DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

3 May 1995

Wednesday, 3 May 1995

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MR SPEAKER (Mr Cornwell) took the chair at 10.30 am and read the prayer.

LEGISLATIVE ASSEMBLY (BROADCASTING OF PROCEEDINGS) BILL 1995

MR MOORE (10.31): Mr Speaker, I present the Legislative Assembly (Broadcasting of Proceedings) Bill 1995.

Title read by Clerk.

MR MOORE: Mr Speaker, I move:

> That this Bill be agreed to in principle.

Mr Speaker, I believe that it is rather appropriate that at the beginning of this Third Assembly the very first Bill introduced into the Assembly is one that would open up the Assembly procedures to further public scrutiny. There has been a great deal of debate over the last few months, as there was over the election period. People have talked constantly about more consultative and more open government. It seems to me that, if we are going to have more consultative and more open government, then it is appropriate that people should know precisely what is going on in the Assembly and should have access to that information.

The long title of the Bill, Mr Speaker, is "A Bill for an Act to facilitate the broadcasting of proceedings of the Legislative Assembly, and for other purposes". We do not have the power the Federal Parliament has to demand that the Australian Broadcasting Corporation broadcast the proceedings. That is because we do not have control of any bodies such as the ABC; nor at this stage do I have any desire that we should have, although sometimes the temptation must be great to all of us. Nevertheless, Mr Speaker, I think it is appropriate that we facilitate the broadcasting of proceedings. All of us are aware of the times when something happens in the chamber and then we walk outside and go through the process of a press conference or a series of interviews for radio and television - not so much for the print media but certainly for the electronic media - in which, effectively, we repeat what happened in the house. It would be much more realistic and a much more accurate form of reporting if the voices of members speaking or visuals and the voices of members speaking could be used.

Mr Speaker, what I plan to do today is to talk about the main objectives of the Bill - improved news reporting, accountability and the public interest, and improved standards for MLAs. If members had in front of them the matter of public importance debate from 8 November last year, they would realise that that is effectively a repeat of what was said in that debate, in which I raised the issue of broadcasting the ACT Assembly proceedings as a matter of public importance. The issue was raised and clearly on the agenda then, and we had even begun to seek to have a piece of legislation drafted along these lines.

I should say at this point, Mr Speaker, that I was aware that the former Speaker, Ms McRae, also had done quite a deal of work on the notion of broadcasting Assembly proceedings. When I actually gave my drafting instructions and when I consulted with the Assembly staff, people had already thought a great deal about the issue. I think it is appropriate to pay credit to the work that the previous Speaker and her staff did on this issue. That is one of the reasons why this Bill was able to be drafted relatively quickly.

Mr Speaker, I would also like to draw attention to the fact that when that matter of public importance debate was conducted in the Assembly in November last year Ms Follett began her speech by saying:

> I congratulate Mr Moore on having raised this issue. I think it is high time indeed that the Assembly did address the matter of the broadcasting of our proceedings. In principle, the Government -

that is the previous Government -

> supports the broadcasting of Assembly proceedings, as I am sure all members would, and we will all have our reasons for doing so.

Similarly, a little later, the spokesman for the Liberals, Mr Humphries, said:

> Madam Speaker, on behalf of my party I also indicate that we see advantages in there being a process for the broadcasting or telecasting of proceedings of this Assembly.

He went on to fill in the reasons for that. Mr Speaker, I think there is widespread support for the objectives of such a Bill. I have already mentioned improved news reporting. I believe that there will be a chance for improved news reporting. If the actual words that somebody used in a speech were reported verbatim with the voice of the person saying them, an inaccuracy or a slight change in nuance would be much less likely than when we walk outside and talk to the media. I know that it would hardly ever be the case that any member here would be responsible for changing the nuance of something or presenting things in a slightly better way or having somebody else present their response in a different way. Clearly, direct reporting from the Assembly will avoid that sort of problem. More important, though, Mr Speaker, is the whole notion of accountability and the public interest. It is the same argument as applies to whether people should have access to the Assembly or not, and what sort of access they should have.

There is, of course, a question of expense. If television footage were gathered here by the method used in the Federal Parliament, then there would be an expense for the Assembly. However, until such time as we have to go to that expense, there is no reason why the Administration and Procedures Committee - which you chair, Mr Speaker - could not authorise the televising of Assembly proceedings within the controlled situation provided for by the Bill. The Bill is structured in such a way that broadcasts of proceedings would be authorised under set conditions with a penalty of 50 penalty units, or at this point $5,000, for unauthorised broadcasts. It is not a case of saying that it will be a free-for-all. It has to be carried out responsibly. The Bill also takes into account the issue of defamation, which has always been a major concern in the reporting of statements that are made under parliamentary privilege. I believe that the Bill adequately deals with that situation.

Mr Speaker, the final point that I would like to make, in encouraging members to look positively on this piece of legislation, is that I believe that it will give improved standards for members of the Legislative Assembly. We have seen the Chief Minister introduce a code of conduct for Ministers, and the Leader of the Opposition has indicated that she will be introducing for debate a further code of conduct for other members of the Assembly. It seems to me that one way to hold members to standards is through improved scrutiny. This piece of legislation would allow for the best possible form of scrutiny. There is a very big difference between speaking in this Assembly when - I make a quick estimate - there are up to 20 people here and speaking when you know that what you are saying may well be reported right across Canberra. Such broadcasting would indeed mean that we had improved standards. The legislation is about openness, it is about accountability, and I believe that it will improve the way this Assembly operates. I commend the Bill to members.

Debate (on motion by **Mr Humphries**) adjourned.

MOTOR TRAFFIC (AMENDMENT) BILL 1995

MR MOORE (10.43): I present the Motor Traffic (Amendment) Bill 1995.

Title read by Clerk.

MR MOORE: I move:

> That this Bill be agreed to in principle.

Mr Speaker, in presenting this Bill to the Assembly, I seek to implement in the ACT a system of convenience and efficiency that has already been implemented in New South Wales. Remembering that we are surrounded by New South Wales, it would seem appropriate that, where possible, our traffic regulations and rules and legislation be in line with those of New South Wales. Certainly in Sydney it is quite common to find on a traffic light a sign that says that you may turn left on a red light.

Mr Speaker, this very simple piece of legislation simply facilitates that ability, so that a driver coming to a red light, provided the road is clear and it is safe to do so - it is covered under section 112D of the Act - may proceed to carry out a left turn. We have all felt the frustration of being held up at a red light when the road is clear and there is no reason why we ought not to proceed. We know that this system works efficiently in other places. When I lived in Canada in 1979, this was in operation there. It always seemed to me to be a particularly efficient way of moving traffic along and avoiding traffic being caught up. There is always an environmental issue when vehicles are stopped and idling when they need not be held up. There is also the issue of efficiency and the amount of time that people spend in their cars. These are the two prime issues that this very simple piece of legislation deals with. I recommend it to the Assembly.

Debate (on motion by **Mr De Domenico**) adjourned.

BILL OF RIGHTS BILL 1995

MR CONNOLLY (10.46): Mr Speaker, I present the Bill of Rights Bill 1995.

Title read by Clerk.

MR CONNOLLY: Mr Speaker, I move:

> That this Bill be agreed to in principle.

Mr Speaker, it is with some regret that the Bill of Rights is being moved as a private members Bill from opposition. Apart from the obvious reason that one would prefer to have been moving it from government, I would have preferred to have seen this continue as a government initiative. Indeed, when we were in government we had some cause to believe that commitment to developing the concept of a Bill of Rights in the ACT enjoyed a measure of bipartisan support. It was with some disappointment that I read media statements from the Attorney-General some weeks ago to the effect that the idea of a Bill of Rights was one that did not find favour with the Government. It was with great regret that I saw yesterday, when the legislative program was published, that the Bill of Rights Bill was not on that program.

Members will see that this Bill is pretty much the Bill that was introduced as an exposure draft by me as Attorney-General in December of last year. To that extent, I pay tribute, as I did then, to the work of officers of the Attorney-General's Department and the Parliamentary Counsel's Office in producing a model of a Bill of Rights which has been subject to a lot of interest in Australia. The initiative was taken by the former ACT Government. The then Chief Minister announced at the 1992 election that Labor in government would look at a Bill of Rights - a continuing piece of Australian political history, something that Lionel Murphy tried to introduce unsuccessfully, something that at one stage Gareth Evans tried to introduce, again eventually unsuccessfully. We pledged to develop, and indeed we did develop, a Bill of Rights. We now find ourselves in opposition and the Liberal Party in government, but I would hope that that work was not in vain.

The subject of a Bill of Rights in Australia had somewhat gone off the boil when we started this debate rolling with a major issues paper released in December 1993, followed by a major seminar in early 1994, published late in 1994, and by the issue of the final draft version of the Bill in late 1994. Since that time, interest in an Australian Bill of Rights has again come to the forefront. At the meeting that was held in May of 1994 we had a most impressive array of speakers discussing the issues surrounding a Bill of Rights for Australia. The proceedings of that seminar were published by the ACT Government during the period that we were in government. I ask members to look particularly at Justice Kirby's very learned comments. He gave four reasons why a Bill of Rights ought to be adopted in Australia despite the fact that we are well regarded internationally, and properly so, as a country where respect for the rule of law and respect for the rights of the individual are at a very high level.

His first reason was that it would acknowledge in Australian domestic law the sorts of international human rights norms which Australians over the years have done so much to advance and which are being seen as so important in guiding less well developed democratic polities to respect for human rights. It seems a little odd that Australia has been at the forefront of developing human rights internationally; yet in its own domestic jurisdictions it lacks recognition of fundamental norms.

The second point that Justice Kirby made was that legislatures can from time to time ignore these fundamental norms in the rush of daily business. He made what I think is a fair point when he said - he was addressing me as Attorney and Mr Humphries as shadow Attorney-General, I am sure, when he said this:

> Forgive me for saying it again. But I was for ten years chairman of the Law Reform Commission. It is the product of my experience that often the legislators and the bureaucrats will pay attention to what law reformers propose if the time is right. Or if they are ready. But there are many suggestions for reform of the law which are not attended to with proper speed. There are many issues which simply cannot capture political attention.

Setting out in legislative form some basic norms of fairness allows the individual to litigate those issues and to get the light of judicial attention thrown on a human rights problem which legislators may otherwise be slow to address.

The third reason stated by Justice Kirby is education. He says that there is a problem in Australia in that young people tend to lack an awareness of political processes and rights of citizenship, which is somewhat at odds with the position in other developed democracies. Most dramatic perhaps, although he did not go into this, would be the position in the United States, where schoolchildren are taught in civics classes what their constitutional rights are and what their rights and obligations as citizens are.

The difficulty is that the Australian Constitution and our constitutional arrangements are fairly dry documents. Justice Kirby made the point that Lionel Murphy told him that he always took a copy of the Constitution to bed with him because he was so interested in Australian constitutional law and procedures. Justice Kirby seemed to think that was

a somewhat odd thing to do. But certainly when you read Australian constitutional arrangements, the Federal Constitution, the State Constitutions or, for our purposes, the Australian Capital Territory (Self-Government) Act, there are no ringing declarations that can fill one with the same pride in citizenship that citizens of the United States, perhaps from a very early age, feel when they look at their Bill of Rights and say, "This is a constitutional arrangement which guarantees my freedom, which guarantees my equality, which guarantees my rights to go about my business free from arbitrary interference by the state". We would take those rights of citizenship, if we thought about them, to be as fundamental as an American citizen would; but there is no ringing endorsement of those rights.

The fourth reason stated by Justice Kirby for enactment of a Bill of Rights is that it is a recognition that democracy is about a lot more, and it is a much more subtle process, than simple majoritarianism, despite the fact that we say that we live in a democratic process and are justly proud of that. We have seen moves in the direction of democracy in recent years with developments in South Africa, with the fall of the Berlin Wall, with developments in Eastern Europe. But democracy means more than simple majoritarianism. It is about reflecting the will of the majority but also respecting the rights of the minority and ensuring that the majority do not arbitrarily interfere with the rights of citizens.

Justice Kirby said that his reasons are sound reasons for moving Australia towards a Bill of Rights. Many would say, "They are perhaps all good reasons for an Australian Bill of Rights, but surely this is a process that should occur at the national level. It is not really appropriate for State or Territory legislation. It is a matter that, if we think it is sound, should be left to the Federal Government to address". At that seminar in May of last year, that issue was well addressed by Jack Waterford of the *Canberra Times.* He said in his remarks:

> There was some discussion earlier this morning about the issue of whether or not the ACT ought to be a sort of a standard bearer in this field, particularly as a state, and I have always thought that that was peculiarly odd because it is at the state government level, in particular, that there is likely to be the most interference with human rights. State governments control areas of health, education, welfare, the basic criminal law and in most of the areas of problems with human rights are to be found with the state government level, as was possibly demonstrated in recent times in relation to the Tasmanian legislation.

That seminar was held shortly after two Tasmanians had gone to the international human rights processes in relation to homosexual law reform procedures in Tasmania. The point very well made by Jack Waterford there is that, if you accept that there are sound reasons in principle for a Bill of Rights, really it should be at the State or Territory level that it is first introduced because it is at the State or Territory level that the sorts of problems that can affect individual citizens - basic welfare issues, basic rights to education, basic criminal law issues - will most commonly arise.

If Justice Kirby's arguments in favour of a Bill of Rights as a concept in the Australian democratic system are correct - and we would say that they are - then different people here would have different views as to who is more authoritative, Jack Waterford or Justice Kirby; but, if you accept what Justice Kirby has to say, then Jack Waterford's argument that it is at the State or Territory level that these issues cause most problems is very sound.

When we introduced the exposure draft of the Bill last year, I said that as the Government we would be seeking a lot of input from the community and would reflect that input. My Bill as introduced today is essentially the Bill as tabled, with such input as I received as Attorney-General up to the point at which government changed. I would acknowledge that I have seen only a part of what I expect to be an ongoing process of input. The most significant change made to the Bill following the exposure draft was made in response to submissions made to me - no doubt now in the government files - by Dr Peter Bailey from the ANU and Dr Marian Sawer from the University of Canberra, who made the point that a declaration of a right to freedom from discrimination was too bold; that it should be qualified with an appropriate measures procedure that ensures that affirmative action programs, or things like the Women's Health Service or an Aboriginal legal service, are not held to be discriminatory. Of course, that issue was litigated in the Human Rights Commission here in relation to the Women's Health Service, and it was found necessary to have that sort of qualification. So, that has gone in. There have also been some changes to the ordering of the rights to try to make them more broadly reflect the nomenclature that is used in the international instruments.

I would expect, Mr Speaker, that if this initiative is to proceed there would be further changes to the legislation. Obviously, the Attorney is in the box seat now to advise the Assembly of the outcome of that consultation process. I am sure that other issues that I was not aware of have come out and may well be the subject of very sound amendments to the legislation. There were some suggestions from the Council of Social Service, which I was aware of, and which I received before the change of government, that the enforcement mechanism in the legislation should be removed from the Supreme Court and put down to the Human Rights Commission.

This would be the first Australian Bill of Rights. It is in the Canadian-New Zealand form; that is, it is not an entrenched Bill of Rights. It is a process which enshrines processes. It says that legislation should be construed so far as possible to be consistent with the Bill of Rights, requires the Attorney-General to report to the Assembly on any breaches of the rights set out in the legislation and gives the citizen the right to seek a declaration. Given the importance of that and the importance of it as a trial and experiment, I think it is more appropriate that those declarations be sought at the higher judicial level; hence at the moment we would be inclined to keep it at the Supreme Court level. That was certainly the process adopted in the earlier stages in other jurisdictions.

I am sure that there will be more very sensible suggestions for change. I would hope that the Attorney-General would share with the Assembly suggestions arising from the process of community consultation. Even if the Liberal Party were of the view, when this eventually came to a debate, that they did not want to proceed with it, I would hope that we would get the benefit of the considered views of the Canberra community that will have flowed through.

The very constructive work done by a number of individuals in the Attorney-General's Department - I am pleased to see Ms Riordan here today; we did a lot of work from the early stages - has been recognised around Australia. The ACT model has been looked at with great interest. Mr Moore would be aware that, as I understand it, one of the issues in the charter of reform that the Independents in the New South Wales Parliament have drawn up for this parliamentary term is, in fact, a State-based Bill of Rights in New South Wales. I believe that the work done to date here is being looked at there. It is an issue that is being looked at broadly.

I would also acknowledge that there are areas where we could well go beyond the draft Bill as tabled. I hope that this debate can be spread over some time and that possibly the Bill can go to a committee rather than being dealt with swiftly. One issue that has been raised by some individuals, although we have not had any detailed mapping out of this - I notice that some work has been done in some of the German States, although I do not read German well and I do not have the drafts of this - is that we put in the Bill of Rights form some basic declaration as to environmental rights so that the Bill of Rights not only deals with the traditional civil liberties issue, the traditional rights of political equality and the so-called second generation rights that might be described more as economic or social rights - we have addressed some of those, such as the right to education - but goes further to what some academics have been referring to as third generation rights, such as the right to a clean environment and the right to a non-polluting process.

It is an interesting debate that the general political consensus has moved on from the basic right to free speech and the right to freedom from discrimination to some basic environmental rights. I very much welcome working with the Greens here and perhaps hearing some views from their national organisation. I know that a lot of thought has been given to this in various forums. We could perhaps expand the Bill from its current form to look at a chapter dealing with environmental rights. The basic enforcement mechanisms for environmental issues will remain bodies like the Commissioner for the Environment. It will remain for legislators to be vigilant in relation to individual pieces of legislation. But the process of entrenching some basic statements about the importance of a right to a clean environment can be significant and can elevate to the higher level of an entrenched fundamental principle that concept which perhaps has emerged from obscurity to be the political norm. I would welcome looking at that. Again, a committee may be the best process for resolving that.

Mr Speaker, the Bill of Rights Bill is a significant step in constitutional development in Australia. The ACT Labor Government took this idea further than any other government had ever taken it, with a Bill very close to being ready to go forward and with a very clear commitment to proceed with that Bill. I would hope that this Assembly would look at this Bill not just as a party political issue but as one that could transcend party politics. I would certainly hope that the Independents and the Greens would look at this very carefully, bearing in mind that it is an issue being looked at in other parliaments. I would hope that the Liberal Party, while they might be a bit cool on the idea of pressing forward, would look at constructively refining the legislation and would be in a position such that, if it did go ahead, it could reflect the best advice available to members of the Assembly.

The ability to allow citizens, through a Bill of Rights, to enforce their basic rights is a fairly powerful sword aimed at governments. We were prepared to have it aimed at us when we were in government, and I would hope that the existing Government would do the same. For example, how a declaration process could work under this legislation is highlighted by some litigation taken under the discrimination legislation when we were in government. This Bill recognises a right to education. It is qualified somewhat but basically sets a premise that there is a right to equality in, and access to, education. The long and contentious issue of the extent to which young people with disabilities should be mainstreamed into the ordinary education system, as opposed to separate but parallel systems, was one that was litigated last year in our human rights process. A somewhat landmark ruling was given. The existing ACT system, which pretty much mirrors the system around Australia, which was found by the Human Rights Commission to have been developed with the best of motives and with the interest of the child at the forefront and which was found by the Human Rights Commissioner to be of benefit to the child, nonetheless was found to be discriminatory because it was a separate process. So, this allows parents, individuals, to get issues focused on and to get inequalities that may otherwise not receive political attention the attention that they seriously deserve.

A Bill of Rights, of course, becomes a dynamic instrument. This legislation is not entrenched; so many of the arguments against setting for all time the rights of individuals do not apply to a Bill of Rights in the form we are proposing, although if we were to adopt a Bill of Rights in this form this year or next year - and I am certainly not urging that this be debated quickly; I think it deserves a lot of consideration, particularly if we take up the option of looking at an environmental rights chapter - in due course I would hope that we would have entrenched Bills of Rights both at the national level and at the State level.

That, it can be said, would allow courts to be superior to parliaments in setting out what can and cannot be done. While that argument may have found a lot of favour some years ago, it is hard to maintain that argument today, because the High Court of Australia, in a series of recent judgments, has shown that it is prepared to find that the Australian Constitution - which most of us would have safely said 10 years ago does not contain a Bill of Rights or does not expressly reflect on individual rights, with certain very narrow exceptions - has implied rights, and it has said that parliaments cannot pass certain laws, even though they may go through parliaments with large majorities. The best example was the political advertising issue. The Parliament passed a law banning political advertising, but the High Court found that there was an implied right of free speech in the Commonwealth Constitution.

