DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

1 June 1995

Thursday, 1 June 1995

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

PETITION

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

By **Mr Humphries,** from 160 residents, requesting that the Assembly legislate to ensure that penalties reflect the violence of the crimes.

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

Sentencing of Violent Criminals

The petition read as follows:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly the sentencing of violent criminals. The sentences handed down to these criminals should reflect the serious nature of their crimes. Soft sentencing by judges should end so that there is fairness to the victims as well as the accused.
>
> Your petitioners therefore request the Assembly to: legislate to ensure that penalties reflect the violence of the crimes.

Petition received.

SUPPLY BILL 1995-96

MRS CARNELL (Chief Minister and Treasurer) (10.31): Mr Speaker, I present the Supply Bill 1995-96, together with the explanatory memorandum.

Title read by Clerk.

MRS CARNELL: I move:

That this Bill be agreed to in principle.

This Bill is to authorise expenditure from the Consolidated Revenue Fund from 1 July 1995. It is an interim Bill which will lapse upon the enactment of the Appropriation Bill 1995-96, which will be introduced into this Assembly with the 1995-96 budget for the ACT. This Bill authorises an amount of $658,430,000 to be issued by the Treasurer from the Consolidated Fund. This amount will be issued for the administrative units and programs specified in the schedule, to cover payments necessary for the continuing operation of government services.

The amounts for each administrative unit provide for expenditure for the interim period between the commencement of the financial year and the passing of the Appropriation Bill. The Supply Bill provides for five months' expenditure to cover the provision of the normal services of government. Funding for salaries expenditure provides for the first 12 pays for 1995-96. This will provide for the payment of salaries up until mid-December. Funding for non-salaries expenditure is for five months, except where specific patterns of expenditure apply. In relation to non-salaries expenditure, allowances have been made for full year Comcare payments payable by 30 September 1995; the full year estimate for Treasurer's Advance to meet circumstances unforeseen at the time of preparing the Supply Bill; and grants to non-government bodies, especially in the education and health areas, which are paid in quarterly instalments in advance.

To allow agency heads greater flexibility in financial management, the level of appropriation of moneys by the Assembly will be to administrative units. Visibility and accountability will not be jeopardised by this measure. Agencies will be required to report at program and subprogram level. The Supply Bill enables the creation of a new trust account - the ACT Academy of Sport Trust Account. This conforms with the recommendation of the Auditor-General to separately account for the finances of the academy.

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

STAMP DUTIES AND TAXES (AMENDMENT) BILL 1995

MRS CARNELL (Chief Minister and Treasurer) (10.34): Mr Speaker, I present the Stamp Duties and Taxes (Amendment) Bill 1995, together with the explanatory memorandum.

Title read by Clerk.

MRS CARNELL: I move:

That this Bill be agreed to in principle.

Mr Speaker, the Stamp Duties and Taxes (Amendment) Bill 1995 provides for an amendment to the Stamp Duties and Taxes Act 1987. The Bill proposes a one-off exemption from ACT stamp duty for vehicles transferring from the Federal interstate registration scheme to ACT registration after 30 June 1995. The Stamp Duties and Taxes Act 1987 provides for the imposition of stamp duty when vehicles are registered under the Motor Traffic Act 1936. Stamp duty is payable on the initial registration and on transfers of registration.

The Commonwealth offers a registration scheme, known as the Federal interstate registration scheme, for vehicles which transport goods across State and Territory borders. There are approximately 250 vehicles garaged in the ACT which are registered under this scheme. Vehicles registered in this scheme are not subject to stamp duty. After 1 July 1995, the Federal interstate registration scheme will be phased out. As registrations expire, the owners of vehicles registered in this scheme will find it necessary to apply for State and Territory registration. New South Wales has agreed to provide a stamp duty exemption for these vehicles. If the ACT does not follow suit with a similar exemption, the owners of Federally registered vehicles may change their garaging arrangements to allow them to register in New South Wales to avoid ACT stamp duty. Wherever this happens, New South Wales will receive the benefit of ongoing revenue from registration fees. It is estimated that, if every Federally registered vehicle garaged in the ACT were to register in New South Wales, this would cost the Territory approximately $360,000 per annum in registration fees revenue. The Government considers that a one-off exemption should be provided to match the New South Wales concession and protect the revenue base.

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

PAYROLL TAX (AMENDMENT) BILL 1995

MRS CARNELL (Chief Minister and Treasurer) (10.37): Mr Speaker, I present the Payroll Tax (Amendment) Bill 1995, together with the explanatory memorandum.

Title read by Clerk.

MRS CARNELL: I move:

> That this Bill be agreed to in principle.

Mr Speaker, the Payroll Tax Act 1987 provides for the imposition of payroll tax in the ACT. Payroll tax is levied on employers and is based on wages paid or payable to employees. Wages are broadly defined to include allowances, fringe benefits and payments made under certain service contracts. Payroll tax is payable by all employers in the ACT with Australia-wide wages in excess of $550,000 per annum. The current rate is 7 per cent of taxable wages.

As part of my Government's electoral promises regarding taxation, my Government announced its intention to provide a two-year exemption from payroll tax on wages paid to new employees who were previously unemployed for over 12 months. Such an initiative will encourage the employment of the long-term unemployed and provide a focus for government assistance for long-term unemployed utilising the private sector. The Payroll Tax (Amendment) Bill 1995 will give effect to this commitment.

Mr Speaker, this Bill proposes that, where a long-term unemployed person gains employment, the employer will not have to pay payroll tax on the first two years' wages paid to that person. To provide a means of verifying a person's status as long-term unemployed, the Bill proposes a two-part eligibility criterion. The criterion is based on the person being registered as unemployed with the Commonwealth Employment Service for a period of more than 12 months and receiving an unemployment allowance from the Department of Social Security in respect of that unemployment. The Bill does, however, recognise that occasions will arise where an offer of employment may not result in ongoing employment. So that an unemployed person will not be required to wait a further 12 months to be eligible under the exemption, the Bill provides for the concession to be preserved for future employers, provided that the person's period of employment does not exceed four weeks in the preceding 12 months.

The linking of the eligibility criteria to allowances already paid will also provide employers with simple tests under which to establish their eligibility for the payroll tax concession. My Government believes that this initiative should be supported by all members of the Assembly, as it will assist long-term unemployed people to both obtain and maintain meaningful periods of employment.

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

ELECTRICITY AND WATER (CORPORATISATION) (CONSEQUENTIAL PROVISIONS) BILL 1995

MR DE DOMENICO (Minister for Urban Services) (10.41): Mr Speaker, I present the Electricity and Water (Corporatisation) (Consequential Provisions) Bill 1995, together with its explanatory memorandum.

Title read by Clerk.

MR DE DOMENICO: I move:

> That this Bill be agreed to in principle.

This Bill is the first of two Bills which will enable the corporatisation of the ACT Electricity and Water Authority - ACTEW - on 1 July 1995. During the last election, this Government made a commitment to corporatise a number of government business operations, with ACTEW, ACTTAB and ACTION being the first cabs off the rank. The Territory Owned Corporations Act 1990 - the TOC Act - already provides umbrella legislation that applies to all Territory-owned corporations. Totalcare is an example of a government business that has been successfully corporatised under this legislation. It should be noted, Mr Speaker, that such Territory-owned corporations are 100 per cent owned by the ACT Government, thereby protecting the community's investment and ensuring that benefits of corporatisation flow back to the community and the ACT Government.

In recent years, Commonwealth and State governments have embraced corporatisation as an important means of effecting micro-economic reforms in government business activities. The need for reform in the Territory is particularly pressing in view of our very tight budgetary position and the reforms happening nationally in the utilities industry, including the electricity industry. We have to ensure that ACTEW is ready for competition and meets all the requirements that the ACT Government has agreed to as part of the Council of Australian Governments agreement on national competition policy.

Mr Speaker, the principal objectives in corporatising ACTEW are to provide incentives to improve efficiency within ACTEW by setting appropriate performance and accountability targets; to separate the regulatory functions from the company, as it is not acceptable for an organisation to compete in an industry while regulating parts of that industry; to identify and fund accordingly the Government's community service obligations; to allow the corporate body to set itself up along company lines, in line with the Corporations Law, and put it on a comparable footing with other commercial enterprises to become competitive; and to allow the Government and the community to maximise the returns on their investment in such enterprises.

Mr Speaker, in keeping with the TOC Act, ACTEW will be incorporated under the Commonwealth Corporations Law and will be wholly owned by the Territory. The only voting shareholders will be the Chief Minister and me. The board of directors will be appointed by the voting shareholders. Benefits of corporatisation of ACTEW will flow on to most of the ACT population. ACTEW employs some 1,400 people

and has an annual turnover of some $330m. By corporatising ACTEW, the Government is looking to ACTEW to hold down its costs and pay a fair dividend to the Government, reflecting the capital tied up in the distribution of electricity, water and sewerage services in the ACT. Corporatisation will assist in reining in costs and thereby minimising any price increases.

Mr Speaker, the TOC Act will be amended in its application to ACTEW to allow the company to be involved with other companies developing leading edge technology in the electricity, water and sewerage treatment areas. The Government sees ACTEW's involvement in such opportunities as beneficial for the ACT community. As an example of business initiative, the corporate body will sell its technology to reduce the amount of phosphorus entering the Murray-Darling system. This gives our water system a higher level of environmental protection to the community. Everybody wins - the company, the Government and the community.

The Bill facilitates the corporatisation of ACTEW by providing for the following matters: The transfer of rights and liabilities, including assets - except for any notified by me in the *Gazette* before 1 July 1995 - and continuation of contractual and other existing arrangements; the substitution of "the Company" or "the Territory" for "the Authority" in certain contracts, agreements or arrangements; the amendment of relevant registers by the Registrar of Titles to reflect changes in title to an interest in land which has become vested in the company or the Territory; and the employment by the company of employees of the Authority, with existing terms and conditions of employment as specified in awards, agreements and relevant statutory provisions. A further feature of the Bill is a provision which enables regulations to be made during a 12-month period to modify any other enactment or subordinate law, as necessary, as a consequence of the corporatisation. A similar provision was provided when the Public Sector Management Act 1994 was passed.

Details of the Bill are set out in the explanatory memorandum. I now table, for the Assembly's information, the memorandum and articles of association for ACTEW Corporation Ltd. I commend to the Assembly the Bill and the memorandum and articles of association.

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

ELECTRICITY AND WATER (CORPORATISATION) (CONSEQUENTIAL AMENDMENTS) BILL 1995

MR DE DOMENICO (Minister for Urban Services) (10.47): Mr Speaker, I present the Electricity and Water (Corporatisation) (Consequential Amendments) Bill 1995, together with its explanatory memorandum.

Title read by Clerk.

MR DE DOMENICO: I move:

> That this Bill be agreed to in principle.

This Bill is the second of the two Bills required to corporatise ACTEW. This Bill amends a number of laws as a consequence of the corporatisation of ACTEW. These laws include the Electricity and Water Act 1988, the Public Interest Disclosure Act 1994, the Public Sector Management Act 1994 and the Territory Owned Corporations Act. The Bill also contains transitional provisions to ensure that, after 1 July 1995, certain actions taken prior to that date continue to have effect.

Amendments to the Electricity and Water Act provide for the repeal or removal of provisions that are no longer relevant. They also include a list of matters that can be dealt with by regulation, to continue to give effect to Canberra water and sewerage regulations. Amendments to the Public Interest Disclosure Act will allow the exclusion of ACTEW as an instrumentality under this Act. The Public Sector Management Act has also been amended to remove references to the former ACTEW, as they will be redundant on corporatisation. Changes to the Territory Owned Corporations Act will result in ACTEW Corporation Ltd being included as a Territory-owned corporation. Amendments to this Act also modify some parts for ACTEW only. For example, modifications will allow the acquisition and disposal of subsidiaries that are not wholly owned. Other modifications relate to the exemption of payment by ACTEW of capital gains tax. Details of this Bill are set out in the explanatory memorandum. I commend the Bill to the Assembly.

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

AUCTIONEERS (AMENDMENT) BILL 1995

MR HUMPHRIES (Attorney-General) (10.49): Mr Speaker, I present the Auctioneers (Amendment) Bill 1995, together with the explanatory memorandum for this Bill, the Pawnbrokers (Amendment) Bill 1995 and the Second-hand Dealers and Collectors (Amendment) Bill 1995.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

This Bill forms one part of a package of three cognate Bills which will amend the Auctioneers Act 1959, the Pawnbrokers Act 1902 and the Second-hand Dealers and Collectors Act 1906. I should explain that the Magistrates Court is the licensing authority for each of the three Acts. The Auctioneers Act and the Second-hand Dealers and Collectors Act require, in effect, the Australian Federal Police to certify that a person is of good character before that person can be licensed and require the individual investigation of each applicant, including interviewing friends and associates.

The Pawnbrokers Act does not have a similar procedure or give the police the right to object to a licence application. Given that it is the only other occupational licensing scheme administered by the court, it seems sensible to provide for it to be brought into line with the other two Acts. Each of the legislative schemes seems to have, as one of its underlying elements, some control by police of occupations which at least have the potential to be involved with criminal activity. These Bills will amend the three Acts to provide for the police to furnish a certificate of criminal convictions, if any, to the court and to confer on the police a right to object to the grant or the renewal of a licence. The statutory requirement for a full police character check will be removed.

One reason why these perhaps otherwise unexceptional amendments may attract a little more than their fair share of attention is the age of two of the Acts - the Pawnbrokers Act 1902 and the Second-hand Dealers and Collectors Act 1906 - which are to be amended in conjunction with the Auctioneers Act 1959. I do not suppose that extreme old age confers an aura of venerability or even of respectability, but it is surely remarkable that legislation made in the early Edwardian era should remain in force and still being amended up to 93 years later. For that matter, even the Auctioneers Act 1959 is getting on in years now, having been made in the year after my predecessor and I were born.

Mrs Carnell: Show-off!

MR HUMPHRIES: Some of us have not reached 40 yet, Mr Speaker.

On a more serious note, the Auctioneers Act 1959 and the two New South Wales Acts - the Pawnbrokers Act 1902 and the Second-hand Dealers and Collectors Act - are unusual in that the Magistrates Court is the licensing authority. The trend in more recent times is to have a statutory office-holder or board which makes a decision from which an appeal lies to the Territory's Administrative Appeals Tribunal. When these schemes were introduced, there was no administrative law regime and the courts were the only decision-makers in occupational licensing schemes intended to protect the users of the services provided by the persons so licensed. However, a case can be made out for leaving this licensing function with the Magistrates Court. This is because it is, unfortunately, the case that there is the possibility for links between the activities of criminals and the occupations under consideration.

