STEFANIAK: I have a supplementary question, Madam Speaker. I hear what the Minister says in relation to our very fine and often overstretched Ambulance Service, and I am quite aware of the fine job that ambulance people do. However, is the Minister concerned that this redirection of police resources is taking mobile response units off the road for long periods?

MR CONNOLLY: No, I am not. I think this is a sensible example of the sort of cooperation that people in the field in emergency services provide to one another. Quite frequently, another police vehicle will be diverted. As in the case that I saw, what will often happen is that one police officer will drive the ambulance and another police officer will drive the police vehicle flat out down Northbourne Avenue, at about 140 kilometres an hour, and park the police vehicle at an intersection, with the light flashing, in order to allow the ambulance to go straight through the intersection. That is not uncommon. I am asked whether I think that that involves the diversion of police resources. The answer is no. I think that is an example of the police and the Ambulance Service working well together in the interests of the community.

Hospital Waiting Lists

MRS GRASSBY: Madam Speaker, my question is to the Minister for Health - and I would really appreciate it if Mrs Carnell would shut up and I could hear the answer.

MADAM SPEAKER: Mrs Grassby, I will keep order. Please continue.

MRS GRASSBY: Could the Minister inform the Assembly as to the true state of the financial performance of the Department of Health, as there seems to be some confusion in the minds of Mrs Carnell.

MR CONNOLLY: Indeed, there is some confusion - considerable confusion - in all of her minds. Madam Speaker, again I will quote, quite slowly, from a printed document, which I will then table. I think we should try to make this simple for the Opposition, so that they can understand it. Mr Fraser says:

Concerning the financial performance of the Department, I reiterate my earlier advice to you that I believe the Department will live within the global budget appropriated in 1994/95.

Again, that is a significant improvement on the $17m blow-out achieved when the Liberals were last in office. Mr Fraser continues:

The end-of-October financial position at WVH which Mrs Carnell is quoting shows actual expenditure to the end-of-October, compared to the initial prediction of what would be spent by that time ie, the predicted monthly cash flows. Inevitably there are variations in the timing of payments which cause the year-to-date position to look better or worse than it actually is.

In addition, the monthly cash flows on which the WVH end-of-October position was based did not include funds which have now been transferred to WVH from central office. These include funding for the unbudgeted increases in the Comcare premium, and the costs associated with the transfer of nurses to the Department of Finance pay-roll. These funds have been made available by the re-allocation of funds previously allocated for redundancy payments, which the Department believes are likely to remain unspent at the end of the financial year. As you know, Treasury has agreed to these funds being re-allocated to cover the pressures referred to above, which arose after the budget. I believe the approach being adopted here is consistent with good practice and program budgeting.

That is something that the Opposition is constantly on about.

Mr Fraser goes on:

As I have also advised you earlier, officers from the Treasury, the Department's central office and WVH are working together to highlight any areas of budgetary concern at WVH and to assist the Department to meet its budgetary targets for 1994/95.

On the latest end-of-November figures, I am told that the year-to-date position is an overspend of $0.807m. When compared with expected cash flows of expenditure, this is an improvement from the year-to-date position of October, of $2.2m. So, through November, we have significantly pulled that back, and that is what I expect good management teams to do. I do not have a vast army of ministerial staff sitting in my office who make these decisions. We employ very good senior public servants. We employ managers, and we expect those managers to manage. We expect those managers to manage in accordance with the principles of good budgetary practice and program budgeting - something that the Opposition, in theory, seems to support but, in practice, likes to squawk about.

Madam Speaker, I reiterate that the advice to me from the department is that we are expecting, for the first time ever, to live within budget. Mrs Carnell says, "Shock, horror! A blow-out by $2.2m!". They are fairly inaccurate and meaningless figures. On the November figures, you would be saying that it is looking at $800,000, and over the 12-month period we are confident that we will live within that. I would remind members that this time last year Mrs Carnell was squawking about a $10m budget blow-out from Health. Even Andersens said that it might be $10m. But, as a result of the management changes that we made, as a result of continually improving the management climate at Woden Valley Hospital, as a result of getting everybody pulling together, we reduced that $10m, which is what you say it was, to $4.4m in this year's budget. That is a significant budgetary achievement, and I am confident, Madam Speaker, as are my senior departmental officers, that this year, for the first time, we will live within our budget. Madam Speaker, I table the document that I have been quoting from.

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

TOTALCARE INDUSTRIES LTD
Statement of Corporate Intent - 1994-1997

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport): Madam Speaker, for the information of members, I present the statement of corporate intent, 1 July 1994 to 30 June 1997, for Totalcare Industries Ltd, pursuant to section 19 of the Territory Owned Corporations Act 1990, and I move:

That the Assembly takes note of the paper.

Under section 19 of the Territory Owned Corporations Act 1990, the portfolio Minister is required to lay before the Assembly a statement of corporate intent in relation to a corporation, within 15 sitting days of receiving it. Under section 20 of the said Act, the statement of corporate intent shall provide information in relation to the financial year to which it relates and to the following two financial years.

Under subsection 19(4) of the Territory Owned Corporations Act 1990, the portfolio Minister may delete from the statement any part dealing with commercially sensitive information. However, if this is done, the Minister is required to lay before the Assembly a further statement setting out the general nature of the material that is being deleted and the reasons for the deletion. This statement sets out the following details of material deleted from the statement of corporate intent: Firstly, all material relating to sales volumes and revenue projections for the linen and waste management divisions has been deleted, on the grounds of commercial sensitivity; and, secondly, certain other material relating to revenue projections and profitability forecasts for all divisions has been deleted, also on the grounds of commercial sensitivity.

My office would be happy to provide briefings on these matters to members, on the basis that they are sensitive and that they be kept confidential; but, as this is a company competing in the open market, as I have said, the information that will be discussed is commercially sensitive. Therefore, I would find it difficult and to the detriment of Totalcare for these matters to be discussed in an open Assembly forum. I re-emphasise my earlier offer, and that is to provide a briefing to any member of the Assembly on the matters that have been deleted from the statement of corporate intent. I look forward to providing them with that opportunity at their convenience.

MR DE DOMENICO (3.20): Madam Speaker, I have read this paper quickly. On page 4 it states:

Since the establishment of the Company as a Territory Owned Corporation the following trading results have been reported:

This is, in fact, the only Territory owned corporation that has continued to make profits. It started off with a loss of $90,000 in its first year; it then went to a profit of $384,000; culminating in a profit, at 30 June, of $549,000. I note that that is in stark contrast to another once Territory owned corporation, ACTTAB, which has reverted to being a statutory authority. Whilst this one is getting bigger, stronger and better than ever, the one that was decorporatised, so to speak, is finding it difficult to make ends meet, according to the Auditor-General.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (3.21), in reply: I thank Mr De Domenico for his comments. They would indicate that, again, he has misrepresented the position of ACTTAB; but, then again, that is not unusual for Mr De Domenico.

Question resolved in the affirmative.

LEASE VARIATIONS - 1 JULY TO 30 SEPTEMBER 1994
Schedule and Ministerial Statement

MR WOOD (Minister for Education and Training, Minister for the Arts and Heritage and Minister for the Environment, Land and Planning): Madam Speaker, for the information of members, I present the schedule of lease variations for the period 1 July to 3 September 1994, and I ask for leave to make a brief statement.

Leave granted.

MR WOOD: Madam Speaker, members will recall that in August I undertook to advise the Assembly of all lease variations approved by my department. I now table the lease variations which have been approved for the period that I indicated. A public record of all applications to vary Crown leases is available at the department's shopfront at the John Overall offices.

CANBERRA IN THE YEAR 2020 STUDY
First Annual Progress Report

MR WOOD (Minister for Education and Training, Minister for the Arts and Heritage and Minister for the Environment, Land and Planning) (3.23): Madam Speaker, for the information of members, I present the first annual progress report on the Canberra in the year 2020 study, and I move:

That the Assembly takes note of the paper.

Just over 12 months ago the Chief Minister tabled in this Assembly the Government's report of the Canberra in the year 2020 study. The report, titled "Choosing our future: Canberra in the year 2020", set out a strategic framework for the development of Canberra over the coming decades. The report that I am tabling today represents a record of the Government's achievements over the past year that will help to make the 2020 vision a reality. Some are key strategic developments focusing on long-term impacts on the quality of life in Canberra. Others represent initial steps along the way towards meeting our goals. Nevertheless, they will all contribute to making Canberra a better place in which to live. At the crux of the 2020 vision is the concept that we should retain the qualities that make Canberra unique among Australian cities, as well as the most livable. At the same time, we need to address the areas that can be improved.

This progress report shows that the Government has adopted a balanced approach to strategic development. Many of the initiatives described in the report are setting the stage for a better future as much as dealing with current problems. I would like to outline a few of these key initiatives. The ACT environment strategy will be finalised before the end of the year, after extensive community consultation. The strategy has been developed as a key means of achieving the ecologically sustainable future described in the study.

It aims to provide a comprehensive framework for the development, review and revision of a range of strategies in legislation, and activities needed for improved environmental management.

In line with this environmentally responsible approach, the ACT's integrated waste management strategy and future water supply strategy both take a long-term view of urban management. The waste management strategy, a very good one, in keeping with the preferred future of the year 2020, will help to minimise waste and avoid the need for land fill and other inefficient disposal systems. The water supply strategy not only provides a blueprint for a sustainable approach for water supply for the next 50 years but also describes 140 tasks to translate the vision into a reality.

The Territory Plan, which came into effect in October last year, sets the framework for urban development in Canberra for the next decade or two. Its land use policies were designed to promote residential, commercial and community development in an efficient way. In particular, it allows for more diversity in dwelling types, to provide greater housing choices for Canberra's residents; a diversity and quality of residential amenity which will be further protected by the implementation of the findings of the Lansdown inquiry. These planning and urban management strategies support and enhance significant progress in terms of social development. The progress report that I am tabling today describes a wide range of social initiatives that maintain the Government's commitment to social objectives. They will contribute to building a better community in Canberra.

The forward plan for older citizens recognises that the proportion of Canberra's population aged over 60 years is increasing significantly. The plan will develop initiatives to ensure access and participation by older people, maximise their self-determination and promote positive attitudes to ageing. A key goal is to have a safe, non-violent community. The community safety strategy seeks to approach this target through a number of initiatives, including an examination of the impacts of urban design and planning on safety.

This Government places great importance on social justice objectives. To this end, a number of strategic processes, including the draft social justice agenda for ACT Aboriginal people and Torres Strait Islanders, the national prevention strategy on child abuse and strategies for young people of non-English-speaking backgrounds, will ensure that all members of society can enjoy a fair and just future. This Government also believes that education is the key to creating a community characterised by social justice and equity. The education plan for ACT government schooling, which I launched recently, maintains our commitment to enhancing learning for all students. The plan emphasises flexible learning and teaching and community participation.

This Government regards economic development as a key element of a prosperous future. We have under way a number of economic development activities which we will build on in coming years. The 1994-95 budget targets assistance for the advanced technology manufacturing sector. The Canberra in the year 2020 study identified this sector as one of Canberra's future industries. Other key industries identified for the future were

ecotourism and government services and systems. Positive steps have been taken in both these areas. An ecotourism strategy is currently under preparation, with the aim of developing an ecotourism market in the ACT. In terms of government services, the creation of the separate ACT public service provides us with the capacity to create opportunities, without being tied to the Commonwealth.

In conclusion, I would like to refer to one last strategic initiative of key importance to the way our future develops. This is the draft community consultation protocol. I mentioned earlier that the Government alone cannot hope to achieve the preferred future described in the study; nor can any other single sector of the community. We have to work together. Community consultation is a key component of the strategies that I have outlined today. I am sure that the development of the consultation protocol will further enhance community participation in the government decision making. There are many further initiatives that I have not referred to today that will be equally important to our future. These are described in the progress report. Together, they indicate significant progress in the course of one year. Our challenge is to maintain the effort in the coming years and to build on the achievements of today. I am confident that the Government will provide the direction required. With cooperation and continued effort, we can achieve our preferred future. I commend the report to the Assembly.

MR CORNWELL (3.29): Obviously, as we have only just received this report, and we will be going into recess tomorrow evening, there is insufficient time for me to make a detailed response to the report. But I would like the Assembly to note that we will study the matter and perhaps come back with some comments in the next Assembly.

MS SZUTY (3.30): I welcome the Government's tabling of their first progress report of the Canberra in the year 2020 study. By its title, I take it that there will be many more progress reports to come to this Assembly from the Canberra in the year 2020 study. I note the very comprehensive response that Mr Wood tabled in this Assembly this afternoon, referring to a number of key strategic initiatives. Like Mr Cornwell, I have not had time this afternoon to go through them and study them in detail. But I welcome the fact that they have been presented in this report. It will be interesting to see whether one of the other recommendations of the reference group is taken up by a future government in this city, and that is the recommendation about the appointment of a Minister for long-term strategies. I have yet to hear the Chief Minister announce that there will be such a Minister for long-term strategies. I certainly look forward to there being such a Minister in the future.

MR MOORE (3.31): Having scanned the report, I would like to take this opportunity to make a couple of comments. First of all, the fact that we can get to this stage with a report does demonstrate that members on the cross benches certainly do have methods and ways of getting things under way and getting initiatives that governments respond to. It gives us a great deal of pleasure, since this was a cornerstone of our platform, to see the Government making a very sensible response to that and building on that idea in an effective way.

This is a very positive response, but I do have one underlying concern about it. It should not become a way of justifying what you are doing; rather, we must ensure that it is a check-off against those long-term strategies. We have to be very careful and make sure that we do that effectively. There are a number of cases in the report that, from my scanning, suggest to me that it is more a justification rather than a tying-in of those key principles.

There is one point in particular that I would like to comment on, and that is the ACT energy strategy. I noted the status of framework development being undertaken by the Department of Urban Services Energy Management Unit. The work being done by ACTEW in that area should be taken into account also. That unit should be working, and probably is working, with ACTEW; although it does not appear in here. I welcome the report. I am delighted that the Government has taken this approach. I am absolutely pleased with the efforts of Ms Szuty, in particular, in getting this part of our platform under way.

Question resolved in the affirmative.

ENVIRONMENT PROTECTION - PROPOSED INTEGRATED LEGISLATION
Papers

MR WOOD (Minister for Education and Training, Minister for the Arts and Heritage and Minister for the Environment, Land and Planning) (3.33): Madam Speaker, for the information of members, I present the second discussion paper for a proposal for integrated environment protection legislation, together with an information sheet, and I move:

That the Assembly takes note of the papers.

In October last year, the Government released a discussion paper on the proposed integrated environment protection legislation. The paper sought comments from the community on the broad approach suggested in the paper to replace current pollution control legislation. The responses to the discussion paper broadly supported the Government's approach to this vital area of environmental management. Some also raised specific issues and provisions to be considered for inclusion in the legislation. Given the complex issues involved, the Government formed a reference group to assist my department progress the initiative. The reference group includes representatives from conservation, legal, business and health organisations, and is chaired by the ACT Office of the Environment, within my department. The group has met several times and has provided valuable input to the development of the proposal.

I believe that we have now have reached the stage where further public scrutiny of the proposed direction of the legislation is appropriate. Consequently, my department has prepared a second discussion paper to outline in some detail a preferred approach to environmental protection legislation. The proposed legislation would replace the current legislation relating to air and water pollution, ozone depletion and the management of pesticides and noise. It would also have the capacity to deal with other environmental

concerns, such as waste management, contaminated site management and aspects of soil conservation. I believe that the proposed legislation is a key component of this Government's strategic response to environmental issues. The Government's vision for Canberra in the future, described in the report that I just released, sees Canberra as a centre of excellence in environmental planning and management. The Government's commitment to this goal is demonstrated through its actions, such as the creation of the Office of the Commissioner for the Environment, an independent ombudsman for environmental issues.

I am pleased to note that the commissioner's recent "State of the Environment Report" acknowledges the importance of this proposed legislation. The report states that the proposed legislation "should provide the building block for integrated environmental management in the ACT". It goes on to state:

This office strongly supports the concept of integrating all environmental protection legislation and management.

The proposed legislation will build on initiatives already taken and will help ensure that Canberrans continue to enjoy high environmental standards. It deals with three major issues that face governments today.

The first of these is that it will allow the ACT to cope with changes as we move into the future. The preferred approach to the legislation is flexible enough to deal with future environmental protection issues as they develop, as well as the issues currently confronting us. It is also flexible enough to address issues such as environmental education and to provide incentives for voluntary compliance, as well as control and enforcement. This flexibility is achieved through statutory environment protection policies. The discussion paper suggests that the policies support the legislation by setting out environmental management information and requirements, including standards, indicators, and management guidelines. Initially, policies would deal with issues such as air, water, noise and ozone. Later, policies could be developed to manage specific areas such as water catchment, or industries such as advanced technology manufacturing.

The second key issue that the proposed legislation responds to is the changing view of the environment and our responsibility towards it. The trend in environmental law in recent years is towards the development of more flexible mechanisms to prevent or minimise environmental harm, rather than the regulation of pollution. A key concept helping to shape this change is the general duty of care. This concept, which is included in the proposed legislation, requires all people to take steps to minimise or prevent environmental impacts. The responsibility extends to individuals, the public and the private sectors, and corporate officers. Protection of the environment will no longer be seen as the sole responsibility of government. The general duty of care recognises this change in emphasis and places responsibility for environmental protection where it belongs - with all of us. Another important aspect of this responsibility reflected in the discussion document is an emphasis on managing activities as a whole. Thus, under the proposal for environmental authorisations, all potential environmental impacts of an activity would be considered, rather than just licensing a water discharge or some other facet of an activity.