So, there are basic rights. The question is: Should they be found by unelected judges in the house across the road, the High Court of Australia, or should parliaments and citizens debate them so that, through a democratic process, they can be enumerated in a way that incorporates input. Given that there are to be fundamental rights, surely it is better that they come up through a democratic process, be debated in parliaments and then be enacted.

Mr Speaker, this is legislation which I do not say is in perfect form. It is legislation which, if it is to be advanced, I would expect to undergo a further process of amendment. I would welcome amendment from the Government, which has the full benefit of the consultation process, which I had only the partial benefit of. I would welcome discussion from the Independents and the Greens about perhaps using this as a vehicle to look at environmental rights, which would then mean that we could not only establish the landmark of being the first jurisdiction in Australia to adopt a Bill of Rights but also establish the landmark of being the first in the English-speaking world - although my understanding is that some work has been done in Germany - to elevate environmental rights to the same level as the more traditional civil, economic and political rights. This is legislation that provides a significant opportunity for the ACT to make a constructive input to Australian political debate, and I look forward to working with all parties to bring that to fruition.

MR SPEAKER: The member's time has expired.

MR CONNOLLY: Mr Speaker, I seek leave to present the explanatory memorandum to the Bill.

Leave granted.

MR CONNOLLY: I present the explanatory memorandum.

Debate (on motion by **Mr Humphries**) adjourned.

COMMERCIAL LEASES ADMINISTRATION

MR WOOD (11.07): Mr Speaker, I move:

> That there be no change to the administration of commercial leases in the ACT during the life of this Assembly.

Mr Speaker, the motion says "no change". I wish it were otherwise. I wish that we could return the commercial leases system, the whole leasehold system, to something that it was when it was introduced at the outset of the ACT. If it had been possible to do that, you can be sure that I would have done so when I had the opportunity as Minister. But, having looked at the matter very carefully, I am not sure that we can go back in time and make changes. I will certainly continue to explore those sorts of options.

This motion basically is designed to prevent likely damage to the commercial leasehold system that the Liberals may well be proposing. I am not stuck on the form of words in the motion. My purpose today is mainly to raise the issue to see that it is thoroughly debated. In the election campaign the Government promised to give away part of our heritage. It is proposing to renew commercial leases without cost to the commercial leaseholder. It is proposing to do this, I believe, without assessing whether such a change is needed and without any consideration of the ramifications of such a change.

I should point out clearly that I am talking about commercial leases here; I am not making any reference to residential leases. In the election campaign, when this was stated, I believe that the Liberal Party was getting away from the oft said words of the Chief Minister that hers is a party of commonsense and that this has been proposed purely out of Liberal ideology.

The first point I would make is that there is no requirement to change the system. There are no compelling reasons being presented to do so. Any changes will be in defiance of the long and important history of the leasehold system. I say that there is no need to do this. I have no doubt that the property sector will be pleased by it. And why would they not be? They are getting something for nothing. There is no demand from that sector, there is no passionate campaign, there is no campaign at all, for such a change. Late last year, as Minister, I announced a continuation of the system; that is, that commercial leases approaching 30 years from the renewal date could be renewed for 10 per cent of the unimproved capital value. At that time, the property sector was very interested to know what system might be brought about or whether there were going to be changes to that system which had applied before - which I believe had applied in the time of the former Liberal Government, which found no compelling reason to change the system. The property sector was certainly very interested in what would happen. At the time, they were very pleased with my announcement, which was fairly generous. I think it was overly generous, considering some of the options that were available. I believe that it was good commonsense on my part, and it held as far as possible to the principles of the leasehold system.

Unfortunately, that leasehold system has been considerably bastardised over all the years of administration of the ACT - not under self-government. I refer in particular to the actions of a former Liberal Prime Minister, John Gorton. In 1970, when he abolished land rent, he dealt a very severe blow to the leasehold system. I think that we have another Liberal government here wanting to impose another blow. I emphasise the point that the Government is not bowing to the property sector in doing this. I cannot make that charge against the Government, because there has been no pressure at all. There is no imperative to do this. The Government is simply presenting a free gift to one sector of the community.

Let us look at our leasehold system. I do not believe that the Liberals have done this. In doing so I will reflect briefly on debate in this chamber yesterday, when five new members stood up and expressed their high ideals for their future roles in this Assembly. They were commendable. Let me point out that the politicians who legislated for this Territory also had high ideals, unique ideals, and they were incorporated into the Seat of Government Act. They saw a leasehold system as being very important. In fact, to read the background to that legislation and the long debate that preceded it is an inspiration to people in this Assembly who now have responsibility for legislation. The overriding principle, in this respect, was on leasehold management and other matters - to quote Rolland O'Regan, "a city unmarred and undistorted by exploitation of man by man". That appears in the book *Canberra in Crisis* by Frank Brennan, who is well known in Canberra. I think it makes very educative reading.

The principles of land tenure that were incorporated into the ACT at its beginning were simple. It was to be leasehold land. It was not to be land held by private interests, and land developers came in for a great deal of uncomplimentary remarks in all the debates. It was to be leasehold land vested in the people, administered on their behalf by the government. This principle would ensure that land was used for the benefit of the community. It would prevent exploitation and would control development. Revenue from the land asset would also fund the development of the ACT. A point of great discussion at the time of Federation was who was going to pay for a capital city that no-one seemed to want too much in those days. Perhaps things have not changed. The payment of land rent ensured that increases in land values were returned to the community. Higher values of land brought higher rents. That was on the basis that all land has a rental value and if the government, for the people, does not get this value it will be capitalised into land prices.

That system that was established has been much treasured over the years. I pointed out before that it is not the system we now have in its entirety. It has been very considerably changed, regrettably, and I wish that we could go back. If someone can show us the way, I will willingly support any moves in that direction. John Gorton was the demon at that time. I believe that, for political advantage, he changed the system of land rent and said, "We can increase rates to pay for the lost revenue". It was a very serious blow to the system.

Let me point to financial impacts of any change. There will be lost revenue to the Government, to the people of Canberra, as a result of any moves that the Liberals might make. At the moment, the number of commercial lease renewals is not great. The leases, once they are 30 years from their expiry date, can be renewed. At this stage, there are not vast numbers coming through; but over the next decade, or over the next 20 years, that number will be accelerating very considerably. There is immediate loss of revenue to the Government. It is not a large amount; but, if this system were to apply, the loss of revenue to the Government, to the people of Canberra, over a very long period would be tens of millions of dollars. It would be very substantial, because that rate of renewal will be increasing. So, there is a revenue implication, and it is one that the Government should consider most carefully. The ACT Government is not overloaded with funds. We do not need to go into the debate on diminishing revenue from the Commonwealth.

The main purpose of my speech is to point to the tradition of the leasehold system in Canberra and the fact that it has been a very good system - even if less effective than formerly - and one that should not be changed. In particular, it should not be changed, because there is not the demand for that change. No-one is making an urgent demand for it. The present system is having no detrimental impact on the community. Indeed, I believe that the present system is generous to the property sector. We do not need to go overboard and just give them something for nothing. So, I would urge the Government to reconsider its election statements and I would urge members of this Assembly to examine this issue very carefully. Mr Speaker, I am not absolutely stuck on the words of my motion. My main purpose is to ensure that this matter is fully debated.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (11.19): Mr Speaker, I have to say that this is one of the sillier motions that I have seen come before this Assembly. It is a silly motion because it is conducted in an absence of any concrete proposal before this Assembly which would give rise to the arguments that Mr Wood has put before us today.

Mr Connolly: It just says, "Do not do anything unless you come back here".

MR HUMPHRIES: That is what the motion is saying: "Do not do anything. Do nothing. Preserve the status quo. Nothing changes. We do not know what is proposed to be changed, but we do not want the change anyway. Put up the barriers. No argument is going to be listened to. Plug up your ears". It is a profoundly silly position for the Assembly to take. With respect, I think the content of the motion is typical of Labor's approach to public policy in this area. It represents a position that I think characterises Labor members in many respects as the true conservatives in this place. They think the system is perfect, and, rather than entertain debate about how the system might be improved or changed, they say, "We wish the Assembly to send a signal to the Government that change is not to be permitted in the future". What exactly are the terms of the changes that have been proposed? I cannot even tell you that, and I am the Minister for the Environment, Land and Planning.

Mr Berry: That is not the first time that has happened.

MR HUMPHRIES: With respect, Mr Speaker, Mr Wood was heard in silence, and I would ask for the same courtesy. He was heard in complete silence. There was not one interjection during the course of his remarks.

MR SPEAKER: I uphold that request. I do not think it is an unreasonable request. Mr Wood was heard in silence.

MR HUMPHRIES: Mr Speaker, I think that members opposite have grossly exceeded their right as an opposition to place before this Assembly, in effect, a barrier against the government of the day considering and proposing in this place changes which might have the effect of changing the policy on the administration of commercial leases. I think that that approach, which says, "We should do nothing. We want nothing to change in this area.", is typical of the wasted years of the previous Government. It was their approach that led to years of indecision, bickering and factional infighting - all the reasons, I might say, why this party, the Liberal Party, now finds itself on this side of the chamber. We did say that the system needed change, we did go to the people with a clear proposal for how a number of areas in this Territory should change from the previous Government's policy, and we won what I would describe as a reasonable mandate to make some of those changes. We put those views to the electorate, and we won considerably more support from the electorate than did the outgoing Government. That, I think, gives us the right to at least work up these proposals to the stage where they should be placed before the Assembly.

The terms of this motion indicate that the ALP has not yet worked out why it was rejected by this community last February. The approach of taking no action in this area, particularly given the massive challenges facing our community in fiscal terms, simply has no appeal to the voters and does not make any sense. Let me analyse, to the best of my ability, exactly what this motion is meant to mean. As a general point, I do not think that the Government supports the view that we should have a debate, on only the second proper sitting day of this Assembly's life, that effectively says that one particular area of administration in this Territory is out of bounds for the next three years. I do not think that is a reasonable proposition to take up in this debate, Mr Speaker.

This is a complex issue, and I think there needs to be public debate, debate on the floor of the Assembly, debate in the committees of this Assembly and debate on legislation, if it is brought forward, before we can decide on what our position as an Assembly should be. We did also go to the community with a clear mandate for change in this area. We have the right to put those changes forward, and I expect those things to be put before the community and the debate to take place in this Assembly on that area. The Government considers that it is an insult to all the groups in this Assembly to seek any ban on further discussion of this matter for the next three years. It is not good for administration of the Territory and it is not good for members of the Assembly who might wish to debate those matters with members of the community.

I also might say that it is a matter of some confusion to me as to exactly what the motion means in respect of the existing policy. I looked back at exactly what was the previous Government's policy in this area. At the 1992 election, the Labor Party policy was that commercial leases should be renewed at full cost. That was your policy at the 1992 election. In other words, you were proposing change to the system. Apparently, it is all right for you but not all right for us. In government, the Labor Party actually adopted a policy of renewal of commercial leases with a premium of 10 per cent of unimproved value. The decision was announced by Mr Wood, the then Minister, on 30 December last year that there should be that new policy - "new" at least in the sense of being different from the ALP's stated and written policy on which it went to the 1992 election. However, a few short weeks later, the ALP's election policy made no reference whatsoever to policy on commercial lease renewal.

Mr Wood: We had just done it, for heaven's sake.

MR HUMPHRIES: But you had not. You made no announcement in your policy and you had a previous written policy which was different from that. So, I do not know exactly what the policy of the Australian Labor Party is. What are we freezing? Are we freezing the full commercial value renewal? Are we freezing the 10 per cent commercial value renewal? What exactly is that policy? I think it is interesting that the motion before us today makes no reference to what ALP policy should be. What exactly are we asked not to change? The terms of the motion comprise a clear admission by Mr Wood that his party's policies are so silly and contradictory that they cannot be referred to. I might add that it took them almost three years to get to the point where they decided that, rather than renew leases at full commercial value, they should be

renewed at 10 per cent of value. I might ask Mr Wood to explain how it is that the community has this overriding interest and proprietorship in that particular arrangement but still can ask for only 10 per cent of the commercial value when it gets a renewal of that particular lease. Is there not a contradiction there?

We did go to the last election with a policy which was at least quite clear and well enunciated - and I see Mr Wood now flicking through the pages of our policy. What that policy said was that we thought it would be appropriate not to treat residential leases and commercial leases any differently. In both cases people make substantial investments in those things. Whether they do so as business people and as proprietors or retailers of commercial enterprises or whether they do so as an investment in their own homes, they make that substantial investment, and they are entitled to have a policy which is clear and unchanging and that treats that particular investment of theirs in a fair fashion. We said that we believed that it would be appropriate for leases to be renewed automatically and that people should be able to do so on a commercial basis and on a residential basis in the same fashion.

We recognise reality, of course, and we realise that there are members of this Assembly who hold a different view about that matter. That is fine. We did not win nine seats, which means that we do not have an automatic right to have our policy passed into law; but I would argue that we have the right to consider and put forward changes in this area. In his remarks Mr Wood made reference to the fact that what we are proposing to give the people who operate commercial leaseholds in the ACT at the present time is a free gift. He said that we are proposing something for nothing. As I say, this is not the time for a full debate about what an automatic renewal policy might mean; but I will say that I think it is quite unfair to those people who have paid very substantial sums of money to get those commercial leaseholds in the first place to suggest that they are getting something for nothing. Members will be aware that some commercial leaseholds in this Territory have fetched extraordinarily large sums of money in recent years - quite enormous sums of money. I recall a petrol station site in Tuggeranong, a dual site, that fetched $7m for a commercial leasehold. To suggest that that is something for nothing is quite bizarre.

Mr Speaker, the important point about this arrangement is that we are not suggesting that there ought to be a change from the present leasehold system, in the sense that we change from leasehold to freehold. That is not Liberal Party policy. It is not what we will be bringing forward to this place for its consideration. What we are saying is that we should preserve the leasehold system, but with considerably longer periods of leasehold and automatic renewal of those leaseholds when they come up to expiry, in order that people can operate on the assumption that their leasehold is theirs; that they have the right to continue to operate it for the foreseeable future, to dispose of it, to deed it to their children when they die, or whatever it might be, on the assumption that it is an arrangement entered into that is similar to freehold but has some of the controls which leasehold does bring with it. Mr Speaker, it is most unfortunate that the Labor Party is not prepared to let that debate take place. Our view is that opposing policies should be discussed on their merits and that the Labor Party should put forward its policy and try to explain what it is, rather than put the matter to one side.

Again I say that I am not clear what this motion entails. When they say that there should be no change to the administration of commercial leases, are they saying that there should be no changes, or no significant changes, to administrative policy-making within this area; that the Government does not have the right to make any administrative-type changes or significant changes? Are they saying that legislation should not be considered by this Assembly in this respect; that the Government has no right to bring such legislation forward for consideration? Are they saying that we should not devote any drafting resources to preparing legislation for the eyes of the people of this Assembly and the community in this area? You obviously do not know. I do not know either. I think that we are entitled to know exactly what this motion means.

It is a blanket motion that says, "Do nothing in the area of the administration of commercial leases". I suppose that we are going to see motions like this in all sorts of areas. There is one to do with betterment on the notice paper already. There will presumably be other ones in areas that are sacred cows to those opposite - things like the structure of the public service, the public hospital system or public transport. All of those things presumably are also areas about which the former Government would say, "No change; nothing can change in this area". I do not think it is appropriate that the matter should be disposed of in such a cavalier manner, in the space of a half-hour or three-quarters of an hour debate this morning. I think that is a gross discourtesy to this community and it is a gross discourtesy to the members of this Assembly who only recently arrived here.

Mr Speaker, my view is this: Any changes of significance to the leasehold system in the Territory should not be introduced through the back door. Indeed, this Government makes a commitment that that will not happen. If we propose to change the leasehold system through an administrative change made at Executive level, we will put that change fairly and squarely - - -

Ms Follett: So, you were thinking about it?

MR HUMPHRIES: No; I am saying "if we were to do so", Ms Follett. If we were to do so, we would put that change fairly and squarely before this Assembly before any action was taken. Members would be in a position to say, "Yes, we like that" or "No, we do not like that". If we were going to change matters through a legislative process, of course we would do as any government has to do - we would bring forward a Bill, place it before the Assembly, and the Assembly would have the right to say, "Yes, we will pass this Bill" or "No, we will not pass this Bill". But to put forward this stupid kind of blanket motion that says, "No change; freeze everything" - a blanket of conservatism thrown over this whole area - is, I think, a silly move indeed.

I think that the Assembly should reject this motion. If members are not inclined to do so, I shall certainly urge that they adjourn this matter to give it more serious thought. There is a serious debate about this area, whether Mr Wood wants to acknowledge it or not. There are strong concerns in the business community that they do not know what the ongoing policy is going to be; that they have seen changes in the last Assembly by the previous Government. You started off calling for full commercial value and then you changed to 10 per cent value. So, it changed under the last Government.

We have a policy that we took to the electorate at the last election. We want to put that in place, if the Assembly will permit us to. What they are seeking is certainty, and it is a debate we have to have for that reason. For that reason, I would urge members of the Assembly not to support this motion.

MR MOORE (11.33): Mr Speaker, Mr Humphries is correct when he says that this is a silly motion, because it is a silly motion that simply says, "There will be no change". It implies, of course, that Labor had got it right over the last few years. If that had been the case right across everything Labor had done, we would hardly have seen a 20 per cent swing against them. On the other hand, Mr Speaker, I think that Mr Wood has moved his motion through a genuine concern about the leasehold system, recognising what the Liberals have put out in their policy.

It is for those reasons, recognising that genuine concern, Mr Speaker, that I have circulated an amendment to Mr Wood's motion, which I shall move in due time. Having heard Mr Humphries speak, I think he would find that the amendment and the motion together would be very acceptable to him. He has actually just made that commitment. He said, "Yes, if there are any changes, we will bring them to the Assembly. We will do it in an open way". Having a motion carried by the Assembly that ensures that is entirely appropriate. So, Mr Speaker, I move:

> At the end of the motion, add the words "without the proposed changes being considered by the Assembly".

Mr Speaker, if that amendment were carried, the motion would read:

> That there be no change to the administration of commercial leases in the ACT during the life of this Assembly without the proposed changes being considered by the Assembly.

Mr Speaker, through the six years or so of the existence of this Assembly there has always been debate over the leasehold system. I think that Mr Wood has very appropriately set out the advantages of the leasehold system. They were even more carefully set out in a report by his Federal colleague John Langmore when he was chair of the Joint Parliamentary Committee on the ACT in 1988, when he brought down a report on the leasehold system. Whilst I have been critical of the Labor Government for not going far enough on this issue, Mr Speaker, I have to say that at least it progressed positively on the issue, and I think that after Labor's last three years in government the leasehold system is in better condition than it was when it took government. I think it is appropriate to put that on the record. I also believe - and I have said this many times in this chamber - that there is still a long way to go.

Mr Humphries argued that the Liberals had a mandate to bring about this change. They have a mandate to propose the change; but they do not have a mandate to push this through, and certainly not by administrative fiat, because they did not win a majority. Had they won a majority, they would certainly have that mandate; but they certainly have the mandate to attempt to proceed and to follow Liberal ideology, which is to change to a freehold system. Mr Humphries denied that and then said, "What we actually want is a leasehold system that works in the following ways", and talked about basically

a perpetual leasehold system, which is a de facto freehold system. I think that it is probably the same sort of argument that John Gorton had when he removed the land rent and undermined the process of the leasehold system and did much damage to the leasehold system at that time in the early 1970s.

It seems to me that the overriding principles of the leasehold system are that for too long we have been giving a free gift, particularly to developers. One case in point where somebody is not paying 100 per cent betterment would be in relation to the Yowani golf course, where the effect of allowing a development to go ahead without charging 100 per cent betterment means that $1m or $2m - whatever the betterment is on that course - will effectively go to a golfing club. If we are going to make that sort of donation to any particular group, that sort of donation ought to be open, and it ought to be able to be considered, for example, by the Wilderness Society or by the Council on the Ageing. They should be able to put up their hands as well and say, "We ought to be able to line up for that sort of money". Mr Speaker, I have to be very careful that I do not pre-empt debate on a matter that is already on the notice paper - the matter of betterment. It is difficult to talk about the leasehold system and all the changes without actually touching on betterment.

Mr Speaker, the administration of the leasehold system does require some positive changes. I think the most significant of those changes is in compliance. Throughout Canberra we clearly do have problems with compliance with the leasehold system. One example of those which Mr Humphries is now responsible for is in Faithfull Circuit in Kambah, which many of us are aware of, where somebody runs a business, I would argue, entirely in breach of their lease agreement. When somebody takes a lease in Canberra they have an agreement to act in certain ways, according to the way that lease is framed. It is a contract, and it is the same sort of contract that a commercial landlord has with their own tenants. The irony of the pressure for change to the administration of our leasehold system that comes from some big commercial leaseholders in the ACT is that they do not like having a landlord acting in the way they act. In fact, as a landlord, the ACT acts in a far more gentle way than the vast majority of landlords do. That is an issue that we can discuss further this afternoon in the debate on the matter of public importance.