Let me briefly outline the proposed scheme for the three Acts. An application for a new licence would be made to the Magistrates Court. It would have to be accompanied by three written references furnished by persons who are electors of the Territory, qualified in terms of the Electoral Act 1992, and whose occupations are listed in the schedule to the Statutory Declarations Regulations made under the Statutory Declarations Act 1959 of the Commonwealth. If, for example, because of his or her recent arrival in Canberra, an applicant is unable to provide references from these people - or one of these people - the applicant will be able to seek leave of the court to use other referees.

The application would be referred to the Australian Federal Police, who would be required to furnish a certificate of the applicant's convictions, if any. The police would also be able to object to the court if it is considered that the applicant is not a fit and proper person to be licensed. Because auctioneers' applications must be advertised,

any member of the public would have the opportunity to object to the court in relation to both an application for a new licence and a renewal. In determining whether a person is a fit and proper person to be licensed, the court may have regard to whether the person has been convicted of an offence involving fraud or dishonesty or is the subject of a charge pending in respect of such an offence. The court may also have regard to whether the person has, at any time, been convicted of an offence or has been refused a licence under the relevant Act or similar legislation in another jurisdiction. In the absence of an objection from the police - or a member of the public, in the case of auctioneers licences - an application for a renewal of an existing licence would not need to be supported by the references referred to above. At present, an applicant for a licence is required to pay the fee for making an application to the Magistrates Court, together with the nominal annual fee specified in the relevant legislation. The latter fee will be abolished, since an application to the court for a licence already attracts the filing fee of $72. The payment of the filing fee is, in effect, the cost of the licence. It is inappropriate to have two fees in respect of the one application.

Returning to my comments about the age of these two Acts, I might add that a review of them could readily show other aspects which could be addressed and which I think should be addressed. However, as well as the need to determine individual priorities, there will be a more strategic scrutiny of this legislation in the Government's forthcoming review of business legislation, particularly as it impacts on small business, with the aim of creating a more positive business environment, free from unnecessary limitations. At a national level, the report to heads of government of the Vocational Education and Employment Advisory Committee will, if adopted, also require some changes in the approach to the legislation under consideration. One of the issues that I hope will be addressed in that process, Mr Speaker, will be the question of whether it is appropriate to continue to use “fit and proper person” tests in legislation such as this.

Auctioneers licences fall due for renewal on 1 July of each year. For this reason, I would like to advise members that I will be seeking to have these Bills debated and passed in the next sittings so that the new legislative schemes are in place before the end of June. I commend this Bill to the house.

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

PAWNBROKERS (AMENDMENT) BILL 1995

MR HUMPHRIES (Attorney-General) (10.56): Mr Speaker, I present the Pawnbrokers (Amendment) Bill 1995.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

This Bill is a cognate measure with the Auctioneers (Amendment) Bill 1995 and the Second-hand Dealers and Collectors (Amendment) Bill 1995. There are a few other substantive changes that I think are worth bringing to members' attention. The Pawnbrokers Act does not require a police check of an applicant or give the police the right to object to a licence application. The amendments will introduce these elements into the Act. The Act does not impose a minimum age requirement for a person to be licensed as a pawnbroker. Under the amendments, and in common with other licensing regimes, the minimum age for the issue of a licence will be 18 years. I should mention that this Bill is dealt with in a combined explanatory memorandum which deals with the three Bills in this package and which I tabled a moment ago with the previous Bill. I commend the Bill to the Assembly.

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

SECOND-HAND DEALERS AND COLLECTORS (AMENDMENT) BILL 1995

MR HUMPHRIES (Attorney-General) (10.57): Mr Speaker, I present the Second-hand Dealers and Collectors (Amendment) Bill 1995.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

This Bill is also a cognate measure with the Auctioneers (Amendment) Bill 1995 and the Pawnbrokers (Amendment) Bill 1995. The Second-hand Dealers and Collectors Act will be amended to remove the power to transfer a second-hand dealers licence and, in respect of collectors, to give the police a right to object to a licensing application. The Act does not impose a minimum age requirement for second-hand dealers and allows a person aged 15 years to be licensed as a collector. Under the amendments, and in common with other licensing regimes, the minimum age for the issue of both licences is changed to 18 years. This Bill is dealt with in a combined explanatory memorandum which deals with the three Bills in this package. I tabled that a moment ago in connection with the Auctioneers (Amendment) Bill. I commend this Bill to the Assembly.

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

PERSONAL EXPLANATION

MR HIRD: Mr Speaker, under standing order 46, I wish to make a personal explanation.

MR SPEAKER: Proceed.

MR HIRD: In accordance with standing order 156, I wish to inform the house that I am a licensed general auctioneer in the ACT.

RATES AND LAND TAX (AMENDMENT) BILL 1995

MRS CARNELL (Chief Minister and Treasurer) (10.59): Mr Speaker, I present the Rates and Land Tax (Amendment) Bill 1995, together with the explanatory memorandum.

Title read by Clerk.

MRS CARNELL: I move:

> That this Bill be agreed to in principle.

This Bill amends the Rates and Land Tax Act 1926. The Act provides for the imposition of municipal rates and land taxes in the Australian Capital Territory. Mr Speaker, the changes proposed in this Bill give effect to my Government's undertakings to improve the basis on which rates and land tax are levied and collected in the ACT. Fundamental to any long-term improvements is the thorough review of our current rating and valuation system which my Government has committed itself to undertaking. I will be announcing details of that review in the coming months; but, in the meantime, a number of initiatives can be implemented with benefits for the coming year.

Mr Speaker, my Government undertook to introduce changes to the way land tax liability is determined. The current residential land tax system is based on a primary test of excluding from liability property used as the principal place of residence of an owner. This exemption is continued and included in a broader test, which makes liable only property which is revenue raising. As is currently the case, all rateable residential land will be liable to land tax. Exemptions will be provided, however, for residential property which is not rented, nursing homes and retirement villages, and religious residential properties used for residential accommodation and in the course of religious activities. The exemption for rental properties owned by the ACT Housing Trust and land used primarily for primary production will continue.

It will also be possible for an exemption to be obtained, subject to approval by the Commissioner for ACT Revenue, on a rented residential property where the owner is temporarily absent because of compelling compassionate reasons. Such an exemption may be given for a specified period, not exceeding 12 months. With the move to taxing rental properties, the exemption previously provided on property rented simply because an owner is absent for employment reasons will not be available from 1 July 1995.

There will also be no specific exemption provided for a tenant occupying a property under the terms of a will. Consistent with the main direction of the new land tax regime, in these cases, if the property is not rented, it will be automatically exempt. This, the Government believes, is a fairer method of imposing land tax liability.

The Bill also provides for land tax to be assessed on a quarterly basis, with liability dates for residential land tax being determined on 1 July, 1 October, 1 January and 1 April. Property which is normally rented but is temporarily vacant on a liability date will continue to be liable unless the vacancy continues past the next liability date. The owner would not be liable for land tax for any quarter in which income was not derived.

Mr Speaker, as part of my Government's commitment to the electorate, the Bill also provides for unimproved land values to remain at 1994 levels during 1995-96, while the review of the ACT's system of raising revenue from property is being undertaken. Both rates and land tax will be assessed for the 1995-96 financial year using these values. To avoid further unnecessary cost and inconvenience for property owners and the Revenue Office, the Bill proposes that the Commissioner for ACT Revenue's obligation to complete a 1995 annual land revaluation be removed. This will avoid putting taxpayers to the trouble of considering objection and appeal avenues in respect of valuations which, for the coming year, will serve no purpose. Also, as promised, Mr Speaker, the level of rates set in this Bill will keep individual rates bills to the forecast 4 per cent movement in the consumer price index.

A system of staggered billing of rates and land tax charges will be introduced to alleviate congestion at payment centres on payment days arising from the use of common payment dates. The Commissioner for ACT Revenue will divide Canberra into three billing sectors, with the first accounts falling due on 15 August and the second and third sectors being due, respectively, one and two months later. In all, Mr Speaker, these changes go a long way to improving the rates and land tax system. However, I anticipate that further changes will be required, following the outcome of the review.

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

LEAVE OF ABSENCE TO MEMBERS

Motion (by **Mr Humphries**) agreed to:

> That leave of absence be given to Mr Kaine and Mr Wood for today, 1 June 1995.

PRIVATE MEMBERS BUSINESS - PRECEDENCE
Suspension of Standing Orders

MR BERRY (11.06): I move:

> That so much of the standing orders be suspended as would prevent notice No. 6, private members business, relating to the proposed amendments to standing orders 30 and 74, being called on forthwith.

Would you like an explanation of that?

MR SPEAKER: I am not sure that the Assembly needs it, Mr Berry.

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

STANDING ORDERS 30 AND 74 - PRAYER AND ROUTINE OF BUSINESS
Amendments

MR BERRY (11.07): I move:

> That the following amendments be made to the standing orders:
>
> (1) standing order 30, omit all words after "shall be read:", substitute the following words: "Members, at the beginning of this sitting of the Assembly, I would ask you to stand in silence and pray or reflect on our responsibilities to the people of the Australian Capital Territory."; and
>
> (2) standing order 74, after "Prayer", insert "or reflection".

Mr Speaker, this issue of the prayer was raised a month ago in a report by the Administration and Procedure Committee. I am able to report, following discussion in the committee, that the majority of members of the committee felt that the existing prayer in standing order 30 did not reflect the spirituality of the community generally. I think that is a fair judgment. Others disagreed with the position which was taken by the majority of members of the committee. Nevertheless, it was decided that this matter would come on for debate about a month after the report was tabled in the Assembly.

During that month one matter was drawn to my attention, and that was that the proposed new announcement in the standing orders did not include the word "pray". That was an unfortunate oversight, and I think it may have caused unnecessary concern in the community about the issue. The absence of the word "pray" may have given the impression, to some, that there was some intent to prevent people from praying in the chamber. That was never the view of anybody associated with this issue. In redrafting the motion I have included the word "pray", and, as a result, I trust that people who may have been concerned about this issue will have their concerns allayed.

We do have a very different society from what was the case when these sorts of prayers were first read to a chamber under the Westminster system. In Australia, certainly, our society has grown into a multicultural society. It is a society of many religions, many faiths, and many different beliefs about spirituality. I think we would welcome a change of this order because it recognises that there is a quite different society from the one that existed when there was a state religion. The parliament was born, in many ways, out of the leader of that then state religion. Our society has grown and prospered in different directions throughout the old British Commonwealth. The situation in Australia has now come to the point where we can be brave enough, for some, and intelligent enough, I think, to reflect the change in the structure of our society in a simple thing like an announcement in the Assembly about prayer and reflection. That basically summarises some of the issues which I had in mind when considering this matter. This announcement which the Assembly is requested to install in the standing orders will invite people to pray or to reflect on our responsibilities to the people of the Australian Capital Territory.

In the lead-up to this, I think there has been a little bit of hyperbole about the demise of the prayer meaning that it could indicate that there was some intention in the Assembly to end Christianity as we know it. That is an unfair reflection on what is being intended. This is about inclusion rather than exclusion. It is about making sure that all of the community out there are able to consider this announcement as part of their being in this society. I am sure that the ability to pray or to reflect in the way one chooses is an important move in that direction. Take, for example, someone in this place who does not have similar beliefs to those of, say, the Speaker and might be offended by the Speaker preaching the prayer that exists within the standing orders at this point. Indeed, they may be even more offended if they were to know that the Speaker did not believe in the words either. That could be the case if we insist that the Speaker reads these words.

I think it is a far more appropriate course for members to reflect, in their own genuine way, on the job in front of them at the beginning of each sitting. Some will choose to pray, and they will do that in their own way. Some will choose not to. However they reflect, I guess that everybody will reflect differently on the job in front of them in this place. May I say to members that there ought not be a view that this is an attack on Christian values, or any of that sort of thing. It is not an attack on the rights of members to believe in a particular god or not to believe in a particular god. In fact, it is quite the reverse. It invites people to believe in whatever spirituality they so choose.

MR CORNWELL (11.14): Madam Deputy Speaker, the prayer reads:

> Almighty God, we humbly ask You to grant Your blessing upon this Assembly. Direct and prosper our deliberations to the advancement of Your glory, and the true welfare of the people of the Australian Capital Territory. Amen.

As Mr Berry rightly pointed out, there was a difference of opinion within the Administration and Procedure Committee about whether the standing orders should be amended to delete that prayer. The argument that was put forward, and I quote from the report of the Administration and Procedure Committee, was that the current prayer "did not reflect all the spiritual groups of the community which they represented". That is a claim made in the committee's report.

I submit, however, that the responses that we have obtained, following advice to the various religions and groups out there in the community, simply do not bear out this argument. The question of spirituality is not covered only for those who do not have any, I would submit, under our current prayer. For example, I quote from a joint response by the Catholic Church, the Anglican Church and the Uniting Church in the ACT:

> We believe that the Standing Orders of the Legislative Assembly should continue to include Prayer at the commencement of each sitting. We suggest that the present requirement could be improved by the provision of a brief period of silent reflection prior to a spoken prayer.

The Salvation Army said this:

> Our land is steeped in Judaic Christian tradition, and the vast majority of Australians certainly believe in God. I would also add that the prayer, as already enshrined in standing orders, certainly is not offensive to both our Muslim and Jewish friends.

The Church of Saint Andrew said:

> The prayer is addressed to "Almighty God", which is a form of address that would be acceptable to all major religions.

Perhaps importantly, in view of Mr Berry's comments, the Ethnic Communities Council of the ACT has sent this letter to me. It has been circulated to members, but I will read it out in full. It says:

> The Ethnic Communities Council of the ACT fully supports the Assembly's practice of offering a prayer to God before proceeding with Assembly business. In a multicultural society everyone should be entitled to practise their customs, traditions and beliefs. Those members who believe in God should have the right to offer a prayer, as has been the tradition of the Assembly. Those few who do not believe in God should be tolerant by remaining silent; offer a silent prayer of their own; or by abstaining from the Assembly for the duration of the prayer. Let not one or two persons exercising their own rights take away the rights of others.

Those were the local responses. I would suggest, therefore, that there is majority support out there in the community for a prayer to begin the deliberations of this house each day. I repeat that there is no criticism of the wording of the prayer in its reference to Almighty God. We are talking - the churches and the various organisations would seem to back this up - simply of a superior being. We are not talking about a Christian God. That would be rightly offensive to some other people in the community. We are simply talking about a God, and a powerful one; hence the word "Almighty".