The last key issue that the legislation addresses is the ACT's role in the nation and the region. There are several aspects to this role. Since self-government, the ACT has become party to several national and international agreements. In particular, national measures to be developed by the National Environmental Protection Council will need to be reflected in ACT legislation. Members will recall that early in November the Government introduced the National Environment Protection Council Bill 1994. The Bill aims to formalise the ACT's participation in the National Environment Protection Council and to recognise the council's role in developing national environment protection measures. The proposed integrated legislation is closely linked. It would establish the mechanism of environment protection policies as an appropriate means of adopting and applying national measures in the ACT.

In addition, Canberra is, and should continue to be, a national model for environmental management. The ACT already has an enviable environment, and we are determined to keep it that way. As the national capital and the focal point for Australia's interaction with the rest of the world, we must ensure that we afford a high priority to the environment. As a regional centre, Canberra must also ensure that its development does not create environmental problems for the region. The enhanced management options provided for in the proposed legislation will help ensure that this does not occur.

I would like to outline some of the key principles of the proposal. The objective of the proposed legislation is to protect the ACT environment in a way that improves total quality of life, now and in the future, through integrated management consistent with ecologically sustainable development. A fundamental principle guiding the development of the proposal is that prevention of environmental harm is far better than curing problems after they occur. Therefore, the focus of the proposed legislation is on encouraging management for preventing environment problems, backed by strong compliance measures.

Another key principle is the adoption of a life-cycle approach to environmental management. Under this approach, people who manage activities should consider inputs, processes and outputs of the activity. The choice of products and technologies could determine the level of regulation required of their activity. For example, those who choose to adopt practices that safeguard the environment, such as containing waste water and reusing it on site, may be given the opportunity for greater self-regulation. The life-cycle approach also extends over time, with environmental protection seen as a key component of the development and operational phases of an activity. It also recognises the responsibility of the polluter to clean up after an activity finishes.

The principle of polluter pays has been given prominence throughout the country. Quite simply, those who cause pollution and/or waste should bear the cost of management, including containment and abatement. It is reasonable to expect the polluter to pay the costs, not the whole community. Equity is another key principle. One activity should not be given a more favourable regulatory regime or different incentives than a competitor undertaking similar activities, whether in the private or public spheres. It is important that administrative arrangements under the proposed legislation include public accountability requirements to ensure equitable treatment of activities.

Other administrative arrangements need to reflect the important principles of certainty of outcomes, reasonably simple and straightforward processes, clearly separated and defined roles, and appropriate levels of assessment and intervention, having regard to the requirements of the community.

Finally, the principle of economic efficiency needs to be considered. The proposed legislation should provide for flexibility for activity managers to propose the most effective and economic way of achieving desired environmental outcomes. An integral part of this principle is the proposed incentive structure for good performers and the polluter pays principle for careless operators. The legislative outline described in the discussion document suggests a structure based on environmental protection mechanisms backed by strong compliance mechanisms. Together they form an integrated and balanced approach to environment management and protection. The key environmental protection mechanisms proposed would apply in that way.

I mentioned earlier that the duty of care binds all people and organisations to minimise their impacts. I also described how environment protection policies would be management statements describing how different facets of the environment or particular areas should be managed. These also apply to all people and organisations. For the vast majority of activities in the ACT which have a low risk of causing environmental harm, these would be the only regulatory mechanisms required. However, for activities with higher risks of causing environmental harm, an environmental authorisation is proposed. The authorisation would apply to both existing and new activities. As far as possible, the authorisation for new developments will be integrated in the current development application process under the Land Act, to avoid duplication and uncertainty.

The authorisation proposed in the paper consists of two levels - an accredited authorisation for well-managed, lower risk activities, and a full licence for higher risk activities. It is proposed that accredited licences would need to be earned by meeting certain requirements, such as a demonstrated commitment to high environmental standards, backed by performance over time. Those earning accredited authorisations could be rewarded with more opportunity for self-management. Authorisations could also be issued to deal with exemptions from specified standards where this is considered necessary for environmental, social or economic reasons.

It is also proposed to encourage good environmental performance through voluntary management mechanisms. The proposal includes provision for activities to undertake voluntary environmental audits and to develop environment management programs to improve their performance. These voluntary schemes would be encouraged through incentives, which could include reduced fees for environmental authorisations, less intrusive inspection programs or gaining an accredited authorisation rather than a full licence.

Where those who are responsible for activities do not observe the required level of performance, a strong compliance structure is required to ensure environmental protection. The discussion paper suggests a multilevel approach to compliance. In most cases, a breach of the legislation would initially result in the issue of an environment protection notice by an inspector. The notice would be educative in nature and indicate an appropriate response and timeframe. For situations where a rapid

response is required, or where notices have not achieved the desired response, an environment protection order may be issued by the administering authority. An order is intended to be directive in nature and enforceable. It would direct actions to prevent environmental harm, clean up contamination, or supply information where this was needed.

The mechanisms that I have outlined would replace the current pollution controls with a legislative framework to support integrated environmental management well into the future. I have outlined only briefly the key mechanisms of what is a complex and challenging issue. The second discussion paper will be open to public consultation until the end of February 1995, to allow people to become fully aware of the proposal. In addition to seeking public comments, I intend to ask the reference group to continue its involvement in the further development of the proposal. I thank those officers in the department and those in the reference group for their very diligent work in bringing this complex matter to this stage. The next stage, then, will be to prepare draft legislation. Once this is completed, further comment will be sought. I look forward to taking the issue through the Assembly at some time in the future. I commend this discussion paper to the Assembly.

MR MOORE (3.47): I have had time only to scan this paper.

Mrs Grassby: Mr Stefaniak must have read it; he was on his feet.

MR MOORE: Whilst I do not intend to comment on any of the details, I think it is appropriate to congratulate the Minister on such a detailed document. Certainly, in principle, the concepts that are outlined here and the amount of work that has gone into this paper and to get the strategy in place are clearly extensive. From my scanning of it, it is an extraordinary contribution to the effort to get an integrated environment protection package into place. I note, from Appendix 3, that there is still a long way to go in terms of the process that is required, but it is a process that the Minister should be proud of and that this Assembly should be proud to support. It may well be that there are some details within the discussion paper that I may take issue with, but that is the whole point of having a discussion paper. Therefore, I congratulate the Minister, the reference group and the officers for their work in putting together such a extensive document and ensuring that it does get out to the public.

MR STEFANIAK (3.49): This is an important paper. The States and the Commonwealth are moving slowly towards integrated environmental measures. In the ACT we have a number of Acts which deal with environmental measures. The idea of integration, consolidation and looking at the whole aspect of the environment globally is to be applauded. I would largely endorse many of the comments made by Mr Moore. Despite what Mrs Grassby said - and I thank her for assuming that I was such a great skim reader that I had looked through about 72 pages of report - sadly, I have to disappoint her; I have not gone through it in any detail. No doubt there would be various matters in the report which we would wish to comment on. However, it is certainly a sensible development. I look forward to going through it in detail and no doubt, Mr Wood, when we are in government we will make it a lot better and implement all the sensible proposals.

MRS GRASSBY (3.50): Mr Deputy Speaker, I would also like to commend the Minister on this paper. It proves that our Government is very much a green government and our Minister is very much a green Minister and somebody who is doing quite a bit of work in the area that I, along with Mr Stefaniak and Mr Berry, represent - Ginninderra. It is very nice to see that the Government is very much on line to making sure that we keep very green not only the environment of the whole of Australia or the world but also the environment where we live.

Question resolved in the affirmative.

PUBLIC HEALTH LEGISLATION - REFORM
Discussion Paper

MR CONNOLLY (Attorney-General and Minister for Health) (3.51): Mr Deputy Speaker, for the information of members, I present a public discussion paper for the reform of public health legislation in the ACT, and I move:

That the Assembly takes note of the paper.

Given the hour, I would seek leave to have my speech incorporated in *Hansard*.

Leave granted.

Document incorporated at Appendix 1.

Question resolved in the affirmative.

COMMUNITY LAW REFORM COMMITTEE
Report on Private Residential Tenancy Law

MR CONNOLLY (Attorney-General and Minister for Health) (3.52): Mr Deputy Speaker, for the information of members, I present the Community Law Reform Committee of the Australian Capital Territory report No. 8 titled "Private Residential Tenancy Law", and I move:

That the Assembly takes note of the paper.

I will speak to this report because it is a very significant one. This report, like its predecessor, the report on victims of crime, is comprehensive and detailed. The committee has taken care and time to consider every significant issue touching residential tenancies. Wide consultation, through publication of an issues paper, then a comprehensive discussion paper, and a series of public hearings have resulted in hundreds of written and oral submissions. This consultation has allowed the committee to prepare a report with considerable understanding of the many human problems which face

landlords and tenants. The result is not a theoretical review of current laws but a package of recommendations to give practical assistance to the many landlords and tenants in our community. I particularly thank both Justice Kelly and Justice Higgins, the two chairs of the Community Law Reform Committee over the some four years that this reference has been running, the members of the Community Law Reform Committee and the members of the secretariat from the Law Reform Unit in the Attorney-General's Department.

The current tenancy law is principally the Landlord and Tenant Act 1949. This Act has not been significantly changed since its introduction in the early postwar years. This is despite a major review of the Act prepared prior to self-government in 1984, under the direction of the then Consumer Affairs Council. The inertia in the ACT contrasts with a great deal of legislative and review activity in other jurisdictions. South Australia, Western Australia, Victoria and, most recently, New South Wales have all benefited from the introduction of modern tenancy laws. The process of change is continuing, with recent reports recommending new laws in Queensland and the Northern Territory, and progress reports on new legislation in New South Wales and other States. The work of the committee has benefited greatly from this development of knowledge and experience across the country.

The committee concludes, as did the 1984 report, that the Landlord and Tenant Act has well and truly passed its use-by date. The committee is critical of the complexity of the current Act, which contains many ambiguities and, in some cases, provides no guidance at all. The report recommends a residential tenancies Bill to establish clear and effective rules for tenancy practice in this jurisdiction. The overall aim of the report is to establish rules which are clear, which protect tenants from unwarranted interference in the use of their homes and which recognise the reasonable interests of landlords.

The report is not about radical change. Much of the report confirms existing principles of tenancy law in the ACT, while making use of developments in other jurisdictions. Each recommendation is informed by what the committee, in consultation with the community, considers is workable and reasonable. During consultation, the committee discovered that many tenants, landlords, real estate agents and, I suspect, some lawyers do not fully understand or are not aware of significant areas of tenancy law. This is particularly so in relation to termination of tenancies. This is not a criticism of the tenancy industry, but of the complexities and uncertainties of the Landlord and Tenant Act 1949.

Many of the recommendations are to assist people to understand, and make use of, the proposed new residential tenancies law. The committee recommends that the new law require people to make use of a standard form tenancy agreement. This standard agreement is to be an easy to understand document, hopefully in plain English, which contains all the legal obligations of landlord and tenant. People will be able to add their own terms and conditions to the agreement to suit their own requirements. The report contains a standard agreement in draft form. The committee proposes to develop the wording and look at the agreement through further consultation.

The report also recommends that every tenant receive an information booklet at the start of the tenancy. The booklet is to complement the standard agreement and to provide practical information on tenants' rights, and what to do and where to go in case of difficulty or dispute with the landlord. A third of the report is devoted to establishing clear rules and procedures for termination of tenancies. The central question is: In what circumstances, and on what grounds, should a landlord be able to terminate a tenancy and evict the tenant? The report recommends that the proposed Act protect the security of tenure of the tenant and restrict the circumstances in which a landlord can seek termination when the agreed term of a tenancy expires. This is not new. The existing Landlord and Tenant Act and legislation in other jurisdictions already do so.

What is new is the recommendations on the particular grounds on which the landlord can seek termination. The existing legislation basically prohibits the landlord evicting a tenant unless the landlord needs the accommodation to live in or wishes to reconstruct the premises. Other grounds of limited application exist. The report recommends the relaxation of these restrictions to allow the landlord to seek termination in order to sell the premises and to make major renovations or major repairs. After recognising the divisions in the community and within the committee itself on this issue, the report also recommends that the landlord be able to terminate the tenancy without any ground, that is, in the absence of any ground prescribed in the legislation. The landlord is to be able to do this, provided the tenant receives some six months' warning of the coming termination. This effort to reach a workable compromise on this difficult issue is indicative of the practical, reasoned thinking of the committee throughout.

The committee emphasises that people must be able to take immediate, effective action to resolve disputes and, if necessary, to protect their rights under the proposed Act. If people cannot, or feel unable to, go to a court or tribunal to enforce their rights, then those rights are largely illusory. The report recommends establishment of a specialist residential tenancies tribunal to hear all applications under the proposed Act. The report also recommends that the large number of criminal offences in the current Act be greatly reduced, as they are largely ineffective. In their place, there are to be a few core criminal offences; and the proposed tribunal is to have limited powers to impose a civil penalty. An appendix to the report containing draft legislation reflecting the recommendations of the committee will be tabled on completion. This draft will assist consultation on the committee's recommendations, as will the consultation on the draft standard agreement. This report will be the basis of major law reform in the next session of the Assembly; and a further report, looking at public tenancies and linking them to the proposed Bill, will be presented.

MR CORNWELL (3.58): I wish to respond briefly to Mr Connolly's comments on this matter. It is a very important report. I note that, originally, the terms of reference were laid down by a previous Minister in the First Assembly, in September 1990. The report has been some time coming. I also rise to comment because I see that my submission to this inquiry went forward. I shall read the report with great interest. Again, as it is obviously impossible at this point to make a comment in any depth, I look forward to having the opportunity of saying more words on this very important report in the next Assembly.

Question resolved in the affirmative.

PAPERS

MR BERRY (Manager of Government Business): For the information of members, I present the following papers:

Audit Act - National Exhibition Centre Trust - Report, freedom of information and financial statements, including the Auditor-General's report, for 1993-94.

Discrimination Act - ACT Human Rights Office - Report for 1993-1994.

National Crime Authority - Report, freedom of information and financial statements, including the Commonwealth Auditor-General's Report for 1993-94 together with letters to the Secretary to the Ministerial Council on the Administration of Justice from the Minister for Emergency Services, South Australia and the Minister for Police and Minister for Corrective Services, Queensland, dated 13 and 14 October 1994 respectively, and a tabling statement.

BANKING INDUSTRY
Discussion of Matter of Public Importance

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

The increasing concern by Canberrans about improper financial activities within the banking sector and particularly the Commonwealth Bank.

MR STEVENSON (4.00): I share with members an Australian success story that went wrong because of harsh economic conditions and fraudulent actions by the Commonwealth Bank. To this day, the Commonwealth Bank refuses to put these matters right, although admitting responsibility for what they call a mistake. This "mistake" appeared to contribute greatly to the collapse of a successful building company that had begun operating in a booming building market in Asia. This matter will concern many people throughout Australia. More particularly, it will concern those people in Canberra and the States who bank with the Commonwealth Bank of Australia or are bank shareholders. A number of the bank's decisions in this case were made by the Commonwealth Bank's regional headquarters in Canberra.

We have all heard complaints against the banks, and I could mention many such cases. However, today, I will run with the details of one story that in some ways represents the many. These stories are far more than just figures in a ledger book; they have a human face that represents the dreams and hopes of thousands of bank customers, and thus affect the very livelihood and prosperity of our nation. This story begins in 1972 when Mr Tony Rigg and Mrs Dorothy Rigg established a manufacturing business in Nowra, on the New South Wales coast. Their company, Tony Rigg Welding and Manufacturing Pty Ltd, fabricated modular steel roofs, walls and floors for houses, factories and commercial and farm buildings. Over a 14-year period, the company became one of the most successful in its field in Australia. BHP Steel, the Big Australian, said that Mr Rigg's experience and expertise in the building industry, particularly related to steel framing, was highly regarded. Because of the long-term success of the Rigg company, valuable export possibilities opened up in a number of Asian countries. Lysaght Brownbuilt Industries was urging the Riggs to expand their business to Canberra.

In 1985 the Rigg company employed 15 people and had a turnover of nearly $1m. The Riggs made a decision to expand the company and move into construction in Asia. They began this expansion by purchasing a 3½-acre industrial site on which they planned to build eight to 12 factory units. When we look at an internal report by the Commonwealth Bank of 6 May 1985, we see that it demonstrates the viability of the Rigg business. The report stated:

Mr Rigg has proven management ability and the Company has shown it can operate profitably ... the arrangement with Lysaght Brownbuilt Industries and the assistance of the Department of Trade should ensure that lucrative overseas markets will open up. There have already been a number of interested parties from overseas countries expressing an interest in the product ... The overall project is considered viable as it will be the only warehouse of its type south of Wollongong where the majority of building trades will be represented. The complex will be open seven days a week ... the industrial units will be under cover ... tradesmen will always be on hand to give expert advice rather than just sales personnel.

What an excellent idea - a complex called Building World! To finance the building complex, the Commonwealth Bank offered the Riggs a bills facility, including a simulated foreign currency loan option, for a total loan of $700,000. Because of the loan conditions offered, the Riggs changed their bank from the State Bank of New South Wales to the CBA.

Let me explain what a bills facility is. It is money that the bank borrows, on the open market, to lend to a bank customer. Each bill would mature in a few days, weeks or months. The Commonwealth Bills of Exchange Act 1909, subsection 22(2), says:

An acceptance is invalid unless it complies with the following conditions, namely:

(a) it must be written on the bill and be signed by the drawee.

The drawee, of course, is the bank. In *Financial Institutions Law*, the chapter headed "Signatures on Bills of Exchange", at page 430, states, under "Necessity for signatures":

It seems trite to say that a party will not be liable on a bill of exchange unless he has signed it, and that a bill is invalid unless signed by the party giving it.

During a 2½-year period, the bank claimed that they provided 34 bill facilities for the Riggs. I will table a copy of one of these bills, for $750,000, to show that it was not signed or endorsed by the CBA. There is simply nothing on the left-hand side. It was certainly signed by Mrs Rigg. Apparently, none of the other bills was signed by the bank. The "bills" were not bills; they were, in fact, promissory notes. The bank obviously knew this, but represented the promissory notes as bills to attract greater fees and other benefits to the bank. The CBA misrepresented how the loan would be made and its form. I do not believe that the bank ever had the slightest intention of providing a bills facility to the Riggs; nor, it would appear, did they have any intention of supplying a simulated foreign currency loan option. It would appear that the bank has different financial responsibilities under the two different methods of loan. They certainly have different fee charges. One is an acceptance fee for the bill facility. If the bank keeps the bill and does not put it out on the open market, that fee is fraudulently obtained.