Mr Speaker, I think that, with the amendment that I have moved, instead of having a silly motion we actually will have a quite sensible motion that will allow for positive change but will also ensure that any moves by the Liberal Party that come from their desire for changes to the leasehold system will not proceed without their having majority support in the Assembly. I think that is an appropriate way to go. With my amendment, this motion changes from being a silly motion to being a quite sensible motion.

MR DE DOMENICO (Minister for Urban Services and Minister for Business, Employment and Tourism) (11.40): Mr Speaker, I think the Government will be prepared to support Mr Moore's amendment, because once again it does make a lot of sense and it does show that commonsense always takes over when silliness goes awry. I do not think Mr Wood really wanted to say that there should be no change at all. Quite obviously, things that happened in this Assembly are still living and breathing, one would hope, and other members of this Assembly should be granted the opportunity to express their views without someone saying, "Let us not change anything in a particular area".

Mr Wood used some nice cliches. He talked about giving away part of our heritage. That sounds pretty good when you hear it for the first time, and one wonders what the Liberal Party is going to do by giving away our heritage.

Mr Wood knows - or he should know - that the Liberal Party had no intention other than to preserve the leasehold system, because it would require Federal legislation to change that. Even if the Liberal Party, in an ideological bent, at one time wanted to change it into a freehold system, Mr Wood, this Assembly could not do it. It would require Federal legislation. So, that is another point that needs to be taken into account. Of course, Mr Humphries is right: Whilst the Liberal Party may, in some ideological frame of mind, wish it to be otherwise, the fact of the matter is that it cannot be. It cannot be, for two reasons: Firstly, because it needs Federal legislation; and, secondly, because we ain't got the numbers in this Assembly either. I look at the Greens when I say that and think, "Yes, you will find, sometimes, that it is all about numbers". We are not silly; nor do we come up with silly motions like the one before us today.

Mr Wood made all sorts of implications about this being from the Dark Ages, in the sense of saying, "Let us put certainty back into the investment community". He did not say anything about what the investment implications would be if we were to revert to automatic lease renewal. He did not say anything about what would be the implications for employment with the extra investment coming into the city. He made no mention of that; but he did mention giving away part of our heritage.

Mr Moore has diverging points of view from those of the Liberals on this issue. We have known that, and we continue to acknowledge that; but I am sure that Mr Moore would not be too happy with the policy of 10 per cent of unimproved value that Mr Wood introduced in December last year, when this Assembly was not able to do anything about it. Mr Moore should be given the right to present whatever his views are before this body and let us debate them. Mr Wood's suggestion to do nothing is no surprise. Our experience of Mr Wood when he was a Minister was exactly that - he did nothing. Very few decisions were made when Mr Wood was in power. In fact, many members of this Assembly said that time and again. So, it does not surprise me that Mr Wood comes before us today saying, "Here is a motion that says to do nothing". Of course it is a silly motion.

Mr Moore's amendment, I think, is a very sensible one. If anybody wants to change any part of the way in which things have operated in this town, let them bring those changes before the Legislative Assembly. We will debate them and take a vote and then that decision will stand. But Mr Wood has come in here on the second day of sitting and said in front of some new members, "Here is a motion that depicts what the Labor Party's attitude has been all along. If it is something that we do not believe in, then we will put forward a motion to have no change". After all, on 18 February the community demanded change. Perhaps it was not as progressive a change as we on this side of the house would like, but it was a change that the community demanded, Mr Berry. I note you sitting there opposite me. On 18 February they demanded change. On 25 March they demanded change. Change they will have when this Assembly properly debates those issues that need to be debated. I am quite happy to support Mr Moore's amendment.

MRS CARNELL (Chief Minister) (11.45): Let me say very briefly, Mr Speaker, that I think Mr Moore's amendment puts in place exactly the Liberal Party's approach to this Assembly, and that is that any proposed changes of this sort would come before the Assembly anyway. So, we are very happy to support the amendment. I think it would be an absolute tragedy if in this Assembly we passed anything that stopped anybody - whether it be a member of the Greens, the Independents, the Liberal Party or the Labor Party - from bringing to this place any issue that they want to debate or any area that they think could improve the way we do things in the Assembly, the way we legislate, the regulations or whatever. It would be contrary to the reason why we are here. We are here to attempt to make the ACT a better place to live in, to have better laws, to have better regulations and so on. So, to pass something that says that there will be no change for three years suggests either that we are perfect or that we simply cannot handle new ideas, and that is certainly not the case.

MR BERRY (11.46): The ideological position of the Liberals is beginning to glare through the old veneer. I heard Mrs Carnell saying this morning that this was not going to be an ideological government; but in her election promises she said, "A Liberal government will therefore legislate to provide for the automatic renewal of Canberra's residential and commercial leases at no cost to leaseholders".

Mr Humphries: Legislate.

MR BERRY: But, in fact, Mr Speaker, they are able to do it without legislation. This motion is to head that off at the pass. We have done it, and no wonder they are peeved. They have been prevented from doing something administratively, which will now cause them to bring any matters back to this place for consideration by this Assembly. So, I think we have to get that matter clear. I wondered why Mr Humphries was so peeved by this and gave such a long and drawn out twist in this debate. I know that all of those people out there who have leases would be beating a path to his door saying, "Come on, when are you going to do it? Now you can do it administratively. Why do you not do it now? You can just do it". The Liberals know that they could have done it; but they cannot now, because they have been headed off at the pass.

Mr Moore's amendment will be supported by Labor. It means that administrative action to give a little gift to some of their business mates cannot be effected; otherwise the Liberals will be in deep trouble. I think we have made the point. I understand why they are a bit upset about it. It is because some of their Liberal mates, who know and understand how these laws work, will not be able to get an administrative decision. It will have to be legislated. My assessment of the numbers around here is that they are not going to get away with their promise - and that suits us. I think, at the end of the day, this debate has been something which has resulted in the Liberals being brought to heel, because I am sure that they would have been pressured by their business mates to do this administratively. It is not as if they are stupid. It is not as if they would want a debate. It is not as if they do not understand the political flavour of this Assembly. They want an administrative decision. They certainly would not want one debated in this place, because they know what the result would be.

Mrs Carnell: We could not do it anyway. It is policy.

MR BERRY: Mrs Carnell shakes her head. Mrs Carnell, if you have a look at the law, you will discover that you would probably be able to do this administratively. Now you will not be able to, and that is good news.

MS TUCKER (11.49): Mr Speaker, we support Mr Moore's amendment. I must say that we were concerned to see something that appeared to be taking away from the Assembly the possibility of debate. I will not talk for 10 minutes; I will just say that we would always be wanting to see as many issues as possible debated fully and openly in this place.

MR HIRD (11.50): Mr Speaker, as usual, Mr Berry lives in a vacuum. As usual, Mr Berry tends to read into words things that do not exist. Mr Berry knows that the Liberal Party's policy is to introduce legislation. If you are going to have legislation in place, you need to bring it into this house. As the Chief Minister indicated, this motion is a nonsense. Mr Berry, as for your words about the Liberal Party's mates in small business, let me say that we did not put, or try to put, out of business those small business operators in Tuggeranong by extending a shopping complex. Your business mates, during your term in government, took advantage of the back doors to your offices on numerous occasions.

We are about open government. If we were to make a change, it would have to be done in accordance with our policies and by bringing legislation into this place. As Mr De Domenico rightly said, we would also need the approval of the Federal Government if we wanted to change the legislation. We will not do that because, as Mr De Domenico said - and he can count better than Mr Berry can - on 18 February there was a bolt of lightning. It hit, and it put you, Mr Berry, on the other side of this house. There is a change, and we are here to make certain that we have open government, in accordance with the policies of the Liberal Party, as put to the electorate on that date.

MR SPEAKER: Does the Minister wish to speak to the amendment?

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (11.52): Just to gild the lily, possibly, Mr Speaker. I do not think Mr Berry has understood that there is more than just a cosmetic change to the way in which this Assembly operates. There is no illusion anywhere in this Assembly, I am sure, as to the fact that a change to the leasehold system of any significant kind amounts to a big move. No member on this side of the chamber would be stupid enough to risk censuring himself or herself or bringing down the Government for the sake of trying to pull a swiftie of the kind that Mr Berry seems to think is on the cards.

Mr Berry: Not now, you won't.

MR HUMPHRIES: Not now, not before, not ever. I assure you that if we are in that position it is because we have planned to put before the people of the Territory clearly what we want to do. We have made our intentions clear, and we come to this place to tell the people in this place what it is that we want to do. That is the approach we are taking with open government. We are acutely aware that we have only seven seats in this place. That is why we intend to make sure that, if people in this place have a legitimate concern that we know about in advance, those changes will come before this place before they are made.

MR SPEAKER: Mr Wood, do you wish to speak to the amendment?

MR WOOD (11.53), in reply: Mr Speaker, I will speak to the amendment and conclude the debate. The Opposition is more than satisfied with Mr Moore's amendment. I think some people were not listening to me when I spoke and said that my main purpose in moving the motion was to put the issue in front of us all and to raise a debate. I am delighted that it has done so. We will accept the amendment. Mr Humphries said that the former Labor Government had not been consistent. That seems strange to me, because in all the time of the Labor Government there was no change to the principles that applied. That seems to me to be consistency. Let us understand also what you can and cannot do under that Federal legislation. What the Liberals were proposing to do, as set out in their policy documents, did not need any change to Commonwealth legislation. It could be done simply by administrative action or, if they wanted to, by legislation. If they do not bring in some legislation, someone else may do so. So, there is no fall-back or defence in saying that they were inhibited by Commonwealth legislation.

Amendment agreed to.

Motion, as amended, agreed to.

NOISE POLLUTION

MR MOORE (11.55): I move:

> That the Government take appropriate action to ensure that local residents, whether in New South Wales or ACT, are adequately protected from noise pollution.

Mr Speaker, 20 years ago, when racing first started in this area, a recommendation was made by the Commonwealth Government that a systematic assessment of the environmental impact of this activity in the ACT be made. This impact assessment was meant to be made before racing began in this area, as it was deemed by the NCDC to be too close to residential areas. Such an impact assessment has never been undertaken. This recommendation came out of a report that referred at the time only to dirt track racing. The report stated:

> ... the elevated nature of both sites [the second site being the site of what became the Sutton Park 'driver training' track, which was being planned at the time] will not help with noise abatement. The noise levels need to be clarified by noise studies once the types and levels of usage are determined.

The report also went on to say that it was inevitable that conflicts would arise if motor sports went ahead at this site and recommended a closer examination of the problem before a commitment was made for the siting and design of this complex. This was never done. As prophesied, conflicts have indeed arisen. The noise abatement measures have not been taken, the motor sports continue in the wrong environment, and residents despair about the constant noise pollution.

Over the past 20 years, noise from this area has consistently been well above the limit stipulated by the ACT law. The noise limit stipulated in law is frequently exceeded and set aside through the granting of exemptions by the ACT Government to permit racing activities, which have negatively impacted on many residents of the ACT and surrounding areas. About 70 exemptions have been granted each year for the past three years, resulting in two-thirds of all weekends being covered by exemptions. So, what we have had over the last three years - and I know that Mr Wood has recognised it as unsatisfactory - is governing on this issue by exemption. In other words, the legislation is held more in disrespect through exemptions than respect on this issue.

The previous Government acknowledged that the activity should never have been located within 1.4 kilometres of the pre-existing residential area and that closing down the activity in the area was the only solution. Both the previous and present governments apparently believe that the Territory needs to have some racing area somewhere, but as yet have not sorted out a suitable site. I believe that the only long-term solution to this problem is to find a suitable site. No doubt we would all agree that the sport ought to continue; I have no objection to people being involved in the sport of motor racing. Indeed, I was involved in some forms of motor sport myself in my younger days, although I must admit that it is some decades since I have done so. The sport should continue somewhere, but not at the expense of the sanity of those trying to enjoy a weekend at home in some peace and quiet, which they are entitled to and which we in this Assembly recognised that people were entitled to when we passed the appropriate Act, the Noise Control Act, to which I will refer in a minute.

Over the years, efforts have been made to locate a suitable alternative site. A six-site short list was narrowed down to four possibilities, then to two, then to one; but apparently the preferred site turned out to be unacceptable. This experience, as well as consistent comments from the previous Government and current Government when in opposition, cast real doubts on the activity ever being shifted from its current, most inappropriate site. Having heard Mr Connolly introduce his legislation this morning on the Bill of Rights and talk about an environmental Bill of Rights, it would seem to me that if we did have such legislation in place, whereby somebody could argue in court that they have a right to an environment unpolluted by noise pollution, then they would

probably find a way to stop the motor racing entirely. Unfortunately, that would not lead to the sort of compromises I hoped to achieve when I sought to get residents together with motor racing last year. Perhaps because of the ill feeling that has developed over the years, that was not possible.

I believe that Mr Humphries, in his capacity as Minister for the Environment, Land and Planning, thinks that either the site should be closed down or the law should be changed so as to make so many exemptions unnecessary. It is a weird way to operate; we have a law that we continue to operate under exemptions. The danger is that the noise pollution control would be governed by the needs of the motor racing sport rather than by the needs of ACT and local residents. But at least Mr Humphries recognises that the system is not working.

Mr Stefaniak, as Minister for Sport and Recreation, recently told the ACT Motorsport Council that the number and level of exemptions for the Sutton Park driver training track should be increased greatly. Apparently Mr Stefaniak suggested to the ACT Motorsport Council that they should apply for a number of dates for use of the Sutton Park track for racing. I have a letter, signed by Mr Stefaniak, to Mr Humphries in which he writes:

> Last year I became aware of a direction issued in 1993 by the previous government by, I believe, Bill Wood, the former Minister for Training, for the Sutton Park facility only to be used by motor sport four times a year. A commitment was given to motor sport that this arbitrary restriction, which I understand breached a previous commitment by the former Labor Government made in 1992, would be lifted and that motor sport would be allowed greater access to the facility.

What we see is Mr Stefaniak, in his letter of 28 April this year to Mr Humphries, not only encouraging the wider use of the current racing facilities but also using the driver training facility for further racing. The letter suggests that a meeting should be held between a range of people and officials to sort out details. It continues:

> As Minister for Training, I am enthusiastic for this facility to have greater use and for motor sport to access it in accordance with our abovementioned commitment.

In his letter, Mr Stefaniak did mention:

> ... I would envisage that most activities at the facility involving motor sport would be subject to exemptions under Section 16 of the Noise Control Act.

In other words, it is going to be noisy - so noisy that it does not fit in with the legislation we have passed in this Assembly. Is Mr Stefaniak suggesting that the number of exemptions be increased so that residents suffer noise pollution every second weekend instead of one in three, or even more noise? Would Mr Stefaniak, I wonder, be so keen to support this activity so close to housing if he happened to live in that housing?

In April this year, Mr Humphries identified to concerned residents a means through which the excessive number of exemptions being granted could be controlled. My understanding is that he actually suggested that the law could be relaxed; that is, that the acceptable noise level should be raised from five decibels above background to 10 decibels. One could ask why Mr Brereton did not think of doing the same thing in New South Wales. He could have made all those people living around the airport feel much happier by changing the level of background noise. Then, no doubt, they would all have been happier and the problems would have been resolved. I am sure that that would mollify the people living under the flight path. So, even where people are suffering frayed nerves, we can point out to them that the noise level is only a fraction above what is allowable or is within an acceptable level. All we have to do is change the level.

Mr Speaker, we set a noise level in this Assembly because we believed that it was an appropriate noise level, because we believed that it would be an appropriate standard for the ACT. I put it to Mr Humphries and Mr Stefaniak that a more intelligent approach may be to carry out that long awaited environmental assessment and to follow up with some action that allows residents in the ACT and surrounding areas to live without constant noise pollution and for motor racing sports people to engage in their sport in such a way that the sport complies with noise control legislation.

I emphasise that I am not suggesting that this sport should not proceed. Furthermore, I emphasise that I fully support the driver training area in Sutton Park. In fact, I did a four-week driver training course myself at Sutton Park driver training area in about 1986. I support the driver training facilities and I support motor racing activities, but not in areas where they affect residents' homes and not when the sport relies totally on obtaining so many exemptions from the law that it makes the law unworkable, that it makes the law an ass. It is well and truly time for the ACT to come to grips with this problem.

We know that there have been some ugly and irresponsible responses to residents who have complained. I understand that most members would be aware of those. I can see only discontent and emotional flare-ups if the Government continues to sit on its hands or, worse still, to exacerbate the problem. It appears that a new site has to be found and the activities relocated so that a peaceful and workable solution can be found. Recently, Mr Humphries wagged his environmental finger at New South Wales over its smoke pollution of the ACT. I wonder how the New South Wales Government would feel about the ACT breaking its obligations under the intergovernmental agreement on the environment if the ACT forced its pollution onto the people of New South Wales.

I should like to indicate that, if there is an increase in the number of exemptions granted under section 16 - in fact, I think there are too many - I will not hesitate to give drafting instructions to Parliamentary Counsel for a change to the exemption section of that Act, so that one of a series of things could happen. First of all, we could just say that this Assembly was not going to allow any exemptions at all. I think that would be too extreme; there are times when occasional exemptions ought to be allowed, but not a series of consistent exemptions that are for exactly the same thing. An occasional exemption for fireworks, for example, I think, is an appropriate use. That is the first possibility.

The second possibility for drafting instructions would be to ensure that any exemptions go through the Assembly as a whole or through an Assembly committee. I make it very clear to the Government that I will have no hesitation in drafting that sort of change to the legislation if these exemptions continue to operate in the way they have, and certainly in the way Mr Stefaniak proposes. It is simply unacceptable.

I believe that there is a solution to this problem. We have not yet found it. But the solution does not lie in doing either of the two things we have heard from the Government. The solution does not lie in granting more exemptions - Mr Wood was working on how to reduce the number of exemptions - and it certainly does not lie in lowering our noise pollution standards. To say that we should set our standards according to New South Wales, or even according to an Australian standard is to say that we will go to the lowest common denominator. In the ACT we are proud of our environmental standards. There is still room for us in many ways to seek improvement, but we certainly would not be reducing our environmental standards. We have set our environmental standards and we expect sport to find ways to meet them. That is what they have to do. That is the challenge.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (12.09): Mr Speaker, this is, as Mr Moore has indicated, a complex issue, and I hope that his intention in raising the matter today is to assist in bringing the parties together so that we can sort the matter out. I must say that I do not see the issue entirely in black-and-white terms. There is, on the one hand, a quite legitimate interest by people affected by noise in areas surrounding existing motor sport venues, whether they live in New South Wales or the ACT. As Mr Moore indicated, we have an obligation to consider ways in which we can reduce the impact of noise where it reaches unacceptably high levels. There is also, however, an obligation on the Government to facilitate wherever possible the conduct of legitimate activities in the ACT, and motor sport is unquestionably one of those activities. At the moment, the only conceivable place where that can occur is at Sutton Park and Fairbairn Park, and to make a speedy decision to change the situation dramatically will certainly generate some kind of response from the particular sports body but will not necessarily help them make any decisions about a viable long-term venue for motor sport in the ACT. With respect, I think it would also be a knee-jerk reaction.

The previous Government was unable to find any solution to this matter over a fairly long period, and I think it is unreasonable to expect that we can find one instantly. But I do say that we are committed to working for a solution that, if at all possible, meets the concerns of both residents and motor sport enthusiasts. We are committed towards effective environmental protection across all sectors of the environment, not just in respect of noise. Indeed, our policy made it quite clear that we will "constantly review all legislation relating to the amenity of residents, including noise pollution laws relating to animals and vehicles". One example of how we are moving to enhance residential amenity in relation to noise is that we will be undertaking consultation with interest groups on proposed amendments to the Animal Nuisance Control Act to ensure more effective control over animal noise. We believe that this is an area, as the ACT grows larger and more dense and possibly moves closer to its borders, that we need to keep under constant review.