All other States in this Commonwealth of Australia and the Federal Parliament itself, Madam Deputy Speaker, have a prayer. Why should we wish to be different? The situation elsewhere in the Commonwealth is also the same, with one exception. Every other Commonwealth parliament has a prayer, with one exception, and that is in Ceylon, or Sri Lanka as it is known now. Prayers precede the day's sitting in other Commonwealth parliaments, with the exception of Ceylon, which is now, I repeat, Sri Lanka, where there is too great a diversity of religious belief among the members. They are not arguing that they should not have a prayer. What they are saying is that they find it too difficult to put together one that is going to meet the religious diversity that exists in that tragically strife-torn country at the moment. It is not that they do not want a prayer. I repeat that it is just too difficult for them to put it together.

Let me ask you this question: If in every other parliament in Australia, including the Federal Parliament, and every other Commonwealth country, with the exception of Sri Lanka, there is a prayer, do you imagine for one moment that the only people in those parliaments are Christians? That would be a nonsense. There is, of course, a diversity of spirituality right across the Commonwealth and right across this country in terms of our parliamentarians. That does not stop them having a prayer at the beginning of each day's sitting. Therefore, I would suggest to you that the question of people's spirituality as an argument for changing what we have now simply does not hold up.

I believe, further, that we represent this community, and the majority of this community, even though they may not be churchgoers, still go to a church for weddings, for christenings, and for funerals. They still go along in times of public celebration, I suppose. They still attend churches in times of deep concern in the community. I would suggest that because they do not go to church every Sunday it does not mean that this is not a God-fearing community. Again, why should we not reflect that in this place? I would suggest, further, to all members that most people out there in the community, whether they attend a church or not, would certainly require divine guidance for their elected members in this Assembly. I do not say that in a critical sense. I certainly do not say it in a flippant sense. I believe that most people out there would seek some divine guidance for the decisions and the deliberations that take place here. I would suggest to you that that is what the current prayer does. I do not think for a moment, Madam Deputy Speaker, that we are offending anybody by continuing this prayer. If people feel strongly about it, they do not have to attend. If people would like to make their own reflection while the prayer is being read out, again that is an option that they can enjoy. I would suggest to you that we should not change the existing situation, because I, for one, can see no reason why that should be the case.

MS TUCKER (11.24): I think this discussion is interesting. When this matter was first raised in the Administration and Procedure Committee, the first proposal was that the prayer was seen not to be necessary at all. I did suggest that we could have, instead, prayer or reflection in silence. I keep hearing that this could happen anyway; that we can do what we like while this prayer is being said. Personally, I find it easier to reflect in silence.

I was interested to hear Mr Cornwell say that in Sri Lanka there was so much disagreement amongst the people that they could not find a prayer that they were happy with as a group. That, to me, is very typical of the power struggles in organised religion that have occurred throughout history. It is one of the reasons why I am personally concerned about the power of organised religion and the intolerance that results from organised religion. So, I do not accept Mr Cornwell's suggestion that this prayer is appropriate. I am sorry; I do think this prayer is distinctly Christian in its nature. I was subjected to Christian prayers every morning for a long time when I was at boarding school. I know the flavour of them. Then, as now, I see the hypocrisy of what occurs within the parameters of religions.

I am very interested in the proposition that people have the opportunity to pray in the manner which they see to be appropriate. That is why I put this proposal that we all have the right to pray or to reflect in silence. I think it is worthwhile making a heartfelt commitment every morning to the people of the ACT in the work that we do in this place, but I think that Australia at this time is more religiously and spiritually diverse than it has ever been and it is not appropriate that we insist on a particular type of prayer. There are certain spiritual groups who have more than one god as well. You are actually praying to only one god in this prayer. We would support the right of a Muslim to turn to Mecca at the opening of the Assembly, or of Hindus to make an offering. It is quite appropriate for people to express their own spirituality however they wish. We do not think the Assembly has the right to force any member or, indeed, the community to take part in any prayer that may, at best, be irrelevant to their beliefs, and, at worst, offensive.

The prayer makes reference to working for the true welfare of the people of Canberra. I believe that that is a fundamental part of our role here, and I would include those thoughts in my personal reflections. It seems to me that people supporting the status quo are intent on disallowing others who may not share their beliefs the right to reflect on what is important to them. The argument about tradition is a spurious one. When we were sworn into this Assembly we had a choice of swearing on the *Bible* in swearing allegiance to the Queen. What use is there in swearing allegiance to institutions one has no special belief in? It simply makes a mockery of the process. Members of this place should be required to make a commitment to the people of Canberra based on their own beliefs, not upon beliefs that are irrelevant to them. Traditions have value only if they have relevance. I respect the beliefs of all members of this place. I have listened to Mr Cornwell and I certainly respect his beliefs, and I would ask all members of this place to respect my beliefs as well. If members want to keep this prayer, they should say it to themselves. I support this motion of Mr Berry's and I hope that the Assembly will vote for it.

MR HUMPHRIES (Attorney-General) (11.29): Madam Deputy Speaker, I have heard this motion described as brave and intelligent. I do not think there is anything brave or intelligent about tearing down a very old tradition in the Westminster parliamentary system and putting in its place something which is fairly pointless and meaningless, with great respect. The overwhelming emotion that I notice with this motion being passed - and obviously it will be passed - is simply one of sadness. I think it is quite wrong to suggest that by leading the Assembly in prayer the Speaker of the Assembly is preaching, as was suggested by Mr Berry. I think that the reciting of a prayer, the reciting of almost

any words in the context of a meeting, has special significance, and that significance is one which I think people who wish to experience that concept are entitled to partake of. It is not obligatory for other members to share in that experience if they do not wish to; nor is it obligatory for them to be present in the chamber when that prayer is read.

Mr Berry: How dare you! That is outrageous.

MR HUMPHRIES: It is not.

Mr Connolly: You force people to sort of slink in the ante-room.

MR HUMPHRIES: No. If either of the interjectors is offended by references to Christian or theistic principles, I would say to them that they must face a rather uncomfortable life, because we are constantly confronted with these sorts of images in our daily lives. We have festivals and every week we have a Sunday which is a Sabbath day - a day put aside for rest and worship of the Lord. These sorts of things have a traditional basis. Today they might be treated by many simply as a holiday every week; but all these things have a basis in tradition, and the words we use sometimes refer to those traditions - the holidays we take, the things we do, the things we eat. Everything in our lives reflects traditions on which our society is built. You can watch television and see references to these sorts of things. If you are confronted by them or offended by them, I would suggest that that is a problem that you are facing that does not extend just to this Assembly; it extends to your entire lives.

Madam Deputy Speaker, I do not think it is true to say that this motion is not an attack on Christian values. Indeed, it is just that. I think that it is certainly an attack on tradition and, in that sense, possibly a statement of people's political views as well; and it is an attack, in many ways, on pluralism in our community.

Mr Moore: Come on, Gary! What sort of logic is that?

MR HUMPHRIES: That is my view, Madam Deputy Speaker. There are two ways of promoting tolerance and pluralism in our society, where there are many beliefs, many creeds, many political viewpoints and so on. One is to attempt to erase all features on the social landscape which cause offence to some group within that community; to take out references to those things and to make sure that there are no references to things that might offend certain people. We saw that in the United States, for example, with the debate about having creches, so-called, manger scenes, in public buildings at Christmas time. There was a constitutional argument about it. Having those things removed was one way of promoting tolerance and pluralism. That strategy is particularly focused on those who are prone to take offence rather than others who might be more tolerant.

The second way is to allow or to encourage different expressions of those different beliefs, respect that they should be there, accept that they are a part of the landscape of people's lives, and respect the traditional role that those things have in our community. These prayers have been offered in our ancestor parliaments for centuries and centuries.

We might be a parliament of only six years' existence, granted, but we are also a parliament which inherits those traditions. There are some things which have gone by the board because they are an affront to the way we do things in this day and age.

Mr Moore: Like the Litany that used to be read in the parliament.

MR HUMPHRIES: Maybe so. I would argue that today there is nothing about the prayer which should confront any individual who is interested genuinely in a tolerant, pluralistic society. You will see that everywhere you go in our society. These sorts of things happen all the time. I have been to functions that Mr Berry and Mr Moore have attended at which prayers have been read. These were functions organised by religious organisations, such as the opening of new wings of hospitals run by religious orders and so on. The hospice is an example. Mr Berry, Mr Moore and others have gone to those occasions knowingly and willingly, and apparently prepared to accept that there would be some overtly Christian symbolism, some leading of the congregation in prayer on those occasions.

Mr Berry: That is irrelevant.

MR HUMPHRIES: I do not think it is irrelevant. On those occasions these people who do not share those views were prepared to accept the views of people who were there. I would argue: If you could accept them there, why cannot you accept them in here?

Mr Moore: That is the difference.

MR HUMPHRIES: Mr Moore obviously thinks the Assembly is a different place and that in the Assembly, at least, we have to apply this levelling principle; that we ought have no features on the landscape which might offend certain people. I must say that that is a surprising argument. If any place in the entire Territory is likely to give people cause for offence at some point, it is the ACT Legislative Assembly, either by virtue of its existence, for some, or by virtue of the things that are said in this place about a whole range of political issues.

It seems to me, Madam Deputy Speaker, that we achieve nothing by taking this approach. I think that the prayer we read in this place does substantially reflect the spirituality of the majority of people in this community. At the last census a substantial majority of members of the community professed to subscribe to a Christian creed of one sort or another, or were Jews or Muslims. All of those faiths are monotheistic faiths and therefore believe in an Almighty God of the kind referred to in the prayer. Ms Tucker may feel that this is a Christian prayer. There is no doubt that it was Christian in origin; but we are entitled, I think, to take the words as they come. If there were a Jewish or Islamic believer in this place, I believe that they would have no difficulty in accepting the nature of the person called upon in that prayer and the tenor of the prayer.

Those things are cross-denominational and I suspect that they would not offend even people who believe in multiple gods, because those sentiments in that prayer are worth not just saying privately within our own minds and hearts but proclaiming to people as a way in which we want to proceed in this Assembly. I do hope that when we come to this place we work for the interests of the people of the Australian Capital Territory,

and I think that we are entitled to say that in prayer. That is what this prayer does. It is obviously going out. It seems to me a pity that the youngest parliament in the Commonwealth should be prepared to throw out these traditions. I think that it possibly reflects a little of what people outside would say is an immaturity in our make-up; but that is as may be. I hope that this is something we will view in the course of time as having been a mistake.

MR STEFANIAK (Minister for Education and Training) (11.38): If the prayer is gotten rid of, I think we run the risk once again, as a very young parliament, of being made to look like a joke. This is probably not quite the fluoride debate revisited, but it does have some similarities. Tradition is something that is terribly important.

I want to go through a few of the points Ms Tucker made. She is worried about the power of organised religion and obviously had some not necessarily unpleasant but rather boring experiences with it at school and now wants to change that. Ms Tucker, you might not have liked it at school; but that does not mean that a vast majority of people in Canberra, I think, would not expect this Assembly to continue with a tradition that is longstanding in terms of British parliamentary democracy. We have our traditions. As Mr Cornwell has indicated, only the parliament in Sri Lanka, out of the whole Commonwealth, does not have a prayer. India, which was rent apart with factional strife in 1946-47 during the partition which led to Pakistan being created, with Muslims going one way and Hindus going the other, still ended up with a sizeable minority of non-Hindus. There are still Muslims there and there are other religions there, but India has a prayer.

There are many other examples throughout the Commonwealth of multicultural societies, societies far less tolerant, perhaps, than ours in terms of dealing with people with other religions, where people have died for their religious beliefs or died because of religious intolerance, which still have a prayer. Organised religion, over the centuries, like organised power of any kind, unfettered power where maybe there were no great traditions, has led to much tragedy. It is not just religion that has caused tragedy. The Inquisition was a great example of religious bigotry and intolerance; but, where there was no religion, look at the untold damage that communism and nazism did to the world. Hitler, Pol Pot and Stalin were probably the three greatest monsters of the twentieth century. There was no religion except their own. They were God, but there was no religion there. In fact, communism was a godless religion. Our system is not perfect. The system of democracy we have, which goes back to Magna Carta, is by no means perfect. As Winston Churchill said - I paraphrase - it is a pretty awful system, but no-one has come up with anything better.

The prayer at the start of a parliamentary sitting is a tradition. It may be a quaint tradition. It may be something that, in 1995, some people think is totally irrelevant and should not occur; but it is a tradition nevertheless. It acknowledges a superior being. Our little prayer asks us to pray for the true welfare of the people of the Australian Capital Territory. I would certainly hope that we all have the true welfare of the people of the Australian Capital Territory at heart. I think the formal words in the prayer are far better than the formal words that Mr Berry has proposed, tradition aside.

Ms Tucker seems worried, as I said, about organised religion and the power of it; but look at the good things. All religions teach a sense of values. A good Christian who follows the tenets of the Christian faith, or a good Jew, a good Muslim or a good Buddhist, will be a good person. History is splattered with examples of good people who had good religious beliefs, in all denominations, because all religions fundamentally teach decent principles.

I think the vast majority of Canberrans expect us to continue with our prayer and will be somewhat disheartened if this prayer is abandoned. I think the rights of the majority have to be protected here and I think this Assembly would be somewhat empty without the prayer. I believe that 71 per cent of people in Canberra at present class themselves as Christians. Then, of course, there are Muslims, Jews, Buddhists and some people who have no religion. It is interesting, I think, to note what the president of the Ethnic Communities Council has said. Mr Cornwell read it out. Jas Manocha, the president of the Ethnic Communities Council, said that quite clearly God means more than just a Christian God. The Ethnic Communities Council, the representatives of all ethnic groups in the ACT, would be very distressed if we abandoned the prayer.

I would ask members of this Assembly to be tolerant and not go off on some private agenda which really is representative of only a very small proportion of the people in the ACT. I think the rights of the majority have to be protected. If this Assembly votes to get rid of the prayer and to get rid of all that very fine tradition, it is a very sad day.

MR MOORE (11.43): Madam Deputy Speaker, it is interesting to hear how intolerance can be clothed in so many different ways. The number of letters that the Speaker received in response to questioning religious communities, and what was said, is interesting to me. I would like to thank the Speaker and his office for circulating those letters. I am surprised that he did not read out the letter from the pastor of the Holy Cross Lutheran Church, who wrote back with a very different view. I must say, quite clearly, that Mr Cornwell was not attempting in any way to hide this, because he circulated it to members. Allow me to read the reply. It says:

> Thank you for giving our Church community the opportunity to respond to the proposal to replace the daily prayers with a reflection.
>
> Australia has a Christian heritage which was and still is the predominant religious faith. But we are a nation with increasing religious diversity, the by-product of greater religious tolerance and increasing multi-culturalism. And although the Christian community finds comfort in the thought that their civil leaders share in the ideal of responsibility to God for decisions and actions, yet we can no longer presume that MLAs share this faith and ideal, nor for that matter can we expect them to. Further, the people whom they represent may not share our faith and ideal either. In recognising these dynamics, we cannot see why this proposal should not meet with approval.