The loan contract between the Commonwealth Bank and the partnership of A.T. and D.A. Rigg was agreed on 17 July 1985. Because of three months of rain, the building project ran behind schedule and accumulated additional interest of some $40,000. However, as the bank said, the company was sound. There was no logical reason why it could not have effectively traded out of this temporary setback, if the bank had not compounded the economic problem by removing operating funds from the company account of Tony Rigg Welding and Manufacturing Pty Ltd. That was a different account. The details are that, on 14 August 1985, the CBA, apparently without authority, transferred the $485,000 debt from the Rigg partnership account to the company account and began to debit interest payments. The Riggs stated that they strongly objected to this and did so repeatedly. In discussions I had with the bank, they admitted that they had made an error in debiting the company account for $750,000 but later corrected the error. They told me that they could not say why it took 13 to 14 months to do so. Obviously, the Rigg company account was a different legal entity to the partnership. If the bank says that they had the authority to draw on the company account, where is their written authority? I have not seen any. The Riggs say that they gave no such authority.

What was the result of all this? Because the company could not buy materials to make its prefabricated products, it could not service existing orders of approximately $200,000. Debiting the interest costs to the company operating account had the effect of absorbing the profits of the company and, along with the interest increases and general economic troubles, resulted in the business being crippled. An analysis of the company account done during that time by the Riggs' lawyer showed that, if these debits were removed, the company was in credit. Nevertheless, the CBA dishonoured cheques drawn against the company. The Riggs took court action and attempted to get the bank to release

evidence under discovery. The Commonwealth Bank refused to release certain documents, claiming that they were irrelevant or that it was information that would have been well known by the Riggs. The company was later put into liquidation and the Riggs were evicted from their business premises.

What began as a well-founded dream of overseas exports, greater employment and increased profits became a long-term campaign for justice. In a letter to the Rigg partnership in February 1989, Mr D.F. Alston, senior manager of the CBA, wrote:

I refer to letters of demand dated 15 March 1988 and advise that demand includes the amount of $750,000 ... which is the amount of a Bill drawn by AT & DA Rigg for which you are personally liable.

This amount was erroneously debited to account Tony Rigg Welding and Manufacturing Pty Ltd on 23 December 1987 and reversed from that account today.

"Today" was in February 1989. It took a long while for the bank to correct its "mistake". It would appear that, by the action of drawing on the operating funds of the Rigg company, - a company that the Commonwealth Bank appeared to have no legal call on - the CBA had helped to cripple the business. The property, Building World, was later sold by the bank at far less than its valuation. Mr Rigg said that this was done without the required public advertising being made. That is a hard thing to prove. If you do not have something, it is hard to prove that it is not there; it is just not there.

Madam Speaker, this is not an isolated case. I have personally spoken to dozens of people who have been caught up in unethical actions by banks, and I have heard of hundreds more. In this Assembly on 15 December 1993 I presented detailed evidence of corrupt actions by some officers of the State Bank of New South Wales. In that case governments and other authorities who have a duty to act on that evidence have not been seen to have done so. It was mentioned recently in the *Financial Times* that the ANZ Bank was forced to return to its customers $52m which it had charged for withholding tax. The point is that the bank had not been paying withholding tax. How many other banks have done similar things? If your company is paying bank fees when it should not and your company goes down the chute, who is responsible?

Former New South Wales Democrat Senator Paul McLean presented 80 fully documented cases of appalling corruption within the banking industry to the Federal banking inquiry in 1991. With the assistance of two barristers, Senator McLean gave detailed and damning evidence to the inquiry. He had about 1,000 cases in all, but picked out 80. The bizarre response of the committee chairman, Stephen Martin, was to say to the media that McLean should either put up or shut up. This was after the evidence had been presented. I believe that thousands of farmers, business owners and bank customers from Perth to Penrith and Townsville to Tasmania thought that Martin had sold us out, but that certainly did not appear to be the case with the Federal Labor Party, who must

have approved of Martin's actions and handling of the banking inquiry, because he was soon made Speaker of the House of Representatives. Tony Rigg was another who made a detailed submission to the banking inquiry, with 1,700 pages of supporting documents. I could not complete this story without commending the Rigg family for their courage and persistence in their campaign.

There is no doubt that, because of the unwarranted high interest rates being charged by banks and the economic conditions, farmers have been hit hard. The drought has made it disastrous for many. Because most tariffs in Australia have been reduced or removed, many businesses have been affected seriously by cheap imports. Something needs to be done about this situation in Australia. There needs to be a look at the broad picture. The banks must be made to represent their products correctly and to deal fairly with bank clients.

Madam Speaker, I call on the following authorities to act in this matter: The Reserve Bank should require that the Commonwealth Bank obey the provisions of the Reserve Bank Act. I believe that the Fraud Squad should investigate the earlier mentioned actions by certain officers of the Commonwealth Bank. The ACT Government should investigate the operations of the Commonwealth Bank and the other banks in Canberra, particularly in relation to the points that I mentioned about the State Bank of New South Wales. The Federal Government should have this case fully investigated and, along with it, dozens of other similar cases. If we are not going to move to save the small business sector in Australia, who is going to drive the nation? Madam Speaker, I believe that this is one of the most serious matters facing Australia. We need to make sure that all members of parliament are aware of the problems and assist the people in our communities to do something about unethical activities by the banks. I seek leave to table the documents that support the statements that I made.

Leave granted.

MS FOLLETT (Chief Minister and Treasurer) (4.14): Mr Stevenson has raised issues to do with banking on many occasions, and on this occasion he has raised some specific instances of difficulties with banks. My response must necessarily be in broad terms, not having had the detail that he raised.

Madam Speaker, the Commonwealth, as members would know, has the major role in regulating banking practices. The banking sector is regulated by the Reserve Bank, the RBA, under the Banking Act 1959, with an overall objective of depositor protection. The RBA sets prudential standards, for example, levels of capital and liquidity, and monitors compliance with those standards. The RBA also sets the official cash rate and the interest rate for financing transactions between the banks and the RBA.

The Commonwealth, supported by Territory and State governments, has taken a very close interest in the conduct of the financial sector and a task force, comprising the Trade Practices Commission, the Federal Bureau of Consumer Affairs and the Federal Treasury, is developing an industry code of practice. However, the Australian Bankers Association has introduced its own code of practice. The ACT Attorney-General

and Minister responsible for consumer affairs, Terry Connolly, has expressed concerns at inadequacies in the bankers code and is seeking improvement, particularly in the areas of privacy and confidentiality. Mr Connolly is pursuing this matter directly with the ABA and is taking the national lead on this issue. Mr Connolly has been outspoken in his criticism of the way in which banks have quietly gone about introducing charges on accounts, after having advertised no fees, only government charges on accounts. That is a very misleading claim by some banks. The Federal Consumer Affairs Minister, Jeannette McHugh, also attacked the Commonwealth Bank when it announced the new schedule of fees last month. In recent times, banks have increased their interest rates in respect of loans but have failed to increase deposit rates as quickly or as substantially. Banks are charging consumers a wide range of fees and charges that have the most serious impact on those who can least afford it, that is, the little people. Pensioners and young children with small amounts of money find that their savings are eaten away by the various charges and fees.

Having said this, I am concerned also at current trends to increase charges on bank accounts. There has been a substantial increase in the reported profits in the banking sector just recently. For example, the National Australia Bank reported a record profit of $1.71 billion for the most recent year of operation, and Westpac also reported a substantial increase in its profit. I would suggest very strongly that individuals shop around to find the best deal available or which bank charges them the least. The Consumer Affairs Bureau actually publishes a brochure that compares fees and charges of various institutions.

People should also remember that there are alternatives to banks, namely, building societies and credit unions, which people could also consider. These institutions are member orientated and are supervised under a national scheme, with prudential standards set by the Australian Financial Institutions Commission, and those standards are equal to or tougher than those set for banks by the RBA. Madam Speaker, the banking industry traditionally prides itself on being synonymous with words such as "safety" and "integrity". Consumers have felt that they could trust the banks and their representatives. We are seeing now more and more people disillusioned with that industry.

Mr Stevenson has drawn attention to a number of cases which are clearly of concern. I believe that it is time that the banking industry reviewed its direction and focused on customer service rather than on, as it appears, only their own enormous profits, which are increasing substantially, as I have just stated. I take Mr Stevenson's point. He has been a consistent campaigner on this issue. I am not able to comment on the individual cases that he mentioned, although I will certainly study the material that he put before us today. If there is further action that the Government should be taking, or could take, then we will clearly be progressing those matters.

MADAM SPEAKER: The discussion has concluded.

PLANNING, DEVELOPMENT AND INFRASTRUCTURE - STANDING COMMITTEE
Report on Inquiry into Possible Changes to Planning Legislation

MR BERRY (Manager of Government Business) (4.19): I present report No. 35 of the Standing Committee on Planning, Development and Infrastructure entitled "Inquiry into Possible Changes to Planning Legislation in the ACT", together with extracts from the minutes of proceedings. I move:

That the report be noted.

Madam Speaker, it is with pleasure that I table the thirty-fifth report of the Standing Committee on Planning, Development and Infrastructure. The report is entitled "Inquiry into Possible Changes to Planning Legislation in the ACT" and it incorporates the committee's conclusions about the changes that should be made to planning legislation. The report contains 31 recommendations covering the full range of planning issues, including consultation, inquiries, lease issues, approvals, reviews and appeals, the environment, heritage, defined land, draft variations, encroachments, betterment, the Unit Titles Act and joint venture agreements.

The decision to have an inquiry into the legislation was made some time ago and, as a result of a turn of events which were beyond my control, I became chairman of the committee and subsequently got amongst this issue, which is an important issue affecting the ACT. I think it is important to say that there was some hysteria about planning issues out in the community. I think some of it emerged quite naturally and some was whipped up a little bit. It all needed to be addressed in a methodical way. I think the Government has done that by virtue of the inquiry processes that it has undertaken, and, as well, this committee's efforts, I am sure, will make a major contribution to future planning of the Australian Capital Territory.

I will refer to some of the committee's recommendations. One is that we double the minimum time for public consultation on a draft variation to the Territory Plan from the present 21 days to 42 days. On the face of it, that sounds as though it is a lot; but there was considerable concern about that issue. I think the committee's recommendation on that issue is a good one. I think all of them are. Another is that we amend the legislation to enable draft variations to the Territory Plan to be put forward directly by proponents and not just by the ACT Planning Authority, as is the case at present. There were quite a few suggestions that the ACT Planning Authority gave the appearance that it was acting for the proponents. That gave rise to the unfair allegation, in the committee's view, that they were in cahoots, but there was no evidence to suggest that.

The committee also recommended that we restrict the use of the defined land concept to greenfields development and not to urban infill development. That separates those two issues, to ensure that it is much clearer for the community. I think the committee formed the view that there needed to be clarity of issues in the area of planning. Although it is a complex one, and it is hard to imagine circumstances where everybody would fully understand everything about the planning legislation in the ACT, I think the committee felt obliged to ensure that its recommendations assisted in clarifying the issues and took away one of the triggers for hysteria - a lack of information or a lack of clear information.

We also recommended the setting up of a panel of government, industry and community representatives to urgently simplify and rationalise the consultation processes used by DELP and the Planning Authority. We think the joint approach would be a good one. We also recommended establishing a single and comprehensive consultation and approval process for a development project, including the lease variation process. One stop. We recommended combining the approvals process for building applications and design and siting applications. Again, that is a one-stop approach so that people understand fully the process. We recommended legislating to make guidelines affecting the Territory Plan disallowable instruments in the Assembly so that any member can move that they be disallowed, thus increasing the opportunity for public debate and knowledge of the guidelines. Another recommendation is that we broaden the definition of environment and make other improvements to sections of the legislation dealing with environmental matters. We also recommended defining more clearly the powers of the Land and Planning Appeals Board.

Madam Speaker, underlying the committee's recommendations is a concern that the Canberra community receive a top class level of service from planners and officials in the Department of the Environment, Land and Planning. Perhaps if any one recommendation reflected this concern to a tee it is that recommendation urging the Department of the Environment, Land and Planning and the Planning Authority to institute suitable processes and facilities such that any person inquiring about the nature of planning legislation pertaining to a particular parcel of land can find this information quickly and accurately. The committee considers that this is the bottom line - namely, that our citizens are entitled to quick and accurate information from planners and Department of the Environment, Land and Planning officials about matters affecting land in the ACT. In my view, much of the concern raised in the committee was about access to information, and access to timely and accurate information. It is obvious that some people in our community do not believe that this is the standard of service that they are getting. If you have a look at all of the submissions that were made and all of the concerns that were expressed throughout the committee's inquiry, it becomes very clear that there is a perceived inadequacy out there in the community. The committee felt obliged to ensure that, as far as it could, its recommendations contained proposals which would lead to a better outcome for the community.

I consider that this important report of the committee, together with the Government's decisions about the recommendations contained in the Lansdown report on residential development, will address community concern about planning issues, and I am confident that it will improve public confidence in the planning process. I think that was a most important commitment from all of the members of the committee. I found it a good committee to work with. There was a level of understanding about the concern out there in the community which led to a list of recommendations which, in my view, should result in a better outcome for the community. Despite recent events in this place, I think it will also improve the impression that the community has of this place because they will be able to see that there is a process whereby they can get access to their politicians, either full time or part time, and they will be able to make submissions to them in relation to a whole range of matters and get an outcome. I think they have had a quality outcome.

Before finishing, I would like to congratulate all of the members of the committee for their cooperation. It was a new committee for me and one that I found challenging; nevertheless it was a very interesting and enjoyable job. It was not as interesting and enjoyable as the last job I had; nevertheless, it was interesting and enjoyable. I think it was a bit of a tribute to all of the members that we were able to bring this unanimous report forward, and I think it will be recognised for its contribution to community debate on a very sensitive issue.

Finally, and certainly with a great deal of gratitude, I would like to thank the secretariat staff because there was a lot of background work that had to be done. Rod Power - the long-suffering Rod Power, I have to say - had to do a lot of groundwork and development work in assisting the committee. He rose to the occasion without complaint at all times, and he was very helpful in the process. All of the staff need to be congratulated, but I would particularly like to say those few words about Rod because his assistance was invaluable. His dedication to ensuring that we were all able to hear from all of those who approached the committee was welcome. His knowledge of the legislation was very important. His ability to make arrangements to ensure that all those people saw us and were able to put their views on matters was impressive. His tolerance of us as a group was good as well. I think our work was made easier by his efforts.

Before I sit down, Madam Speaker, again I would like to say thank you to those members of the committee who participated in the process. Last, but not least, I should thank all of those people who took the time to prepare comprehensive submissions to the committee. They came from throughout the community. A range of people came to see us and we were given all of the information that ultimately led, I think, under pressing circumstances, to fairly good quality recommendations which I recommend that the Government adopt.

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

PLANNING, DEVELOPMENT AND INFRASTRUCTURE - STANDING COMMITTEE
Report on Inquiry into Possible Changes to Planning Legislation

Debate resumed.

MR CORNWELL (4.31): Madam Speaker, I join with Mr Berry, the chairman of the Planning, Development and Infrastructure Committee, in commending this report to the Assembly and, indeed, to the general public. Now that it has been tabled it will be available for people to examine.

Mr Berry said that there was some hysteria out there in the community in relation to planning and planning legislation. I would not call it hysteria; I would call it desperation. It was very obvious that there were a great many unhappy people in the ACT who were suffering from what they perceived to be mistakes in the planning process. The genesis for this inquiry had been in the PDI Committee for many months, but it was not until June this year, Madam Speaker, probably as a result of the rising tide of objections - I cannot remember the exact details at the moment, but I suspect that it was due to the rising tide of objections from the community - that this planning legislation reference was resurrected and brought forward. Even that reference was overtaken subsequently by events, because more pressing demands made it necessary for Mr Lansdown to come forward and conduct his own more immediate inquiry. As a result of that, some of the 73 submissions that we received were transferred to Mr Lansdown for his consideration as well, with the approval of the people who put forward the submissions. Some of them went straight to Mr Lansdown; others, the contents of which applied to our own inquiry, remained with us.

I believe that the report is overdue. In justification of that comment, I would refer to recommendations 20 and 21, which highlight an absolutely appalling situation that was brought forward originally by the Todd inquiry in relation to guidelines and the "circumstances in which persons are not entitled to apply for the review of decisions". We have made some recommendations on this. I think it is, however, an indictment that the matter has not been taken up before by this Government because the situation that applies at the moment is manifestly unjust.

I must also say, and I am sure that I am joined by other committee members, that we were somewhat shocked to hear a senior officer state at the hearing that the Banks dual occupancy fiasco was, in fact, "a disaster". One would hope that speedy action would be taken to correct that. To be fair to the Minister, Mr Wood, I think action has been taken in that respect. Those two examples highlight the need for this report, and, more to the point, action by the Government upon this report. I believe that there are some advantages in tabling it at this point because, although it cannot be debated at length, it now is a public document and we will have the benefit of community comment on it over the next few months, certainly before the next Assembly comes into being. I would hope, however, Madam Speaker, that that does not impede the Government in taking action as recommended in this report in numerous areas. Other areas, unfortunately, will have to wait for the new Assembly, because we have suggested that other committees of the Assembly might continue with further investigations.

Mr Kaine: There is enough committee work to keep them going for the next three years.

MR CORNWELL: Indeed. I look forward to Mr Kaine's committee investigating the very important reference of review of betterment.

Mr Connolly: We look forward to Mr Kaine, as an Opposition member, still chairing committees.