With respect specifically to motor sport, we are fully aware of our responsibilities to protect residents from noise pollution, not only in the ACT but also across the border in New South Wales. In that respect, the border is immaterial. There has been ongoing liaison between the ACT and New South Wales environment protection agencies about noise management at Fairbairn Park. For example, this issue was discussed at a meeting between those two agencies in the middle of last month. As a long-term solution to the problem of motor sport noise experienced by the residents of the Ridgeway and to a lesser extent by the people in Oaks Estate, investigations are being carried out into relocating motor sports from Fairbairn Park to a new site. This would obviously be a highly satisfactory outcome at least for those sorts of events that generate a large amount of noise. But that is an expensive option and a long-term option and will not provide any quick solution to this issue.

Mr Moore: Nor will increasing the number of occasions.

MR HUMPHRIES: I will come to that in a moment. It is not easy for a Territory the size of the ACT to identify another site that would be free of these sorts of noise impacts on residents. We are committed towards adopting a policy of motor sport noise management in line with that operating in New South Wales. That was made clear in both our sports policy and our environment policy, and we need to make sure that we can sustain that arrangement. Of course, that again involves legislation, which means that the Assembly has to be involved in doing that. We are currently considering the best means of implementing that policy and, as I say, we will come back to the Assembly with legislation if that is required.

It is also important in the meantime to be continuing those consultations with the interested parties. I have met with representatives of ACT motor sports, I have met with representatives of residents of the Ridgeway, and I will continue a dialogue with those people in an effort to gain some compromise, to use Mr Moore's word, that will satisfy the parties here. I think there is scope for some direct contact between those parties. Perhaps it has occurred already and, if it has not, perhaps it should occur. I do not think the Government ought to be the first port of call whenever there is a dispute.

Mr Berry: It would have to be regulated under the Boxing Act.

MR HUMPHRIES: Regulation under the Boxing Act might be a very appropriate way of dealing with that problem; the Marquess of Queensberry rules might be required, at the very least. I think it is important for the parties to be sitting down together and trying to talk through these matters, because we face a situation where there are seemingly irreconcilable points of view that, frankly, neither side can afford to sustain.

I am glad to hear Mr Moore say that he supports the continuing operation of motor sport in the ACT. That, of course, is the position of the Government, and, I hope, of everybody in this Assembly. I also am glad to hear him say that a compromise is necessary. He might be aware that the ACT Commissioner for the Environment is currently finalising a report detailing his investigation into the motor sport noise issue, and that will be the starting point for the Government's renewed efforts to bring about some compromise on the matter. In the meantime, motor sport clubs are being granted exemptions under the Noise Control Act to allow them to conduct events subject to certain conditions,

and Mr Moore would be well aware of what they are. These have been granted until at least the end of May 1995, and I think it would be reasonable for the Government to grant more of those until such time as we can sort out a solution to this problem. The alternative is to cut back to a point where some elements of motor sport are not viable in the ACT.

There are many different sorts of motor sport - different sorts of cars, go-karts, motorcycles and so on - and to significantly reduce the number of exemptions under the present regime would almost certainly mean that some of those things could not take place in the ACT, at least not on a sustainable basis.

Mr Moore: Then they have to get better mufflers.

MR HUMPHRIES: I do not believe - and Mr Moore quite correctly paraphrases my view - that an exemption regime in the long term is viable. We have to settle on what the arrangements are and have them, if possible, enshrined in the law, or at least enshrined in some arrangement under the law, so that people know where they stand and there does not have to be a continuous process of government exemption to allow those things to continue. At the moment that solution is not particularly apparent.

I hope that Mr Moore and others in the Assembly will work with the Government to ensure that those compromises can be reached. I would certainly welcome the involvement of non-Government members in that process. My friends across the way - the Greens, for example - might well be capable of injecting some content of sanity into the debate and might well be interested in taking part in some of these negotiations to see whether we cannot reach an acceptable solution. But I would say that it will not be an easy or quick solution, and I urge members of the Assembly to give the Government time to work through the matter and see whether we cannot reach some compromise acceptable to all the parties.

MS HORODNY (12.17): The issue of noise is obviously quite complex and it is, again, one of those issues that cannot be considered in isolation in the ACT. We need to broaden this debate, quite clearly. We have discussions going on at the moment about an international airport for the ACT and a working group on truck parking. It is obviously something that needs to be gone into in more detail so that we can set in place some conditions to cover the wider situation. Mr Moore said that the Government needs to take appropriate action to ensure that local residents, whether in New South Wales or the ACT, are adequately protected from noise pollution. I support Mr Moore in that motion. We need to look at noise regulation as an essential component in planning in the ACT.

MR BERRY (12.18): Mr Speaker, this issue does not end with the issue of noise; it goes to the issue of motor sport and its future in the Territory. There will be some in the community who would advocate the end of motor sport because of a particular environmental commitment; but there are others who rightly argue that motor sport, whilst providing a useful recreation, provides a useful input as well into the development of safer motor cars and all those sorts of things. When you look at the development of the automobile since its early days, you can see that they are much safer now. The numbers of deaths and injuries on the roads have been reduced because of those developments, which proves that claim.

As far as the noise issue is concerned, it is a problem that has been managed in the Territory by successive governments. More lately, it has been dealt with by way of exemptions under the relevant legislation. Attempts have been made to find other circuits for this sport, and that has been a difficult course. It has involved consultants looking at various sites and the impact of motor racing on those sites on nearby residents. I am sure that it would be possible to engineer this by finding a site and being prepared to buy out nearby residents, clearing the area so that there were no residents to be affected by the noise. The problem is: Who pays? I do not think motor sport in the ACT has the money to pay, and I do not think the taxpayer would be too happy about spending a whole heap of taxpayers' revenue in difficult times to provide that sort of resource. It eventually comes down, to some degree, to the spending of taxpayers' revenue for the provision of a site for motor sport.

I do not think it is proper to offer further encouragement for noisy practices by issuing more exemptions. I do not think that is the answer. It does not provide an incentive to anybody to secure change for the future, and change we must. There is no chance of our continuing down this path of having unsatisfactory sites. They are not unsatisfactory only in terms of the noise that impacts on New South Wales residents and on ACT residents. If one has a bit of a walk around the sites, they are generally pretty messy and could impact, and perhaps have impacted, on the environment through run-off and all those sorts of things.

From Labor's point of view, we have to ensure that we are headed for change, not encouraging no change. I had people beating a path to my door and saying, "We want more exemptions for the Sutton Park facility to race motorbikes", and so on. I have run a motorbike around there, and a fire truck and a few other things, and it is certainly not a place that I think is suited to racing at this point; but with some work it might be. But what is the point of all of that expenditure if you are going to end up with more exemptions, more noise impacting on nearby residents? The claim has been made that they are only New South Wales residents. It was properly said a moment ago that we would complain about the impact of New South Wales activities on us. New South Wales residents have a perfect entitlement to complain about the impact on them of noise or any other environmental matter.

From my point of view, this is an issue of principle, and we have to manage arrangements in a way that sees change secured. Attempts were made. We did not find the exact solution, and more attempts have to be made. However, I do not think the answer is providing more exemptions, because that will just discourage people from moving towards change. The next step will be requests for more and more exemptions. Mr Moore has suggested that, if he is not able to have his way on this matter, the relevant part of the legislation that provides for exemptions will be removed. That is a pretty blunt instrument, but I suppose that that is a way of needling people towards change, too. If change does not occur or if there is not light at the end of the tunnel, then the blunt instrument will have to be dragged out of the holster. But, with luck, we will not have to proceed down that path.

There are a lot of supporters of motor sport in the community who would be looking for an outcome, and some would be feeling frustrated about the inability of various administrations to resolve their position. Many would not care about the noise impact on New South Wales residents because they live in my electorate or your electorate, Mr Speaker, and would not be affected by this in any way. But I am sure that, if your constituents in, say, Deakin had to face up to a motor racing track every Saturday, there would be an urgent need to deal with the matter. We still have to have some sympathy for those residents of New South Wales who would be affected by this.

I think the purpose of Mr Moore's motion has been secured, that is, attention has been drawn to the problem. I trust that the Government will move in a way that means that there is change. I am a little disturbed at the increase in exemptions. I do not think that is part of a good formula for change; I think it will result in no change. Most of the people I have been in contact with in the motor racing business would prefer to be able to race in that area, but I do not think that is the solution. While ever we continue to expand the exemptions, we put back the time when we will be able to secure a new facility where people can be involved in this recreation that so many passionately enjoy.

From Labor's point of view, I think the point has been made. We would urge the Government to move down the path of change. Who knows? In due course, it may well mean that some motor racing in the ACT cannot proceed. It may boil down to who is going to pay, and judgments will have to be made about the expenditure of the taxpayers' revenue on the provision of these sites. But more work is certainly necessary. It is not an easy one, I am sure; but at the end of the day the most important thing to be protected is our environment. If we do not protect that, we do not protect our community. We cannot be isolationists and think that it is just the ACT; we have to be concerned about people in New South Wales, or any other part of Australia, for that matter.

MR STEFANIAK (Minister for Education and Training and Minister for Sport and Recreation) (12.27): I thank Mr Moore for bringing this motion on. It has raised what was a big problem for the previous Government - a problem largely brought on itself, I think, because in 1992 it changed what was a workable situation by introducing a series of exemptions to the Noise Control Act. That was a totally unsatisfactory way for everyone to go. The motor sport people do not like the exemption system and it is unsatisfactory to a number of other participants in this debate as well. Quite clearly, if we had some common measure which was satisfactory to all, that would be ideal.

Last year we put up a Bill to bring us into line with New South Wales and that included a trackside measurement used in New South Wales. I appreciate that there is a significant regime in New South Wales in relation to the Act, but all tracks there are licensed at a 95 decibels at 30 metres standard. I will not go through that ad infinitum, because I spoke on it at length in the debate last year, as did Mr Westende and other speakers, and it is in the *Hansard.* However, it is currently the trackside system used in New South Wales. I heard what Mr Moore said in relation to the turn left at traffic lights and the need for commonality with New South Wales, and that is a very strong argument. It is something we tried to sort out last year, but at that stage the then Labor Government was not very helpful.

There were significant concessions made by the Liberal Party and motor sport in terms of coming to an acceptable standard, whereby a trackside measurement, which is the simplest and most efficient measurement not only in terms of the running of motor sport but also in environmental terms, could be worked out. Unfortunately, the Labor Party did not come to the party there, nor did Mr Moore. I hope that in this Third Assembly all players will be a little more sensible. From the debate today, people seem to have realised that there is a very real problem here.

Mr Berry: We will not be going to the New South Wales standard.

MR STEFANIAK: We will see, Wayne. We will have a chat to you about that. We all agree that the system of exemptions is not the best system to operate under. That is clearly an unsatisfactory situation for everyone. All speakers have raised the point that moving motor sport to another site would be quite expensive. That is certainly so. The Government is looking at other sites, just as the previous Government did; but I would envisage that any of those sites would involve any government in a fair amount of expense.

I point out to members that in the last three years considerable work has been done at Fairbairn Park by motor sports. Six sports use that complex, four of which, I understand, can comply effectively with the current standards. If you go out there you will see a lot of earthworks, with measures being taken to assist with soundproofing the area. I think the motor sports are to be commended for the effort they have put into ensuring that the noise generated from that facility, which has been in Canberra for many years - I suspect, in some instances well before most, if not all, of the Ridgeway in New South Wales. Effectively, only two sports, the Formula 500 and the hill climb, need exemptions and would be likely to need exemptions even if we went to, say, a New South Wales standard.

MR 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

Acton-Kingston Land Swap

MS FOLLETT: My question is to the Chief Minister and it concerns the Acton-Kingston land swap. Mrs Carnell, why did you accept the Commonwealth Government's deadline on doing the deal on the Acton-Kingston land swap? To impose a deadline where none exists is the oldest trick in the negotiating book. In keeping with your constant assurances about consultation with the community, and with your colleagues, of course, why did you not inform the Commonwealth of your need to consult and take proper advice on the matter?

MRS CARNELL: Thank you very much. To start with, I can assure Ms Follett that I did consult with my Cabinet colleagues before the decision was taken, to dispel what seems to be a popularly-held view that I did not. Very definitely, the Cabinet was well informed and very much part of those discussions. The negotiations with the Commonwealth, I believe, went quite smoothly. Certainly, they were required in a very short timeframe. But, Ms Follett, this is not a new issue. This issue has been on the agenda of this place ever since the closure of the Royal Canberra Hospital. This was not something that had to be decided in 24 hours. It was something that should have been decided in the last three years.

Ms Follett: Exactly. My point exactly.

MRS CARNELL: Your Government chose not to do anything for three or four years. After lots of discussion, over a long period, surprising as it may seem to you, we were very well aware of what we thought should happen with Acton and Kingston. We believe that it is appropriate to go ahead with the Kingston foreshore development, with an international competition, with something that will really be a shot in the arm for business in the ACT, and in the region as well; something that will be a focus not just for business but for arts and culture in this city for a long time to come. What we also believed, strongly, was that while there was a stand-off - a stand-off that you had allowed to continue for, as I said, a very long period - nothing was going to happen on either site. We believe that the deal that was done was an appropriate deal.

It is interesting to note that yesterday I got a letter from the Australian Institute of Aboriginal and Torres Strait Islander Studies thanking me for the role that we have played in helping them to find a new home. It says that the council is delighted with the Acton Peninsula proposal and looks forward to a smooth transition period and consultative future. There we are. I am very happy to table that. They know that this has been part of a long process - not something that happened in 24 hours, but a long process. You know that, previous Chief Minister. You knew that when you wrote to Paul Keating, back in 1992, when all of these negotiations that you could not bring to fruition happened; when you were proposing that Acton Peninsula - again I quote - presented an "unparalleled opportunity in the long term for the development of an urban village, based on a mix of medium- and high-density housing". Housing! Quite seriously, since then, during that period, the NCPA has had ongoing consultations. What is the thing that has come out of that? The one thing that the people of Canberra do not want is medium- and high-density housing on that site. What they want is something that is available to all members of the community, not just in Canberra but externally; something that is of national significance.

I believe that the Gallery of Aboriginal Australia is something of national significance. We believe that the whole museum should go ahead. We will continue to lobby for that. Now that Acton Peninsula is available for the Commonwealth to go ahead, there will be no excuses for them not to take the project through to its logical conclusion, and that is for the whole museum to be on that site. We believe strongly that we have allowed something to go ahead, not just the Gallery of Aboriginal Australia but also the Kingston foreshore development - something that, obviously, you were trying to do in 1992, and you failed.

MS FOLLETT: I have a supplementary question, Mr Speaker. We have heard from Mrs Carnell that she consulted nobody except her Liberal colleagues. Given that Mrs Carnell stated just now that it was not something that needed to be decided in 24 hours - that was her statement - - -

Mrs Carnell: I just said that I did decide it in 24 hours.

MS FOLLETT: Mr Speaker, Mrs Carnell said, right now, that it was not something that needed to be decided in 24 hours.

Mrs Carnell: No; that is not true.

MS FOLLETT: I would stand by that. I ask Mrs Carnell, given that she has not answered the question so far: What did she believe, or what was she led to believe by the Commonwealth, would be the consequences of her not responding in 24 hours? I would mention to her her constant assurances about consultation, and her statements in the press that it was "a bugger of a job" to make that decision because she was not able to consult. Why did she not just tell the Commonwealth that she had to consult? What did they hold over you that made you make that very unwise and ill-considered decision?

MRS CARNELL: What I did say, Ms Follett, was that consultation has happened on this project for years. We have had letters from you to the Prime Minister; we have had the NCPA having workshops; we have had consultation after consultation.

Mr Berry: I raise a point of order, Mr Speaker. I heard you say yesterday that Ministers can answer the question how they like, but do you not think that there ought to be an element of truth in it?

MR SPEAKER: I stand by what I said yesterday, Mr Berry. Please continue, Chief Minister.

Mr Berry: So, truth is not necessary?

MR SPEAKER: I said that I stand by what I said yesterday. I did not refer to your comment today. Ministers can answer the question as they see fit, as you well know, Mr Berry. You have had a lot of experience in this area.

MRS CARNELL: I am very happy to table the letter that I quoted from - there it is - to show that we are actually quoting from real - - -

Ms Follett: It was tabled in 1992, Mrs Carnell, had you been attending.

MRS CARNELL: What I am saying here is that consultation on this site has occurred.

Ms Follett: With whom?

MRS CARNELL: With the community. The NCPA has had constant and open views on this. We have had newspaper articles. We have had interviews on this for years. Nobody has been able to make a decision.

Mr Hird: I take a point of order, Mr Speaker. The Opposition have asked the Chief Minister a question. They should hear the Chief Minister's answer. Whether it is palatable or not, they should listen to the Chief Minister's answer.

MR SPEAKER: Pray continue, Chief Minister. I think you are managing quite well.

MRS CARNELL: It might be useful to table a *Canberra Times* article of 6 February 1994 in which Ms Follett is quoted about a land swap on Kingston. The fact of the matter is that consultation and public debate about this has been going on for a very long time. Possibly the Labor Party does not talk about these things. Within the Liberal Party it has been spoken about and consulted on for a very long time. The fact is that we have gone ahead and made a decision that should have been made years ago. It is a decision that is in the best interests of the people of Canberra. It allows business to get on in this city. It is a shot in the arm for the business community and for employment. We believe that it is a good decision, and I believe that the people of Canberra think so too.

Adult Education

MR MOORE: I would like to direct my question to Mr Stefaniak as Minister for Education and Training. I did indicate to Mr Stefaniak that I would be asking questions along these lines in order to get a full answer. I understand, Mr Stefaniak, that you will take the chair of the Australian Ministerial Council on Employment, Education, Training and Youth Affairs. Would you please identify how many jurisdictions in Australia have an adult education board or council and a policy on adult education? Is the ACT one of the jurisdictions to have either a board or a policy? If not, what action do you intend to take to facilitate implementation of such a board and/or such a policy? How will your efforts compare to those of the other States for National Education Week in early September?

MR STEFANIAK: I thank Mr Moore for the question, which I think includes his supplementary question as well.

Mr Moore: That was to give you a fighting chance this time.

MR STEFANIAK: Thank you, and thank you also for providing that to me. Mr Moore, at this stage only New South Wales and Victoria have formally established boards or councils of adult education, although South Australia has set up an interim council of adult and community education. In addition, Tasmania is in the process of establishing an institute of adult education council. With reference to the other States and Territories, Western Australia has a representative reference group on adult and community education within its State Department of Training. Queensland and the

Northern Territory have no formal board or council for adult education. In the ACT there is as yet no board or council for adult education. However, Government officers have engaged in consultation with representatives of the adult and community education sector with a view to establishing such a body in the future. I understand that Mr Wood, when he was Minister in the previous Government, met those representatives with a similar purpose in mind.

In relation to the Government's intended action facilitating the implementation of a board and a policy, you will be interested to know that the Government is represented on the MCEETYA task force on adult and community education. In addition, as mentioned, officers of the Government have held discussions with representatives of the adult and community education sector on the setting up of an appropriate council. They are also actively considering options for the development of a range of policies on adult and community education. As for the final part of your question about National Adult Education Week, officers of the Government have been actively involved in the group which is managing this project in the ACT and they have been available to offer advice and assistance. This commitment compares well with that of other jurisdictions, although the ACT Government has not entered into any commitment to provide direct funding to the project at this stage.

Acton-Kingston Land Swap

MR WOOD: Mr Speaker, my question is directed to the Chief Minister. In respect of the Kingston-Acton land swap, is there a written agreement with the Commonwealth defining the extent of the land involved? If so, what is that agreement, and what other details does it contain? Also, what is required of the ACT Government in respect of the clearing of the Acton site?

MRS CARNELL: The final details of the agreement between the ACT and the Commonwealth are currently being sorted out at departmental level. There is an agreement in place. There is an agreement in place for the Commonwealth to have control of the Acton Peninsula site and for clearing of that site to be handled by the ACT Government as part of the $13m that was promised by the previous Chief Minister. The ACT Government's commitment is to clear the site and to provide up to $3m in infrastructure. That will come to substantially less than the $13m that had previously been promised.

In return for that, the ACT gets the Kingston foreshore site with maximum planning flexibility. We will not have the NCPA coming in and telling us what to do every time we breathe, which, of course, has happened in the past. What we get is the capacity to get on with one of the most exciting projects that we have had in this city for a long time. What they get is the capacity to go ahead with the Gallery of Aboriginal Australia and the associated Aboriginal and Torres Strait Islander Studies area, plus, we hope, as I said yesterday, the Aboriginal Cultural Centre that is funded out of the casino premium and, if we have anything to do with it, the Museum of Australia. We think that that is the appropriate way to go. What is happening at this stage is that, at departmental level, timeframes are being sorted out; exactly when bits of - - -

Ms Follett: Mr Speaker, I take a point of order. I would like to draw Mrs Carnell's attention to what the question was. It was to the extent of the land involved, and whether there was an agreement on that.