That is a very tolerant approach.

Mr Cornwell: Continue.

MR MOORE: Mr Cornwell interjects, "Continue". I will continue because the Reverend Mr Vosgerau shares some of his concerns about the community. I do not think they are particularly relevant here, but I would not like to misrepresent his opinion. He continued:

> However, may I in closing share a concern.
>
> Even though we live in a diverse culture which necessitates tolerance, nevertheless, I am concerned about the erosion of our societies sense of values and faith. Pluralism has also brought with it a lack of certainty. One could even call it an escape from responsibility in the embrace of relativism. Though we may value other views this does not mean all views are valuable. There seems to be danger that we want to please everyone, but at what and whose expense? Does a culture not have the right to express its predominant ethos and faith? There is no easy answer to this question. And it's certainly not always found in disassembling past traditions and values.

So, he qualifies it. There is no doubt that he qualifies his answer in terms of his view and takes the opportunity to raise some issues of concern. His final paragraph reads:

> Though our ACT Assembly may no longer be able to pray, please rest assured that we as a church continue to pray for it.

I think that that final paragraph is particularly important because it says, "We recognise that it is our responsibility as Christians to pray for the Assembly". What the author of this letter, the regional chairman of the Lutheran Church of Australia, failed to recognise is that we are allowing people here to pray.

Mr Berry: We are encouraging it.

MR MOORE: Mr Berry interjects that we are encouraging people to pray. How are we encouraging people to pray? The daily program, where the word "Prayer" appears, will not say just "Prayer". It will say "Prayer or reflection". It will still recognise, first, prayer. Probably the majority of people in this Assembly, for some years to come, I suggest, will pray during that time. But it will also recognise tolerance for those who do not wish to pray, who wish to use the time for reflection. They will include people who do not believe in a single god, for example, and people who do not believe in a god at all, but people who do believe in reflecting upon the deliberations for the true welfare of the people of the Australian Capital Territory. They will no longer be excluded in the way they have been excluded for the last six years in this parliament.

Mr Humphries made the point that we ought not do away with a tradition because we have a tradition. His logic was confused in some ways, which was why I interjected about the concept of the Litany, because in some ways we move on from that. I referred to the Litany because we are aware that in the House of Commons back in, I think, the 1600s it was the role of the Clerk, I believe, to lead the Litany. The Litany is a prayer with a series

of appeals to God or to the saints in their various different forms, to which the rest of the members would respond, "Pray for us". It would continue in that way. Litanies are a quite long form of prayer, and finally some members decided that they had passed that tradition and needed something briefer and more general.

I think that is what has happened here. Some members have said, "Is this tradition really entirely appropriate to our society? We are no longer a society taking our traditions from Westminster, where there is a church religion, the head of that church being the Queen of England". Australia is now entirely different. We have a much more diverse culture than England. In my experience of travelling, I think we have one of the most successful multicultural societies in the world, the reason being our tolerance in giving people room to move. Just as it would be inappropriate to say that people ought not be able to pray, surely it would be intolerant to say that people ought not be able to reflect.

Mr Humphries referred to Mr Berry and me attending a church for a particular religious ceremony, or an Anzac Day ceremony or something along those lines. We choose to go there with that in mind. We recognise people's rights and, yes, we are tolerant. We have a right, as elected members, to be in this Assembly. We have a right to be here right through any of the proceedings. We would also ask members to recognise our right to be here while holding a different view from them; to recognise our right to seek to represent the people of the ACT in the way that we think is most appropriate for their true welfare. This is not a way of excluding; this is a way of including. That is why I was delighted that Mr Berry modified his motion somewhat and got rid of that oversight, so that the Speaker would invite people to pray or to reflect. I think the original intention was that the word "reflect" covers that. However, I concede that this is an improvement that recognises the spiritual diversity of our community. I do not think anybody should be offended by this. I think that is demonstrated clearly by the regional chairman of the Lutheran Church. This is not an offensive move. It is something that you should be proud of in terms of your own Christian traditions of tolerance and understanding.

MS HORODNY (11.52): This issue is not about non-Christians being offended but rather about allowing all members the right to contemplate in silence their own spirituality. This means that those who want to reflect on this Christian prayer can still do so, but silently. This allows others to reflect on their spiritual beliefs. I personally have very strong spiritual beliefs, but they are not represented in the Christian faith. I would welcome the opportunity for silence so that I can be spiritual in my own way. I say again that I am not offended by the prayer, but I would like to be respected for my own spiritual beliefs and needs. We would not be getting rid of the prayer; rather, going from reading it out aloud to having each individual saying the prayer to themselves if they wish. Perhaps the prayer as it stands now could be printed on the blue paper so that those who want to reflect on it could have the words in front of them.

MR DE DOMENICO (Minister for Urban Services) (11.53): I have listened very intently to what everybody has said. I have not heard yet the argument that there is an overbearing, door-busting attitude in the community out there to get rid of the prayer. Nobody has come up to me and said, "Please get rid of the prayer". The same number of people sort of busted the door down and said, "Please get rid of circuses". Not one person has done so. The most angst-type arguments we have - - -

Mr Moore: It was the same with slavery, Tony.

MR DE DOMENICO: You spoke in silence, Mr Moore. I did not interject.

There has been no great public outburst. People are not saying, "The most important thing this Assembly has to do this year is to get rid of the prayer". Not one. In fact, the opposite has happened. Mr Cornwell read out the letters from the various churches. I agree that one would expect the churches to say that. But I also believe that we are here to reflect the views of the majority of Canberrans.

Mr Moore: And to protect the rights of the minority.

MR DE DOMENICO: And to protect the rights of the minority as well. Thank you, Mr Moore, for the interjection. It is a very intelligent one and I will take it on board in a minute. The majority, I am told, by all sorts of people, are in fact Christians. There was an article in the *Canberra Times* on 10 June 1993 that said:

> The number of Australians calling themselves Christians increased by 1.1 million between 1986 and 1991, according to a Monash University study.
>
> The study shows that 76.6 per cent of Australians call themselves Christians, 1.6 per cent more than in 1986.

It gives the breakdown of the various religions. I do not think we should concentrate on the breakdown of the various religions. Evidence suggests that the majority of Australians call themselves Christians. There is no reason to believe that the Canberra community does not reflect the majority of Australians, so we can take that on board as well.

Mr Berry: It is an irrelevant argument.

MR DE DOMENICO: Mr Berry says that it is relevant. You may think it is - - -

Mr Berry: It is an irrelevant argument.

MR DE DOMENICO: It is what? What did you say? What is the word you used?

Mr Berry: I said, "It is an irrelevant argument".

MR DE DOMENICO: That is your opinion. You are entitled to your opinion, and, hopefully, I am entitled to mine. I am disagreeing with you.

What, really, does the Canberra community think about this? Besides going to the churches, whom do you think you should go to? The Ethnic Communities Council has been mentioned. We should go to the Ethnic Communities Council. My long experience with the ethnic communities in Canberra tells me that the Ethnic Communities Council

reflects people of all sorts of nationalities, religions and beliefs. The other letter that Mr Cornwell did not read out was another letter written by Jas Manocha, the president of the Ethnic Communities Council. I think I should read it all because I might be accused of paraphrasing or leaving things out. It is addressed to Mrs Carnell and it says:

> My Dear Chief Minister
>
> All societies have a basic religious ethos. Nowhere is this more evidenced than in the cultural diversity of Australia where Christian and non-Christian beliefs including those identified with our original settlers, the aborigines, co-mingle to express the paramount place that God, however adored, has in our lives.
>
> Constitutions and legislative processes in Western evolved countries generally and specifically use exhortatory language and prayers which include a reference to God or the Almighty. That acknowledgment denotes the moral principles by which we should be guided in our daily tasks whether as legislators or members of the community.
>
> In our view it would be a retrograde step not to continue in Assembly prayers or on other formal occasions an appropriate reference to God. It is difficult to accept that text confined to society at large either accommodates adherents to religious beliefs, Christian and non-Christian, or can be inspirational and meaningful.

Most importantly, the last paragraph says:

> It is hoped therefore that reference to God will be maintained in the Assembly's prayers. This hope identifies that the minority should not dictate what the majority within a multicultural [society] espouse. As it is for those who oppose or deny religious expression there is opportunity to remain silent.

Mr Moore: Exactly.

MR DE DOMENICO: Mr Moore says, "Exactly". Let me now go back to what Mr Moore says. Mr Moore says that by using the words "Prayer or reflection" we cater for everybody's views. Mr Connolly nods, and I am delighted that he is nodding. Let us look at the logic of that. If by mentioning the words "Prayer or reflection" we are acknowledging the diverse views, why take away the prayer?

Mr Connolly: We are not.

MR DE DOMENICO: You are.

Mr Berry: We are not.

MR DE DOMENICO: You are. Will the prayer, under your amendment, Mr Berry, be read by the Speaker?

Mr Berry: If you want to, you can read it. You can mouth it yourself.

MR DE DOMENICO: No, no. The question, Mr Berry, was: Will the prayer, under your amendment, be read by the Speaker? The answer is no, Mr Berry. Mr Berry's motion would mean that the prayer would not be read by the Speaker.

Mr Moore: Your logic is pretty thin, Tony.

MR DE DOMENICO: No, it is not pretty thin. I have some more logic for you, Michael. Why is it that this parliament, and only this parliament, in the Commonwealth world of parliaments, apart from Sri Lanka or Ceylon, sees fit to do this? We have this blazoned and brilliant thought in our mind that we are going to change the course of history, for heaven's sake. What is wrong with remaining with the tradition that has been there, not just in our country, but in every other - - -

Mr Moore: Because we are more tolerant.

MR DE DOMENICO: Mr Moore says, "Because we are more tolerant". What hogwash! What absolute bunkum! What gives you the right to say that we are more tolerant than anybody else, for heaven's sake? What logic is that? You can have a go at my logic. What absolute bunkum!

We are wasting one hour of Assembly time today to debate this issue that no-one else out there in the community wishes us to debate. That is the point I am making. There have been no letters in the *Canberra Times* and people are not crashing down doors and saying, "Hey, this is the most important thing we want you to do". What this is all about is making headlines. It is going to make wonderful headlines. Mr Moore, Mr Berry and others will run out there and say, "Gee, aren't we tolerant. We are one of the only two parliaments in the Commonwealth world that are not going to have the prayer". Madam Deputy Speaker, let us continue with the tradition. Let us continue with the tradition and also give an opportunity to those people who do not want to continue with the tradition to reflect in silence.

Mr Berry: Mr Humphries said that they could wait outside.

MR DE DOMENICO: They can wait outside if they want to, Mr Berry. If you are so strong about this, leave it the way it is for those of us who want the prayer read. You can wait outside while it is being read and reflect in silence.

Why are we changing an institution that has been there since Federation, for heaven's sake? Our Federal Parliament has a prayer read out. All State and Territory parliaments have prayers read out. Who again is going to be the laughing-stock of the country? The ACT Legislative Assembly. Why? Is it because the community are out there holding up placards saying, "Please, we want you to not read the prayer."? Of course not. Someone thought it was a good idea to change the standing orders; it sounds good; it will mean that we are more tolerant; it will flex muscles and show how

good we are, how progressive we are. What bunkum that is! Why are we changing something? If it ain't broke, why fix it, for heaven's sake? It ain't broke. We have the Ethnic Communities Council saying that it ain't broke. We have every denomination or church in the country saying that it ain't broke. We have the community out there saying that it ain't broke.

Mr Moore: You have some of your own members saying that it is broken.

MR DE DOMENICO: They are not saying that. Mr Berry says, "If we are brave enough and intelligent enough", for heaven's sake. Brave enough to do what? What earth-shattering thing are we doing today? We are just getting rid of tradition for the sake of getting rid of it. He said that it is a simple thing to do. Of course it is a simple thing. You have the numbers. It is very simple. Nine beats eight every time. Wow! Fantastic! You can count. What are we talking about? The changing of two words, "Almighty God". We have seen that Almighty God could be any god or any number of gods. Gee, are we not good? We are going to break tradition for the sake of breaking tradition.

Ms Tucker said that the Assembly is forcing people to do things. This Assembly has never forced anybody to do anything. It will never force anybody to do anything. If you do not want to do it, you do not do it. If you do not want to turn up, you do not turn up. You have talked about respect for beliefs. Everybody here, I should imagine, respects everybody else's beliefs. I certainly do.

Mr Moore: Well, show it.

MR DE DOMENICO: I might not agree with some other people's beliefs. Mr Moore says, "Show it". I am showing it, Mr Moore, by expressing my opinion. Mr Moore said that intolerance is clothed in different ways. Yes, it is; you are right. But I do not know what that has to do with this argument. Diversity, I think, is catered for in what we have now. There have been no motions for change out there in the community. We are changing for the sake of change. Whenever we change for the sake of change, we are the laughing-stock of the country.

MR WHITECROSS (12.03): We are here not for our own glory but to represent the people of the ACT and their interests. This motion is about allowing us to confront this reality daily. The motion allows us to do so by prayer or by reflection, according to our own beliefs and our own spirituality. At the same time, the motion provides for us to do this together, as members, in a way that is consistent with our collective responsibilities to the people of Canberra. As such, it continues this Assembly's tradition of having a visible and tangible representation of our collective responsibility in this regard. There has been some comment that the amendment provides some sort of downgrading of our practice in this matter. I do not agree. There is nothing elevated or virtuous about a ritual which is unacceptable or meaningless, or even offensive, to a significant proportion of our membership. We should all, whether we have a personal faith or not, be striving for a form that allows us to stand together to contemplate our responsibilities.

I have been interested in the comments that have been made about tolerance by a minority of what Mr Cornwell asserts is a majority opinion. The minority have to cop it. The minority can stay away, or wait outside. We have had read to us letters written by Christian churches saying that people of other faiths should not mind the current form of the prayer. This is tolerance on its head. This is intolerance. Tolerance is about majorities considering and having regard for the convictions and beliefs of minorities.