MR CORNWELL: Hopefully, Mr Connolly, Mr Kaine, as Treasurer in a Liberal government, will be directing somebody like you to undertake it. In regard to committee references, we will have to wait until the new Assembly, but I would hope that the other recommendations are not going to be ignored in the interim by the Government. They are far too important to ignore.

Madam Speaker, let me say in conclusion that I do not believe that we have covered all of the problems of planning here in the ACT. I think that would be asking too much. We have, however, identified a great many. Action taken upon them arising from this unanimous report - I stress that; all five members of the committee support it - will go a long way to improving the situation as it applies. I hope that we will not have to have other inquiries, but no doubt we will have to improve the planning process from here on in. This report does go a long way to assisting it.

I, too, would like to thank the secretary, Mr Rod Power, and the secretariat for the work done. There are 85 closely printed pages here. The job of pulling all this together was of considerable magnitude. It is something which is often forgotten. The recommendations are in chapter 6, but there are more than six chapters obviously, and there has to be something in them. That is the work of Rod Power and the secretariat. They provide the necessary background so that people can read and understand our reports. So I, too, would like to compliment Mr Power. This Planning, Development and Infrastructure Committee, my colleague Mr De Domenico reminds me, has met 113 times in the last - - -

Mr De Domenico: It has met 116 times.

MR CORNWELL: I stand corrected. It has met 116 times in the last 2½ years. That is no idle figure. I believe that it is a pity that there are not more members of the public, residents of the ACT, in the gallery to hear that statistic which indicates that Assembly members do not sit up in their offices with their feet on the desk doing nothing when this house is not in session. I join the chairman of the committee in commending this report to the house.

MS SZUTY (4.39): Madam Speaker, this report is a unanimous report from the members of the Planning, Development and Infrastructure Committee to this Assembly. I think it is a significant achievement that a committee representative of three or even more political viewpoints can reach such a degree of consensus about a number of important matters in relation to planning in the ACT. Madam Speaker, there are a number of issues contained in the report which I could have elaborated on further in terms of additional comments. I chose not to do so but to speak in this Assembly today about those issues, and I will turn to those shortly.

Madam Speaker, this committee gave itself a difficult task when we adopted this reference on 18 June 1993, almost 18 months ago. The committee certainly believed that it was a necessary task, given the work which had been done in relation to the Territory Plan which was finalised shortly before. We turned our attention to our reference on planning legislation, literally, when we did not have draft variations to the Territory Plan or planning guidelines to consider, so we are reporting rather late in the life of this Assembly - later than I believe members of the committee had hoped to report; nonetheless before the conclusion of the sittings of the Second Legislative Assembly.

I wish to indicate to Assembly members that, because of the timeframe available for the consideration of the report, I have concentrated my attention on the details in chapter 6, the findings and recommendations of the committee. I have done this because I believed it to be important to place this report before the Assembly before the sittings are concluded. I hope that members will excuse the lack of attention to detail that I would normally have given to the body of the committee's report.

Madam Speaker, I now wish to turn to the recommendations in the committee's report and to address a number of them. The recommendations that I would like to comment on firstly are general recommendations. Recommendation 2 states:

The committee recommends that the Land Act be amended to include a statement of the objectives of planning legislation.

This was recommended by representatives of the Royal Australian Planning Institute, who believed that it was important that the objectives of the legislation be spelt out and be clearly connected to the Territory Plan. It is hoped that, by stating the objectives in the planning legislation, that the whole area of planning and the principles of planning will be better understood by members of the community.

Recommendation 3 states:

The committee recommends that the Government investigate the feasibility of separating the ACT Planning Authority from the Department of the Environment, Land and Planning.

This was raised as an issue by a number of witnesses who appeared before the committee in public hearings. I believe, personally, that this recommendation has merit. The perception would then be established that the ACT Planning Authority is able to make pertinent planning decisions in its own right, without being subject to the Department of the Environment, Land and Planning. The Chief Planner would be seen to have a more significant role. This recommendation has been made notwithstanding the views of the Secretary of the Department of the Environment, Land and Planning, who does not believe that separation is necessary or desirable. He, in fact, strenuously presented that view during public hearings of the committee.

The fourth recommendation is as follows:

The committee recommends that the guidelines bearing on the Territory Plan, and any further guidelines developed in the future, be disallowable instruments pursuant to the Subordinate Laws Act 1989.

This, Madam Speaker, was a recommendation of the Planning, Development and Infrastructure Committee in its response to the Territory Plan. I believe that it was in report No. 12, which we tabled during 1993. We have seen some examples recently where guidelines have been prepared by the Planning Authority but not necessarily tabled in this Assembly and being subject to the disallowance provisions of this Assembly. The committee has recommended again that this recommendation be taken up.

The fifth recommendation says:

The committee recommends that the Planning Authority and DELP aim to have suitable processes and facilities in place such as to enable any person inquiring about the nature of planning legislation pertaining to a particular portion of land to access that information quickly and accurately.

The chairman of the Planning Committee drew attention to this particular recommendation. I endorse it. I believe that the committee endorses it. The community certainly needs better access to planning information so that their participation in the planning process is more effective, and can be more effective.

I do not have too much longer, Madam Speaker, so I will cover some of the remaining recommendations I wish to comment on quite quickly. Under the heading of "Consultation", the committee recommends "that the minimum time for public consultation on a draft variation to the Territory Plan be doubled from the present 21 days to 42 days". The committee thought about this at considerable length. We believe that 42 days, or six weeks, is an appropriate length of time in which members of the community, and members of the community who participate in community organisations, can adequately respond to draft variations to the Territory Plan. Further, in recommendation 7, the committee recommends:

... that the consultative processes of the planning legislation and planning process be urgently reviewed by a panel of Government, industry and community representatives with a view to simplifying and rationalising the consultation processes.

This idea was proposed during the public hearings by a number of industry groups, and I believe that it was warmly welcomed by members of the committee.

I will move on to the recommendations which suggest that further work be done by committees of this Assembly. I believe, Madam Speaker, that it is somewhat unfortunate that the committee has had to recommend that a number of further inquiries take place in relation to particular issues highlighted in this report. Members of the community may

well argue that we have taken 18 months to consider the pertinent issues relating to the planning legislation, but I believe that the committee felt that we could not accommodate all of these specific issues in relation to a number of matters that have been specifically identified in our recommendations. We have recommended that we look at the issue of the renewal of commercial leases, heritage matters and the issue of betterment during the life of the next Assembly through the committee process. I regret that the committee has not been able to spend the time needed to address those issues fully. I certainly hope that the community understands that, because this was such a major task, we were not able to complete our consideration of these matters in the time available.

I would like to mention the defined land issue. There are some recommendations in our report which relate to the Todd report, which was tabled in this Assembly some months ago. Recommendation 26 says this:

The committee recommends that the legislation be amended to confine the use of 'defined land' to greenfields type of development and that consideration be given to changing the name in order to improve public understanding of the term; also, that the legislation spell out the meaning of the term. Further, the committee recommends that the Government institute procedures to enable community consultation at the conceptual stage of greenfields development.

I believe that this is an important recommendation. We had representations from a number of witnesses during our public hearings that the community wanted to be involved to some extent at the conceptual stage of greenfields developments. It is something that happened in the days of the National Capital Development Commission, and it is something that the committee believes should be resurrected where possible.

To conclude, Madam Speaker, as I am running out of time, I hope that this report will be seen to have made a substantial contribution to the debate on planning legislation which is seen to be so necessary in the ACT. I acknowledge that we have recommended the deferral of some matters to the appropriate committee of the Third Assembly; but I strongly believe that, should the Government agree with the remaining recommendations, they should proceed with the necessary processes for implementation as quickly as possible.

Finally, I would like to thank my fellow colleagues of the Planning, Development and Infrastructure Committee, as I believe that it is the last opportunity for members of that committee to address the Assembly. I would particularly like to thank Mr De Domenico and Ms Ellis, whom I have been working with for three years in this Assembly since we all became members of it. Most of us have been present at those 116 meetings of the Planning Committee that we heard about. I would also like to thank the new chairman of the committee, Mr Berry. He described his task as chairman of that committee as challenging. I would also like to thank Mr Cornwell for the time and effort that he has

put into the committee's deliberations. I would also like to thank Mr Kaine and Mr Lamont, both former members of the Planning Committee. I certainly learnt a lot from those members of this Assembly through their work on the Planning Committee. I, too, would like to add my thanks to the secretary of the committee, Rod Power, who has done an absolutely sterling job in servicing the needs of members of this committee. He enabled us to present an extremely comprehensive report on the planning legislation to this Assembly this afternoon.

MS ELLIS (4.49): Madam Speaker, I am going to be very brief and not take up too much time of the house, but I specifically want to address this tabling of this report today. I think it is true to say that it is the last opportunity to speak as a member of the Planning, Development and Infrastructure Committee of this place during the life of this Assembly. This is the last report of that committee. As was mentioned earlier in this debate, the committee has held 116 meetings and has faced many difficult issues in its life. I do not particularly want to refer directly to the report because the previous speakers have done so. I want to take the opportunity to make some comments in relation to this particular committee.

The committee, as we know, has had two personnel changes. Mr Kaine left the committee and Mr Cornwell joined, and Mr Lamont, the previous chair, changed positions with Mr Berry, and Mr Berry became the chair. With each of these changes the personality of the committee changed slightly as well, as we all bring different talents and different personalities to our committee work. I think it is important to say that this committee, which is one of the most important committees in this place, given its workload, has benefited very much by every one of those people's contributions. I thank Mr Lamont for his previous chairing of the committee, and especially Mr Berry for his recent chairing of the committee, during very difficult times, particularly during times of great debate on the question of planning in the community at large and the completion of this report.

As a member of the committee I do not wish to sound too self-congratulatory about the committee, but it is important to say that the completion of this report is a great achievement for the committee process that we have in this place. This report, in my view, given my experience on other committees in this place, could occupy the time of a committee solely for some months alone. To put into context the workload involved in this report, it is important to say that. As Ms Szuty said, this reference had been in front of us for some time, but during that time we continued to meet and continued to deliberate on other self-referred inquiries as well as every variation to the Territory Plan. I think it is important to put into context how this report has emerged from the PDI Committee.

Yes, the report does contain recommendations for further inquiries on a couple of important issues. I do not particularly share the view that it is a pity that that has occurred. Whether or not this report had occupied the sole attention of the committee and no other work was done, I believe that those two or three recommendations would have been made anyway. I think there may be other committees in this place that can more expertly look at those more defined issues, particularly the issue of betterment and the other one referred to in the report.

I would like to thank all colleagues on the committee for the manner in which we undertook collectively the duties of this committee in the life of this Assembly. It has been terribly important that we have been able to collaborate and come up with what I think has been a great run of 35 reports, considering all aspects and considering all the representations from the community at large during that whole process. Again, it is not so much congratulating this committee; it is congratulating the committee process we have in this Assembly on being able to do this work. It is terribly important that people understand just how valuable that process can be.

I would like to take the opportunity, as have other members, to particularly thank Rod Power. I believe that we have in the committee secretariat some of the best staff that you could ever wish for, and Rod Power is one of the leading stars in that secretariat. His ability to draw all of this sort of technical information together and to advise members of the committee accordingly is extraordinary. His sense of humour, I think, has to be noted, acknowledged and applauded. There have been times when that sense of humour has helped us grasp some of the information we have had to handle. I also would like to compliment him on his taste in croissants. I endorse this report and I extend my best wishes to all of the other members of this committee. I thank them for their collaboration and their work in the last 2½ to three years.

MR WOOD (Minister for Education and Training, Minister for the Arts and Heritage and Minister for the Environment, Land and Planning) (4.53): Madam Speaker, I want briefly to express my congratulations and my thanks to the Planning, Development and Infrastructure Committee and its various members over the last three years because, as I see it - and I see the end results of the committee's deliberations - it has been a very hardworking and very responsible committee. I do not think any of its decisions have been contested by the Minister, as the committee would acknowledge. I think it does a great job. It is entirely responsible and it is independent in the sense that it makes its decisions quite properly. I hope that in the next Assembly I have such a good committee providing me with that sort of advice.

Question resolved in the affirmative.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 2 of 1994

MR KAINE (4.54): Madam Speaker, I present report No. 18 of the Standing Committee on Public Accounts entitled "Review of Auditor-General's Report Number 2, 1994", which deals with ACT Health, health grants and management of information technology. I move:

That the report be noted.

Madam Speaker, this Auditor-General's report dealt with two different matters entirely. The first had to do with the management of information technology. The Auditor-General concluded that, by and large, that was being handled well enough and that matters that had been referred to in an earlier report were being taken care of. The committee noted that and pursued the matter no further.

In terms of health grants, the Auditor-General was not so complimentary. He noted, in connection with effectiveness, that he thought that the department was generally effective in the management of its grant programs; but he then qualified that by indicating that there needed to be a formal strategy put in place for the identification of community needs, and that there was a need for established criteria against which grant applications could be judged. He yet again noted that performance indicators should be established, and he went on with two or three other relevant comments. Despite those deficiencies, he did conclude that the department was generally effective in the management of its grants. However, in terms of efficiency, he did not even go that far. He simply stated in his opening remarks:

It was not practical to evaluate fully the efficiency of grant management across the Department ...

He then gave a number of reasons why that was so.

These matters were of considerable concern to the committee. We have made recommendations which we encourage the Assembly to support and which we would encourage the Government to adopt, because here we are talking about a significant amount of public money spread across a wide range of activity. That money must be properly managed, and we must be sure that we are getting value for the money spent. We do not believe that the matter should rest here. I exhort the Government to read our report carefully, to pick up the recommendations and to move to considerably improve things within the health organisation in terms of the administration of its grants system.

Question resolved in the affirmative.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Review of Committee Activity during the Second Assembly

[~Bold MR KAINE (4.58): Madam Speaker, I present report No. 19, which is the final report of the Standing Committee on Public Accounts, entitled "Review of Committee Activity during the Second Assembly". I move:

That the report be noted.

Madam Speaker, this is, in effect, a summary of what the committee has done over the last three years and, in particular, it notes the things that the committee has been unable to conclude. Members will know that the Standing Committee on Public Accounts was established in the First Assembly and has persisted through six years of the life of this parliament.

Madam Speaker, I do not intend to read the whole report. I would rather seek leave of the Assembly to comment on a couple of matters and then to table it and to have the full report incorporated in *Hansard*. There are two things that I would like to deal with specifically, Madam Speaker. The first is the things that the committee has not completed. Two of those matters before the committee are matters arising from

Auditor-General's reports Nos 6 and 7 of 1994. The first one deals with interagency charging, and the second one has to do with some aspects of overseas travel. On both of these matters, Madam Speaker, the committee had sought advice from the Treasurer on matters central to the committee's consideration of those reports, but responses have not been received as of this date. A good deal of preparatory work has been done on both of those audit reports and the work should not be left in its present state.

Furthermore, in respect of the presentation to the Assembly late last week of a third Auditor-General's report, No. 8 of 1994, entitled, "Financial Audits with Years Ending to 30 June 1994", it simply has not been feasible for the committee to consider that report. Accordingly, the committee recommends that, should the Public Accounts Committee be re-established in the next Assembly, and we are sure that it will be, it should access the documentation and records of this committee in order to complete consideration of the outstanding matters from those three audit reports.

Madam Speaker, the only other comment that I would like to make, as presiding member of the committee, is first of all to thank my committee colleagues - the deputy presiding member, Annette Ellis, Mrs Carnell, Mrs Grassby and Michael Moore - for their commitment to the work of the committee, the wise counsel that they have provided, and the inputs that they have made during the past 2½ years or so. I should also like to thank the secretariat staff who have served the committee with dedication and professionalism. In particular, I extend the committee's appreciation to Ms Karin Malmberg, who was secretary of the committee until January of this year, to Bill Symington, who succeeded her and has done sterling work since, and, of course, to the ever present Rod Power, who assisted the committee during the inquiry into petrol supply arrangements. Madam Speaker, I seek leave to incorporate this statement in *Hansard*.

Leave granted.

Statement incorporated at Appendix 2.

Question resolved in the affirmative.

PRIVATE MEMBERS BUSINESS AND ASSEMBLY BUSINESS - PRECEDENCE
Suspension of Standing and Temporary Orders

Motion (by Mr Humphries) proposed:

That so much of the standing and temporary orders be suspended as would prevent the following items of business:

(1) order of the day No. 3, private members business, relating to the Public Interest Disclosure Bill 1994;

(2) order of the day No. 4, private members business, relating to the Community Referendum Bill 1994;

(3) order of the day No. 5, private members business, relating to the Electors Initiative and Referendum Bill 1994; and

(4) order of the day No. 1, Assembly business, relating to the Report of the Select Committee on Community Initiated Referendums

being called on seriatim forthwith and, unless disposed of earlier, having precedence over Executive business until 7.00 pm this day, at which time the Speaker shall fix the next day of sitting for the resumption of debate on any business under discussion and not disposed of.

MS FOLLETT (Chief Minister and Treasurer) (5.03): Madam Speaker, I hate to say, "I told you so", but I told them so at 10.30 this morning on the proportional representation matter. They would not take my word for it. I am glad that they have finally come to their senses.

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

PUBLIC INTEREST DISCLOSURE BILL 1994

Debate resumed.

MRS CARNELL (Leader of the Opposition) (5.03): Madam Speaker, this morning I had finished speaking about the amendments to clause 3, which sought to change the word "corrupt" to the word "disclosable". A series of amendments will be required to bring the Public Interest Disclosure Bill into line with the Public Sector Management Act, which was tabled and passed after my Bill was initially tabled in this place. They are amendments 2, 3, 4, 5, 6 and 7. They will implement the recommendations of the Select Committee on the Establishment of an ACT Public Service, that, where appropriate, the terminology used in the Public Sector Management Act should be adopted for stand-alone whistleblower legislation. The report of the Standing Committee on the Public Sector on whistleblower legislation notes that these amendments are consistent with that recommendation. In each case the terminology in this Bill is now consistent with what is in the Public Sector Management Act.