MR SPEAKER: Pray continue, Chief Minister.

MRS CARNELL: The extent of the land involved is quite clearly set out. When the final agreements are reached - - -

Ms Follett: Where?

Mr Berry: Where?

MRS CARNELL: On Acton Peninsula, it is back to the ANU site. It does not include West Basin. Acton Peninsula; back to ANU; no West Basin.

Mr Berry: Where is the piece of paper?

Mr Wood: Why do you not take the community into your confidence?

MRS CARNELL: We have made that quite clear time and time again. That is what the Acton Peninsula site involves. At this stage we, as I said, are in the business of sorting out timeframes - when the Commonwealth requires certain bits of Acton Peninsula to be made available, and when we require bits of Kingston to be made available to us. That is the basis of the negotiations that at this stage are happening at departmental levels between the Commonwealth and the ACT. It is a very appropriate process. We also will be very keen to see what comes out of the Assembly committee that is looking at this issue as well. I think it is appropriate to quote from the *Canberra Times* of 19 October 1994, where it says:

> The Chief Minister, Rosemary Follett, said yesterday that she had had "informal discussions" with the Federal Government on this issue, but nothing had been finalised. "We certainly will be pursuing it, a land swap with the Commonwealth ..."

MR WOOD: Mr Speaker, I have a supplementary question. The Chief Minister seems to be in a very poor bargaining position. We still do not have an agreement. We have all the commitments in the world from the Chief Minister and no agreement. She is not in a strong position at all. Why ask an Assembly committee?

MR SPEAKER: Mr Wood, ask the question, please.

MR WOOD: The Chief Minister would have signed up before the Assembly committee can report. My supplementary question goes further.

MR SPEAKER: Thank you.

MR WOOD: Show a little bit of tolerance now; come on! Chief Minister, is the Commonwealth committed to clearing its part of the Kingston site, and will it be responsible for the decontamination of that area that it owns?

MRS CARNELL: That was a question yesterday, but I would be very happy to answer it again. No, the Commonwealth does not have a requirement to clear the Kingston site because at this stage, quite seriously, we do not need it cleared. We are very happy to pick up the rent on the printing works. Quite seriously, while the Australian Government Printer pays us rent as the landlord, I am extremely happy, because at this stage - - -

Mr Berry: Where are you going to put them?

MRS CARNELL: That is up to them, Mr Berry. Fascinatingly, it is not our responsibility - - -

Mr Berry: Who is going to pay for the block of land?

MRS CARNELL: It is our block of land.

Mr Berry: No; the new block of land.

MRS CARNELL: They pay rent to us, and when they move that is their responsibility. In the meantime, we get rent.

Mr Berry: I do not think they think that.

MRS CARNELL: Yes, they know that very well.

Mr Berry: I doubt it.

MRS CARNELL: The facts of the matter here are that the Kingston foreshore will become the ACT Government's; therefore, Federal Government tenants on that site will pay rent to us. We do not need those sites cleared at this stage. We are going to have, hopefully, an international competition that will come up with a plan for a very big site; a site that is bigger than Darling Harbour and Circular Quay together; a plan that will take, I would assume, quite a number of years to put in place, stage by stage; a plan that has been welcomed by a very large number of people.

In fact, another letter of the many came from the Leichhardt Street Studios, a group that is on the Kingston foreshore right now. Leichhardt Street Studios, a principal art association, say that they would relish the opportunity of being actively involved in such an exciting project, one that they said will improve the cultural variety of Canberra. That is the sort of response that this group and other groups are giving. This group used to be - - -

Ms Follett: It is not exactly the foreshore.

Mr Connolly: It is a little bit back. The tide would have to be very high for it to be on the foreshore.

MR SPEAKER: Order!

MRS CARNELL: What we are talking about here is a number of groups; people saying that they want to be part of this approach. The former Chief Minister was involved in a land swap. The fact is that she could not make a decision. We have gone ahead and made a decision. We have Aboriginal groups, we have arts groups and we have the business community saying, "Thank you, thank you, thank you".

Government Service - Senior Positions

MR KAINE: I have a question for the Chief Minister. Chief Minister, last week - I think it was Tuesday - I was watching television, and, without giving anybody a plug, I think it was Channel 10, and I heard the Leader of the Opposition say, in connection with the ACT public service, "The number of SES positions has fallen since self-government". Chief Minister, that does not coincide with my understanding of the facts. Can you tell the Assembly whether or not the Leader of the Opposition was stating the facts when she made that statement?

MRS CARNELL: Interestingly, Mr Kaine, again Ms Follett was wrong. In 1993-94 the annual report of the Head of Administration showed that at the commencement of self-government there were 73 senior executive positions. On 30 June 1994 there were 83 positions. That is an increase of 10. These figures do not include statutory office holders such as agency heads. I asked the Department of Public Administration to examine SES and senior officer numbers since the data was first accurately kept. We find that in March 1993 there were 1,185 senior officers grade A through to grade C. In December last year - - -

Ms Follett: The question was about SES. They are not SES officers.

MRS CARNELL: Just wait. In December last year there were 1,285 SOGs - an increase of 100 in less than two years. In March 1993 there were 99 SES officers, bands 1 and 2 and equivalent positions, in the ACT Government Service. In December last year there were 109. That is an increase of 10, Ms Follett. There was an increase of 10 in SES positions, and an increase of 100 in SOG positions.

This is interesting, Mr Speaker, because, in the same time, the number of government employees has fallen. What we have ended up with is an increase in SOGs, an increase in SES officers and a decrease in the overall ACT Government Service. During that time the ACT Government's wage bill has increased by 30 per cent, or $141m, since self-government started. We have a situation where wage bills have gone up $141m, or 30 per cent, average weekly earnings have gone up 14 per cent -

only 14 per cent - and the number of people at the coalface, the people producing services out there, has reduced. Again it appears that the previous Chief Minister got somewhat confused. We do have an increase in SES positions; we do have an increase in SOG positions; we do have an increase in the wage bill. For that reason I announced a freeze on SES and SOG officers, effective from 31 March, as the first step in the first comprehensive three-year staffing strategy that this Assembly has seen.

MR KAINE: I ask a supplementary question. Based on those statistics, Mr Speaker, we can assume that the Leader of the Opposition was telling a little porky last week.

Mr Berry: I take a point of order.

Ms Follett: Mr Speaker - - -

MR SPEAKER: Which one of you wishes to take it? Please withdraw, Mr Kaine. I do not think that was a supplementary question.

MR KAINE: I will rephrase that. The Leader of the Opposition was distorting the facts.

Ms Follett: If we are going to debate the point of order, Mr Speaker, I might say briefly that none of the statistics that Mrs Carnell has produced disprove in any way what I said. Nor has she taken into account the addition of functions in that period, and I will make a statement about it later.

MR SPEAKER: Leader of the Opposition, I was about to invite you to do that at the end of question time if you so wish.

Acton Peninsula

MR WHITECROSS: Mr Speaker, my question is to the Chief Minister. Mrs Carnell, what is the timetable agreed with the Commonwealth for the demolition of the buildings on Acton Peninsula, and what arrangements will be made to ensure that the work does not disturb existing tenants, especially the hospice and the child-care centre?

MRS CARNELL: Thanks very much. That was part of a question that I think I have already answered. As I said, right at this moment negotiations are going on between the Commonwealth and the ACT at departmental level doing exactly that - setting up a timeframe for the clearing of the site. The Commonwealth are very keen to start the Gallery of Aboriginal Australia in the next financial year, at some stage. I am sure that, in the interests of the ACT's tourism industry - something that is very important to us, particularly in terms of employment for our young people - we would be very keen to facilitate that if we could. We certainly would be looking at providing at least the part of the site they will need for that facility in the next financial year, at some stage. We are looking at coming up with a program to clear the site as the Commonwealth needs it. As soon as we have a timetable in place it will be tabled in this house. I am very happy to do it.

The issue of making sure that the site is safe while demolition is going on is something that will be handled under normal occupational health and safety standards. Demolitions happen all the time; buildings next-door to other buildings are pulled down, and Acton Peninsula is no different. An issue has been raised with regard to the child-care centre. There were some concerns expressed by some of the people at the child-care centre that while demolition was going on there may be a problem. We will certainly ensure that that is not the case. If there is any indication whatsoever that any of the children or, for that matter, teachers could be subject to any problems, we will undertake to relocate them during that period. There is no indication that that is the case, by the way. Demolitions happen all over the world right next-door to other buildings and houses and so on, with proper facilities and proper safeguards in place. We will ensure that that happens.

MR WHITECROSS: I ask a supplementary question. In respect of those groups now housed in the former hospital building, will the Government guarantee to provide additional funding for their relocation and establishment costs, and any higher rent that they may have to pay?

MRS CARNELL: We will ensure that the groups that are currently government funded and that have accommodation on Acton Peninsula at this stage are not disadvantaged by the decision that the Government has taken in this circumstance. There are a number of associations, I think, including the Epilepsy Association and the Red Cross. There is quite a number that are currently government funded. Obviously, it would not be acceptable for them to be disadvantaged by the decision that we have taken.

Recycling of Glass and Plastic

MS HORODNY: I address my question without notice to the Minister for Urban Services, Mr De Domenico. Can the Minister tell the Assembly how much glass and plastic is currently being thrown away by both business and the public sector? Given the Government's stated commitment to waste management, what steps are being taken by the Government to ensure that all government departments and commercial and retail outlets have access to glass and PET recycling? When will these services be provided?

MR DE DOMENICO: Thank you, Ms Horodny, for your question. The answer to the first part is that I do not know, but I will find out and let you know. We will look at the way that government, especially, makes sure that we do get rid of glass and the other things that you have mentioned. I will get back to you as soon as I can with the answer to that question.

Acton-Kingston Land Swap

MS McRAE: My question is to the Chief Minister. Chief Minister, prior to your announcement of the Kingston-Acton land swap, what advice were you given about the extent of likely contamination, particularly in regard to asbestos on the Kingston site?

MRS CARNELL: Contamination was an issue, obviously, the whole time that negotiations were going on - not just this set of negotiations but, I am sure, negotiations that happened when Ms Follett was in the job. If it was not, it should have been. It has been well known that there is asbestos in the old hospital building and in a number of other older buildings around Canberra. There is the issue of the Government Printing Office and potential lead contamination there.

Mr Berry: What about Kingston?

MRS CARNELL: That is in Kingston, surprising as it may seem. By the way, just for interest, so is the Leichhardt Street Studios; but we will not get into that. As I said yesterday in regard to contamination, it really depends on what you are going to use the site for.

Mr Berry: So, you do not know what asbestos is there.

MR SPEAKER: Order! Please allow the Chief Minister to answer Ms McRae's question.

MRS CARNELL: Asbestos obviously is an extremely important issue. Until we go through this whole process, looking at what buildings need to be removed, which buildings do not need to be removed, and what we are going to use sites for, it is simply impossible to make statements on what the cost of removing asbestos or, for that matter, levelling the buildings will be. For us to go ahead with the Kingston foreshore development, it is obviously necessary for a number of buildings to be levelled. There is no doubt about that. This is one of the most exciting projects that the ACT Government and the ACT building community would ever have. The fact is, that no matter what you do on the Kingston foreshore, buildings are going to have to be demolished. As you would be aware, the proposal for the Kingston foreshore is a joint venture between the ACT Government and the private sector. We would hope that the Commonwealth Government and the NCPA are interested in that as well, and, of course, ACTEW. The ACT Government will give the land as its contribution to the development.

Ms Follett: Give?

MRS CARNELL: To the joint venture, Chief Minister - previous Chief Minister. I am sorry. One day I will get it right. Ms Follett, we have said categorically that this is a joint venture. The private sector will bring the capital to this joint venture. Therefore, things like levelling buildings and so on will be handled by a joint venture partnership. It is not going to be simply a government project. It would be stupid for that to be the case. That is the sort of thing the previous Government would have done.

MS McRAE: I have a supplementary question. If the buildings are going to be levelled, if there is contamination there the land will have a cost to it. What do you expect to be the cost? In terms of a joint venture, have you built in the cost of the assessment and the removal of this contamination?

MRS CARNELL: It seems that Ms McRae does not understand what a joint venture is. A joint venture partnership is exactly that. The ACT Government will bring the land to the joint venture partnership. The private sector will do the building, will do the levelling of buildings that we do not need, and will do the decontamination of sites. Certainly, that comes with a cost; but whoever does it, under whatever circumstances, that is a cost to this development but not a cost to the ACT Government. It absolutely stuns me that a group of people who were in government in this city do not understand joint venture developments and do not understand that this is actually a money-making concern. The Kingston foreshore development will be a very definite money-making proposition, not just to the ACT Government but to the private sector, to the arts community and to the tourism community in the ACT. This is not a cost. This will make money for the people of the ACT. Therefore, the cost of decontaminating the site is not a budget item.

Government Service - Senior Officer Pay Rates

MR HIRD: Mr Speaker, I direct a question to Mr Tony De Domenico, the Minister for Business, Employment and Tourism. I wish to draw the Minister's attention to bans being imposed by a small group of senior officers in the ACT Government Service over pay rates. Can the Minister tell this parliament how the Government's offer compares with other offers made to senior officers in the Australian Public Service? I have a great concern that the ACT senior officers may be behind their Federal counterparts.

MR DE DOMENICO: I thank Mr Hird for his question. The offer to the ACT senior officers provides for abandonment of the individual performance pay scheme and substitutes for that increases in rates of pay by an amount equal to 50 per cent of the maximum of the performance pay base currently available. That is part 1. It also abolishes the current scheme of reimbursement for work-related expenses and introduces in lieu a new allowance paid with salary and having the same after-tax value as the current scheme.

The general outcome for senior officers in the Australian Public Service is as follows: It abandons the current scheme of individual performance based pay and, in lieu, adopts the general agency-based pay increase for senior officers. In the main, it is an average adjustment of 4 per cent in rates of pay. Some Australian Public Service agencies have retained the current work-related expenses scheme. Others, on the other hand, have incorporated this into salary, or adopted an arrangement similar to the ACT's.

In summary, Mr Hird, while the Australian Public Service outcomes are variable between agencies, a general comparison of the overall package offered by the Government with the Australian Public Service developments shows that annual salary for ACT senior officers will be in advance of that of their counterparts in the Australian Public Service.

For example, the annual salary of a senior officer grade C - the bottom of the range - in the ACT Government Service would be $49,000, while an equivalent employee in the Australian Public Service would have an annual salary in the general range of $46,000 to $48,000. We heard Mrs Carnell say that there has been an increase in these areas. First of all, senior officers grade C will be at least $1,000 better off in the ACT than in the Federal service. For senior officers grade B, at the top of the range, the ACT employee can expect $65,000, compared to their Australian Public Service counterparts who are receiving an annual salary in the general range of $60,000 to $63,000. This represents a margin of approximately 3 per cent in favour of the ACT employees. Senior officers grade C are at least $1,000 better off and some senior officers grade B are $3,000 better off than their Australian Public Service counterparts.

As I said, Mr Speaker, this is a very fair, reasonable and responsible offer. It was fair, reasonable and responsible when the former Government made the same offer last year. It continues to be very fair, reasonable and responsible, as is this Government - very fair, very reasonable and very responsible.

Kingston Foreshore

MR CONNOLLY: My question is to the Chief Minister. What documentation exists, or will exist, in relation to the design competition for the Kingston foreshore site concerning the nature of the development? In particular, what parameters do exist, or will exist, concerning the mix of residential, retail, commercial, cultural and public use?

MRS CARNELL: Thank you, Mr Connolly, for a very sensible question. This is a really important issue on how the design competition will be worked and what parameters will be set.

Mr Connolly: The answer is, "We do not know".

MRS CARNELL: It is not. I would hope that that is subject to considerable debate in this place. Although the Kingston foreshore should have some medium-density housing and commercial space as well, we would hate to see that on the lake foreshore. As we have said before, we would like to see it as an arts and cultural precinct. We believe that the old powerhouse could be a really exciting venue for all sorts of things. It is a very big site. We see it as a place for, possibly, artists in residence and a local gallery. Things like that could find a home there very appropriately. The sorts of things that could be there are limited only by our imagination. Our view, very strongly, is that we do not want to see housing or commercial buildings, or high-rise, on the lake foreshore. Where the wetlands and the Kingston foreshore come together, one of the stipulations will be that that area is handled in an environmentally-sensitive way; that issues such as the drain-off from the Kingston foreshore into the lake are taken into account when we look at the design criteria.

We are already talking to people like the Architects Institute and so on. A number of people who have had quite substantial experience in areas like international competitions are giving us input at this stage. We have approached the Federal Government for them to be part of this whole approach because the NCPA's expertise will be invaluable. We see this as very important. When we progress to having at least base guidelines for the international competition, based upon the sorts of things I have just spoken about, we would be very pleased to have input from the whole Assembly and, for that matter, the community.

MR CONNOLLY: I ask a supplementary question. Noting your comment that this will be limited only by the imagination, before your announcement what projections were you given about the future demand for housing, retail and commercial space in the ACT, particularly in the South Canberra and Kingston area?

MRS CARNELL: The whole basis of a competition is coming up - - -

Mr Berry: "We do not know".

Mr Connolly: No projections; just imagination.

MRS CARNELL: Quite seriously, to determine before we start the percentage of residential and the percentage of commercial for a project that will probably take in excess of 10 years from start to finish would simply be ridiculous. These sorts of issues are based upon needs at the time, obviously. Look at the way that the old Expo site has been handled in Brisbane, at how Darling Harbour has been handled in Sydney, and the Melbourne redevelopment. They show you the sorts of things that can be done that are very exciting for the community, for tourists and so on.

To get tied down in areas like just how much commercial space should be part of this program before we even go for the competition would be simply ridiculous. What should be part of the stipulation is that we do not want high rise development on the lake foreshore, we do not want the height of buildings that would be expected, and so on. The rest of it must be able to be subject to negotiations. This really does show the previous Government's attitude to consultation generally. Their view is that you start off with a preconceived idea of what you can have and then attempt to make the whole thing work around that. That is simply ridiculous. We can be much more innovative than that if we try.

Kingston Foreshore

MS TUCKER: I would like to ask a question of the Chief Minister on the same topic. If there is a joint venture, would the interested parties and the private sector take responsibility for the assessment of contamination or would that be something that the ACT Government took on first? This also would be relevant to the design competition. Particular types of development may be more appropriate than others, depending on the nature of the contamination. For example, you might find that residential use is ruled out absolutely because of the type of contamination. When there are families living on a site

and they actually touch the soil, et cetera, there are lots of things which will affect the parameters of that design competition. Do you intend to assess the levels of contamination before any of these other steps that you have outlined are taken?

MRS CARNELL: The ACT Government must be the entity that looks at where the contamination is. There is certainly some indication that at least some contamination is expected on the Kingston site; but there is nothing to suggest that it is overly severe, and there is nothing to suggest at this stage that there is any problem with run-off into the lake. It seems that the soil is quite stable. These sorts of things are looked at all the time.

As the previous Government would remember, quite substantial work was done because the previous Government gave a site on that particular bit of land to Burmah Fuels, which was found to be contaminated after the event, after they had signed the documentation. We will not get into history. I can guarantee that, where contamination is found, rehabilitation will occur, and it will occur to international standards.

Mr Wood: Who will pay for that?

MRS CARNELL: That would be part of the joint venture approach, obviously. You simply do not understand how this works. As I am sure Ms Tucker would be aware, the costs of rehabilitation are totally different if you are putting down a concrete slab rather than having a children's playground on a particular site. You are quite right. If you are putting a children's playground on a contaminated site, it will cost an absolute bomb to rehabilitate a very contaminated site; but, if you are putting down a sealed concrete slab, the issue is somewhat different in terms of what has to be done to rehabilitate the site. It will be done to international standards. It must be. The redevelopment of contaminated sites is not unique to the ACT. It is not unique to Acton or to Kingston. It happens everywhere in this country.

Mr De Domenico: Homebush Bay.

MRS CARNELL: Yes, Homebush Bay; wherever there is a redevelopment, particularly a major redevelopment. The issue of contaminated sites, as I know you know, is very much part of that whole approach. We are not unique here.

MS TUCKER: I have a supplementary question. Would you recognise that the assessment needs to occur first? Does that mean that you have put a hold on further development of the parameters of the international design competition until we have more information?

MRS CARNELL: The international design competition and what can be on particular sites would obviously be determined in some way by what the site looks like; in other words, levels of contamination and other things, like what is on them now and so on. The international competition obviously cannot go ahead in its final phase until we know what levels of contamination exist on the site. Let me restate: We expect some levels of contamination. There is no indication that those levels of contamination are abnormally

high in the Kingston area, and there is no indication that there is any problem with soil stability, which would be a real problem if there were indications of real flow-off into the lake. I seem to remember Mr Wood making exactly those comments when he was talking about the problems of contamination on the Burmah site.