This Legislative Assembly is a secular institution. It is not the role of this Assembly to promote religion or to give weight to some religious convictions over others. I have a personal faith, and I accept that people of faith believe that their faith is a serious matter. Many faiths, although not all, believe that their faith should be extended to others in the community. I welcome, as a person of faith, all debate in the community about spirituality. I believe that it is an important issue. But I do not believe that churches should seek to promote their faith by appropriating the institutions of the state. Nor should people who feel comfortable praying the monotheistic prayer in the current standing orders force others to pray despite their unbelief.

On a personal note, it is a matter of some sadness to me that Christian churches, of which I am a part, seek to maintain their standing in the community by appropriating secular institutions, by clinging to these kinds of rituals in our institutions, rather than getting to the fundamentals of their faith and seeking to persuade others of the merits of their views. It is, as I said, a matter of sadness and grief to me that the efforts of the churches do not go more into that and less into the business of seeking to ensure that schools and the Legislative Assembly maintain things which they will feel comfortable with.

There is another important principle which members should consider. This Assembly belongs to all citizens in Canberra. All citizens in Canberra should be eligible to stand, regardless of their personal beliefs, and should feel encouraged to stand, regardless of their personal beliefs. They should not be discouraged. They should not be sent signals that Anglicans - for this prayer is, at its root, an Anglican form of words - or Christians, or believers in one of the three related monotheistic religions - Judaism, Christianity or Islam - somehow have greater rights to participate or greater status in the community than people with other personal beliefs. This is already recognised to a limited extent by the provisions allowing people to make an affirmation when they become members of this Assembly, rather than swearing on the Christian *Bible*.

For people of faith who believe in the importance of taking their job seriously and acting in a way which is prayerful or in accordance with the tenets of their religion, this is really a matter not of form in this place but of what people do. Madam Deputy Speaker, it is not a great element of my tradition to be producing proof texts, and I think it is not a particularly strong form of argument; but I want to refer to a thought by the central figure of my religion, Jesus. I commend this to the consideration of members. He said this:

> And whenever you pray, do not be like the hypocrites; for they love to stand and pray in the synagogues and at the street corners, so that they may be seen by others. Truly I tell you, they have received their reward. But whenever you pray, go into your room and shut the door and pray to your Father who is in secret; and your Father who sees in secret will reward you.

I commend the motion to the house. I believe that it is a motion premised in tolerance; premised in the belief that we should, as members, regardless of our convictions, be able to stand together in solemness and seriousness at the commencement of each day's work and say, "We are here not for our own glory, not for our own promotion, but to advance the cause of the people of the ACT". This proposal of Mr Berry's allows us to do that together, regardless of our convictions, in a solemn and serious way. I believe that it is a vast improvement on what we have. I commend the motion to the house.

MR BERRY (12.11), in reply: Madam Deputy Speaker, one thing that history tells us is that a major part of life in the days that have gone has been centred around intolerance. Today's debate is a debate which is a further step on the way to tolerance. I see that much weight is put on the requests by some of our clergy that a prayer be included; but may I say that the information that was circulated to them was a copy of one of the paragraphs from the report where the word "prayer" was omitted from the motion which was proposed to this Assembly. I apologise to them for that oversight because I think it was never our intention that "prayer" should be excluded. In fact, somebody mentioned earlier in the debate that the word "reflection" provided scope for prayer, but it really needed to be said to satisfy those who might have been sceptical about the motion in the first place. Its inclusion, I think, should satisfy maybe not all of them, but at least those who want allowance for a prayer to occur. There was every intention that some sort of prayer could be conducted by members in their deliberations in this place.

There is one other thing I would like to mention. Mr Humphries tried, I think unsuccessfully, to recraft some of the comments that I made in the course of this debate. He did say something which I found bordering on the offensive, and that was that you could stay outside if you did not like what was going on in here. I do not think that is an appropriate thing to say. It is not something I would ask people to do in relation to the proceedings in this place. It is not something you can ask people to do. It is wrong to ask people to do that. It is much better, in my view, to present a formula which provides for everybody, without any possibility of exclusion, and that is what this change to the standing orders sets out to do.

My colleague Mr Whitecross eloquently put the case for this extension of tolerance. I think it is a shame in some ways that we could not look at this change as a reasonable one. What is proposed still recognises the Christianity of the Westminster system because it still invites prayer in whatever way you choose. It also provides for non-Christians, or non-religious people, or people without a god, to reflect on the way that they might deal with matters. That is appropriate. At one time people who might have been identified to be without a god may well have been tarred and feathered. We passed that, thankfully, a long time ago. We can bear that in mind as we move towards further change in the way that we deal with our spirituality and the way that our spirituality might reflect our duty to the people of the community that we were elected to represent.

This is not about the individual member's spirituality. This is about providing an avenue for those of us in the community who might wish to represent the community in this place in the future; those in the community who see their role in a quite different way from the way which is reflected in the current prayer. I think it is a more inviting attitude to have such a standing order as this than to dwell for too long on a prayer from the past, in many ways. Some people around the country may well criticise us, saying that we are adopting a position which will lead us into some sort of disaster; but I think that is a bit of a nonsense. We really are trying to ensure that the community respects this place because of its pluralistic attitude; its recognition of the pluralist society; its recognition that all people are welcome, regardless of their spirituality.

I found it quite shocking to hear interjections such as, "You can make your own choice. If you do not want to put up with this prayer, do not come here". That was the attitude. That is the sort of intolerance that we need to cast aside. You cannot have an attitude like that and call yourself a true representative of the people. It is impossible. It is impossible to rationalise the two, in my view, and I think many in the community would say the same thing. You cannot possibly have an attitude that would cast aside a great number of people from this place by saying, "Do not come here if you are not prepared to cop the prayer". I do not accept that, and I intend to continue to argue the case.

This matter was considered by the committee in good faith. It was considered that the motion should be proposed after a month. It was not supported by all of the committee members, but it was a majority decision. There were dissenting views; there is no doubt about that. For my part, I think it opens the way to present one small instance of a fresh approach coming from this Assembly. It is not groundbreaking. It does not cast aside the prayer, as some have suggested. It is quite mischievous for them to say that.

Mr De Domenico: It does. It is no longer going to be read. It is finished.

MR BERRY: It does not cast aside the prayer. It does not cast aside your right to pray in any way that you like, and for anybody to promote that view is quite mischievous.

MR MOORE (12.19): Madam Deputy Speaker, I seek leave to move an amendment to Mr Berry's motion. It is really a quite mechanical thing.

Leave granted.

MR MOORE: This does not go to the fundamental part of the debate. At the moment standing order 30 says:

> Upon the Speaker taking the Chair at the commencement of each sitting, and a quorum of Members being present, the following Prayer shall be read:
>
> ... ...

Mr Berry's amendment seeks to remove the prayer and substitute these words:

> Members, at the beginning of this sitting of the Assembly, I would ask you to stand in silence and pray or reflect on our responsibilities to the people of the Australian Capital Territory.

The word "Prayer" in the first two lines is inappropriate for that reason. I think it would make more sense, if this goes through, if it read, "Upon the Speaker taking the Chair at the commencement of each sitting, and a quorum of Members being present, the following shall be read". That simply makes more sense. I think there was an oversight and I picked it up on my final check, as I am wont to do. Madam Deputy Speaker, I will move the amendment circulated in my name, as follows:

> Omit the words "shall be read", substitute the word "following".

Mr Whitecross: It does not take out the word "Prayer". It does not take out the word you are trying to take out.

MR MOORE: We cannot do that because I am moving an amendment to Mr Berry's amendment, rather than starting a whole new amendment. I would suggest to members that the effect is exactly the same. If you read the amendment and double-check that, I do believe that it is exactly the same. In Mr Berry's motion we take out the words "shall be read" and we substitute "following" - - -

Mr Stefaniak: That does not make sense, Michael.

MR MOORE: Delete all words after "following", and delete the words "shall be read". I may not have it quite right.

MADAM DEPUTY SPEAKER: We are still not quite right here.

MR MOORE: I think, Madam Deputy Speaker, that is correct. I think I do have to modify my amendment somewhat.

MADAM DEPUTY SPEAKER: I think we all understand your intent, Mr Moore. It is just a matter of getting the words right.

MR MOORE: The difficulty, Madam Deputy Speaker, is that I was attempting to modify Mr Berry's motion rather than amend the standing order, which would have been much simpler.

MADAM DEPUTY SPEAKER: Mr Moore, perhaps we should just note that the intent of your amendment is understood.

MR MOORE: Madam Deputy Speaker, so that members understand exactly what I am trying to do, perhaps I should simply move to delete the word "Prayer" in the first two lines.

MADAM DEPUTY SPEAKER: We will deal with Mr Berry's motion and then we will deal with your motion to delete the word "Prayer". I think that is probably the way to go, Mr Moore.

Question put:

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

The Assembly voted -

AYES, 8	*NOES, 7*
Mr Berry	Mrs Carnell
Mr Connolly	Mr Cornwell
Ms Follett	Mr De Domenico
Ms Horodny	Mr Hird
Ms McRae	Mr Humphries
Mr Moore	Mr Osborne
Ms Tucker	Mr Stefaniak
Mr Whitecross	

Question so resolved in the affirmative.

MR MOORE (12.25): Madam Deputy Speaker, I seek leave of the Assembly to move a motion with reference to the word "Prayer" first appearing in standing order 30.

Leave granted.

MR MOORE: Members, I move:

That standing order 30 be amended by omitting the word "Prayer".

Question resolved in the affirmative.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 9 of 1994

MS FOLLETT (Leader of the Opposition) (12.26): Mr Speaker, I present Report No. 4 of the Standing Committee on Public Accounts entitled "Review of Auditor-General's Report No. 9, 1994 - Performance Indicators Reporting". I move:

That the report be noted.

Mr Speaker, Audit Report No. 9 was presented to the previous Assembly on 8 December last year. This Assembly, on 9 March 1995, authorised the Public Accounts Committee to consider and make use of the records and evidence of the previous PAC. The purpose of the audit was to provide an opinion on consistency between objectives and

corporate plans, the suitability of the form and content of objectives in preparing useful indicators, whether performance indicators provided information suitable for assessing performance, and whether objectives and performance indicators were being used as a basis for Senior Executive Service performance agreements.

While the audit found consistency between objectives and corporate plans in the great majority of cases, an even greater majority of objectives did not specify an outcome. The audit concluded that published indicators were not sufficiently precise; that they were broad, vague or used inappropriate terminology; that they reported activities rather than outcomes; that they were not quantified; and that, for most, no comparative information was provided. Mr Speaker, the committee sought the views of the Government on the audit report and subsequently discussed the matter with senior officials of the Department of Public Administration.

The committee is concerned that there should be an appropriate recognition of qualitative as well as quantitative aspects of agency performances. However, the committee appreciates that agencies which have a policy focus have a difficulty in measuring on a qualitative or quantitative basis. The committee supports the audit recommendations and further recommends that the Government provide for consistent mandatory performance reporting, and that it monitor agency annual reports to determine the extent to which they comply with annual report directions.

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

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Inquiries and Reports

MR MOORE (12.29): Mr Speaker, I wish to inform the Assembly that on 26 May 1995 the Standing Committee on Planning and Environment resolved to inquire into and report on the redevelopment proposal for the former drive-in site on section 61, block 8, Watson. This was in response to a letter from the Minister for the Environment, Land and Planning, Mr Humphries, who wrote to us and asked us for our opinion on that matter. No doubt Mr Humphries had expected a more rapid reply to his letter. However, the matter is quite complex and the Planning and Environment Committee has taken a great deal of care with this issue.

I further wish to inform the Assembly that on 28 April 1995 the Standing Committee on Planning and Environment resolved to inquire into and report on the Government's draft capital works program. To that effect, Mr Speaker, the committee has written to the Chief Minister, who has responded to us, saying that she will make the draft capital works program available to the committee in the same way as it was made available to the Planning, Development and Infrastructure Committee in all years other than the year in which the budget was brought down at what I think is a much more appropriate time - in the middle of the year. We look forward to reporting on those matters. In a moment I shall be seeking leave, Mr Speaker, to give us the opportunity to report out of session, should that be necessary.

I ask for leave to move a motion regarding the printing and circulation of reports on three inquiries currently being undertaken by the Standing Committee on Planning and Environment.

Leave granted.

MR MOORE: Thank you, Mr Speaker and members. I move:

> That:
>
> (1) if the Assembly is not sitting when the Standing Committee on Planning and Environment has completed its inquiries into:
>
> (i) the former drive-in site, Watson;
>
> (ii) contaminated sites; and
>
> (iii) the Government's Draft Capital Works Program;
>
> the Committee may send its report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing and circulation; and
>
> (2) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

Question resolved in the affirmative.

Sitting suspended from 12.30 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Cabinet Documents - Confidentiality

MS FOLLETT: Mr Speaker, I address a question to Mr Humphries as the Minister for the Environment, Land and Planning. Mr Humphries, yesterday in the house you tabled advice from the Department of the Environment, Land and Planning to the previous Government. The *Cabinet Handbook* states:

> Cabinet documents (like other Ministerial deliberative documents) are confidential to the Government which created them and access by succeeding Governments is not granted except with the approval of the Leader of the Opposition, or the current leader of the appropriate political party, as the case may be.

Mr Humphries, noting that I had not approved the release of those documents, I ask you: Why did you knowingly, or perhaps recklessly, breach the *Cabinet Handbook* by accepting and publicising that document?

MR HUMPHRIES: Mr Speaker, I thank the Leader of the Opposition for her question. She has raised a very important point about the nature of documents handled by successive governments and the convention, at least, if not the rule, in the *Cabinet Handbook* that these documents not generally be available. I confess to having had the document, obviously. I tabled it here on the floor of the Assembly. The document was handed to me by a member of my staff. I am not sure what was the origin of the document, but I am prepared to find out what it was. It does not follow, because a document is available, that it has necessarily been produced by a breach of that process in the *Cabinet Handbook*. As we all know, documents do tend to leak around the place and to be available in places where they should not be. So, I will not indicate that I know for a fact that this document was released by a member of the bureaucracy whose job it was to honour the conventions in the *Cabinet Handbook*. That may be the case, but it may not be the case. I will, however, endeavour to find out.

MS FOLLETT: On a supplementary question, Mr Speaker: I would advise Mr Humphries that, if he looks carefully at the document which he tabled, he will see that, on the top of it, it bears the fax address and number of a senior officer of the Department of the Environment, Land and Planning. I would ask, through you, Mr Speaker, that, when Mr Humphries has obtained the information, he make it available to the Assembly.

MR HUMPHRIES: I have indicated that I will do that, Mr Speaker.