Mr Berry: So you do not need to amend it.

MRS CARNELL: That is the reason. I have to amend my Bill to bring it into line with the Public Sector Management Act.

Mr Berry: Why bother?

MRS CARNELL: Mr Berry, please! As I said, amendments 3, 4, 5, 6 and 7 achieve that end. With amendment 5, there is a need for consistency with regard to the use of the category "Territory instrumentality" in the definition of "public official". Again, it is a matter of consistency. Amendment 8 implements recommendation 5 of the standing committee, which says that the legislation should not derogate from legal professional privilege. It provides that, where a lawyer or a solicitor is in possession of knowledge which has been conveyed by a client on the basis of strict professional confidence, then the lawyer or the solicitor is not required to breach that professional confidence. That is something that we totally support.

Amendment 9 arises from the select committee's expressed concerns about the power given under clause 14 of the original Public Interest Disclosure Bill to the Ombudsman to give procedural directions to public sector agencies. It said that this was not a function which the Ombudsman should perform. I accept the committee's suggestion to reconsider this provision; and, accordingly, when we get to that stage, I will move that this clause be omitted. Amendment 10 implements recommendation 11 of the select committee, which requires that persons making a public interest disclosure reveal their identity. This mendment adds strength to the provisions already in the Bill which relate to declining to act on information regarded as trivial, frivolous or vexatious and which impose penalties on persons who knowingly or recklessly make so-called disclosures which are false or misleading. Again, we totally support that approach. Amendment 11 implements recommendation 7 of the select committee that the whistleblowing provisions of Division 12 of the Public Sector Management Act should remain in place until such time as stand-alone legislation is passed by this Assembly. With a bit of luck, that will be today. Madam Speaker, it gives me great pleasure that this Bill has finally come on for debate. Rather than take up time by saying things that we have already said in this place - and we certainly have a lot of business to get through before 7 o'clock - I will leave my remarks at that.

MR BERRY (Manager of Government Business), by leave: This legislation has turned out to be one of the greatest wastes of time that this Assembly has been subjected to, because we have a piece of legislation that has been remoulded largely to look exactly like, or perform the tasks of, existing legislation; except in respect of some contractors outside the public service. Essentially, that describes it. We have had a whole host of committee energy being poured into this legislation, just to reform it so that Mrs Carnell can have her way. It has been a waste of energy; it has been a waste in terms of its effect on the community. There are still some outstanding matters which have not been considered. The committee's work is incomplete, because we have not yet looked at the effects that whistleblowing measures might have in the private sector. That is all that is left. Mrs Carnell wants to look at only a little of that; she does not want to be patient and wait until the inquiry is completed. That is similar to the knee-jerk way that she has been dealing with these issues to this point. Last week was an example of how not to do it. I know that my remarks will not make any difference, because everything is set in concrete in terms of numbers. It has been a disgraceful waste of the energy of this Assembly, with no real change as far as the community is concerned.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 33, by leave, taken together

MRS CARNELL (Leader of the Opposition) (5.11), by leave: I move:

Page 2, line 5, clause 3, definition of "corrupt conduct", omit "corrupt", substitute "disclosable".

Page 2, line 6, clause 3, definition of "corrupt conduct", omit "corrupt", substitute "disclosable".

Page 2, line 13, clause 3, insert new definition:

"'government agency' has the same meaning as in the *Public Sector Management Act 1994*.".

Page 2, lines 14 and 15, clause 3, definition of "officer", omit the definition, substitute the following definition:

"'officer' has the same meaning as in the *Public Sector Management Act 1994*.".

Page 2, line 25, clause 3, definition of "public interest disclosure", omit "corrupt", substitute "disclosable".

Page 2, line 33, clause 3, definition of "public official", omit "public sector unit", substitute "government agency".

Page 3, lines 1 to 5, clause 3, definition of "public official", paragraphs (b) and (c), omit the paragraphs, substitute the following new paragraphs:

"(b) a person employed, by or on behalf of the Territory or in the service of a Territory authority or Territory instrumentality, whether under a contract of service or a contract for services, including a person who has ceased to perform those services; or

(c) a person otherwise authorised to perform functions on behalf of the Territory, a Territory authority or Territory instrumentality.".

Page 3, lines 6 to 10, clause 3, omit the definition of "public sector unit".

Page 3, line 13, clause 3, omit "public sector unit", substitute "government agency".

Page 3, line 15, clause 3, definition of "Territory instrumentality", insert the following definition:

"'Territory instrumentality' has the same meaning as in the *Public Sector Management Act 1994*.".

Page 3, line 23, clause 4, title of clause, omit "Corrupt", substitute "Disclosable".

Page 3, line 25, clause 4, omit "corrupt", substitute "disclosable".

Page 4, line 4, clause 4, subclause (2), omit "public sector unit", substitute "government agency".

Page 4, lines 7 and 8, clause 4, subclause (2), omit "public sector unit", substitute "government agency".

Page 4, lines 9 and 10, clause 4, subclause (2), omit "public sector unit", substitute "government agency".

Page 4, line 12, clause 4, subclause (2), omit "unit", substitute "agency".

Page 4, line 30, insert the following new clause:

"7A. Nothing in this Act shall be taken to entitle a person to disclose information which would otherwise be the subject of legal professional privilege.".

Page 4, line 32, clause 8, Division 1, title, omit "Public sector unit", substitute "Government agency".

Page 4, line 34, clause 8, omit "public sector unit", substitute "government agency".

Page 5, line 1, clause 8, omit "unit's", substitute "agency's".

Page 5, line 2, clause 8, omit "unit", substitute "agency".

Page 5, line 4, clause 8, omit "unit", substitute "agency".

Page 5, line 5, clause 8, omit "public sector unit", substitute "government agency".

Page 5, line 6, clause 8, omit "unit", substitute "agency".

Page 5, line 12, clause 8, omit "public sector unit", substitute "government agency".

Page 5, line 16, clause 8, omit "public sector unit", substitute "government agency".

Page 5, line 18, clause 9, subclause (1), omit "public sector unit", substitute "government agency".

Page 5, line 24, clause 9, subclause (1), omit "public sector unit", substitute "government agency".

Page 5, line 26, clause 9, subclause (2), omit "public sector unit", substitute "government agency".

Page 5, line 35, clause 9, subclause (3), omit "public sector unit", substitute "government agency".

Page 6, line 2, clause 9, subclause (4), omit "public sector unit", substitute "government agency".

Page 6, line 8, clause 9, subclause (4), omit "public sector unit", substitute "government agency".

Page 6, line 9, clause 9, subclause (4), omit "public sector unit", substitute "government agency".

Page 6, line 14, clause 10, subclause (1), omit "public sector unit", substitute "government agency".

Page 6, lines 22 and 23, clause 10, paragraph (2)(a), omit "public sector unit", substitute "government agency".

Page 6, line 25, clause 10, paragraph (2)(b), omit "public sector unit", substitute "government agency".

Page 6, lines 26 and 27, clause 10, paragraph (2)(c), omit "public sector unit", substitute "government agency" (wherever occurring).

Page 6, lines 28 and 29, clause 10, paragraph (2)(d), omit "public sector unit", substitute "government agency".

Page 6, line 30, clause 10, paragraph (2)(e), omit "public sector unit", substitute "government agency".

Page 6, line 31, clause 10, paragraph (2)(e), omit "public sector unit", substitute "government agency".

Page 6, line 33, clause 10, subparagraph (2)(e)(ii), omit "unit", substitute "agency".

Page 6, line 35, clause 10, subparagraph (2)(e)(iii), omit "unit", substitute "agency".

Page 7, line 2, clause 10, subparagraph (2)(e)(iv), omit "public sector unit", substitute "government agency".

Page 7, lines 3 and 4, clause 10, paragraph (2)(f), omit "public sector unit", substitute "government agency".

Page 7, line 6, clause 10, paragraph (2)(g), omit "public sector unit's" substitute "government agency's".

Page 7, line 8, clause 10, subclause (3), omit "public sector unit", substitute "government agency".

Page 7, line 10, clause 10, paragraph (3)(a), omit "public sector unit", substitute "government agency".

Page 7, lines 11 and 12, clause 10, paragraph (3)(b), omit "public sector unit", substitute "government agency".

Page 7, line 31 to page 8, line 13, clause 14, omit the clause.

Page 8, line 23, insert the following new clause:

"15A. Nothing in this Act requires a proper authority to investigate a public interest disclosure if the person making the disclosure does not identify himself or herself.".

Page 9, line 14, clause 17, omit "public sector unit", substitute "government agency".

Page 9, line 28, clause 19, paragraph (1)(a), omit "public sector unit", substitute "government agency".

Page 9, line 29, clause 19, paragraph (1)(a), omit "public sector unit", substitute "government agency".

Page 9, lines 30 and 31, clause 19, paragraph (1)(b), omit "public sector unit", substitute "government agency".

Page 9, line 33, clause 19, omit "public sector unit", substitute "government agency".

Page 10, line 3, clause 20, subclause (1), omit "public sector unit", substitute "government agency".

Page 10, line 8, clause 20, subclause (1), omit "public sector unit", substitute "government agency".

Page 10, line 16, clause 21, subclause (1), omit "corrupt", substitute "disclosable".

Page 10, line 30, clause 21, subclause (2), omit "corrupt", substitute "disclosable".

Page 13, line 7, clause 26, omit "public sector unit", substitute "government agency".

Page 13, line 8, clause 26, omit "public sector unit", substitute "government agency" (wherever occurring).

Page 13, line 14, clause 26, paragraph (b), omit "public sector unit", substitute "government agency".

Page 13, line 15, clause 26, omit "public sector unit", substitute "government agency".

Page 13, line 16, clause 26, omit "public sector unit", substitute "government agency".

Page 13, line 19, clause 27, omit "public sector unit", substitute "government agency".

Madam Speaker, I have already spoken to all of the amendments. In an attempt to save time, I do not think that I need to do so again.

MS SZUTY (5.11): As a member of the Standing Committee on the Public Sector, I support the amendments, as Mrs Carnell has proposed them, to her Public Interest Disclosure Bill. Mrs Carnell very rapidly picked up the recommendations of the Standing Committee on the Public Sector yesterday and came up with these revised amendments, in light of the majority report of the committee. I would indicate to the Assembly that I am prepared to support them. I did offer the Government the opportunity to have the detail stage of this Bill tomorrow, once they had had more time to consider the amendments. They have chosen not to accept that offer; so, I am happy to proceed with the Bill today.

Amendments agreed to.

Clauses, as amended, agreed to.

Clause 34

MS FOLLETT (Chief Minister and Treasurer) (5.12): Madam Speaker, I move:

Page 16, line 7, subclause (3), omit "absolute", substitute "qualified".

It is a simple amendment. I move this amendment in light of information and findings in the report on the review of Commonwealth criminal law, the Gibbs committee report. That report has been very thorough in its examination of whistleblower legislation. It recommended repeatedly that the protection offered by absolute privilege not be granted to whistleblowers, because it appears to allow that anybody who is defamed in the course of a disclosure cannot then seek damages. While there is a penalty in the legislation that is before us for making a deliberately false statement, it does appear that the victim of any such defamation actually would be powerless to pursue the matter in the courts, without the amendment which I have moved. I do commend that amendment to the Assembly. It is based on a very large body of work and a very well considered view of whistleblower legislation.

I know that all the amendments that Mrs Carnell has moved make the provisions in the legislation now before us as close as is humanly possible to the provisions in the legislation that was previously passed on whistleblowers - the Public Sector Management Act. However, I do not believe that we should overlook this matter. We must try to protect innocent people from false accusations, which may occur from time to time, and allow them recourse to the law if that should become necessary.

MRS CARNELL (Leader of the Opposition) (5.14): Madam Speaker, the Opposition will be supporting the Chief Minister's amendment, although there were actually quite good reasons for having "absolute" in the Bill to ensure that people were not in any way scared off making a disclosure at any stage. But we do accept the Chief Minister's views on this and the evidence that she has provided. We certainly will be keeping an eye on it. Under this legislation, disclosure to the press is not acceptable. The absolute privilege would occur only if the person who was blowing the whistle did so through appropriate channels. It certainly would not be through the media. Even so, we will accept the amendment as it stands.

MS FOLLETT (Chief Minister and Treasurer) (5.15): Madam Speaker, I have one final matter. Mrs Carnell, in her approach to whistleblowers, has probably been wrongly informed, perhaps by an examination of the American system of public administration. It is the case that in the ACT we have the protection within law that is provided by grievance provisions, disciplinary provisions, the Merit Protection and Review Agency, and so on; all of which operate on a qualified privilege basis. It is a very different position that we find ourselves in, with the merit based public service, than occurs, say, in the United States, where they have a system purely of political appointments, political preference and, of course, political patronage in their public service. Whilst I acknowledge that Mrs Carnell will accept this amendment, her whole thinking about whistleblower provisions is epitomised in this section of the legislation. It is a faulty understanding of the issue as it applies in this Territory.

Amendment agreed to.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole

Amendment (by Mrs Carnell) proposed:

Page 16, line 30, add the following new clause:

Amendment of *Public Sector Management Act 1994*

"39. Part XII of the *Public Sector Management Act 1994* is repealed".

MS FOLLETT (Chief Minister and Treasurer) (5.17): Madam Speaker, this is exactly what I said; in order for Mrs Carnell to put her scent on whistleblowing legislation, we have to repeal the relevant provisions of the Public Sector Management Act. I am afraid that it demonstrates the absolute truth of what I said before. However, if Mrs Carnell particularly wants ownership of this matter, then she will get it. But I do believe that, having put the provisions into the Public Sector Management Act and having had the Assembly vote to accept those provisions, we are at risk of looking very foolish if we now amend those provisions via Mrs Carnell's Bill so that they look almost exactly the same as they did before, except for the name at the top of the legislation. It is a nonsense. I bow to the numbers.

MR HUMPHRIES (5.18): Madam Speaker, I want to put on record my recollection of what the Assembly agreed to do some time ago when the original legislation, the Public Sector Management Bill, came forward. At that time there was on the table a comprehensive Bill by Mrs Carnell dealing with whistleblowing. The Government, which originally had eschewed an approach of protecting whistleblowers, suddenly decided that maybe we should - - -

Ms Follett: That is nonsense. It is in our Bill.

MR HUMPHRIES: No; your original legislation on the public service was not to have whistleblowing protection in it. Mr Connolly said so.

Mr Lamont: That is rubbish.

MR HUMPHRIES: It is true. Mr Connolly said that we do not need whistleblowing protection in the ACT. That is what he said.

Mr De Domenico: We do not believe what Mr Connolly says.

MR HUMPHRIES: Obviously, after this, we do not. I can give members of the Government, if they like, the date on which he said it. That was what he did say. Subsequently, there was a change of mind; we should have protection for whistleblowers. Your provisions were written into the legislation, apparently after Mrs Carnell's Bill was tabled. When the Government's Bill was tabled, the issue of whistleblowing was already very clearly on the table. Mrs Carnell had raised it; she had put it there.

As the committee subsequently found and reported to the Assembly, Mrs Carnell's provisions were superior because of the greater protection that they provided to whistleblowers in this community. As a result, there had to be a decision at the time of consideration of the Public Sector Management Bill as to what would happen with those whistleblowing provisions. Would we go with Mrs Carnell's Bill, or would we deal with the Government's Bill? My clear recollection was that we decided that it was preferable to pass the Government's Bill on the proviso that we would come back and look specifically at the question of whistleblowing. Like it or not, inherent in that arrangement was that, if we preferred Mrs Carnell's approach, as subsequently transpired, we would have to come back and repeal the Government's legislation. That was the clear understanding that I came away from those proceedings with, and that is what has happened today.

Amendment agreed to.

Remainder of Bill, as amended, agreed to.

Bill, as amended, agreed to.

COMMUNITY REFERENDUM BILL 1994

[COGNATE BILL AND REPORT:

ELECTORS INITIATIVE AND REFERENDUM BILL 1994 [No. 2]
COMMUNITY INITIATED REFERENDUMS - SELECT COMMITTEE - REPORT]

Debate resumed from 24 August 1994, on motion by Mrs Carnell:

That this Bill be agreed to in principle.

MADAM SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with order of the day No. 5, Electors Initiative and Referendum Bill 1994, and order of the day No. 1, Assembly business, report of the Select Committee on Community Initiated Referendums? There being no objection, that course will be followed.

MR STEVENSON (5.22): I suggest that the report of the Select Committee on CIR shows us that the members of the committee were not competent to comment fairly; and it would appear that they were biased.

Mr Lamont: I raise a point of order, Madam Speaker. That is an adverse reflection on members of this Assembly, and I believe that it should be withdrawn.

MADAM SPEAKER: Mr Stevenson, would you confine your remarks to the issues that are before us.

MR STEVENSON: The suggestion that someone is incompetent to do something is a perfectly parliamentary one. When you have a committee which reports that a further cause of concern is that the legislation might be able to be used for recall of politicians, judges or ACT public servants, it suggests that the people who would make that statement are not competent. You cannot recall members of parliament in a multimember electorate. This is basic CIR knowledge. I was not having a go at the committee members; I was simply saying that, from the report, they are not competent.

Mr Humphries: You said that they were biased, Dennis.

MR STEVENSON: That is another issue. I will get to that. Let me take one point at a time. The report stated:

... the Popular Initiative and Referendum Bill in Queensland in 1915 ... like every subsequent CIR bill introduced into a State or Federal parliament, was defeated.

It was not defeated; it was passed by both houses. Because of the death of T.J. Ryan, it simply was not implemented. How do you call that a defeat? The preface to the report stated:

... it would be unwise to rush through legislation ... No compelling arguments were made for haste ...

The Committee ... cannot, at this stage, recommend rushing to adopt either piece of legislation.