Acton-Kingston Land Swap

MR BERRY: Noting the absolute absence of consultation by this Government in relation to the community before Mrs Carnell folded on the issue of the land swap, noting that Cabinet colleagues were not able to consider this matter - - -

Mrs Carnell: I just told you that they were.

Mr De Domenico: That is not true.

MR BERRY: There was no Cabinet discussion. I direct my question, therefore, Mr Speaker, to Mr Humphries, the Minister for the Environment, Land and Planning. Mr Humphries, were you asked to provide advice to the Chief Minister about the Kingston-Acton land swap? If you were not asked, did you provide it anyway? What was this advice in relation to those planning and environment matters?

MR HUMPHRIES: Mr Speaker, the Chief Minister is more than capable of knowing where to go within the ACT Administration to get the advice that she wants to make the decision which she ultimately conveyed and discussed with her other colleagues in the Liberal Party Government. Mr Berry greatly underestimates the capacity of our Chief Minister. He thinks that she is not capable of getting that information for herself. There is no question, Mr Speaker, that the Government was perfectly capable of making this decision, based on the facts available to us at the time. The Chief Minister has outlined what those facts were on the occasion.

Mr Wood: A very illuminating answer.

MR HUMPHRIES: If those opposite are not interested in my giving this answer, they can leave the chamber. The fact is that I am going to give it.

MR SPEAKER: It is all right; you can address me. If they do not want to listen, that is their affair, Mr Humphries.

MR HUMPHRIES: Thank you, Mr Speaker. I think members opposite should be aware that, as the Chief Minister has indicated, the Commonwealth gave the ACT only a short period in which to respond to this matter.

Ms Follett: Why?

Mr Berry: Why did you accept it?

Ms Follett: Why did you agree to that?

MR HUMPHRIES: If members opposite think that we were in a position to have arm-wrestled the Commonwealth, I think the question that needs to be asked is: Why was it that the previous Government did not do so? Why did not the previous Government sort these issues out when it said two or more years ago that it wanted to resolve them with the Commonwealth? Why did it not say, "We demand x billion dollars for our site at Acton and nothing less is going to be acceptable."?

Ms Follett: I did.

MR HUMPHRIES: You never managed to sort that matter out.

Mr Moore: I raise a point of order, Mr Speaker. Standing order 118(a) provides that answers to questions shall be concise and confined to the subject matter of the question. Mr Berry asked a question of Mr Humphries about how he was consulted and what reply he gave. We have not heard anything at all on that.

Mr Wood: After the event, he said.

MR SPEAKER: I found it difficult to hear much of it at all at the beginning, Mr Moore, due to the extraneous noise in the chamber. Mr Humphries might be drawing his answer to a conclusion.

MR HUMPHRIES: Mr Speaker, the Chief Minister did discuss with me the implications of this decision. As Minister for the Environment, Land and Planning, I discussed with her the issues from my perspective that would be relevant from the standpoint of the environment and the planning considerations necessary for this decision to proceed. I gave the decision my full support, having tendered that advice, and having heard her account of the reasons that the Commonwealth had given us for acceptance of this proposal.

MR BERRY: I have a supplementary question. I note that, again, there was not a full and formal Cabinet decision in relation to this matter.

Mrs Carnell: How do you know?

MR BERRY: I am not convinced by the answers that have been given here, or the interjections, that there has been a Cabinet decision. If there has been a Cabinet decision and you really want to prove it, table it.

MR SPEAKER: Mr Berry, I refer you to standing order 119 in relation to supplementary questions. One of the conditions is that it contains no preamble. Could we have the question, please?

MR BERRY: In relation to your duties, Mr Humphries, could you advise what agreements you have reached, or even sought, to give the ACT Planning Authority control over the entire Kingston site?

MR HUMPHRIES: Mr Speaker, I do not think that is a supplementary question. As for giving the ACT Planning Authority control over the site, that is a matter for continuing negotiations, as the Chief Minister indicated, depending on the way in which this particular arrangement is conducted. If members opposite think that, having reached agreement in those circumstances, suddenly a document magically appears on the table with all the details contained within it, then clearly they are deluding themselves, or more likely deluding everybody else in the Territory, about the way in which these things occur.

Members should be aware that this was a decision taken shortly before a meeting of the Council of Australian Governments. It was the basis on which the ACT was to enter into a final round of negotiations at that meeting about the ACT's position. At that stage the arrangement between the Commonwealth and the ACT was settled, in consultation with other members of the ACT Government. I stress that. As to the exact role that the ACT Planning Authority will play, the NCPA will play, and so on, that is a matter for the final wording of the agreement between those two governments. I am as satisfied as the Chief Minister that at the end of the day we will have an agreement which enormously enhances the position of tourism, culture, and the people of the Territory generally.

Child Abuse

MR OSBORNE: My question is addressed to the Minister for Housing and Family Services, Mr Stefaniak. Would the Minister please provide the Assembly with an explanation as to why the mandatory reporting of child abuse cases has been deferred for another year? Would the Minister please provide the Assembly with an explanation surrounding events leading to the recent refusal of staff in the Child Protection Unit to take on any new inquiries due to "an inhuman workload"? What steps is the Minister taking to rectify the problem?

Mr Berry: We move them on now, Ossie.

MR STEFANIAK: I thank Mr Osborne for the question. He probably likes being moved along. Maybe you should, Wayne. In relation to mandatory reporting, Mr Osborne, the ACT Government is committed to the introduction of mandatory reporting. As the Chief Minister has said on a number of public occasions recently, we will not introduce it until the proper training has occurred. I believe that that view would be supported by most of my fellow members. Certainly, it is supported by most relevant people out there in the community. All the groups that the Chief Minister and I have seen have impressed that upon us and that is something we certainly bear in mind.

A range of issues will need to be addressed with other government agencies and community organisations before the Government can commit to a date for its introduction. Those issues include the need to clearly define the categories of mandated persons and any required legislative changes arising from that; very importantly, the scope of training required for mandated persons; and the need for additional resources relating to the expected increase in notifications of child abuse in the areas of child protection investigation, and also the anticipated consequent increase in demand for substitute care

placements as a result. These issues will be given full consideration before a decision can be reached on the introduction of mandatory reporting. It should be noted, though, Mr Osborne, that the current level of reporting of child abuse in the ACT is comparatively high even without mandatory reporting. I am advised that our level of child abuse reporting is similar to that of States who do have mandatory reporting.

In relation to the dispute involving the child protection workers, there is a bit of deja vu for the former Government here because they had a similar dispute in 1994 and I do not think they seemed to do very much at all about it. When we took over government we inherited a Child Protection Unit which was significantly understaffed and there were significant problems. I am delighted to say that I have had lengthy discussions with a number of people, including Sue Ball and representatives from the regional areas. A number of points were discussed and a number of things were set in train. My officers of the Housing and Family Services Bureau have been putting forward to the union a number of very good proposals. I will give you an update in relation to that, Mr Osborne.

The Government acknowledges the concern of the CPSU, and its officials are meeting with union officials and delegates on a very regular basis to resolve this dispute. I understand that there were meetings as late as yesterday. The Government has proposed to the union an objective review of child protection workloads and, in the interim, workload limits to ease stress on workers. Cases will be prioritised to ensure that children are not placed at risk. I am advised that the union is to meet on Thursday, tomorrow, to respond to these proposals. Whilst the review is in progress new staff will be recruited and supervision and support will be provided to workers, which is something that did not occur over the last year or so, it seems, and is something which they are very keen to see happen.

In relation to the new staff, I am advised that current plans are to recruit 11 new staff. The advertisements went in the *Australian*, I think, and the *Canberra Times* on 15 April. On 20 April they also appeared in the Government *Gazette.* Arrangements are being made to interview people who are applying. We want to recruit a further 11 staff. This will bring the number up to, I understand, 30. That is effectively about a 50 per cent increase in staffing levels. I think that in itself will go a very long way to alleviating some of the problems the workers at present are suffering. I am very keen to see that proceed as quickly as possible because I think that that, in itself, is going to go a long way.

There are a couple of other issues, Mr Osborne, which I will be taking up with relevant government agencies in other areas and which I am sure will also assist the workers in doing their very important job.

Mrs Carnell: I ask that further questions be placed on the notice paper.

Recycling of Glass and Plastic

MR DE DOMENICO: Mr Speaker, during question time this afternoon Ms Horodny asked me a question in relation to glass and other materials. I am advised, Mr Speaker, that the first four months of the operation of the kerbside recycling collection service resulted in the collection of 8,848 tonnes of recyclables, comprising 4,740 tonnes of paper, 3,455 tonnes of glass, 146 tonnes of PET, 97 tonnes of HDPE, 8 tonnes of PVC, 74 tonnes of liquid paper board, 93 tonnes of aluminium and 235 tonnes of steel cans. Overall, the collection of household garbage for disposal and landfill was over 20 per cent lower than for the same period last year. I will try to get some statistics in terms of the ACT Government and answer the second part of your question at a later time.

GOVERNMENT SERVICE - SENIOR POSITIONS

MS FOLLETT (Leader of the Opposition): I seek leave to make a statement on a matter which arose in question time, Mr Speaker.

MR SPEAKER: Do you claim to have been misrepresented?

MS FOLLETT: I do.

MR SPEAKER: Is leave granted? Leave is granted. This is under standing order 47, I presume.

MS FOLLETT: Whatever; I leave the technicalities to you. If I have leave, I have leave, Mr Speaker.

MR SPEAKER: Leave is granted to make a statement. Please proceed.

MS FOLLETT: Thank you. Mr Speaker, during question time Mr Kaine asked Mrs Carnell a question about the number of SES positions in the public service. I wish to draw to the attention of the Assembly the annual reports of the Head of Administration for the relevant periods. In the annual report for 1992-93 the total number of SES officers, bands 1 and 2, was 109, and at 30 June 1994 SES band 1 and 2 officers totalled 104. That, in my mathematics, is a reduction of five positions.

I wish to make mention also of the inaccurate reporting, in my view, of the overall wages increase during the period. Mr Speaker, if you look at the figures for 1989-90, the wages bill was some $470m. If you add to that the cost of the addition of the administration of justice function, which came to the Territory after the commencement of self-government, and if you add to it also the ABS's price deflator to bring the figure into 1993-94 dollars, you will see that the starting figure for the ACT wages bill is some $525m. The figure that the Government is currently asserting is $611m, which is an increase of some 16.3 per cent. It is not an increase of 30 per cent. If you compare that increase of 16.3 per cent to the average weekly earnings increase over the same period, which was some 13.8 per cent, I think most members who were not anxious to misrepresent the situation could see that there is really only a slight increase in the ACT's wages bill ahead of the increase in average weekly earnings for the period.

Mr Humphries: It was an increase, was it not?

Mrs Carnell: There was an increase, yes.

MS FOLLETT: In the SES there was not.

ROLE OF SPEAKER

Ms McRae: I raise a point of order. Mr Speaker, I was most concerned this morning to hear the Chief Minister talking on radio 2CN and claiming that the Assembly has a ban on Tuesday night sittings and had in fact voted on the matter. I rang the station and was not able to get a correction on air. Mr Speaker, I am asking for guidance as to what your role is going to be in this Assembly. You are the representative of the Assembly and our good standing in the community. This statement was clearly wrong and put an interpretation on the Assembly's activities which was wrong. You are the protector of the Assembly. We have strong views on this issue and we are going to debate it. The result may be quite different from what was announced on air today. Would you consider, please, making a statement on what actions you are going to take in terms of this form of misrepresentation in this instance and in any future instance, Mr Speaker? Not at this moment; I am happy to wait for a written statement.

MR SPEAKER: Thank you. I will, obviously, have to take that on notice.

Mr Humphries: I was going to make a submission on the point of order, Mr Speaker.

MR SPEAKER: Thank you.

Mr Humphries: I was going to say that, clearly, there will be circumstances when members will comment in a public way on what they expect that the Assembly is going to do. If we were each held to account for making comments of that kind, we would all be facing whatever action it is that Ms McRae seems to think you should be taking. I think that this is a question of the construction of what was being said. If it was a case of saying that this has already happened, that is obviously one matter. If it was a case of saying that it is expected that this will happen, that is quite another matter. I think, Mr Speaker, that we need to give some attention to what was said and how it was said.

MR SPEAKER: Thank you, Mr Humphries. I would need to check the information. I am not disputing anybody's comments, but I would need to check out the matter. As Ms McRae has asked me to consider it, I will do so.

Mrs Carnell: Mr Speaker, I am more than happy to dispel the issue now. If I gave any misinterpretation of the issue, I apologise. I am very happy to. From my perspective, it was not an issue on which I meant to mislead anybody. If that was the case, I am very happy to apologise right now, just to take the issue off the agenda.

MR SPEAKER: Thank you. I think the matter is settled.

Ms McRae: No, that is not the point. In my point of order I asked you to consider future actions and give us guidance on what you are going to do to protect the good name of the Assembly.

MR SPEAKER: I will consider future actions.

QUARTERLY FINANCIAL STATEMENT
Paper

MRS CARNELL (Chief Minister and Treasurer): Mr Speaker, for the information of members, I present the Treasurer's Quarterly Financial Statement for the period 1 January to 31 March 1995.

NATIONAL ROAD TRANSPORT COMMISSION - ANNUAL REPORT
Paper

MR HUMPHRIES (Attorney-General): Mr Speaker, for the information of members, I present the National Road Transport Commission Annual Report for 1993-94. Members will be pleased to note that this year the ACT has not been deliberately omitted from the cover of the report, as it was last year.

PREMIERS CONFERENCE, AUSTRALIAN LOAN COUNCIL AND MEETING OF THE COUNCIL OF AUSTRALIAN GOVERNMENTS
Ministerial Statement and Paper

MRS CARNELL (Chief Minister): I ask for leave of the Assembly to make a ministerial statement on the Premiers Conference, the Australian Loan Council and the meeting of the Council of Australian Governments, held on 11 April 1995.

Leave granted.

MRS CARNELL: As you know, the meetings were combined for the first time. In this statement I will report on each in turn. I will begin with the Premiers Conference. In the lead-up to the Premiers Conference I met with the Prime Minister to argue the ACT's case for additional assistance in 1995-96. The Prime Minister was very receptive, and after discussion about Acton and Kingston foreshore the offer document identified $15m of special revenue assistance for the ACT. This is more than was offered to any other State or Territory. In fact, only the Northern Territory and the ACT received anything at all. Although it is not as much as the Territory sought, it will go some way towards offsetting what would otherwise have been an untenable reduction in financial assistance.

Nevertheless, the Government faces a decline of $135 in real terms for each ACT resident. In total, decisions at the Premiers Conference resulted in a reduction of $30m, or approximately 12 per cent in real terms, in financial assistance to the Territory over 1994-95. Despite these pressures, I am committed to preparing the ACT for the completion of the move to State-like funding by 1997-98 without recourse to unsustainable levels of borrowing. Importantly, my colleagues from the States and the Northern Territory and I negotiated substantial concessions from the Commonwealth when it came to sharing out the expected dividends from the Hilmer reforms. I will speak a bit more about those later.

A further important decision taken by the Commonwealth was its agreement to continue indefinitely the real per capita guarantee for general revenue funding to the States and Territories. This will provide some much needed certainty for the States and Territories, since almost half of all the States' and Territories' revenue comes from the Commonwealth. The continuation of the real per capita guarantee is worth $184m to the ACT over the next nine years. The Premiers Conference also agreed to continue to distribute local government road funding on the basis of historic shares rather than having it absorbed into local government financial grants and distributed on a per capita basis. The alternative would have cost the ACT approximately $5m.

The major decision agreed at the Australian Loan Council related to the acceptance of each jurisdiction's nominated 1995-96 loan council allocation, or LCA. Such acceptance is subject to two considerations by the Loan Council. These are the implications for macro-economic policy of the aggregate of all jurisdictions' LCAs, and the Loan Council judgments about the acceptability and sustainability of the fiscal strategy implicit in the individual jurisdictions' nominations. The ACT's allocation was agreed at $29m and remains at a fairly modest level.

As a newcomer to the COAG process, I was enthusiastic about what we might achieve. I am pleased to be able to report that the meeting was very successful. The spirit of cooperation that was demonstrated in this forum was something that I was really glad to be part of. The council had some very important and, in some instances, complex matters before it, which included the national competition policy; health and community services, with some very exciting outcomes in that area; public housing; the centenary of Federation; and, of course, the complex issue of treaties.

It will be clear to everyone from the media coverage of the meeting that agreements reached about competition policy were very significant indeed. This meeting enabled leaders to establish a formal agreement to a legislative package based on the Hilmer report on national competition policy. The package establishes processes and institutions to encourage competition, not just in particular sectors, but right across the whole economy. The Industry Commission had estimated that the package of reforms, when implemented, could increase the nation's productivity by almost $23 billion, or 5 per cent of gross domestic product. The States and Territories have been concerned about the extent to which the substantial revenue gains from introducing competition

policy would be shared between the Commonwealth and the State and Territory governments. In August last year the Commonwealth offered the States and Territories a one-off payment of $700m. As a result of cooperative lobbying by the States and Territories, the Commonwealth increased its offer to the States to $2.4 billion - that is in 1994-95 terms - payable over nine years, commencing in 1997-98. That is a substantial increase.

I am pleased that the Commonwealth had agreed to a reasonable basis for sharing revenue gains with all States and Territories. For the ACT, this represents, in today's values, an additional $3.4m commencing in 1997-98 and building to $10.4m per annum in the year 2001-02. The payment of these amounts is, of course, conditional upon States and Territories implementing a number of reforms over that period. As most of the reforms are already part of the Government's economic reform agenda, meeting these conditions, hopefully, will not be a problem. In fact, this national approach to a policy of competition will, in fact, provide additional impetus to the ACT Government's own comprehensive reform package. My Government is already working on an implementation strategy for competition policy. There are a number of things we are happily committed to doing. These include reviewing regulation and legislation affecting competition and, of course, the development of a timetable for reform of all anti-competitive regulation and legislation by the year 2000, in accordance with the Hilmer principles. Further, in line with the principles agreed under the Hilmer reforms, we will also move to corporatise ACTEW, ACTION and ACTTAB. I am pleased that, although so early in my term, the ACT has been able to participate with all governments in this very groundbreaking process. I look forward to pursuing these reforms in the ACT. *(Quorum formed)*

The discussion of health and community services was also of particular interest to me in my role as Minister for Health and Community Care. Council discussed a process for reform which will see services delivered in a manner that ensures maximum coordination and the best outcome for consumers and patients. Continuity of care for patients between the hospital setting and the community will be a priority. Council agreed that it is essential that matters such as organisation of services, planning and funding arrangements, and nationally consistent data are developed in a manner that matches client needs and is cost-effective. The need to support competition in the delivery of health services was also recognised, and, again, I look forward to seeing the implementation of these reforms in the ACT.

In the area of public housing, council considered a report from the Housing Ministers and was able to agree to reforms which, in the long term, will see the Commonwealth responsible for income support and the States and Territories with responsibility for service delivery. Although not discussed at the meeting, the Commonwealth is proposing that funding for housing assistance move away from a per capita basis to a needs basis. In the ACT, this has the potential to reduce the level of funding that we now receive from the Commonwealth. I sought the assurance of the Prime Minister that our special circumstances will be considered when funding negotiations commence. I am pleased to say that I got that assurance from the Prime Minister.

The discussion about the centenary of Federation led to an agreement to establish a working group of officials to progress arrangements for the celebration. The working group will be chaired by the Commonwealth. I believe that the ACT can take a major role in this group and that we have a lot to gain by encouraging the group to consider Canberra as a major venue for centenary-related activities.

As a result of the hard work that was undertaken at the leaders forums in November 1994 and February 1995, treaties were listed on the agenda. The States and Territories put forward a forceful argument for reform of the treaties process.

Mr Moore: Hear, hear!

MRS CARNELL: I agree. These reforms include better consultation - again I say, "Hear, hear!" - and increased accountability to Federal Parliament. It was agreed that the reforms will be discussed by the Commonwealth-State Standing Committee on Treaties. Council also considered the issues of Northern Territory statehood, water resource policy and regulatory reform. In regard to Northern Territory statehood, the Commonwealth has decided to work with the Northern Territory to consider issues relating to the possible grant of statehood. In the areas of water resource policy and regulatory reform, council agreed to the release of three documents - the Second Report of the Working Group on Water Resource Policy; the Report of the Expert Group on Asset Valuation Methods and Cost-Recovery Definitions for the Australian Water Industry; and Principles and Guidelines for National Standard Setting and Regulatory Action. Details of these reports are provided in the communique. I table the communique and a copy of this statement. I move:

> That the Assembly takes note of the papers.