Cabinet Documents - Confidentiality

MR BERRY: My question, too, is directed to Mr Humphries in his capacity as Minister for the Environment, Land and Planning. Mr Humphries, in your answer yesterday you said that you were unaware of the annotated document. I accept your undertaking that you were, at that time, unaware of it. Were you aware that the Chief Minister was aware of, or had sighted, the annotated document; or when did you become aware that the Chief Minister was aware of, or had sighted, the annotated document?

MR HUMPHRIES: Mr Speaker, I am a bit confused here. I do not know whether Mr Berry is referring to the former Chief Minister or the present Chief Minister. I do not believe that I indicated in my answer that I did say anything about the Chief Minister being aware of the document. That may emerge from what is in the *Hansard*, but it is not my recollection of what I actually told the house. If Mr Berry wants to reconstruct events - - -

Mr Berry: No. I will read it again, to clarify it for you.

MR SPEAKER: Would you clarify it for Mr Humphries, because I, too, am confused.

MR BERRY: I said that Mr Humphries yesterday had said that he was unaware of the annotated document. Mr Humphries, we accept your undertaking that at that time you were unaware. Were you aware, though, that the Chief Minister was aware of, or had sighted, the annotated document; and when did you become aware that the Chief Minister was aware of, or had sighted, the annotated document?

MR HUMPHRIES: I am sorry, Mr Speaker; but Mr Berry's question still is not very clear. He says that I said that I was unaware of the annotated document. I was obviously aware of the document, because I tabled it. I indicated that I had not at any stage seen the annotated version of it. I think I made it clear that I had not seen the annotated document at all; but I indicated to the house that I understood - I had been led to believe - that it had been annotated by the Chief Minister. I think I indicated to the house that one would expect that a document in the nature of a minute or brief that went to a Minister in the Government would be annotated. That is the way we handle those documents, as a rule. You annotate them in some way and you send them back. So, I did not indicate that I had ever seen the annotated document. Indeed, I did not see the annotated document before yesterday afternoon, when Ms Follett tabled it here in the house. That was the first I had seen of that document in the annotated form.

MR BERRY: As a supplementary question: Have you become aware that the Chief Minister - Chief Minister Carnell - was aware of, or had sighted, the annotated document?

MR HUMPHRIES: No, I have not, Mr Speaker.

Health Services - Consultancy

MR HIRD: Mr Speaker, I direct a question to a very good Chief Minister - probably the best we have ever had.

MR SPEAKER: Ask your question, Mr Hird.

MR HIRD: Mr Speaker, I address a question to the Chief Minister in her capacity as Minister for Health and Community Care. I refer to the Government's announcement this week that a team of consultants has begun working with the Health Department to improve the efficiency of ACT Health, including Woden Valley Hospital. Can the Minister inform the Assembly about some of the problems that have led the ACT Government to undertake this important reform step - in particular, about the crisis in waiting lists for elective surgery?

MRS CARNELL: Thank you very much, Mr Hird. This Assembly, and particularly the members opposite, should be aware of just how serious the problems with waiting lists are and the reason why this Government has taken such definite steps to do something about them. Under the previous Government, waiting lists were defined into three categories, and appropriately so - category one for the most urgent; category 2; and then category 3 for the least urgent. There are currently some 4,600 people waiting for elective surgery in Canberra's public hospitals. Unfortunately, they have been waiting for far too long. So, not only are there too many, but also they have been waiting for too long. Mr Connolly was always very keen to point out that it really did not matter how many people had been waiting; what really mattered was how long they had actually been on the waiting list. So, for Mr Connolly's benefit, I will use the very same benchmarks that he always wanted to use in this Assembly, to show just how dramatic these problems are.

First, I should point out that the Australian Institute of Health and Welfare pointed out in February this year - while Mr Connolly was still Minister - that the clearance time on the waiting list for the ACT was the second worst in Australia. The average clearance time, of 5.5 months, was second only to that of the Northern Territory, which had the slowest clearance of patients. So, for how long have our patients been waiting? Currently, a staggering 51 per cent of category one patients have been waiting for longer than the clinically recommended 30 days. That is 136 people. Remember that category one is for urgent patients. One in three of these patients have been waiting for longer than three months. Mr Speaker, one in three of these people, who were supposed to have been seen in 30 days or their condition was likely to deteriorate, were still waiting at three months. Category 2 patients, who were supposed to have been seen within 90 days - - -

Members interjected.

MR SPEAKER: Order! I cannot hear the Chief Minister answering the question. If I cannot hear her, I presume that others cannot; and she may have to repeat the answer to the question.

Mr Berry: No, no!

MR SPEAKER: Order! That goes for both sides of the house.

MRS CARNELL: Category 2 waiting list people are people who are supposed to have been seen within 90 days; that is, it is clinically desirable for them to have their surgery within 90 days. Forty-five per cent of those people have been waiting for longer than is clinically desirable; that is, longer than 90 days. Almost 20 per cent of these people have been waiting for longer than a year. Mr Speaker, I regard these waiting lists as a disgrace, and I would be surprised if Mr Connolly and everyone else in this Assembly do not share my concern. I know that every doctor, nurse and health professional in the ACT shares the belief that something has to be done. While the Government is currently developing a detailed strategy for better management of waiting lists, it is clear that patient care has, for far too long, run a poor second in the overall health picture in the ACT.

The consultancy I announced this week will work with senior managers to identify areas across Health where efficiencies can be found and services to patients can be improved. Since we came to government, I have stood here and copped my fair share of the flak about the reforms that we are making in ACT Health; but what we are saying is that we do not believe that more of the same is all right. We have to make absolutely fundamental changes to do something about waiting lists, not only that are long, but also where people have been waiting for clinically unacceptable periods of time. I believe that, at the last election, the people of Canberra said categorically that more of the same in Health was not good enough. Patients are saying that; doctors, nurses and health professionals are saying it. The only people who seem to believe that more of the same is all right are the Labor Party.

MR HIRD: I have a supplementary question, Mr Speaker. Mr Speaker, you can see that these people - there are two of them over there - are not interested in health. My supplementary question to the Minister for Health is this: Could this clinical waiting time possibly cause the unfortunate death of the patients on these long waiting lists?

MRS CARNELL: People on the category one waiting list are supposed to be seen within 30 days or their condition may get substantially worse. People on category 2 waiting lists are supposed to be seen within 90 days or their condition could become clinically worse. The statistics I have already outlined today show that that is simply not happening in a good percentage of cases. We have to overcome those problems. Under the previous Government, waiting lists increased from 1,789 to 4,600. That is what we saw happen when they just had the "more of the same" approach to health. More of the same is not good enough. We have employed consultants - - -

Ms Follett: Mr Speaker, on a point of order: I refer you to the relevance of Mrs Carnell's answer. Mr Hird's question clearly asked whether people would die while they were waiting, and I await Mrs Carnell's clinical advice on that matter.

MR SPEAKER: Unfortunately, I will not allow Mrs Carnell to give clinical advice on that matter because - - -

Ms Follett: That was the question. Was it out of order?

MR SPEAKER: A question should not contain hypothetical matters. Mrs Carnell has, fortunately, not transgressed yet. She is giving factual information. But she should not stray into suggesting what may occur in terms of - - -

Mr Berry: Perhaps the question is out of order.

Mr Connolly: On a point of order: Mr Speaker, have you just ruled out the supplementary question?

MR SPEAKER: No. I have allowed the supplementary question.

Mr Connolly: The supplementary question was: Could people die on the waiting list? You have just said that that would be hypothetical, and thus disallowable.

MR SPEAKER: I have allowed the supplementary question.

Mr Hird: I said "clinical waiting time". Listen.

MR SPEAKER: Order! I am responding to Mr Connolly, Mr Hird, not to your good self. I was prepared to allow it, as long as Mrs Carnell did not stray into that area. She, of course, is aware of standing orders, Mr Connolly, and has not strayed into it. Nevertheless, I would ask her to bring her supplementary answer to a close.

Mr Connolly: On a point of order: Let me understand this. An out-of-order question may be asked, as long as it is not answered?

MR SPEAKER: No. That is not the case. I was prepared to allow it, Mr Connolly. I would remind members, however, that standing order 117 might be read with great profit by all members, and standing order 118 might be read with great profit by Ministers.

Mr Moore: I raise a point of order, Mr Speaker, on standing order 117, which you just raised. I think Mr Connolly's point was that standing order 117 - in this case, (b)(vii) - provides that questions shall not contain hypothetical matters. The point Mr Connolly was raising was that the question itself was out of order because it raised a hypothetical matter. It had nothing to do with the answer.

MR SPEAKER: I accept your comment on that. He did raise a hypothetical matter.

MRS CARNELL: I will finish very quickly.

MR SPEAKER: You are finished anyway. I do not quite know where we go from here.

Sex Industry Consultative Group

MS TUCKER: Mr Speaker, I address a question without notice to the Attorney-General, Mr Humphries, in relation to the sex industry advisory board. Mr Humphries, given that sex industry workers are the group most likely to be affected by any decisions of the sex industry advisory board but at present have no representatives on this board, will this Government act to ensure their representation on the board?

MR HUMPHRIES: Mr Speaker, I thank Ms Tucker for her question and for giving me a little bit of notice of it. There is, in fact, as Ms Tucker indicates, at the present time no representative of workers in the sex industry on the Sex Industry Consultative Group. That has come as something of a surprise to me, I must confess, having had this matter drawn to my attention. The group was actually set up in February 1994, after the Prostitution Act was passed. We wanted to put in place a body that would supervise a series of questions to do with the management, as it were, of the prostitution industry under the new regulatory regime in the ACT. Ms Fiona Patten was originally the representative of sex workers on that body when it was set up in February 1994. She was expelled from the organisation WISE - Workers In Sex Employment - in September 1994; but it was agreed at the time, I think, by the former Government, that she would remain on the body - on the advisory group because she was the - - -

Mr Connolly: On the body?

MR HUMPHRIES: What was that?

Mr Connolly: You said that it was agreed that she would remain on the body.

MR HUMPHRIES: Yes, thank you. I am sorry; I am a bit slow. It was agreed that she would remain on the consultative group. Members have far more prurient minds than they ought to have, Mr Speaker. It was agreed that she should remain on this consultative panel, on the basis that she was still the president of the Eros Foundation and that it would be appropriate, because of other connections with that industry, for her to remain on that group.

It has recently been decided that the group should be expanded to include a representative of Workers In Sex Employment. Although I would not like to pretend that we have been remarkably efficient in this matter, in fact, a letter has been signed off today to Workers In Sex Employment, to invite them to nominate at least one or two people to be on that organisation to assist in the process of managing issues arising out of the Prostitution Act. I am also aware of other concerns that they have raised in the letter to me, which I have seen. I am very happy to take up those issues, and I have sought advice from my department about them.

Greenhouse Strategy

MS HORODNY: My question is to the Minister for the Environment, Land and Planning. Is the Government committed to the ACT greenhouse strategy? If so, how does it intend to implement recommendations in it?

MR HUMPHRIES: Mr Speaker, I can recall a few years ago a former Chief Minister being asked what were the greenhouse gases, and I hope that I am better informed on that subject than he was. I am not going to mention any names.

Mr Speaker, the ACT is a signatory to the 1992 National greenhouse response strategy. Although that was signed - or, at least, signed by the ACT - back in 1992, there is, of course, an ongoing range of issues which it gives rise to and which the ACT Government must ensure that it puts in place. In 1993, the ACT released its own greenhouse strategy, which focused on the areas where the ACT can make the greatest contribution in reducing greenhouse gas emissions; for example, in the areas of transport and energy use. Last year, the ACT released a report on its contribution to the first national summary report on progress towards the national greenhouse response strategy. The details of our progress in this area include such things as work in the area of transport, where, as members might know, under the initiative of the previous Government, new fuels and technologies are being trialled by ACT agencies. Members may have seen the diesohol bus running around town - I think it is still running around town - and ACTEW's electric car, which, obviously, if it were to be replicated on a wide scale, would make a significant contribution towards reduction of greenhouse gases.

In the area of energy use, we have been looking at implementation of a national energy management program and eco-workplace scheme to reduce energy usage by ACT government agencies. In the area of urban and transport planning, there have been new energy efficiency requirements for new buildings put in place. They are to become effective, I think, on 1 July this year, or at some date in the very near future. There are also things such as the "3 for Free" scheme for people travelling on public roads and getting access to special parking spaces. In 1984, the first State of the Environment Report was produced by the Commissioner for the Environment. He was requested to focus in that document particularly on greenhouse gases and greenhouse issues. In light of the recommendations he made in that report, on the need for more quantitative information about this, the Department of Urban Services has started work on the preparation of an ACT greenhouse gas inventory for the years 1988, 1990, 1992 and 1994. This information will provide baseline data against which progress can be measured.

I can also advise members that, during this coming financial year, work will begin on revising that greenhouse strategy which is already out in the public domain, to include actions which readily quantify reductions in greenhouse gas emissions. This is a project which will take a number of forms over a period of time. In a sense, the ACT does not contribute as much to the greenhouse effect as other places in Australia do. By the same token, therefore, we have a great opportunity to reduce our own contribution and set an example and a lead for other places in Australia.

MS HORODNY: I have a supplementary question, Mr Speaker. Does the Government's corporatisation strategy reflect its greenhouse strategy?

MR HUMPHRIES: Mr Speaker, I can say that there is no question that moves to corporatise such things as ACTEW in any way compromise our commitment towards the environment and the things that have to be done in that respect. I want to emphasise again what we said the other day in the debate about this matter. Merely because an organisation is being given a corporate form does not mean that the organisation then ceases to have any social responsibility or to be answerable to government. If government or the Assembly itself imposes certain corporate responsibilities on bodies such as a corporatised ACTEW, then that body must fulfil those requirements. I look forward to being able to help define the sorts of environmental obligations that we will put against such bodies as a corporatised ACTEW - and, indeed, others such as ACTION - to make sure that, in the corporate sector of this community, they are setting an example for good environmental citizenship.

Cabinet Documents - Confidentiality

MR WHITECROSS: Mr Speaker, my question is to Mrs Carnell in her capacity as Chief Minister. Mrs Carnell, were you aware of an annotated version of the document tabled by the Leader of the Opposition yesterday before it was tabled, or had you sighted it, or had you or your staff been briefed on its existence or contents?

MRS CARNELL: No, no and no.

MR WHITECROSS: I ask a supplementary question. Were you aware of the file copy of the document? If so, why did you allow Mr Humphries to breach the *Cabinet Handbook* and your own code of conduct by making use of it in the Assembly yesterday?