Let us look at the history of CIR in Australia. As members know, I have been supporting the matter for six years, as other people have. In our first parliament I was about to introduce CIR legislation, when Mr Prowse introduced a draft on behalf of the Liberal Party. As members know, in October 1993, I first introduced an EIR Bill, in the form of the Voice of the Electorate Bill 1993. I subsequently introduced the Voice of the Electorate Bill 1993 [No. 2] and the original EIR Bill and the current Bill, the Electors Initiative and Referendum Bill 1994 [No. 2]. The Liberal Party introduced the Community Referendum Bill a few short months ago, and we had a committee of this parliament look at CIR.

At page 1 of the report, under "Introduction", it states:

... the committee feels it was disadvantaged in its task by the absence of any organisation or individual presenting a contrary position.

Everyone was for it; indeed, all the submissions were in favour. It has been supported for six years; five Bills on it have been introduced into this Assembly; a committee has looked at it; every submission was in favour of it; and what does the committee say? It says, "We should not proceed". I suggest that that is just a touch biased. People could suggest, "No; not really. It was because everybody was in support. We have had so many Bills; you have kept talking about it in this Assembly every chance that you get; and we are so sick to death of it that we will suggest that it should not go ahead".

On page 3 of the report the Electors Initiative and Referendum Bill that I introduced is mentioned. A number of dot points, which it suggested were major problems with the Bill, were listed. Looking at them, I was surprised that it did not say, "There is a problem, because it was not printed on recycled paper and the ink was not dark enough". They tried everything that they could. First of all, the report said that the Bill was poorly drafted. The report did not give any examples that I could see. It said that the Bill "omits important details and lacks clarity". This is a report that talks about "political sensitivity" and "concomitant effect on popularity at the polling booth". How many people know what concomitant means? The EIR Bill is supposed to lack clarity!

The report further states that the Bill has "unacceptably low trigger mechanisms". According to whom? That is a political statement; that is a political statement that you usually get from politicians. Politicians think that anything that can be easily achieved is too low for people to have a say on; but not the people, because the vast majority of people support a reasonable trigger mechanism. In my Bill it is just under 3 per cent and just under 6 per cent when you look at a minimum of 5,000 and 10,000 signatures.

The report goes on to say that the Bill "provides for frequent referendums, which would blow out the cost of introducing CIR". Heavens above! It would provide for frequent referendums. If you allow a referendum to be held only at election time - I do not need to tell politicians this; they might get the idea themselves - they will wait until just after the election and then move everything that the people will not like; knowing full well that they cannot introduce anything for another three years. Introduce a referendum to be held in three years' time, and, by that time, the schools will be knocked down; the hospital will be closed; the bridge will be built; et cetera. This is put up as a problem. By whom? By politicians; not by the people.

The report also says that the Bill "does not recognise that, under present circumstances, a referendum result cannot be binding on the Assembly". Let us turn to the Attorney-General's Department's legal opinion that we have heard so much about. I suggest that people actually read it, because they have not. They are just saying, "Let us say that this is a problem. Let us talk about abdicating responsibility and say that we cannot do that. There is a quote that says that you cannot do that. That is all there is to it. The EIR Bill is not any good".

I could quote from the report by the Hon. Mr Justice David Malcolm, the Chief Justice of Western Australia, in his paper "The Limitations, if any, on the Powers of Parliament to Delegate the Power to Legislate". There are many examples that indicate that it could be done. But I do not need to quote from that report because the matter is covered clearly and succinctly in the Deputy Law Officer's letter of 3 November 1994. That letter is an attachment to the select committee's report. It says, on page 42 of the report, and this might be news to people:

The Assembly, like other Westminster style parliaments, is prevented from abdicating or abrogating its law-making function.

I am not necessarily going to argue that. It is a nonsense case to bring up. The letter continues:

The rule against abdication of power does not prevent a parliament from delegating to some other person or body of people the power to make laws or regulations - provided the parliament retains actual control over the law making function - through disallowance or the power to amend or repeal such laws.

That is in the Electors Initiative and Referendum Bill specifically. Although the Bill requires the Chief Minister to gazette the resulting legislation after referendum, as members will know if they have read it, the EIR Bill allows the Assembly to amend legislation introduced by the people. That is the end of that argument. That was the main argument that was used by the committee to suggest that it would not really look at the Electors Initiative and Referendum Bill, though the terms of reference required that it do so. The terms of reference include:

... be appointed to inquire into and report on:

(i) the Community Referendum Bill 1994 and

(ii) the Electors Initiative and Referendum Bill 1994.

The committee was not supposed to recommend, as the first recommendation in the report does, that the committee proceed no further with the EIR Bill 1994 and concentrate on the Community Referendum Bill. That is not fair; that is biased.

Then we go to the disadvantages that the report lists. The committee had already said that it felt disadvantaged because there was nobody that presented any real arguments against, or that opposed, citizens-initiated referendums. Heavens above! There was not anybody. They did their best to get some disadvantages; and, boy, what a lot of poor arguments they were. Why on earth did they not use the book written by Professor de Q. Walker, Dean of the Law Faculty at Queensland University, where he listed some decent arguments against this. Under the disadvantages listed it says:

by allowing an issue to be determined by having it put to referendum, governments can delay or avoid making controversial and politically sensitive decisions ...

What nonsense! It says:

CIR is a threat to political institutions because it bypasses the safeguards and limits built into the legislative procedure.

It does not mention what safeguards or what limits. It says:

the referendum oversimplifies issues by reducing complex considerations to a yes/no vote ...

That is what we do at the in-principle stage of Bills. The EIR allows for optional voting. That is not a problem under the EIR Bill. The report then says:

governments tend to protect minorities from discrimination - because CIR is purely driven by majorities, minorities could be threatened.

That is not true. CIR is not purely driven by majorities; CIR is driven by minorities. It is accepted or rejected by majorities.

Then there are a number of arguments listed under disadvantages that basically go along the lines that the voters are idiots. It talks about "politicians who have expertise behind them and a certain amount of objectivity". What a joke that is! It continues:

... an argument put directly to the public may appeal more to emotion than intellect, and self-interest to the wider good.

The poor old public! They are biased idiots, one would imagine, if you believe these disadvantages. Then it says:

frustrated political parties ... could turn to CIR to try and get their policies up ... which goes directly against the philosophy of voter power.

Once again, the voters are idiots. Someone gets something put on the referendum list, and the voters have a say; and we are stupid because we did not realise that it was just an initiative of a frustrated political party trying to get their policies up. Dumb again! Then it says:

there is the possibility of a signature-gathering industry being established ...

There is, if you make the trigger too high. I brought that point up. There is no concern if the trigger is available to socially disadvantaged groups who do not have the power to pay money for it. These disadvantages are raised again and again, but the majority of them are not relevant to the EIR Bill. EIR was basically dismissed out of hand because they had too many problems. I know the major problem that they had: It works very well and would give true democracy. Then it says:

a referendum held on election day may overshadow the election both on the day and during the campaign.

Once again, the voters are idiots. They do not know where their attention should be. It is up to us to make sure that they do not get their attention diverted on election day; that they understand only that they should vote for politicians; and that they have a clear-headed view of what is going on. They should not be distracted by anything like a referendum where they can have a binding say. Actually, the reverse is the truth.

Before elections are held, most issues are not particularly valid; there are many meaty issues that never get a guernsey in an election. If they were able to be put on a referendum question, they would get fair coverage beforehand. What a benefit that would be. That is not a disadvantage.

The report refers in paragraph 5.2 to "thereby denying ordinary citizens for whom the legislation is intended". Ordinary citizens! It is for the entire community - some ordinary, some extraordinary, some politicians, some unionists, some small business people, et cetera. It is for everybody. Under the heading "Scope", the report says:

Opponents of CIR argue that particular laws and policies can only be made by governments and should not be subjected to the direct approval of people who have a vested interest ...

Once again, the biased electorate; they should not have a vote because they are biased and a bit silly as well, I suppose. It continues:

or are not qualified to make decisions which are complex and potentially divisive (for example, abortion, euthanasia, immigration, foreign policy).

It goes on:

There is fear among CIR opponents that knee-jerk reactions ... may lead to draconian laws ...

What absolute drivel! It is just an attack on the commonsense of the people of Canberra, and an unreasonable attack, too. In paragraph 5.7 of the committee report, it says:

The time allowed for the collection of signatures ... is another issue which produces a range of arguments.

You can have a range of arguments about anything. The point is that most people agree on somewhere between six and 18 months; it is not too hard to work out. It looks like every little thing has been dragged up to suggest that there are problems. It then says:

Verifying signatures is central to the CIR process.

It goes on to suggest that there might be difficulty in this area. Verifying signatures is kindergarten stuff; that can be done easily. When talking about preferential voting, the report says:

But how legislation or proposals can be framed to reflect these options ... is not clear ...

It is clearly put in the EIR Bill; that is not difficult. Then it talks about the cost burden. It says:

... preparation of the "yes" and "no" cases, and, most controversially, the cost of advertising.

The CIR Bill does not require a Yes case and a No case to be put and does not require advertising, for the very reason of costs. These matters are already handled. Under the heading "CIR in the ACT", on page 19, it talks about a common argument made by critics of CIR. It says:

... it lacks the checks and balances built into the law-making procedures found in the Westminster system.

The difficulty is that there are not enough checks and balances. Politicians have been seeing themselves more and more as elitists in our society. *(Extension of time granted)* The truth of the matter is that the people can reconsider or challenge legislation when they choose. The report says:

The Committee considers that the Speaker's suggestions are worthy of further consideration ...

The Speaker brought up some ideas on how community consultation might be increased. If you allowed a minimum time between the introduction of legislation in the Assembly and the debate on it, I could not think of a better way that community consultation might be increased, apart from CIR. As we know, every member of this parliament, except me, voted against that. We could allow urgent matters or matters of a minor administrative nature to be brought on straightaway. I could go on and on. I could talk for a month on this subject. It is full of holes. I come back to the fact that the people drafting this report were not even aware that you cannot run a recall process in this Legislative Assembly.

I turn to the Liberals' Community Referendum Bill. At the end of the Democrats' submission, it says that the Bill leaves power in the hands of the Assembly. I agree. That is a CR Bill in a nutshell.

Mr Humphries: But there is no alternative, Dennis.

MR STEVENSON: Mr Humphries said, "There is no alternative". He must not have been listening when I handled that issue. The Assembly has the power to delegate authority, provided that we can amend it. That is what the law states. The other point is that there are steps all through the Bills that require decisions to be made. The EIR Bill places the power in the hands of the people. The CIR Bill places the power in the hands of - guess who - politicians. This is the very reason why people want CIR. We can all go along to politicians.

Members of this Assembly have spoken for hours and have talked about all the things that are done to allow the community consultation. People want CIR. Why? Because they do not feel that they got a fair shake on all these matters that we dealt with for six years, supposedly to give the people some consultation. It is not on. I know that the CIR Bill

leaves power in the hands of the Assembly. That is the problem. That is why people want citizens referenda - so that they can have a say. The percentage is double that which applies around the world. It does not allow for optional voting and is not binding on the Assembly. Let me quote from one of the submissions:

The Liberal Party Bill contains a number of provisions which clearly show the reluctance of the Party to allow citizens ready access to the governmental process. It contains provisions which allow the Executive to not only oversee the CIR process but to regulate it, control it, and as a final measure to ignore the process and the results of any referendum if it so chooses.

That is the nub of the whole matter; the very basis of why people want CIR. Let us look at the submission to the inquiry into community-initiated referendums by the Electoral Commissioner; it is an interesting one. It says, on page 2, under "Summary of Recommendations", item 3:

That the scheme set out in the CR Bill be used as the basis for any proposed CIR scheme rather than the scheme set out in the EIR Bill, as the scheme set out in the CR Bill is better conceived.

I suggest that that is more of a political statement. It says in Attachment B, looking at the Electors Initiative and Referendum Bill 1994 [No. 2]:

The Bill is generally not drafted using standard legislative conventions.

Let me make a couple of points. First of all, all around Australia there is a call for drafting in plain English. It comes again and again. I suggest that the standard legislative conventions need some updating. But the truth of the matter is that the basis of the EIR Bill was a Bill that was introduced into the New South Wales Parliament after being drafted by legislative draftsmen. The submission also says that the commission is concerned that the Bill does not specify the level of checking of signatures which will be required; it simply provides that the Electoral Commissioner may make due inquiries as to whether signatories are electors. Later, on the same page, it says:

The requirement to verify signatories in this Bill will be considerably more onerous than the equivalent requirement in the CR Bill.

(Quorum formed) I would suggest that those statements are contradictory - to say that there is an onerous requirement to verify signatures and that that is a problem, and then to say that the Electoral Commissioner may make due inquiries as to whether signatories are electors. We put it in the hands of the Electoral Commissioner to do what the person thinks is reasonable. You cannot have it both ways. It also says:

It is theoretically possible for referendums to be held every three months under this Bill.

That is an interesting point. It is true. It continues:

This may be considered too frequent.

By whom? What sort of a political statement is that? That is not an unbiased statement by a person commenting on electoral considerations. Then it says:

Depending on the complexity of the proposed changes, a limit of 200 words on such a description may impose an impossible obligation.

It is 100 under the Liberal Bill. But we give a discretion if the commissioner considers it appropriate to increase it. Supposedly, this is yet another problem that is dragged up as to why the Bill is not any good.

Let me mention the nub of the Electoral Commissioner's submission. About nine months ago, or more, I heard that the relevant person had concerns about the Bill. I said, "If you have concerns, tell me. I will look at them - just as I did with the Scrutiny of Bills Committee - and, if necessary, we will change them". Let me tell you what sort of an independent response we got. The response was "No, I will not tell you what my concerns are". That is nice. That is not a political statement - not much it is not!

The point is that the EIR Bill is said by the Chief Minister to be fatally flawed. I agree. It is, because it works; and it returns power to the people. When you get in amongst politicians, anything that truly returns power to the people is fatally flawed. There is not much doubt about that. If there had been problems with the EIR Bill - let us say that there had been problems - what is wrong with some amendments? Does it not depend on whether or not you support the people and their right to have a say about what happens to their lives and the lives of their families and what happens in their communities? Is not that the bottom line? What is the intention - to help support the people and encourage democracy, or to prevent it?

MS SZUTY (5.53): Madam Speaker, I would actually like to speak briefly to the report of the Select Committee on Community Initiated Referendums. I would like to refer back to my initial comments on 14 September, when I moved the motion to establish that committee and to specify its terms of reference. At that time I noted that the Assembly was once again considering landmark legislation, as it had in cases such as prostitution, euthanasia and the establishment of smoke-free areas in enclosed public places. I went on to say that it was appropriate in the case of community-initiated referendums, as it had been in the three cases that I referred to, for the proposal to be referred to a committee for further consideration. I also said that referral of issues such as these to Assembly committees is a worthwhile process from which much can be achieved.

Madam Speaker, having considered the committee's report, I must say that I believe that much has been achieved in this case; despite the dissenting comments made by the committee's Liberal Party member, Mr Humphries, on this occasion. The recommendations in the report seem to me to be sensible and in accord with the potential impact on the ACT of the legislation that was being considered. In particular,
the committee's first recommendation makes good sense; namely, that the Assembly

proceed no further with the Electors Initiative and Referendum Bill, the Bill proposed by Mr Stevenson. The second was that the Assembly defer consideration of the Community Referendum Bill until the implications on the good governance of the ACT had been fully examined. The third was that the Assembly accept, in principle, the establishment of a select committee with terms of reference as outlined in recommendation 3 to examine and report upon the concept of a citizens-initiated referendum process for the ACT.

The first part of the recommendation made by the committee is based on evidence given by the Electoral Commissioner and supported by all members of the committee, including Mr Humphries. I believe that, as a result, it should be accepted by all members of the Assembly. That was the recommendation on Mr Stevenson's Electors Initiative and Referendum Bill. In the context of this cognate debate, it is not my intention to address Mr Stevenson's Bill any further.

I would like to address the remainder of my remarks to the Community Referendum Bill. As the committee's report notes, there are a number of issues relating to this Bill which the committee believes warrant further consideration. These issues are thresholds, scope, signature collection and verification, timing, preferential voting and cost burden. I agree with the committee that all these issues require further consideration, and I support the proposal that a select committee of the next Assembly be established to consider them in more detail. I would like to suggest that, in light of the outcome on California's proposition 187, more consideration also be given to the likely impact of community-initiated referendums on minority groups. I believe that it is not acceptable in the ACT, or indeed in Australia, that what purports to be a democratic process has the capability of discriminating against people with disabilities, recent migrants, disadvantaged people and people of other minority groups.

Having said that, Madam Speaker, I must reiterate my in-principle support for the concept of community-initiated referendums. I welcome the third part of the first recommendation, which calls on a select committee to examine and report on the concept of a community-initiated referendum process in the ACT. This is entirely appropriate in the context of the committee's consideration of citizens-initiated referenda in other jurisdictions and its conclusion that any proposal for community-initiated referendums must itself be tailor-made for the ACT. The legal opinion provided to the committee by the ACT Deputy Law Officer reinforces that view. I also note the ACT Electoral Commissioner's comments regarding review provisions and agree with the committee that review provisions should also be subject to further scrutiny.

Madam Speaker, as I have already said, I welcome the report and support its recommendations. It would perhaps be remiss of me, however, to complete my remarks without considering your own input to the committee's considerations, Madam Speaker - input which was given in your capacity as Speaker. I note that the second recommendation of the report embodies your suggestions which are aimed at substantially increasing public access to the proceedings of the Assembly. The suggestion that standing order 100 be changed to compel a Minister to respond in the Assembly to a petition, I believe, has merit. I agree with you that petitions would then become very powerful tools to be used by the electorate. I was also pleased to consider this issue at

the Commonwealth Parliamentary Association regional conference that I attended in Sydney, where a very interesting paper was prepared by one of the Pacific Island states which attended that conference. They had some very interesting mechanisms for how petitions could be dealt with within that jurisdiction.