Debate (on motion by **Mr Berry**) adjourned.

LOCAL HERITAGE
Ministerial Statement

MR HUMPHRIES (Attorney-General and Minister for Arts and Heritage): Mr Speaker, I ask for leave of the Assembly to make a ministerial statement on raising the profile of our local heritage.

Leave granted.

MR HUMPHRIES: Mr Speaker, with Heritage Week just over, it is timely for me to focus on our ACT heritage. The Government recognises the importance of the ACT's cultural heritage sites and is committed to ensuring the conservation, protection and enhancement of the ACT's cultural and natural heritage resources. I would like, in particular, to focus on the important roles the Government and the community have, as partners, in raising community awareness and fostering an appreciation of those places and objects which have intrinsic value to us as a community.

Our understanding and appreciation of heritage are becoming increasingly sophisticated as our history matures. Heritage is a vital and fundamental part of our culture and cultural identity. It helps us to define who we are as a community and to put in context the future of Canberra against its history. The Government and the community both have a role to play in the heritage process. As a government, we can establish a legal and administrative framework to allow heritage places and objects to be protected and conserved. That framework is in place, although we recognise opportunities for its continued improvement. We can also encourage and support the community in its exploration of our heritage. The allocation of project funding is an important part of this, but it is not the only way to achieve this objective. It is a shared responsibility. As a government, we recognise our responsibility as a custodian of heritage assets - be it our significant heritage of parks, reserves and river corridors; our diverse and immensely rich cultural heritage of Aboriginal places; rural traditions; or the magnificent legacy of the planning of Walter and Marion Burley Griffin and their successors.

We are, indeed, lucky to live in such a special place. Despite these riches, many in our community are not yet aware of the resources we have around us. Consequently, the Government has a responsibility to promote our heritage and to educate people about its characteristics. The Government is ably assisted in this work by the Heritage Council of the ACT, which is set up as a statutory body under the Land (Planning and Environment) Act to, among other things, advise the Government on the best way to promote our heritage. I was pleased to hear that the council is developing a community awareness strategy to promote ACT heritage, and I will be watching the progress with interest. The strategy will target specific audiences in the community, such as the building and development industry, schoolchildren and home owners. I understand that, as part of the strategy, the council is preparing a series of brochures on the conservation and maintenance of heritage properties. The first of these brochures covers paint colours and garden plants for heritage houses. It will be released soon.

During Heritage Week, the council also released important documents relating to its processes for the assessment of places for the Heritage Places Register and the Heritage Objects Register. These documents were Guidelines to the Application of the Assessment Criteria for Places and Objects and Guidelines for the Use of Specific Requirements Relating to Urban Housing Precincts. Both of these documents will assist people in making nominations to the Heritage Places Register and in understanding the implications of listings.

As I mentioned, heritage awareness is a partnership and relies extensively on the community in the work of individuals and community organisations. Canberra is especially fortunate to have a large and diverse range of community organisations which are active in this area. I will name but a few of them - the National Trust, the Canberra and District Historical Society, the National Parks Association, the ACT Heritage Week Committee, the Conservation Council of the South East Region and Canberra, the ACT Studies Network, the Heraldry and Genealogy Society of Canberra and the Kosciusko Huts Association.

In addition to these established groups, there is a range of other groups who work on specific projects, as well as many individuals who have made a valuable contribution to heritage work in the ACT. Many of these groups receive specific project funding from the ACT Government under the ACT heritage grants program. Each year, many valuable projects are supported. For instance, work is currently under way to document the history of the numerous families that make up the Ngunnawal Aboriginal community in the district. Similar work has been funded to record the memories of the pioneer construction workers of early Canberra and the early nurses and teachers. This is important work in the priority area of oral history research in the Territory. This work will continue to be an important role for the community, in both recording memories and ensuring that other memorabilia are appropriately cared for. Indeed, it is important that the community be seen to lead or manage this process, with the Government only providing a guiding hand. The momentum is there now for this to happen.

Mr Speaker, the Government also recognises the important role that events such as Heritage Week play in promoting local heritage and, importantly, encouraging community participation. Participation can also mean helping to physically care for heritage assets and take part in planning for their future. I recently invited a range of community, heritage and business organisations to form a consultative committee to assist the Government in planning for the future of the Tuggeranong Homestead at Richardson. This is a valuable heritage asset with links to earliest European settlement. In this year, when Australians remember especially our contributions and sacrifices in war, Tuggeranong Homestead is also notable as the base for the writing of the official history of World War I by Charles Bean and his team. By the end of this year, the consultative process set in place by this Government will establish a framework in which the valuable heritage of the site can be appreciated and at the same time ensure a viable use for its long-term conservation.

Last Friday week I had the pleasure of opening Heritage Week at Lanyon Homestead and listening to Ron Way describe the unique attributes of this beautiful property which, in part, contributed to his successful television series *Seven Little Australians*. Lanyon is perhaps one of our best-known heritage properties, but many more have been documented, restored and conserved and in some cases opened to the public. Others of particular note are Calthorpes' House and the soon-to-be opened Mugga Mugga property. At present, both Lanyon and Calthorpes' House can be used and enjoyed by the community in a variety of ways. The public programs at these houses have been designed to offer opportunities for active community participation. As the development of these programs is an ongoing process, I would hope that the community, through its increasing use and contribution, continues to help these activities evolve in ways that reach all groups and individuals.

Mugga Mugga is the generous gift to the ACT Government of the Curley family and was the home of Patrick Curley and his family. Patrick was the head shepherd of the Duntroon estate, and his family has been continuously associated with the property since 1913. It is the wish of the surviving daughter of Patrick Curley, Miss Sylvia Curley, that Mugga Mugga be preserved so that its heritage and history can be enjoyed by the

people of the Canberra region. This asset is an important element in our understanding of the early history of Canberra and illustrates the wealth and diversity of places available for public use. They appeal to all ages and tastes, they add flavour to our appreciation of our environment and they are points of interest for visitors to our city.

As new towns grow and develop, this Government is committed to integrating, where possible, heritage assets in the new urban fabric. The development of Gungahlin presents such a challenge. There are many places, from Aboriginal sites to homesteads, and natural habitats which are being carefully planned in this development. They are seen by this Government as an integral part of the new urban environment. They also provide an avenue for encouraging the new communities in these areas to focus on their local environment and to get involved in enhancing its qualities. The Tuggeranong Homestead process is a good example, as is the work going on to engage the community in planning the Gungahlin Town Centre.

To look wider afield, these assets provide us as a community with opportunities for cultural tourism. We can be confident in presenting to visitors not only our modern, twentieth century, planned city with all its attributes, but heritage. Tourists will increasingly have the opportunity to visit local as well as national attractions in the Territory. In saying this, Mr Speaker, much will depend on us all, as members of the community, expressing pride in our city and its heritage and getting involved in its conservation and preservation. I table the statement and move:

That the Assembly takes note of the paper.

Debate (on motion by **Mr Wood**) adjourned.

CHILDREN'S AND YOUTH SERVICES BUREAU - ESTABLISHMENT
Ministerial Statement

MR STEFANIAK (Minister for Education and Training and Minister for Children's and Youth Services): I ask for leave of the Assembly to make a ministerial statement on the establishment of the Children's and Youth Services Bureau.

Leave granted.

MR STEFANIAK: Today I would like to speak about the creation of the Children's and Youth Services Bureau. The establishment of a new Children's and Youth Services Bureau under the Department of Education and Training fulfils an election commitment to ensure improved coordination of service delivery for children, young people and their families. The new bureau recognises the need for strong links between all services for children and young people and supports the connections which preschools may have with their local community. The bureau will have responsibility for early intervention services; child care; preschools; the Child Health and Development Service; youth programs, including the Adolescent Day Unit; and youth policy development.

In this new arrangement the important relationship between services for children and young people and the Government's responsibilities for education and families is given special recognition. The aim is to create a Children's and Youth Services Bureau with the services effectively integrated for more efficient and comprehensive delivery of service. The bureau brings together non-statutory services which were previously in the Health Department, the Department of Urban Services - in the Housing and Community Services Bureau - and the Chief Minister's Department, and the statutory Children's Day Care Services. Other statutory children's services will continue to be provided through the relevant agencies. *(Quorum formed)* The bureau will ensure that links with these agencies are maintained and strengthened. Additionally, maintaining close links with the Department of Health and Community Care will be a key task of the bureau. The new bureau, which integrates these services, is part of the Department of Education and Training and will report directly to Cheryl Vardon, the chief executive of that department. This is an exciting direction, which will assist in the coordination and delivery of a comprehensive and effective range of services to children and young people in the ACT.

The Government is very keen on innovation in this area. The new bureau will provide clear strategic directions for services to children, young people and their families, with a focus on long-term issues and the development of cohesive policy and service delivery across the whole area. The establishment of the bureau means the transfer of a range of functions from different areas so that the following services are brought together under one administrative umbrella: Preschools, the Child Health and Development Service, the Children's Day Care Services, the Adolescent Day Unit, the Early Intervention Service, the Early Childhood Services Unit and the Youth Affairs Unit.

This new organisation of services for children, young people and families is important because children will be seen as whole persons, as individuals, but also as members of families, schools and other communities. Having all services integrated in the new bureau will do away with overlapping and duplication of services and programs. Improved links and communication will ensure that services are more focused and efficient. The overall benefit will mean less running around for families and more easily understood and accessible services.

The new bureau will be responsible for developing current and future directions for the services for children and youth. The aim in this process is to improve the quality of services. The Youth Affairs Unit is responsible for effective management and coordination of community-based programs for young people. This unit also manages the Streetlink youth support program, which provides individual and ongoing support for young people who present with a range of issues, and liaises across government and with the community in the development of policy and programs affecting young people. The youth services grants program administered by the unit provides funding support to youth and community organisations in the ACT to provide a range of services and to develop initiatives for the benefit of young people aged 12 to 25 years. Under revised guidelines, the emphasis is on service delivery, and funded services will be required

to demonstrate a commitment to providing outcomes for all young people. Services and programs will aim to meet the needs of young people through the provision of recreational and self-development opportunities, information support and assistance in accessing other services.

Services and programs which provide more opportunities for young people to be involved in sporting activities, including through improved access by community groups to school facilities, will be an area of development. I am concerned about the way in which youth services have been handled by the previous Government. This Government will be examining operations and consultation arrangements over the coming few months. In particular, I will be looking to develop a Youth Affairs Unit which will link youth services and schools, especially enhancing the role of school counsellors. Services and programs for sport and youth and schools will be new areas of development. I have established a Sport, Health and Physical Education Unit within the Department of Education and Training, and this unit will work closely with the youth unit of the bureau to establish new developments for young people in sport.

Another area of development will be the strengthening of links between youth services and programs, including school programs, which provide support networks to young people at risk. This will be of enormous benefit to the work of the behaviour management programs, the school counselling service and schools in general, and community agencies providing services to young people. Young people, especially those at risk, will be the beneficiaries of a well-coordinated youth policy that has regard to the full range of services provided to young people. The Adolescent Day Unit provides programs for emotionally and/or behaviourally disturbed young people - 12 to 15 years of age - who may also often have difficulty managing the mainstream school system. The specialised programs in the school system for adolescents in crisis, such as the adolescent development program at Dairy Flat, and the Adolescent Day Unit will coordinate their referral processes so that a wide range of program options is available when agencies are seeking appropriate support for children at risk.

The Child Health and Development Service is a multidisciplinary service which provides specialised community-based health and developmental assessment and intervention services for children who have developmental problems. This service will continue to develop its case management processes to make sure that children and families have access to coordinated and effective services. The service is offered from health centres, schools and community venues. Part of the new directions will be to review the delivery of these services to ensure that the most accessible, coordinated services are available for children and their families. A family focused model of service delivery recognising the collaborative role that family, parents and community play in enhancing children's development will be adopted.

The staff of the Early Intervention Service, located within the Department of Education and Training, including resource teachers in preschools, early intervention units and the itinerant teachers for children with disabilities and impairments, will notice benefits for students as the new structure is put in place. Another outcome will be the strengthening of the role of preschools in the education system and the strengthening of existing connections with local primary schools and Children's Day Care Services.

Our current innovation and good practice in early childhood education services will be enhanced through improved coordination of services encompassing day care and early intervention programs. The Early Childhood Services Unit within my department will continue with its significant support to preschools. The Children's Day Care Services program has the statutory responsibility under the Children's Services Act 1986 to license all child-care services in the ACT other than family day care. Also within its statutory role, it investigates any complaints about services and assists them to comply with licensing standards and to improve practice by providing professional advice and support.

The program is also involved in planning the provision of new services. Child care for labour market purposes such as employment and training is the responsibility of the Commonwealth Government. The Commonwealth did, however, enlist the assistance of the States in expanding the number of child-care services under the National Child Care Strategy. In the ACT, 82 places will be shared between Tuggeranong and Gungahlin in centres being constructed this year. A further 93 places will be established in 1996. Children's Day Care Services also administers ACT government funding for the National Child Care Strategy and to community organisations for the delivery of occasional care and vacation care services. An information service is also made available to parents about all types of child-care services, to assist them to find the appropriate care for their needs.

Ms Vickie Busteed has taken up duty as the executive director of the Children's and Youth Services Bureau. This is a key position in the management and development of children's and youth services to be delivered from my department through the bureau. Ms Busteed has worked in senior positions with the Department of Health and Community Care and was a deputy manager of Woden Valley Hospital. She has had wide experience in education as a teacher and resource teacher and in health as a manager, and in wider government policy development.

In conclusion, I believe that by creating the Children's and Youth Services Bureau we have filled a need in the ACT community for a better way of getting support and information to children, young people and families. In the next few months it will be clearly evident that services will be more flexible and useable and coordinated better. This, Mr Speaker, will be better for the people of the community, the children, young people and the families who use them. I table the statement, and I move:

That the Assembly takes note of the paper.

Debate (on motion by **Ms McRae**) adjourned.

COMMERCIAL AND TENANCY TRIBUNAL LEGISLATION
Discussion of Matter of Public Importance

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

> The failure of the *Commercial and Tenancy Tribunal Act 1994* to resolve the problems between landlords and tenants in commercial rental properties in the ACT.

MR MOORE (4.06): Mr Speaker, in this first matter of public importance debate in the Third Assembly, I think it is appropriate that we deal with an issue that has plagued us for quite some time. You may well remember, Mr Speaker, that in the debate on the legislation last year and leading up to the legislation it was made clear that the original attempts at a Commercial and Tenancy Tribunal Act were made 20 years ago or beyond. Certainly, it is on record that in the House of Assembly - I think even before you were a member of the House of Assembly, Mr Speaker - attempts were made to get the Commonwealth to pass a commercial and tenancy Act but they failed.

Since 1972 arguments have been presented to successive Commonwealth and ACT governments on the need for legislation to protect commercial tenants from landlords who are unreasonable, greedy and downright dishonest. Many commercial tenants, having outlaid a great deal of money in setting up their small businesses and having spent many years building them up, were mercilessly deprived of their livelihood by profit-driven landlords. Mr Speaker, there is nothing wrong with landlords seeking profit. There are many landlords within the ACT who are indeed honest people and who rightly make a profit from their appropriate business. But I emphasise, Mr Speaker, that there has been example after example of greed by certain landlords bringing about a situation which is entirely inappropriate.

In 1994, prompted by a horrific public situation in Campbell, not to mention the fact that I had drafted and tabled a Bill myself, Mr Connolly finally took some steps to address this inequitable situation. You may remember that case at the Campbell shops, Mr Speaker. The landlord took a series of actions to ensure that the tenants were put in a situation where they were not able even to sell their businesses and in fact wound up just leaving. It happened first to the supermarket, then to the restaurant and then to the butcher. Quite recently, after the legislation had gone through, the situation occurred yet again when Arthur's fish and chips shop was forced to close. There are those of us who used Arthur's fish and chips shop constantly, especially on Friday nights, because we might struggle with our background. There is a certain conditioning that you just cannot get out of. I see Mr Osborne's eyes glowing. The hope of a relapse coming on is very interesting.

MR SPEAKER: I did not know that people were obliged to eat chips on Friday, Mr Moore.

MR MOORE: Thank you for your interjection, Mr Speaker. The question of chips is a question of conditioning. When someone has eaten chips with their fish on so many occasions, they cannot help thinking that on Friday night they want to have chips.

Mr Speaker, the major problems identified by commercial tenants and those representing them were then, as they are now, not in the small shopping centres around Canberra, which by and large seem to operate quite effectively. The landlords of Westfield Belconnen, the landlords at the Woden Plaza, Lend Lease, and more recently the landlords of the Canberra Centre have been involved in what I consider entirely inappropriate conduct. These landlords were and still are responsible for much of the hardship experienced by commercial tenants. These landlords are under pressure to keep raising the profit margins on centres managed as investment properties controlled by shareholders.

Last year, Mr Speaker, Helen Szuty - the then Independent with much less conservative ideas than the Independent who sits next to me now - and I argued strongly for all commercial tenants in the ACT to have access to the tribunal regardless of when they entered into their lease. We believed - and we tried to convince the Assembly - that all tenants should be able to go to an umpire. That was the basis of the argument. I hope that when I have finished my speech today I will have started to persuade some members that that was an appropriate move and, now that we have seen the Act in operation, that we did not go far enough.

We also argued that any tenant should have the right to renew their lease and, if denied, the landlord ought to be compelled to pay compensation. Both the Labor and Liberal parties agreed that access would be allowed only to those who had entered into a lease after 1 January 1994 and to whom the right to renew a lease had been denied. Quite a number of small businesses have suffered because of that decision. Those tenants not covered, they argued, would have access to the tribunal, when needed, if the landlord was shown to be harsh and oppressive. In fact, that simply has not been the case. It is much too hard for them to get to the tribunal in trying to make a case in that way.

The code as it currently stands effectively produces two broad categories of tenants - those who are protected and those who are not. Were past members of the Assembly aware, I wonder, that as a result of omitting a tenant's right to renew and denying some tenants access to the tribunal many small businesses would fold under the most personally devastating circumstances and that others would survive only on monthly rental arrangements, devoid of any security when a landlord decided, for example, to refurbish? Such decisions are made especially if a better offer comes along, usually from one of the chain-stores. I am not holding chain-stores responsible in any way, Mr Speaker. Chain-stores like Katies, Pizza Hut and McDonald's come along and the small local businesses are set aside in favour of those larger, more homogeneous groups.

Mr Speaker, I think in many ways all of us really went to the election with promises to try to assist small business. When we look back at this legislation, I do not deny the good intentions; nor do I deny that what we achieved was a major step forward - and I am not contending that - but we did, if you like, pull our punches. What I am arguing today in this matter of public importance debate is that it is a matter that ought to be reconsidered and that we ought to have a look at it carefully.

Ms Szuty and I attempted, on that last occasion when this was debated, to point out the injustice of this stance. Those greedy and unreasonable landlords under whom tenants are suffering would continue to get away with deplorable behaviour if we did not take action. Both the Labor Government and the Liberal Opposition, I believe, let many small businesses down on that day by denying them access to the umpire. That is primarily the issue I seek to raise in this debate so that the position can be reconsidered.

The very people for whom this action was instituted were not protected. They are the ones who entered into a lease prior to January 1994 and are at the mercy of unscrupulous landlords in our major centres. Mr Speaker, I presume that other members have been approached by some of the same people who have approached me in the last short while, raising this issue and explaining the frustration that they have in trying to measure up to the demands that such landlords are putting on them - which are, to any reasonable person, entirely over the top, entirely unreasonable. These are the sorts of issues in respect of which a tribunal would not hear just one side but would be able to hear both the arguments from the perspective of the landlord and the arguments from the perspective of the tenants.

I should also point out to you, Mr Speaker, that there is the irony I drew attention to in another debate this morning. These same landlords are often the ones who put pressure on the ACT as their landlord, saying that they ought not to have a landlord at all but ought to have freehold land - or de facto freehold land, as the Liberals advocate - in order to avoid the same sort of pressure being put on them. If any demands are put on them as tenants of their leases, they are the first ones to scream and say how unfair it is and how we have to remove red tape and remove any things that make business harder. Yet they in turn subject their tenants to incredible demands and to incredible red tape. There is a great irony in this, and I think "hypocrisy" needs to be added to those words that I used earlier - "greed" and so forth.