MRS CARNELL: Yes, I was aware of the file copy. In fact, I think the copy that Mr Humphries tabled in the house yesterday was actually my copy. So, I was aware of that. I think Mr Humphries adequately answered the second part of that question when the same question was asked by the former Chief Minister earlier.

Visiting Medical Officers - Contracts

MR CONNOLLY: Mr Speaker, my question is to Mrs Carnell in her capacity as Minister for Health and Community Care. On 2 May, in this place, I asked for a precise breakdown of the numbers of doctors who will change from fee-for-service to sessional contracts, and *Hansard* shows that Mrs Carnell promised to give me that information when the contracts are signed - that is, by 1 June. On that same day, in this place, Mr Wood asked for a precise breakdown in dollars of any changes from fee-for-service to sessional contracts, and *Hansard* shows that Mrs Carnell said:

> ... I will be very happy to make all of those figures available as soon as we get signatures on the dotted line.

Mrs Carnell, as it is now 1 June and we read in the paper that you claim to have all the signatures, when will this Assembly get this vital information?

MRS CARNELL: Mr Connolly would be aware that what I have said in this house also is that that information will be made available to the Public Accounts Committee. As he would be well aware, the contracts between private individuals and the ACT Government would be regarded as private contracts. But what I am very willing to do today, if the Assembly is interested, is actually table both the sessional and fee-for-service contracts that have been signed by various specialists. There are copies of both contracts there. As of today, over 80 per cent of VMOs have signed contracts, and the rest of the VMOs - apart from, I think, four, who have decided to retire at this stage - have indicated by telephone that they are actually going to sign. By now, they may have done so. So, we do believe that we have very close to 100 per cent of VMOs

who were offered contracts who have actually signed. Savings in the vicinity of $2m have been achieved from the new contracts. We believe that it will be more than $2m; but, until we actually have the final contracts in, we will not be able to have a final figure there, as Mr Connolly would be aware.

We are very happy to make those contracts available to the Public Accounts Committee for scrutiny. We fully believe that they should be scrutinised. We believe strongly that contracts between individuals and the ACT Government should not necessarily be available to the public generally, particularly as there are a number of issues involved with that; but that this Assembly should be able to see them. We are pleased with the $2m figure, particularly when you take into account that the previous Government - in its efforts to solve this dispute over some two years - in March 1994, in a written submission to the VMO arbitrator, Justice Gordon Samuels, put forward a proposal to save $1.07m from these contracts. Of course, the vast percentage of the contracts that were going to be signed as part of that - - -

Mr Connolly: But be fully truthful here, Mrs Carnell. What was our final position?

MRS CARNELL: I have the document here.

Mr Hird: Are you saying that the Chief Minister has not been truthful?

Mr Connolly: She has not been fully truthful.

MRS CARNELL: In the position put to Justice Gordon Samuels in March 1994, there was a saving of approximately $1.07m - that is all - with a mix of sessional and fee-for-service contracts. From there, Mr Connolly started to predict savings of some $4m. But what did Mr Connolly save? Zero, because he did not get one signature on one dotted line. The facts of the matter are that it was an absolute, total failure. The only document in writing suggested $1.07m. Mr Connolly spoke about $4m; but he achieved nothing, simply because agreement could not be reached at that figure.

What we have achieved is savings in excess of $2m. We do have signatures on bottom lines. We do have a hospital system that is going forward. But, most importantly, we actually have cooperation between the doctors and the hospital system to achieve the sorts of extra reforms that we have to achieve. Do you know how we have done that, Mr Speaker? We have done that by not calling doctors "predators", by not calling them "leeches on society", but by dealing with them as the professionals they are. That is the same way that we will deal with nurses, other health professionals and other people who work in our health system.

MR CONNOLLY: I ask, by way of a supplementary question: Mrs Carnell, how can you expect those nurses and other professionals who work in the health system to cooperate in things like your steering committee when you persistently refuse to make available the details of these settlements? You have promised today to make the contracts available to the Public Accounts Committee; but the information which I have repeatedly

asked for and which you have repeatedly promised to give on 1 June - the precise breakdown of the numbers of moves and a financial reconciliation of those moves showing the dollar value of the pre-existing contracts compared to the dollar value of the new contracts - you persistently refuse to give. On that, in your answer today, you have said that you will remain silent. Will that information be given to this chamber?

MRS CARNELL: That information will be given to the Public Accounts Committee, because that is the appropriate place for information that could be regarded as commercial-in-confidence. What the Public Accounts Committee may choose to do with that information is, obviously, up to the Public Accounts Committee; but this is the appropriate way to go, and, Mr Connolly, you know that to be the case. What we are saying here is that we have achieved savings in excess of $2m - you achieved absolutely nothing - which is double what you put on the table to Samuels last year. I think you just cannot handle the fact that we succeeded where you failed.

Multiunit Developments - Kingston

MR MOORE: Mr Speaker, my question is to Mr Humphries, the Minister for the Environment, Land and Planning. I gave Mr Humphries a couple of hours' notice that I would be asking a question along these lines. I begin, Mr Speaker, by referring to a letter that, in fact, you wrote on behalf of the Liberal Party, as the then spokesman on planning. It said:

> Accordingly, a Liberal Government would include those parts of Kingston and Narrabundah as identified on the above map but not identified in the text of Page XXII of Attachment C -

in the Lansdown report -

> as areas of Special Territorial Significance along with identified major parts of the named suburbs.

The significance of that was the protection of certain parts of Kingston. I understand, Mr Humphries, that two multiunit developments have been approved in Kingston - on the Kingston ladies bowling green site and the Kingston Gigmanity art gallery site. Why have you gone ahead with these developments after that commitment made by the Liberal Party on 15 February 1995?

MR HUMPHRIES: Mr Speaker, Mr Moore accuses the Government of breaking an election promise.

Mr Moore: I just asked a question, actually.

MR HUMPHRIES: I think that is the implication of his question, and I have to admit to him that he is absolutely right. I have to be frank with you; we have done just that. Mr Speaker, as the representative of my party, wrote to those residents on that date and indicated that we would be including Kingston within the Lansdown guidelines. When we took office and I became Minister for Planning, I was asked to honour this promise, and I sought advice about doing so. I understand that, at about the same time as the promise was made, there was communication between Mr Speaker - our planning spokesman, as he then was - and an officer of the Planning Authority about the progression of planning guidelines over Kingston. For whatever reason, possibly because of a confusion in the nature of the communication there, planning rules did change, or were put in place, in respect of Kingston which obviated, or put to one side, the Lansdown guidelines. That may be irrelevant to the matter.

When asked about the consequences of honouring this decision, I took the view that the nature of the leases already issued to the owner of the women's bowling club site and the owner of the Gigmanity gallery site was such as to permit them to proceed with development of the kind for which they had drawn up plans and for approval of which they had already had an application in to the Planning Authority in respect of design and siting. I took the view that to change the rules at that point and apply the Lansdown guidelines to those developments and others that would consequentially be in the same boat would result in the Territory being obliged, morally at least, to pay those people compensation of a very considerable amount. It would have cost the Territory several million dollars to honour the promise.

Mr Speaker, the decision not to apply the Lansdown guidelines to Kingston was a decision made by my predecessor, Mr Wood. It was a decision which you, Mr Speaker, as planning spokesman for the Liberal Party, promised to reverse. I have to say that it is a matter of great regret to me that I do not believe that the circumstances permit the Government to honour that promise. I do not lightly indicate to the Assembly or others that we are unable to honour a promise to the community that we made in good faith at the time. But the fact is that the consequence of honouring that promise would be the probable legal liability, if not the moral liability, of the Territory for several million dollars worth of compensation to people affected by that change. I believe that there are more productive things to spend those millions of dollars on than this particular promise. That is the position the Government has taken.

MR MOORE: On a supplementary question, Mr Speaker: Is it the case that, in interpreting Liberal Party promises from now on, where the promises are worth a million or so, we do not believe them; but, if they are worth under a million, we can believe them?

MR HUMPHRIES: I am happy to answer that question, Mr Speaker.

MR SPEAKER: Mr Moore, it is a hypothetical question.

Mr Moore: I do not think it is a hypothetical question at all.

MR HUMPHRIES: Nonetheless, Mr Speaker, as I said, I do not take pleasure in not honouring our promises. In my career in politics I have prided myself on being able to honour pretty well most of the promises I have made in public life over the last six years, and I hope that that record will continue. Unfortunately, in my view, it was not possible to honour this one. I say to Mr Moore: If, as I have premised, it would have cost several million dollars to honour this promise, does he honestly believe that that would be the best way in which those millions of dollars should be spent, given the Territory's current financial position? I think that Mr Moore, in my position, would agree that it was not and would accept that we need to make rational decisions about the extent to which other priorities have the first call on the ACT's available dollars.

Department of Education and Training - Equal Employment Opportunity Officer

MS McRAE: Mr Speaker, my question is to the Minister for Education, Mr Stefaniak. Mr Stefaniak, today we see more evidence of this Government's attitude to equal employment opportunities - in particular, the management of sexual harassment in the public service. My question relates to the position of the equal employment opportunity officer within your department. Could you please explain why you are permitting the downgrading and marginalisation of the officer by the transfer of the officer from the central office of your department to an inappropriate and inaccessible location at Griffith?

MR STEFANIAK: Mr Speaker, I thank the member for the question. I totally reject a lot of her emotive language and the jumping to a series of conclusions, as she did in the last couple of sentences. There is, indeed, a transfer. It has been worked out between the department and the officer. I note that, over the last couple of weeks, the union has been involved in relation to it, and no doubt Ms McRae is reacting in relation to that. Mr Speaker, the department has an EEO unit, comprising a teacher level 2 and an administrative service officer, which provides assistance and policy advice to schools and its central office. The unit is presently located in Manning Clark House, and it is planned that a move will be made shortly to the O'Connell Education Centre in Griffith.

There is a variety of reasons for the planned move, all of which have been explained to the union and to the relevant people. Firstly, the O'Connell Centre provides extensive training for school and office staff from the centre. The EEO unit will be able to greatly assist in these activities by being in a central training location and, as well, it will be readily available to the 7,000 staff who use the centre each year. Secondly, the location provides a more confidential and secure environment than presently exists at Manning Clark House. The refurbished accommodation at the centre has taken account of the need for confidentiality - something which I think is very important for the EEO officer and staff there. Also, the location is only about 15 or 20 minutes from the Tuggeranong office, and government-plated vehicles are available for travel purposes for all officers working at the centre. The centre, obviously, is also a lot closer to North Canberra.

EEO policy has been soundly determined and promulgated over the past few years, and the department has been an acknowledged leader in the development of EEO strategies in the ACT Government Service. However, the department believes that a wider and broader focus is now required for overall EEO matters. A particular revision is required to focus on and address the needs of staff with disabilities, Aboriginal staff and staff from non-English-speaking backgrounds. These needs are much more comprehensively served from the O'Connell Centre because of the better training facilities available at that centre. Mr Speaker, the department has a variety of workplaces in Canberra besides the schools. Staff are located at the Centrepoint building in Tuggeranong, in Civic, Griffith, Woden and O'Connor, as well as at Manning Clark House. It is not necessary or essential that the EEO unit be located in that building. When the department's EEO unit was first established some years ago, it operated quite successfully from the O'Connell Centre.

MS McRAE: I would like to ask a supplementary question, Mr Speaker. As most people would disagree with Mr Stefaniak's explanation of the move, and given that EEO policies are directly focused on personnel and management and not on the general training that happens to all teachers at the O'Connell Education Centre, could Mr Stefaniak please explain what processes he has put in place to ensure that the close liaison with that officer is continuing, and what is his direction for the implementation of proper EEO policies throughout the department?

MR STEFANIAK: Mr Speaker, I think I have more than adequately answered the question, including the supplementary one.

Mrs Carnell: Mr Speaker, I ask that all further questions be placed on the notice paper.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 4 of 1994 - Government Response

MRS CARNELL (Chief Minister and Treasurer) (3.11): Mr Speaker, for the information of members, I present the Government's response to Report No. 16 of the Standing Committee on Public Accounts of the Second Assembly, which related to the review of Auditor-General's Report No. 4 of 1994 on gaming machine administration and banking arrangements. I move:

That the Assembly takes note of the paper.

In June 1994 the Auditor-General presented to the Legislative Assembly his Report No. 4 on ACT Treasury gaming machine administration and banking arrangements. In respect of gaming machine administration, the report addressed the management and control of gaming machines in the ACT. It concentrated on the overall effectiveness of the ACT Revenue Office in the administration of gaming machine activities and the efficiency with which the Revenue Office managed its resources, procedures and systems. The report concluded that, while gaming machine operations are generally effectively managed, there were a number of issues the Revenue Office should address.

In considering the Auditor-General's report, the Public Accounts Committee raised a number of concerns, to which the former Chief Minister responded on 13 September 1994. Subsequently, the Public Accounts Committee's report on the review of the Auditor-General's report was tabled on 10 November 1994. It provides a comprehensive coverage of the issues and makes two recommendations and two requests. The Government has noted these recommendations and requests and is currently taking action to implement, on a trial basis, the Auditor-General's recommendation in relation to risk-based auditing of licensee returns. The Government has decided that the Auditor-General's proposal for detecting illegal gaming machines is not cost-effective in the absence of any indication that a serious problem exists. The committee's requests for information dealing with the development of performance indicators and amendments to the Gaming Machine Act have been responded to by advising the expected timetable for the implementation of performance indicators and tax legislation amendments.

Question resolved in the affirmative.

STRATEGIC FRAMEWORK FOR MATERNITY SERVICES
Paper

MRS CARNELL (Chief Minister and Minister for Health and Community Care) (3.14): Mr Speaker, for the information of members, I present the Strategic Framework for Maternity Services in the ACT for 1995-98. I move:

> That the Assembly takes note of the paper.

Mr Speaker, I have just presented the Strategic Framework for Maternity Services in the ACT 1995-98. The strategic framework provides a context within which change in maternity services can begin to be implemented over the next three years. The framework has been developed from the recommendations of the ACT maternity services review. This review was released in 1993 following consultation with consumers, community agencies, support groups and health professionals. These groups and agencies have been committed to developing a plan which focuses on the needs of women and their families in the ACT community and acknowledges the expertise, professional role and responsibility of service providers.

The underlying principles of the framework are that women must be the focus of maternity care; that women should be able to feel that they are in control, that they are able to make decisions about their care and their child's care that are based on their needs, having fully discussed matters with the health professionals involved; that maternity services must be equitable and accessible to all and based primarily on community locations; that care should be appropriate to the needs of the woman and her child; that women must be actively involved in the monitoring and planning of maternity services to ensure that these services are responsive to the needs of the community; and that care should be effective and resources used efficiently.