I also note, Madam Speaker, your suggestion that standing order 174 be modified so that suggested amendments could be the trigger for delay or broader consideration of legislation before debate takes place in the Assembly. I believe that your statement that the overall objective would be to further ensure that, for complex legislation, it becomes a matter of course that a high level of public discussion is sought at the critical stage of the legislative process has significant merit. Madam Speaker, in accepting the merit of your proposal I must, to be consistent, take the view that all amendments proposed to the Community Referendum Bill at this time should be the trigger for delay and broader consideration before consideration by the Assembly.

I note that, in his dissenting report, Mr Humphries also supported the second recommendation to some degree. As a result, I would anticipate that Mr Humphries would agree that the amendments proposed today require further consideration. It may be appropriate that this further consideration be given by the select committee which the report recommends consider the concept of a community-initiated referendum process for the ACT. Let me reiterate that I support the principle of community-initiated referendums; but, in light of the report of the select committee, I do believe that the issue requires further consideration by a select committee of the next Assembly. I look forward to considering the recommendations of that select committee in due course.

I believe that this Assembly has a responsibility to look at such significant issues fully and to consider fully their implications for the ACT. I referred to this legislation as landmark legislation. If it is adopted in the ACT, it will be the first State jurisdiction in Australia which has adopted it. I believe that the issue is worthy of substantive consideration, and it is an appropriate task for the next Assembly.

MR MOORE (6.01): Madam Speaker, I note that following the tabling of the report of the select committee in the Assembly an article appeared in the *Canberra Times* titled "MLAs Do Hatchet Job On Good Idea". It was an article written by Crispin Hull, somebody for whom I have a great deal of respect. In the article he used the phrase, "Moore and Ellis said they had come to praise CIR and promptly buried it". As far as I am concerned, nothing could be further from the truth. We have said that we must not proceed down a path where we do not know what we are doing.

We have heard again and again, from members of the Liberal Party and from Mr Stevenson, of all the advantages of CIR. They are very convincing arguments. I still believe that it is appropriate to support CIR in principle, but I also believe that it is imperative that we look to see what problems it has had and work out how we can deal with those problems. When problems were suggested, and when we heard responses from either Mr Stevenson or Mrs Carnell, we always heard of very simple and simplistic answers to what happened elsewhere.

Many people would be aware, because it was passed around to us as part of a meeting here, of a comment by Professor Perry Shapiro, a professor of economics at the University of California and adjunct professor at the Federalism Research Centre at the ANU, which was reported in *Constitutional Centenary*, October 1994. The article says:

Professor Shapiro argued that the California experience with CIR should give Australians some pause in their enthusiasm for adopting the process.

That is exactly what we have recommended. The article goes on to say:

A popularly initiated constitutional amendment has become a product like soap or automobiles.

He then talks about the failure rate and so forth. It is my intention today to draw attention to some of the problems associated with CIR. That is not to say that I think that it is impossible. Some of the problems that I am going to refer to are from the Californian experience. Whenever we extrapolate experience from one place to another, particularly from one nation to another, we have to realise that they are actions that are taken in a different social context. Nevertheless, it would be crazy for us to ignore the experience of other places that have CIR. When I was in the United States recently, I was in a group of people who were talking about an initiative that was going to be put up in California to do with waiving any fine or penalty for people who are using medicinal cannabis. A Californian psychiatrist, who was sitting in the group, began to berate the CIR system. I sat down with them and had a quite long discussion which resulted in his recommending to me an article that appeared in *Harper's Magazine*. It is a very well respected magazine.

I then came back here. Using our good library facilities - once again, it is a good opportunity to commend our library for its efficiency and help, as I am sure all members would agree - I have been able to put my hands on a copy of a 1994 report by Peter Schrag called "California's Elected Anarchy: A government destroyed by popular referendum". I will quote bits and pieces, Madam Speaker; but at the same time I want you to understand that what I am doing is putting the other side of the argument and saying that these are the sorts of problems that we still have to deal with, these are the problems that we have to know how to resolve. The article begins by talking about the image of California. It states:

By now the image of California in decline looms as large in the conventional media wisdom as the Golden State - triumphant cliches of a generation ago - "this El Dorado", as *Time* magazine had put it in 1969 ...

In the next paragraph it states:

Today, California classrooms are among the most crowded in the country; many schools operate without libraries, without counsellors, without nurses, without art or music, with greatly diminished curricular offerings.

The next paragraph states:

This list could be extended indefinitely.

Madam Speaker, when I read those first few paragraphs of this article, you can imagine that I was rather concerned. Later it talks about "schools, prisons, Medicaid, welfare ... a structural gap that no-one has yet confronted, much less closed". Some of the most significant statements in this article go along these lines:

And contrary to what most Californians believe, a lot of damage didn't just happen to us: we inflicted it on ourselves by popular vote in a series of chimerical "reforms" going back to the 1970s and maybe earlier.

It was not just one reform; it was a series of reforms. The article continues:

Those reforms - most, though not all, by the initiative route - have crippled state and local governments with so many limits and mandates and so tangled responsibility that it is increasingly difficult for representative government to function ...

This is very interesting, considering that the Liberals always have a stance to ensure that they remove red tape and remove any restrictions on the operation of business and on the operation of government. I still want to put it in context. This article is about California; and there are certain problems about California and Californian people in terms of the way that they operate. This article is still describing specific initiatives. These are the sorts of issues that we have to deal with. I believe that they have never been discussed in this Assembly. The article reads:

... it is increasingly difficult for representative government to function at all and nearly impossible for even well-informed people to know who's accountable for what. In effect, Californians, pursuing visions of governmental perfection, have made it increasingly difficult for elected officials to make any rational policy decisions. And therein lies a cautionary tale for all those other Americans pursuing constitutional spending limits, balanced-budget amendments, supermajority requirements, term limits, and the various other mechanisms designed to replace representative government in America with government by autopilot.

What he means by "government by autopilot" is quite clearly the sort of thing that Mr Stevenson has been describing. Do not forget that in California they do not have compulsory voting. That is one of the factors that would need to be taken into account in putting this article in its proper context. It is still worth our consideration. The article states:

The tax revolt, in addition to plunging California into insolvency, has transformed California's political landscape generally for the worse. Almost overnight, Jarvis-Gann taught countless political consultants, media operatives, and direct-mail outfits what could be done with what had once been regarded as the people's weapon against the interests ...

It is worth repeating that, because that is the strength of the argument that Mr Stevenson and Mrs Carnell put. The article reads:

... with what had once been regarded as the people's weapon against the interests: how to test-market issues to see whether they could be exploited, both for votes and (more important) for money, through direct-mail appeals and then sold to one or another interest group as future initiatives. Those skills have found takers both on the right and on the left: among environmentalists and tobacco prohibitionists on the one side, among taxpayer groups on the other, and most emphatically among major industrial and professional groups - the insurance companies, the tobacco companies, the trial lawyers, the doctors - looking to fund special programs, or looking for protection and exemptions from regulation or for advantage against other interests. In some instances, voters have been faced with duelling initiatives, some of them hundreds of pages long, whose combined effect, when more than one passed, no-one could have predicted.

I flip over a couple of pages. It says:

California, among the top ten states in per-pupil spending for schools in 1969, is now roughly fortieth -

almost last -

despite the requirement of Proposition 98 that 40 per cent of the state's budget must go to schools. California now spends just half for each child in the public schools, roughly $4,200 a year, what New York or New Jersey spends. Almost everything that Jonathan Kozol attributes to the "savage inequalities" of funding for inner-city schools in Illinois or New Jersey or New York is true about schools everywhere in California: the leaky roofs, the broken windows, the dry rot and peeling paint, the bathrooms that are locked because the plumbing has failed, the "temporary" portable classrooms that have been there for thirty years.

I am quite happy to make the article available to any member. The concluding paragraph states:

For the foreseeable future, then, California will remain locked into a system of supermajority government that makes a parody of the theory of constitutional checks and balances: government's not really supposed to work, and if it does, it should work only slowly and only

when there is almost unanimous agreement. Mandatory-sentencing laws, redundant regulatory systems, spending limits, spending mandates, term limits, balanced-budget amendments, supermajority budgeting, requirements that every new levy get the approval of voters - the purpose of all these measures is to replace city council members, legislators, and judges with a Newtonian machine immune to any significant control or judgment by elected representatives. This not only turns democracy into some fun-house contortion of the ideal but makes it nearly impossible to govern at all.

That final sentence would raise in all of us this question about Mr Stevenson's stance against self-government: Is his combination stance against self-government and citizens-initiated referendum actually motivated by this sort of result? The two seem to come together in the way that this article was written.

To put the matter back into perspective, Madam Speaker, I thought it appropriate today that I take this opportunity to say that there is a No case. Even though we present in our report a No case and a Yes case in a very even-handed way, I do not think that it carries the sort of weight that the approach taken by this writer, a Californian, in this magazine carries. That approach was reiterated by the psychiatrists I met in Washington who recommended that I read this article by an ordinary Californian who believed that citizens-initiated referendum, while it promised a great deal, turned out to be just the opposite.

Madam Speaker, I would like then to return to the local headline: "MLAs Do Hatchet Job on Good Idea". Our report is a very sensible report. It suggests taking into account the issues that are raised by articles such as this Californian one to see what we can extrapolate from the experience in California; and, having done that, to take a great deal of care to make sure that we exclude the issues that may have that impact on good governance of the ACT, and not to wind up with a monster that ties our hands and leaves us in a situation where social justice is a thing of the past. It appears that in California the whole notion of social justice is one that is rapidly disappearing.

Madam Speaker, that expresses my reservations and concerns, which we must take care of. There are differences. We have compulsory voting; they do not. Even in relation to compulsory voting, a warning bell sounds. We know that in certain parts of Australia - certainly in South Australia - the Liberal Party has a policy whereby they wish to do away with compulsory voting. What impact would that have when we extrapolate this information? What would be the impact of the combination of those matters on our government schools and on our sense of social justice for our welfare system? These are the issues that need to be dealt with appropriately. I believe that the best way to deal with them appropriately is to ensure that, early in the next Assembly, a committee is formed to take into account the issues that are raised by Peter Schrag and to balance those against the very good and very strong arguments in favour of citizens-initiated referenda that have been put again and again in this house by Mrs Carnell, Mr Stevenson and others. There are two sides to the coin. Today, I have taken the opportunity to try to present the flip side, probably for the first time.

Mr Stevenson: Madam Speaker, I seek leave to table an article on citizens-initiated referendums and the power of the people, specifically on California and their CIR.

Leave granted.

Mr Moore: Madam Speaker, it is appropriate that I seek leave to table the article that I was reading from - "California's Elected Anarchy" by Peter Schrag.

Leave granted.

Motion (by Mr Berry) put:

That the debate be adjourned.

The Assembly voted -

AYES, 10 NOES, 7

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

Question so resolved in the affirmative.

ELECTORS INITIATIVE AND REFERENDUM BILL 1994 [NO. 2]

Debate resumed from 15 June 1994, on motion by Mr Stevenson:

That this Bill be agreed to in principle.

Debate (on motion by Mr Lamont) adjourned, Mr Stevenson dissenting.

COMMUNITY INITIATED REFERENDUMS - SELECT COMMITTEE
Report

Debate resumed from 1 December 1994, on motion by Mr Moore:

That the report be noted.

Debate (on motion by Mr Lamont) adjourned, Mr Stevenson dissenting.

PRIVATE MEMBERS BUSINESS - PRECEDENCE
Suspension of Standing and Temporary Orders

Motion (by Mr Humphries) agreed to, with the concurrence of an absolute majority:

That so much of the standing and temporary orders be suspended as would prevent notice No. 8, private members business, relating to the Public Health (Cervical Cytology) Regulations - Subordinate Law No. 30 of 1994, being called on forthwith.

PUBLIC HEALTH (CERVICAL CYTOLOGY) REGULATIONS
Amendments

MRS CARNELL (Leader of the Opposition) (6.23): I ask for leave to amend proposed amendment 6, as it appears in my name on the notice paper, by substituting "Medical Officer of Health" for "attending health practitioner responsible for collecting the cervical smear".

Leave granted.

MRS CARNELL: I move:

That Subordinate Law No. 30 of 1994 made under the Public Health Act 1928, relating to the Public Health (Cervical Cytology) Regulations, be amended as follows:

Page 2, clause 3, definition of "abnormal", omit "growth", substitute "development and appearances".

Page 2, clause 3, definition of "cervical material", omit "material", substitute "tissue".

Page 2, clause 3, definition of "cervical smear", omit the definition, substitute the following definition:

"'cervical smear' means cells scraped from the cervix of a woman for the purpose of cytological examination to determine whether she has cancer or a precursor to cervical cancer.".

Page 3, clause 3, definition of "laboratory", subparagraph (b), omit "material", substitute "tissue".

Page 3, clause 3, definition of "test results", subparagraph (b), omit "material", substitute "tissue".

Page 3, clause 4, add new subclause (1):

"4. (1) The Medical Officer of Health shall inform the patient -

(a) of her right to choose not to participate in the program and contribute data to the register; and

(b) that failure to participate in the program will not affect her right to have the test performed.".

Pages 3 and 4, clause 4, subclauses (2), (3) and (4), omit "material", substitute "tissue".

Page 5, clause 7, paragraph (3)(c), after "taken", insert "or other recommended follow-up".

Page 6, clause 8, subclause (1), omit "reasonable excuse", substitute "good reason".

Page 6, clause 9, omit "reasonable excuse", substitute "good reason".

Page 7, clause 11, omit "material", substitute "tissue".

Page 7, clause 11, paragraph (h), after "results -", add "either".

Page 7, clause 11, add ", or the details of other management recommendations (that is, colposcopy plus biopsy).".

These regulations were tabled in the Assembly during the October sittings. As we always do, Madam Speaker, we sent these out to the various interested bodies, and a number of responses were sent back to us from the AMA in Queensland, the ACT AMA, the pathologists and the Federal AMA. The amendments that I have circulated are in accordance with recommendations from those bodies.

The first amendment suggests that the word "growth" should be replaced with "development and appearances". The reason for this is that the amended definition is more technically accurate because a smear test may be abnormal without there necessarily being abnormal cell growth in the cervix. It is a medical definition. "Growth" would tend to indicate that there is a real growth. There does not have to be for there to be an abnormal cervical smear. Madam Speaker, I will go through all of the amendments one by one to save time. The next amendment comes from the Federal AMA, which suggests that we should omit the word "material" and substitute "tissue". The amended definition

is preferred because it is more precise in that specifically tissue, not general material, is taken from the cervix of a woman for the purpose of histological examination to determine whether she has cancer or precancer. The test is a biopsy of that particular tissue.

The third amendment seeks to omit the current definition of "cervical smear" and substitute the following definition:

"cervical smear" means cells scraped from the cervix of a woman for the purpose of cytological examination to determine whether she has cancer or a precursor to cervical cancer.

The definition should be changed because a smear does not consist strictly of tissue but of exfoliated cells. The fourth amendment again substitutes "tissue" for "material", as does the fifth amendment. The sixth amendment concerns an issue that I feel quite strongly about. The current regulations give a woman, a patient, the right not to be part of the register, which we would all totally agree with. Unfortunately, at this stage the regulations do not empower or require anyone to tell her of that right not to be part of the register. My initial amendment proposed that the health practitioner who is responsible should achieve that end and tell the woman involved. I am now told that probably the more efficient way to go is to suggest that the Medical Officer of Health shall inform the patient of her right to choose not to participate in the program and contribute data to the register and that failure to participate in the program will not affect her right to have a test performed. The reason it would appear that the Medical Officer of Health is the more appropriate person is that that is where the information about the register comes from. In real terms, that person is the register. Hopefully, this information is going to be passed out to women; but I think it is really important, in any of these areas where we suggest that somebody has a right to do something or not to do something, that we ensure that, in regulations, a person knows about that right.

The seventh amendment again concerns the issue of "material" versus "tissue". The eighth amendment proposes that after the word "taken" we insert "or other recommended follow-up". The reason for this is that appropriate action, including other tests and treatment, may have been taken following the previous test, so the timing of the next test may depend on those factors as well as the previous test. I think that is patently obvious. The ninth amendment proposes that we omit "reasonable excuse" and substitute "good reason". The reason for that is that the word "excuse" has overtones of extenuation, justification for a questionable action, or apology. It is important for the Act not to imply that a woman can get away with anything but to be positive in requiring clear, demonstrable and beneficial reasons for disclosing particulars on the register - in other words, not a reasonable excuse but a good reason. The tenth amendment also substitutes "good reason" for "reasonable excuse". The eleventh amendment substitutes "tissue" for "material". The twelfth amendment proposes that after the word "results", we add "either" and that at the end of the clause we add ", or the details of other management recommendations (that is, colposcopy plus biopsy).". The reason for this is that, as well as knowing the time when a medical practitioner was advised to take another smear, there could be occasions when it would be more useful to know of other management recommendations.

I know that it might seem to many people in the house that these are all fairly technical sorts of terms, but regulations in this sort of area must be right. The words must be right. The right to information is a right that we all support. I am confident that we all believe that a woman must have the right to know that she can opt out of the register if that is appropriate for her. The other recommendations are from the Federal AMA, backed up by the pathologists and backed up by the Queensland AMA. The local AMA have chosen to remain silent on this issue, Madam Speaker.

MR CONNOLLY (Attorney-General and Minister for Health) (6.31): The Queensland AMA should definitely be the main body we consult in all these matters! Madam Speaker, these regulations have a very long history, going back about 20 months. Mr Berry would know very well, and I know from the six months or so I have been involved, that these regulations have been through consultation after consultation after consultation. We have spoken with local doctors. Understandably, there have been some very sensitive issues in this area. While it is a very important public health initiative to have the register, it goes to some fairly intimate material and there are obvious privacy issues.