Because the Commercial and Tenancy Tribunal Act did not apply to all existing tenancies, some tenants are now the victims of gross injustice. The code, as it now stands, permits a continuation of these unfair practices against those most in need of protection. Surely it must be obvious that commercial tenants who existed prior to 1 January 1994 were the bulk of the commercial tenants in the ACT. The arguments advanced by some about retrospectivity were merely an attempt to derail and reduce the effect of the legislation. The idea that was supposed to appeal to us was that we should not interfere with a commercial contract that had been entered into prior to the legislation.

There is no doubt that, if we do nothing, eventually the Act will take effect. Perhaps after five or six years all new tenancies will effectively come under this Act. But it seems a great shame that for the next four or five years, or however long the period is - for some it will be less than that - people will not be able to appeal to a referee to sort out such problems. In all of these cases, Mr Speaker, I want to emphasise that I am not saying that we know what is right. All we are saying is that, if we had set the legislation up to take this into account, then we would have had the opportunity for an appropriately constituted body to make a decision about what was fair and what was not fair, having heard both arguments.

The inclusion of ratchet and key money provisions in the Act would make it clear that the Act had the power to address these problems. Both the Labor Government and the Liberal Opposition chose, once again, not to take this action. The Assembly can feel quite proud of the fact that, as a result of action on the removal of ratchet clauses from leases entered into after 1 January 1994 and their removal from leases that are renewed pursuant to options, rentals for some small businesses have already gone down, according to reports coming to me. In those ways, for those leases that come under the Act, we have already achieved something. I think the long-term effect of the Act is actually beginning to show, but the Act still does not deal with those people caught in the middle. However, this part of the Act has actually saved some small businesses, in my understanding.

When constantly faced by small business people appealing for help the tribunal cannot give them, I wonder why this Assembly took such a short-sighted approach to the aspects of the Act which would have addressed these problems. I would like to have on record, Mr Speaker, any justification that any member here has for what is currently an appalling state of affairs. We had the opportunity to get it right and we blew it. I would like to challenge the Liberals in particular, as they are in government, and because they worked so hard to win the small business vote by saying, "Yes, we are going for small business", emphasising the advantages for employment in the Territory and putting all the arguments they put, many of which I think all of us would accept and agree with. The challenge for them, now that we know that there are small businesses in trouble and we know how to fix the problem, is: What are you going to do?

MR HUMPHRIES (Attorney-General and Minister for Consumer Affairs) (4.19): Mr Speaker, it is an interesting question that Mr Moore posed as he ended his remarks. Let me say that the way we intend to fix it is, first of all, to conduct the review that we indicated should be conducted. At the end of the debate on this matter last year we said that a review of the operation of the Act should be conducted when it has operated for a reasonable period of time.

Mr Connolly: The review that we indicated would be done and set up.

MR HUMPHRIES: No. My party indicated that the review would be done after six months. I think your party indicated that it would be after 12 months.

Mr Connolly: We set up a review body.

MR HUMPHRIES: Maybe so, but our approach has been - and we said this in our election campaign commitments - that we would review the operation of the Act after six months. At this stage that is the position of the Government.

I turn to the question of how to resolve the issues that Mr Moore has raised. Those opposite can interject if they like, but the fact is that both the Liberal and Labor parties, as Mr Moore indicated, did indeed agree that there would be limited opportunity for this legislation to apply retrospectively to existing tenancies. In theory that is still the position that my party takes, although I will be very frank and say that I have had brought to my attention a number of cases of tenants having received certain treatment from a landlord. I consider some of the conduct that has come to my attention to be quite

outrageous and quite unacceptable behaviour in an environment we have now created through this legislation which ought to make that kind of behaviour a thing of the past. I will go so far as to say, Mr Speaker, that the matters relate to a particular landlord I will name - Lend Lease Corporation, operator of the Woden Plaza - whose behaviour appears on the face of it to have been in some cases fairly excessive. At this stage I have not given to Lend Lease the benefit of them responding to the allegations made by their tenants. It is clear that there is a large number of such tenants who appear to be highly dissatisfied with the conduct of Lend Lease. If one-quarter of what has been alleged is true, I would think Lend Lease has a considerable amount to answer for.

Mr Speaker, let me make it clear that if Mr Moore perceives in this debate that we are the blind servants of landlords he ought to think again. It is our view - indeed, we said so at the time - that there is room to improve the operation of this Act, and we should look to see how we can do that. In particular, we can look at what kinds of modification of behaviour of landlords in this Territory will occur as a result of the new legislation, to see whether we need to go further or to modify the operation of the Act in some way. However, it is perhaps a slight exaggeration to describe the Act as a whole, in its operation to date, as a complete failure. That is certainly not acknowledging the benefits which the legislation has brought to a particular number of disputes. Obviously, the legislation only commenced on 2 January this year, as did the commercial and retail leases code of practice; so it is clearly difficult to make a terribly comprehensive assessment of just what has happened in the three or four months since that time.

I am advised that the tribunal, which is located in the National Mutual Building in the city, has to date received 13 applications from tenants who are seeking assistance. These 13 applications include applications by individual tenants and group applications from up to 12 tenants. Altogether, some 50 tenants have been involved in applications before the tribunal so far. Although we are yet to appoint a registrar to the tribunal, there is an acting deputy registrar, who has conducted operations on behalf of the tribunal since its set-up time. I can report that, of those 13 applications, all are in the process of being mediated and eight of them have in fact resulted in successful mediation between the landlords and tenants involved. The remaining five applications are awaiting mediation at this point. No application thus far needs to go before the tribunal for an arbitrated settlement, although I spoke a few days ago with one tenant who believed that they were very likely to be in the tribunal soon to have a matter actually arbitrated before the tribunal proper. I indicate to the Assembly that the position of registrar of the tribunal is expected to be filled very shortly. Certainly, interviews for that position have been completed.

As was undertaken at the time the code was introduced, the Director of Consumer Affairs will convene a joint landlord-tenant working group later on this year to review the effectiveness of the code and the tribunal in the light of these sorts of experiences, to see what steps should be taken. The tribunal itself, and the code it operates together with, have not been the subject of any formal complaints up until now, although I accept the point Mr Moore makes that there are some who might feel that they do not have the capacity to enter into that process, because they are excluded in some way.

Even that, however, Mr Speaker, may be a slight exaggeration. Members will recall that there was an exclusion, more or less, of existing leases - that is, those that were in existence before 2 January this year - from the operation of the Act. There is, however, a provision that a dispute arising from facts or circumstances that occur after 1 January might be subject to the processes of the tribunal or of the Act. I understand that a number of disputes that have arisen since that time and that affect existing leases have in fact been referred to the tribunal under this process.

Mr Connolly: Just on a point of order, Mr Humphries: We notice that Mr Moore, who was calling quorums during his remarks on the MPI, is not present to hear your remarks, which we in the Opposition are listening to with considerable interest.

MR HUMPHRIES: I thank the member for his interjection, illegal as it might have been.

Mr Berry: There is a quorum problem.

MR SPEAKER: There was no call to draw my attention to the state of the house.

Mr Berry: Would you like me to?

MR SPEAKER: Maybe you would like to do that, Mr Berry. *(Quorum formed)* The Chair does not recognise any member unless they are sitting in their seat. Might I also remind the Government that it is their responsibility to make sure that the house has a quorum. Please continue, Mr Humphries.

MR HUMPHRIES: As I was saying a moment ago, it is certainly the case that some disputes affecting existing leases may well be capable of being brought at least to a mediation process, or maybe even a hearing before the tribunal, if they relate to harsh and oppressive conduct arising since the beginning of this year.

For the benefit of members, I will run through briefly the sorts of things which have to date come to the attention of the acting deputy registrar of the tribunal as the grounds on which tenants particularly have brought complaints under the Act. These include refusal to renew leases on disputed grounds; rent disputes; accounting methods used in determining rent due and payable - that includes when there should be an increase in rent and whether it should be according to the CPI or on some other basis; disputes over conditions in premises, for example, air-conditioning or heating not working properly; harsh and oppressive conduct from the landlord; misrepresentation in a lease, for example, the level of competition that would be experienced by a particular business in circumstances in which the landlord might have intimated a certain level of non-competition to a tenant and the tenant finds that that is not the case at the end of the day; non-cooperation by a landlord in selling a business; disputes over the vacation of premises if a lease runs out and a person is forced to move, for example; disputes over compensation payable on relocation; and the cost of relocation as a result of new constructions - rent payable on relocated premises. Some of those matters, members will be aware, have arisen in conjunction with the redevelopment of the food court at the Woden Plaza. I suspect, although I do not know for a fact, that a number of those 13 complaints relate to that particular exercise.

Mr Speaker, let me make it perfectly plain for Mr Moore to read in the *Hansard* record that the Government does not intend to let these sorts of incidents go without comment; that we do intend that these should form part of the record of the operation of the Act and the code in the first six months or so of their existence; that if it appears to us - and of course to the rest of the Assembly - that further action needs to be taken to protect parties in the ACT appropriately, whether they are landlords or tenants, this Government will certainly be part of the process of providing that protection. We have expressed our view that there ought to be better synchronisation of the provisions of this code or this Act with those in New South Wales. For businesses which operate between those two jurisdictions, that is an ongoing matter of concern.

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

COMMERCIAL AND TENANCY TRIBUNAL LEGISLATION
Discussion of Matter of Public Importance

Debate resumed.

MR HUMPHRIES: I put on record that fact. We certainly would not concede that the Act has failed completely at this point or that there has even been a significant failure of people to get the benefit of it. Certainly many have. Mr Moore might like to contact my office if he has some examples of cases which he does not believe have been satisfied by the terms of the Act as it stands now. Again, I say that, in particular, landlords in the ACT must be on notice that there are certain standards we expect to be complied with; and, if there is a consistent and wilful desire to flout the existing spirit in which this particular legislation was enacted, then it may be necessary to come back and examine this question afresh.

MR CONNOLLY (4.31): I welcome Mr Humphries's remarks. As he is the Attorney-General and Minister responsible for this code, I think it is unfortunate that Mr Moore has not been present to hear them. I was not present during all of Mr Moore's remarks; but I was listening to the opening part through the sound system, and I got down here as quickly as I could. Mr Moore is really adopting a counsel of perfection here in criticising the Labor Party and putting us in the same sort of basket as the Liberal Party

for failure to deliver perfection for tenants in the ACT. At one stage, though, he did acknowledge that there had been a step forward. I think the legislation and the code were more than a step forward. People who have been around for a while - people like you, Mr Speaker, and Mr Hird, who were active in the old advisory House of Assembly - may recall that there were attempts to get protection for Canberra's commercial tenants as far back as the early 1970s. It is an issue that has been around for well over 20 years. Despite a lot of rhetoric from a lot of politicians and from a lot of parties, nothing happened.

The achievement of the Act and the code during the period I was responsible for consumer affairs is one of the things that I look back on as being among my significant achievements as Minister for consumer affairs and Attorney-General for this Territory. Not only did we finally get some protection, but we got protection that is acknowledged by tenant groups and by consumer groups and attacked by landlord groups as being the toughest, most pro-tenant code in Australia. So, it is a very significant step forward. Mr Moore says that the code does not go far enough. It was always an issue of compromise. There are issues that have to be balanced here. We did take the somewhat unusual step of retrospectively altering contractual rights and obligations. We took the code back to 1 January 1994, although it entered into force only in January 1995. For 12 months we went back and undid contractual arrangements. That is a fairly significant step for any legislature to take.

I welcome very much Mr Humphries's naming today of Lend Lease. I was concerned, from representations I have received in recent weeks, that there seemed to be a fairly disturbing toughening of landlord attitudes in the ACT, particularly centring around the Woden Plaza. I must say that my concern was that there are people in very senior administrative positions in the Liberal Party who throughout this debate earlier on had been advocates for the landlord and had been very loudly and strongly lobbying the Government at the time and saying, “There is no need for this code. It is a bad code. It will destroy business confidence”. They put the heavies on us, and I can imagine the heavies they would try to put on Mr Humphries as Liberal Minister. I welcome the fact that you have put a public warning out today in relation to Lend Lease's conduct. I recall statements that you made at the time and that I made at the time that if people played fast and loose with this they may find a toughening of attitude. That was certainly our intention in the review process. I welcome your remarks, and I welcome in particular your public identification of problems with Lend Lease. The ability of the responsible Minister of the day to name landlords, particularly the larger landlords, who are causing problems is a weapon that I am sure I never used lightly and I am sure Mr Humphries is not using lightly; but I welcome his statement on that.

It is important for the review that was always anticipated by the former Government to go ahead, and I welcome the fact that it will go ahead. It is, as always, a matter of balancing interests. The legislation presently in existence is the strongest in Australia; nonetheless, there may be room for improvement, and it is encouraging to hear that that improvement may take place. While acknowledging that Mr Moore has always been very strongly pro-tenant in this debate, I think it is unfair for him to say that this legislation has failed. It is unfair not to recognise that the package in place in the ACT is the strongest package in Australia.

I am a little concerned to hear Mr Humphries saying that a central goal for the Government is to bring the legislation and the code into line with New South Wales, because that, in virtually all points, would be a retreat. While we looked at the New South Wales code and used it as a good starting point, we very consciously developed a code that went further. My statement that I am encouraged by Mr Humphries sits on the one hand; I am encouraged that Mr Humphries has been prepared to come in here and name Lend Lease and indicate that the Government may look at toughening up provisions if that type of behaviour continues. That is very much on the credit side of your ledger. But to say as a statement of policy that you want to bring the code into line with that in New South Wales is something that would be of great concern to tenants in the ACT, because they recognise that the ACT code is significantly in advance of that in New South Wales.

One may hope that the new Labor Government in New South Wales will look at our code and modify the New South Wales arrangements to bring them more into line with the ACT. It may be that your concern about uniformity with New South Wales will be addressed by Mr Carr and his new Consumer Affairs Minister rather than by us retreating. But it would be of great concern if there was a retreat from the ACT position, and it would be very detrimental if uniformity with the old New South Wales code was seen as the overriding consideration. That would be definitely a backward step for tenants.

Mr Speaker, I am encouraged that there does seem to be a continuation of will to make this code work. It was a landmark. It was something that took well over 20 years to get into place, and I think that to say after three months of operation that it has failed is to make a rather harsh judgment. To be critical of the then Assembly for not delivering perfection, Mr Moore, is a counsel of perfection which is really not achievable in this very complex issue of reconciling tenants' and landlords' rights. This issue is one that we in opposition will be watching very carefully. Any weakening from the current regime as could be flagged by a move to uniformity with New South Wales is something we would very strongly resist.

MR DE DOMENICO (Minister for Urban Services and Minister for Business, Employment and Tourism) (4.37): Mr Speaker, I think it is important that Mr Moore did bring up this matter of public importance. I am aware that consultation with tenant, landlord and small business interests on the development of a regulator framework has been an ongoing process for many years. As a result of the deliberations of the working party comprising industry and government representatives, a draft code of practice was developed which underwent a very thorough public consultation process under the previous Government. That consultation process canvassed a broad spectrum of interests, including small business organisations and national and interstate retail associations.

The Act and code are the result of a middle-ground approach to most of the key issues that were the subject of contention between the main tenants and the landlord groups. The concern of tenant groups, of course, centred mainly on the development of a fair and equitable dispute resolution process and the market value of rents. The framework now

in place, some say, adequately addresses these issues through the formation of the Tenancy Tribunal Act, which provides for the mediation and settlement of disputes and a code of practice which gives sufficient notice for the negotiation for the renewal of leases and a mechanism for the setting of rentals for annual adjustments and renewals.

Mr Moore in his speech on the Bill, recorded in *Hansard* on page 2654, indicated that he would be delighted to withdraw his own Bill in order to adopt regulations which had "teeth". He acknowledged that a series of governments had failed to deliver this sort of legislation and said:

> So the legislation that is finally before us is indeed welcome.

He pointed out that the inequity of power between landlords and tenants was addressed by the legislation so that tenants have the right to conduct their businesses and to plan their futures with some stability. He also said that the legislation would play a role in assisting the employment of more people in the ACT - and he is right. Mr Moore concluded on page 2657 by saying that the Bill and the code of practice were a major step forward in this area which the ACT had been trying to deal with for over 20 years.

I must admit that I was at the Campbell shops with Mr Moore on a previous occasion and that on that occasion I was wrong and he was right. I said some things for which I went back and apologised to some of those Campbell shopkeepers, some of whom I know very well. As I said, at that time Mr Moore was right and I was wrong, and I am quite happy to say that. On 21 September 1994 Mr Moore, speaking on amendments to the Bill, said:

> Certainly, even should the amendments that have been foreshadowed ... not get through and even if the amendments that I am putting up do not get through, as I suspect will be the case, then, Madam Speaker, this still does provide a far better balance between the powers of the owner and the powers of the tenant.

Mr Moore also said:

> I would like to indicate now, Madam Speaker, that these amendments that have been put up by the Attorney-General are in order, and I am quite happy to support them.

I think we found that there was nearly unanimity in the support of those amendments - something that, for the information of those people who have come here of recent times, we often see in this house. Whilst we get to hear of the tantalising bits outside in the media, most of the time we seem to have consensus on a lot of issues. In view of the fact that the regulations have yet to be tested, it is too early to prejudge existing contentious issues. I am also delighted that the Attorney-General decided to name the company that he named today. As Mr Connolly, the former Attorney, said, that is something that people should not do lightly in this place; but there are times when things have to be done, and the Attorney must be congratulated on that. The Attorney has already indicated that a review process will be undertaken at the end of six months. I believe that this is an appropriate course of action.

In concluding my remarks, Mr Speaker, I think Mr Moore has once again brought up an issue of great importance. The Liberal Party is committed to the assistance of small businesses in this Territory. We acknowledge the fact that they are the ones who provide most employment and most investments here in the ACT, and it is about time that other companies that come here realised that that is the attitude that this Government has. All we want is fairness and equity for all tenants here in the ACT. I am sure that if we work assiduously towards that end things like that will happen.

MR SPEAKER: The discussion is concluded.

Before I call the Manager of Government Business, may I correct something I said a little earlier about Government members being responsible for forming a quorum. That is in fact quite incorrect. I refer to *House of Representatives Practice*, which is what we normally rely on when there is nothing in our own standing orders. *House of Representatives Practice*, at page 303, the fourth paragraph, the last sentence, states:

> It is the duty of all Members to form a quorum, not just Government members.

I would ask for all members' cooperation. We are a small Assembly and it is rather disruptive if we call for quorums all the time.

ADJOURNMENT

Motion (by **Mr Humphries**) proposed:

> That the Assembly do now adjourn.

Lease Betterment Payments

MR MOORE (4.43): Mr Speaker, I would like to refer to a matter on the notice paper to seek some reassurance. I realise that one has to take care in doing so. Mr Wood has a notice on the notice paper, at No. 8, to move:

> That there be no change in betterment arrangements in the ACT during the life of this Assembly.

Mr Speaker, that matter is yet to be debated; but I would hope that we could have the same approach to betterment as we had from Mr Humphries to the leasehold system, when he said that, should any changes be made to the value of commercial leases, that would be brought to the Assembly's notice. I would hope that we could get a similar assurance on any proposed changes to the betterment provisions, particularly because there is a motion on the notice paper but also in the spirit of Mr Humphries's indication

that he would be as open as possible. This is something that has been a matter of some contention over the last six or seven years. I will have the opportunity to talk to Mr Wood before we debate the matter under private members business and to get that motion into a reasonable shape so that it can be seen as much more sensible by some of us on the crossbenches. It would seem to me that when a matter on the notice paper is outstanding it would be inappropriate for government to take action on it in the nature of a pre-emptive strike. Mr Speaker, I raise that issue and invite members of the Government to respond.

Lease Betterment Payments

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (4.45), in reply: In closing the debate, Mr Speaker, I am very happy to respond to Mr Moore. We are acutely aware that we on this side of the chamber are only seven members in an Assembly of 17, and the last thing any of us wish to do is to take a step which we know perfectly well will be opposed by a majority on the floor of this house. It may be from time to time that we face some kind of reprimand or censure, or whatever, from those elsewhere in the chamber because of something we have done. I can assure you that it will be on occasions when we have driven over a landmine without knowing that it is there, not because we have seen it in the middle of the road and have driven straight for it. Mr Speaker, any changes of a major kind which we believe are likely not to be supported by members of the Assembly we will certainly either flag in this place or raise individually with members of the Assembly. Indeed, we have done some of that already, I understand, with some issues in the last few weeks. I hope that that will be the tenet not just for this Government but for other governments that follow.

Question resolved in the affirmative.

Assembly adjourned at 4.46 pm