Mrs Carnell wrote to me some little while ago suggesting this raft of amendments. I must say that some of them are quite immaterial. You say "eyether"; I say "eether". They are quibbling over words. When Opposition members want to move the "tomarto-tomayto", "eyether-eether" sort of amendment, often my practice is to say, "For the sake of an easy life, if you are just quibbling about words, I will agree to it". But in this case these regulations have been through 20 months of incredibly complicated consultation. We showed Mrs Carnell's amendments to the management committee looking after the implementation phase, which comprises some very eminent local doctors. I then wrote to Mrs Carnell on 29 November, saying:

Thank you for your letter detailing proposed amendments ... The draft regulations have undergone lengthy consultation with appropriate professional organisations who have been responsible for the final definitions ... I am therefore unable to support any of your proposed amendments.

Proposed new subclause 4(1) was a new requirement to advise women of the right to opt out. At that stage the requirement was for the doctor to inform the patient. In the last 24 hours or so, that has changed to the Medical Officer of Health. This is all very reminiscent of last week. I then went on:

Any attempts to substantially alter the intent of the regulations, after agreement had been reached following lengthy consultation with all groups represented on the advisory and management committees, could undermine support for the register from those groups and adversely affect the benefits to be gained by women from the register.

Alternative protocols and practices have been developed by the management and advisory committees in order to ensure that women are informed of the existence of the register. These include signage and pamphlets regarding the register to be provided to all practitioners and

an education and advertising campaign to inform women of the register's purpose. In addition, all women will be sent a letter on first receipt of any results at the register informing the woman of this fact and providing the opportunity for her to have all information removed. It is possible for any woman to have her particulars removed from the register at any time.

The draft regulations, the protocol for operation and the draft letter were sent to the Privacy Commission for comment, who confirmed that all reasonable steps had been taken to inform the woman that all aspects of the *Privacy Act 1988* had been met.

Thank you for your interest and I look forward to your continuing support.

There were further discussions. The advisory committee - comprising Dr Joanne English, Dr Sandra Hogg and Professor Jim Dickinson - were contacted again in late November. All three felt that the decision to remove the clause giving women the right to be told that they did not have to be on the register had been appropriate and that by adding it now the goodwill of the medical profession would be lost. There was a meeting of the Cervical Cytology Register Management Committee just after that. I do not have a date on this minute; but I gave it to Mrs Carnell last week, so the date must have been late November or early December.

Mrs Carnell: It did not have a date on it. I have it in front of me.

MR CONNOLLY: That is right. It did not have a date on it, but I gave that minute to you as soon as I got it and I gave it to you last week. The minute states:

PURPOSE

To further advise on the proposed amendments put forward by the Leader of the Opposition.

BACKGROUND

2. At a Cervical Cytology Register Management Committee meeting last night the proposed amendments to the regulations were discussed.

3. The unanimous agreement of the committee was that the regulations should not be amended, as agreement on the content had been reached after extensive consultation.

4. The medical representatives (Drs Graham Dawson and Penny Roberts-Thompson, Division of General Practice, Dr Jan Barrett, Pathologist, and Dr Anne Hosking, Obstetrician and Gynaecologist) on the committee wished their vehement opposition to the proposed clause relating to the responsibility of the health practitioner be recorded and passed on.

That one has changed a bit now, but it still goes to the right to be told that you do not have to be in it. The view of the committee is that you do not need to do that when you do it through the letter.

Mrs Carnell: That is not what they said, Terry. They said that they think a woman should be told but they did not want to do it.

MR CONNOLLY: We went through a process of consultation - for 20 months in this case - on a very sensitive issue. We built up a consensus. All the professionals were saying, "This is the way we want it". Both Mr Berry and I would like to have had this register up and running a year ago. I would like to have had it up and running within months, but it took six months. Both Mr Berry, when he had the carriage of the matter, and I took the view that this thing will work only with the goodwill of the medical profession. This whole concept would collapse if the doctors were uncomfortable with it or unhappy with it. So, we essentially said to the doctors, "We will provide the mechanism for it, but it is your scheme. We rely on your goodwill. You tell us what you want in the regulations. You tell us how you want to go with this privacy regime". So, the management committee came up with these protocols and the letters which we sent to the Privacy Commissioner, who said that it was all okay. Then Mrs Carnell consults with the Federal AMA and the Queensland AMA and says, "But we have not spoken to the local doctors", and comes up with this raft of amendments.

I am not saying that there is anything inherently wrong with what Mrs Carnell is suggesting. On a clean slate, starting from scratch, it is highly likely, particularly on the "eyether-eether" stuff where it is just definition, that I would say, "Mrs Carnell, I am quite happy with that". The reality is that this has been through a long process of consultation. After exhaustive debate we have reached a form of words. We showed Mrs Carnell's amendments in their various forms to the various doctors involved in the process and they said, "Just leave it alone".

Mrs Carnell: You have spoken to one group. The AMA do not agree with you. The pathologists do not agree with you.

MR CONNOLLY: We have spoken to the representative group, which is the management committee that runs the cervical cytology scheme, that represents the doctors, the GPs and the pathologists and that the profession themselves threw up as the group to run this to make it work; and they have said, "Leave it alone". Members of the Liberal Party, I told you last week to leave it alone, but you would not. Again, we are told by the professions involved, "Liberal Party, leave it alone".

The Government will not be supporting any of these amendments, but not because we say that there is anything inherently wrong with them. I am sure that Mrs Carnell is well motivated in what she is saying. When the Queensland Government is dealing with this, they will listen to what the Queensland branch of the AMA says and they will reflect that; but in the ACT over 20 months we have come up with a form of words. It has been an exhaustive process. We have shown Mrs Carnell's amendments, as they have come along - although there has been a last minute change to one of them - to the professional groups and the view on both occasions has been, "Do not tamper with it".

MS SZUTY (6.38): It has been a rather curious debate. I take Mr Connolly's point that there has been some 20 months of negotiation on these particular regulations, but it is the responsibility of this Assembly to ultimately make decisions about these matters when they come before us. Mr Connolly indicated that there were some areas of Mrs Carnell's amendments that he agreed with. He was not specific about what they were. It would certainly help me in my understanding of the issues if he would care to clarify those areas of agreement for the benefit of this Assembly and speak specifically to those that he disagrees with.

MR CONNOLLY (Attorney-General and Minister for Health): I seek leave to answer Ms Szuty.

Leave granted.

MR CONNOLLY: Ms Szuty, I am not really inclined to go into details of those things, because I do not think they matter very much. They are alternative forms of wording to achieve much the same thing. My point is that we have been through this ad infinitum with the professional groups. If Mr Berry or I had taken the view that this was the way we would like it worded and this was the way it was going to be, we would have had this thing in place a year ago; but both Mr Berry and I took the view that to make this work it has to be done with the agreement of the local doctors, so we basically gave them the running on the wording they wanted. Mrs Carnell now comes along and says, "No. It has to be worded this way because the Queensland AMA says so". It is not the merits of what she is saying; it is the process. Ms Szuty is right in saying that at the end of the day it is for the Assembly to decide. It is for the Minister to make the regulations, and the Assembly has the right to review them. In a situation like this where there has been such extensive consultation, the Government's view is to let the professionals in charge of it have the say.

MR MOORE (6.40): Madam Speaker, it is very interesting how, when things are not going the way Mr Connolly thinks they should go, we always get, "Let the professionals decide". The reality is - - -

Mr Connolly: Mr Moore, I will be delighted to tell the local doctors that you have ignored their wishes and done cannabis again. I am looking forward to it. I have the press release almost ready to go.

MR MOORE: And your nose will continue growing.

MADAM SPEAKER: Mr Moore, let us have a bit of order.

MR MOORE: I withdraw, Madam Speaker. Mr Connolly, your nose will get itchier. The thing that amazes me, Madam Speaker, is that in certain circumstances Mr Connolly comes here and he says, "We should not be making the decision. This is done by regulation". The process that Mrs Carnell used is entirely appropriate. She has certainly provided us with information on her consultation, as you have provided information on what consultation you have undertaken - and very good consultation it has been, too.

But the truth of the matter still is that when we go through a consultation process it helps to develop our understanding, but the final decision rests here. Each one of us considers the weight of evidence that is presented by Mr Connolly in such situations, and in this case we consider the weight of evidence that is presented by the national AMA - not by the Queensland AMA, which Mr Connolly likes to put down, although they have basically the same attitude as he seems to have to cannabis.

Only a few days ago, Madam Speaker, Mr Connolly was saying, "The national AMA and Brendan Nelson are saying this and saying that. We must believe it. We must take it on board. It is the only thing to do because the national AMA are suggesting it". Mr Connolly went on and on as his nose got itchier and itchier. Madam Speaker, what we have in front of us - - -

Mr Connolly: Just vote for the Liberals, Michael.

MR MOORE: Madam Speaker, Mr Connolly says, "Just vote with the Liberals". He seems to think that is the answer. Of course, Madam Speaker, we have heard the Liberals say, "Mr Moore is just a Labor running dog". Whenever I vote with one side, the other side always says, "Just go ahead. Vote with them" and so on. Madam Speaker, I believe that if we looked back at the votes we would find it fairly evenly divided - probably about 60 per cent with Labor and about 40 per cent with Liberal. That would be my perception, although I have not counted. I think that would be about the right sort of order. Madam Speaker, issue by issue I will vote on things as I see them.

Madam Speaker, at this stage Mr Connolly has not presented a single convincing argument against the detail of what Mrs Carnell has put as an appropriate way to amend the regulations. I must say, Madam Speaker, that it is a delight to see that the ability to amend subordinate legislation is actually being used by this Assembly. I think that will mark a new beginning. As Ministers write regulations, they will recognise that those regulations are not only disallowable but also amendable. Indeed, the responsibility for all laws should be part of our responsibilities. That is a responsibility that I take very seriously.

MRS CARNELL (Leader of the Opposition) (6.43), in reply: I think it is important to clarify a couple of issues. After the Minister gave me the information from the management committee last week, or whenever it was, we got in touch with them - which is exactly what you would expect us to do - to ask them what their reasons were for their "vehement opposition" to the proposed clause relating to the responsibility of a health practitioner to tell the woman, the patient, that she could opt out of the register. We found this a fairly unusual sort of an approach for them. Their concern, as I am sure they passed it on to you, was not that they thought the woman should not be told. They think - - -

Mr Connolly: What they passed on to me was what I passed on to you.

MRS CARNELL: We rang them and spoke to them about it. They actually believe that the woman should be told that she has a right not to be on the register. The point is that they do not want to do it. They actually say that they do not believe that it should be the responsibility of the medical practitioner to do it. So, we then decided to work to find out whether there was a way, as you said, to ensure that the woman, the patient involved, was told and at the same time to keep the doctors and the other health professionals onside so as to support this approach. That would seem to be an appropriate approach. We then spoke to - - -

Mr Lamont: Who talked to these people?

MRS CARNELL: My office and I spoke to them.

Mr Lamont: This is the same as your advice about the loopy laws last week.

MRS CARNELL: Do not be silly. We then spoke to various people, including people in the department, on how we could achieve the end of informing the woman without causing the problem that the doctors seem to have. I do not understand that issue. I believe that medical practitioners have an obligation to tell a patient whatever relevant information there is; but, as Mr Connolly says, it is important wherever possible to keep everyone onside on this important issue. Thus came the amendment that suggested that the Medical Officer of Health shall inform the patient, because I am told by the department that that is something that they totally support. They believe that a woman - - -

Mr Connolly: No. They said that it could be done, but the department's view is, "Do not tamper".

MRS CARNELL: I am sorry; that is not true. They believe that a woman should be told. Do you believe that a woman should not be told of her rights, Mr Connolly? That is simply ridiculous. Obviously, the woman involved must be told of her right not to be part of the register.

Mr Connolly: We are doing it by letter, which has been cleared by the Privacy Commission. To say that the Department of Health supports your amendment is quite wrong. Please withdraw it; otherwise I will have to accuse you of misleading.

MRS CARNELL: You have just said, Mr Connolly, that they were being informed by letter. Who is doing it if it is not the Department of Health?

Mr Connolly: You said that the department supports your amendment, and they patently do not.

MRS CARNELL: I am sorry. As I understand it, the department totally supports women being told of their rights, which is exactly what I have just said. The fact is that what these amendments are - - -

Mr Connolly: That was three positions in the course of one minute.

MRS CARNELL: That is exactly the same position. I think it is really important to read the letter from the Federal AMA. I could read all of the letters, but this letter said:

Thank you very much for asking us ... We have consulted widely and my remarks are an attempt to synthesise these results. Though we have no major disagreement -

as I am sure no-one has -

with the general thrust of the regulations we do, however, have some suggested amendments and comments.

They go on to say:

Number 1, we strongly support the proposed opt-out arrangements but we query how a patient is aware that she has that option available to her.

We agree with that. We looked for a way to do it and I believe that we have found it. The other issues that I have already spoken about are all raised in the letters from the various people involved. Mr Connolly said that he did not really care; that he did not think they made any difference. He might not think they make any difference. If the AMA think they make a difference, surely they are a good idea. This letter is not from the Queensland AMA, as Mr Connolly suggested, but from the Federal AMA. It is signed by Keith Barnes, who is not exactly somebody who is not a local doctor. The other body that we spoke to is the Royal College of Pathologists, a group that I suggest is very much involved in this matter. Again, this should not be an issue that we have these sorts of arguments about. I believe that this is the appropriate approach.

Question put:

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

The Assembly voted -

AYES, 9 NOES, 8

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

Question so resolved in the affirmative.

ADJOURNMENT

Motion (by Mr Berry) proposed:

That the Assembly do now adjourn.

Assembly Member

MR STEVENSON (6.52): I wish to announce that I will not be standing for the election in February next year. That is some bad news and some good news. The bad news is that I will not be in the Assembly encouraging democratic principles. The good news is that I will be elsewhere. It was interesting that Mr Berry brought on his motion this morning to talk about second jobs and that during the chat he was saying, "Where have you been?". He later accused me of not answering the question, so I thought I would answer him now. I must admit that it has been a privilege over the last two or three months to be able to speak in Melbourne, Perth, Byron Bay and Canberra. I think all of us in our life have things that we particularly love to do. I must admit that this is what I love to do more than anything else.

For nearly three years I have thought about leaving the Assembly, but I considered that that was probably not a fair thing to do as I had been elected for a three-year term. But, now that I do not need to stand for another three years, I think it is time to move on. I certainly will not ever forget my major concern that the Constitution means something and that this form of government that we have in the ACT is perhaps not the best form, for all those reasons that I have so often mentioned. If there is a High Court challenge any time, I will be more than happy to contribute to that, although the cost is quite out of my range at the moment. The other matter is, of course, citizens-initiated referenda. I will be continuing to support it quite strongly. Naturally enough, I never speak anywhere without mentioning it.

It has been a great honour to serve Canberrans as an elected representative during the last nearly six years. It is an honour that, obviously, is given to only a very small percentage of the population. I have done my best to serve as I saw fit; to stand for the Constitution; to represent the people; and to attempt to discover the majority expressed will of the people, as best I could. While I will no longer be serving in the Assembly - - -

Mr Berry: Have you been running this business out of your office? That is what I want to know.

Mr Moore: What will you do? Tell us what you will do.

MR STEVENSON: I will certainly be serving in the wider community.

Mr Berry: Answer the question. Have you been running this business out of your office?

MADAM SPEAKER: It is not question time. Ignore him, Mr Stevenson.

MR STEVENSON: I am always happy for someone to ask a question by way of interjection. There have been many times throughout the last three years that I have not gone to places to speak because of Assembly commitments. I have always maintained that, if I were ever asked to speak during a weekend in Canberra, I would be here to do so. However, when I was not required to do so, and someone asked me to speak somewhere else or to run a course, I have done so. As I said, it is a delight; it is something that I love to do - to share a few ideas with people; to have a bit of fun; to share some lightness and humour, if you like. Sometimes when things are pretty black, you need to talk. I spoke to a group of farmers in Perth not so long ago, and we had a good time. By the end of the day, they felt a lot lighter after we had shared some things. I get quite a lot of opportunities to chat; and that is what I look forward to doing for a long time in the future.

Mr David Smyth

MS ELLIS (6.57): Madam Speaker, I also want to talk about the question of serving, but on a quite different level. Some members of this Assembly will know quite well a young man called David Smyth, who has served the Tuggeranong community extremely well for over four years through his work at the *Valley View*. I have not always agreed with things that he may have said or with things that the paper reported, but it is important to take this opportunity to compliment Mr Smyth for the way in which he immersed himself totally in that community. I saw him at more functions in Tuggeranong than I saw some of my political colleagues from the other side. He certainly got to know the community very well. He represented them extremely well. Last week he finished with the *Valley View* and moved on to a new career. I want to compliment him for the work that he did and for the manner in which he went about it. As I said, I did not always necessarily agree with everything that he wrote in the paper, but I must congratulate him on the way that he applied himself to that community and on the way that he attempted always to represent the wide variety of views, concerns and attitudes that have developed within the Tuggeranong community. I will miss him personally because it was always a joy to see David at different functions. I wish him every success in what he is seeking to achieve in his new career.

Death of Father Tom Wright

MR CORNWELL (6.59): Madam Speaker, I too would like to speak about people who serve. I want to pay tribute to Father Tom Wright, who died earlier this week. I first met Father Tom in the 1970s when he was running Catholic social services here. I enjoyed a long, friendly association with him. In fact, I spoke to him about two or three months ago on a matter that concerned him deeply, and that was, of course, the question of abortion. In fact, Father Tom rang me on that occasion and asked when, in the old advisory assembly, report No. 26, which will be known to Mr Kaine, was introduced. He wanted to know the year. We had a chat about it. Certainly, Father Tom's view had not changed on that matter or on any other matter, as far as I am aware. I regarded him as a friend. I believe that the ACT and this Assembly have lost a friend, as has the Catholic Church lost a very good worker. I pay tribute to him and extend my sympathies and, I am sure, those of other members to his surviving sister.

Question resolved in the affirmative.

Assembly adjourned at 7.00 pm