The framework offers four challenges for the next three years: The provision of accessible and relevant maternity information; the provision of maternity services which offer a choice of carer, type of care, and birth setting; appropriate maternity services which are equitable and accessible to all women; and effectiveness and efficiency of maternity services. The Government is committed to meeting these challenges and will ensure that there is full discussion and development about the major issues, including improved access to the choice of midwife care and continuity of care; improved access for women to care provided in community settings, particularly antenatal and postnatal care; interdisciplinary maternity care teams, also related to the issues of continuity of care; visiting rights for independent practising midwives to ACT hospitals; and home birth within the public health system.

I would like to make specific reference to that final point, given the controversy that surrounds the Commonwealth-funded community midwife project in the ACT. I am committed to making home birth in the public system part of the options available to Canberra women; but achieving this will not be easy, particularly as the Federal Government has refused to give midwives provider numbers. If provider numbers were available to accredited community midwives, then home birth would be available under Medicare; but successive Federal Health Ministers have refused to do this. An important requirement for the success of home birth in the public system will be the appropriate professional collaboration between midwives and obstetricians who are required to provide medical support if a woman needs specialist care. We must also ensure that adequate infrastructure exists at Woden Valley Hospital in relation to resident medical staffing support for home birth. I have directed the Department of Health and Community Care to work to overcome these and other issues so that home birth can become an option for Canberra women within 12 months.

A working party of the Department of Health and Community Care's Maternity Service Advisory Committee has the responsibility for implementing the strategic framework. The initial task of this group will be to develop resource details and priorities for the specific strategies in consultation with key stakeholders. The strategic priorities identified will be addressed over the next three years of the plan by redirecting resources within maternity services and in health and community care generally, particularly where improved coordination and information sharing is all that is required to achieve this positive change.

Both the review and the consultations have highlighted that changes in attitudes and practices of health professionals will ensure positive health outcomes for women and their babies. Working towards improved maternity services will require a collaborative approach between health professionals, government and non-government agencies and consumers. This Government and, I am sure, every member of this Assembly are committed to providing maternity care that will achieve the best outcomes for women and their babies. The framework is an excellent starting point in this area, which I am sure we all believe is very important.

MR CONNOLLY (3.20): Mr Speaker, the Opposition welcomes this document. It is a document I would have tabled in this place towards the latter part of last year but for the fact that we were about to appoint, and subsequently did appoint, a person to the first line professorial position in the new Canberra Clinical School - the joint venture between Woden Valley Hospital, the University of Sydney and the Australian National University. I felt it appropriate, as the then Health Minister, that the new professor, who would be the professional head of this sector of the hospital, should have the opportunity to consider this document and have an input, though he was not formally part of the working party that had been established some time previously. The document sets out quite effectively the many initiatives that have been taken in this Territory over the years by successive governments. The birthing centre, over which Wayne Berry fought some very tough battles, is a fine example of innovative maternity services.

As the Health Minister indicated, there is one contentious issue in this report, and that is the ability of people whose first option is a home birth to access hospital services in the event that they need them. Mrs Carnell chooses to blame the Federal Government for the fact that that system does not work terribly well, because of the fact that midwives do not have Medicare provider numbers. But Mrs Carnell would know, or should know by now, as Health Minister - as every Health Minister, Labor and Liberal, around Australia knows - that, in reality, the great problem is that, throughout Australia, when Health Ministers have tried to provide these programs at the State level there has been tough industrial action taken by professional obstetricians to prevent that access. A Western Australian Liberal Health Minister tried to do this and was unsuccessful because of the threats of industrial action, and it is very regrettable that there have been similar threats, in effect, in this jurisdiction as in others.

Mr Berry: They tried to have him sacked, too.

MR CONNOLLY: The Minister?

Mr Berry: Yes.

MR CONNOLLY: Yes, I think they did. I think the doctors did jump up and down in relation to that particular Liberal, not Labor, Health Minister.

It is regrettable that there is something of a mind-set amongst some obstetricians that it is an "us and them" situation. The obstetricians have tended to be some of the most militant in the VMO dispute, and people that Mr Berry and I have crossed swords with over the years professionally have an outstanding record in Canberra. I was happy to say when I was Health Minister, when there had been concerns about professional standards in the ACT, that there was no question that they had an outstanding professional record. Woden Valley Hospital was much criticised by Mrs Carnell when she was in opposition and, it seems, when she is in government, as a result of today's question time; but, as she would also now be the first to acknowledge, the record of maternity services at Woden Valley Hospital is second to none in Australia. The record of successful deliveries is simply outstanding.

I failed to see as Minister, I fail to see now, and I fail to see as a father, why there is this mind-set amongst Australia's professional obstetricians, not just Canberrans, that there needs to be an "us and them" mentality, and why we cannot have a more cooperative regime to allow that ease of transition. Certainly, people may take a sound professional judgment that, in their view, it would be better if people did not have home birth; it would be better, in their sound professional judgment as obstetricians, if people accessed hospitals for maternity services. Nonetheless, many women do choose to have home births and make the point, quite validly, that for thousands of years women have been able to give birth without the intervention of modern high-tech medicine.

Everyone acknowledges that there will be situations where there is a need for intervention medicine; there will be a need for a person who had planned to have a home birth, where things do not go according to plan, to go into hospital. It is very regrettable that there has developed a culture of conflict between the professional obstetricians and midwives and many women and their partners or spouses who would prefer home birth. I think Mrs Carnell has to acknowledge, as I am sure she would, that there is more to this than Medicare provider numbers. There is a cultural problem here - - -

Mrs Carnell: That would solve it, though, would it not?

MR CONNOLLY: It would go part of the way to solving it; but, as you would also know, that would then immediately open up the demand for a whole range of associated health professionals to have Medicare provider numbers. So, there is more to it than that. There remains this major cultural problem and this major refusal, really, of many professional obstetricians to cooperate in more innovative methods of home birth.

It remains a matter of great regret to Wayne, who set up the birthing centre, and to me as the responsible Minister for 12 months and also as a partner who sought to use that service, that there are so few - - -

Mrs Carnell: Gary set it up. He built it.

MR CONNOLLY: I am sure that it is a matter of regret to Gary Humphries as well that there are so few obstetricians who will work in that birthing centre. I think that is simply appalling. It was well designed. It was put into the hospital. It was designed to be immediately accessible to the heart of the building. When it was first opened it was at the funny end of the hospital and it was a little tricky to get from there up to what was then intensive care - an experience I am familiar with. But now it is clearly designed to be part of the core of Woden Valley Hospital. There it is, easily linked into the diagnostic and treatment unit, and it is a great tragedy that so few of Canberra's professionally extremely competent and properly well respected obstetricians seem to have a problem with that birthing centre.

I would pledge to Mrs Carnell the Opposition's full support in any moves to break down that cultural barrier, because it is of great regret.

Mrs Carnell: Have you any ideas?

MR CONNOLLY: Other than to say, as we did at the time, that we were reluctant to back down on that issue. I made it very clear - and I could produce here minutes to show this, because I have made them available to other members of this place and to the community sector - towards the latter stages of the Labor administration that I supported the view of the community sector that it would be better to return certain portions of Commonwealth money unspent than to accept a second-best option here. That at least would continue to build the momentum around Australia to indicate that State governments, be they Labor or Liberal, and State Health Ministers, be they Labor or Liberal, to get a grip on this issue. It is far more complex than Medicare provider numbers. It goes to a disturbing cultural prejudice among certain professionals, who otherwise quite properly are entitled to this community's respect.

Question resolved in the affirmative.

PAPER

MR HUMPHRIES (Attorney-General): Mr Speaker, for the information of members, I present the Woden Valley Hospital Information Bulletin on Patient Activity Data for April 1995.

QUESTIONS WITHOUT NOTICE
Water Pollution - Gungahlin

MR HUMPHRIES: I take this opportunity to provide the answer to a supplementary question I took on notice on Tuesday, from Ms Horodny, on run-off from building sites in Gungahlin and the silting of the Gungahlin pond.

MR SPEAKER: You are tabling that answer, are you?

MR HUMPHRIES: Yes.

PERIODIC DETENTION BILL 1995

Debate resumed from 11 May 1995, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR CONNOLLY (3.28): Mr Speaker, the Periodic Detention Bill 1995 is a Bill the Labor Opposition will quite warmly support. That is perhaps not surprising, because it is a Bill that was developed to its near final stage during the period we were in office. Indeed, for about the first 2¾ years of that period I had precise responsibility for it, not only as Attorney-General but, for the greater part of that period, as the Minister responsible for corrective services. In the latter stages, from April of last year, Mr Lamont took that package forward and got it to its near final stage. It is, as Mr Humphries indicated in his presentation speech, a very significant move and something we fully applaud Mr Humphries for taking to finality. I am very pleased that in government the differences between the two parties on issues of law and order are remarkably less open than they appeared sometimes to be when the Liberal Party was in opposition. We heard a lot of rhetoric about the absolute top priority, an absolute demand, being an ACT prison. I note that the Government has now indicated that nothing will happen about that during the life of this Government.

As Mr Humphries said in his presentation speech, and very correctly, this issue should really be approached first from the alternatives. There is no doubt that in other parts of Australia the idea of periodic detention has proved most effective as a method of deterrence, particularly for those lower level offences. Money was made available in last year's budget, I believe, for the refurbishment of what was Quamby - that is, what was once the juvenile detention centre - to be an appropriate centre for periodic detention. That work has been completed. I understand that the centre is pretty much up and ready to go and that it is the intention of the Government that this program be introduced as rapidly as possible. That is something the Opposition will fully support.

There can be problems with periodic detention. There have been some difficulties in the early stages. There have been some rather overoptimistic methods of taking periodic detention further in some parts of Australia, and I am pleased that we are being a little cautious about that. When this method was starting to be trialled there were some experiments on home detention in South Australia, which at one stage looked terribly attractive, taking it the next step along the way. Instead of losing your liberty between 5.00 pm on Friday and 7.00 am on Monday by fronting at the detention centre, you would wear an electronic bracelet device which would monitor you and ensure that you remained at your residential premises. That was hoped to be a great new initiative.

There have been some disturbing suggestions that in domestic violence cases that has tended to have a counterproductive effect. A person is at home, frustrated and unable to do anything; but he is in the domestic environment, he tends to have little to amuse himself with other than the fridge and the television, he tops up with intoxicating liquor from the fridge, and incidents of domestic violence which often have been the trigger for

the periodic detention order tend to be repeated - and other crime as well. I think we need to be cautious about taking this idea further, until some of these more innovative experiments have been trialled; but certainly periodic detention as a principle is one that Labor supports.

In the normal course of events, a Bill of this nature would probably be the sort of Bill that an opposition would say should be looked at in great detail, and possibly should be referred to a committee. It is new; it is innovative; it is a rather detailed piece of legislation. Given, however, that this is legislation that is bipartisan in the sense that it was developed to near finality when this Opposition was in government and has been brought to the finishing line, and very quickly, by the new Government, it is one that the Opposition thinks should be supported by the house, and supported in fairly short time, and that an extensive period of consideration of the details is not necessary.

MS TUCKER (3.33): The Greens are happy to support this Bill as part of the expansion of community-based orders. As Mr Humphries said in his presentation speech, the introduction of periodic detention as a sentencing option does represent an important first step in the review and expansion of sentencing options. There are a range of arguments put against having a prison in the ACT - one argument, which is correct, being that we do not presently have enough business to have a gaol of our own and that costs are prohibitive. It has also been suggested that, if one were built, the provision of the facility would determine that it was filled. I believe that this argument is not a strong one, particularly if we think of ourselves as part of a region.

While it may not be appropriate or possible now, this is an issue that will have to be addressed in the future, and there are many arguments for having a small local gaol to serve Canberra and surrounding regions. There certainly would be a high cost to the provision of a gaol in the ACT. However, we are currently spending over $50,000 sending people to Goulburn gaol. If society sees fit to put people into prison, it makes sense to provide the best prospects for rehabilitation. Where imprisonment may be an appropriate sentence, that period of confinement should offer the maximum potential for rehabilitation and contact with family and friends. Visitors, mainly women, are often treated as prisoners themselves. There are obvious benefits from pleasant visiting conditions for families. A key factor in helping prisoners fit back into the community and preventing them from reoffending is continual contact with family and friends while in gaol.

The costs for many families visiting New South Wales prisons are prohibitive. The ACT Government no longer supports disadvantaged families with payment of fares to visit family members in New South Wales gaols. A community organisation, Prisoners Aid, provides financial assistance to families as part of its activities. This is an organisation that has a low profile but provides a very valuable community service, all of which is voluntary. Their work ranges from assisting with travel expenses and financial assistance to prisoners on release to offering support for prisoners and their families. This is all from a grant of $9,000, virtually all of which is spent directly on clients. Prisoners Aid is currently seeking additional resources to employ a full-time worker to operate a shopfront office. I am well aware of the budgetary difficulties faced by this Government; but there is also enormous community benefit from this organisation, and they should be supported.

The Greens support many of the other recommendations made in *Paying the Price*, including the development of an ACT custodial facility of medium security over the longer term. There are many important elements that such a facility could incorporate, such as a work centre and horticultural centre, where prisoners can obtain skills, counselling and education while being detained. In the short term, however, the Greens hope that the detention facilities can be expanded to allow transitional release programs for prisoners to be reintegrated into their community and to re-establish family relationships when their sentence is nearly over.

Mr Speaker, it is appropriate to focus more generally for a moment on the issue of crime and crime prevention. The link between social and economic conditions and the incidence of crime is well documented. This includes not only poverty, unemployment and illiteracy, as noted in *Paying the Price*, but also issues of planning. The Australian Institute of Criminology notes the linkage between design and crime. They mention not only the more obvious factors such as street lighting, but also design of shopping malls, public spaces and our suburbs. Obviously, the nature of our public transport system is also relevant to this discussion. Most of our programs for crime prevention are punitive in nature rather than preventative. Initiatives such as Neighbourhood Watch are an attempt to facilitate community involvement in crime prevention. Neighbourhood Watch could well be expanded to focus more on neighbourhood development, further developing links which have been made. The reason country town policing is so successful is that it is preventative rather than punitive in nature, and it is about fostering a sense of community and inclusion.

I am very pleased to see that this initiative is supported throughout the Assembly. Once people have committed crimes, particularly minor offenders, it is not only in their best interests but also in the interests of society as a whole that there is the maximum potential for rehabilitation, training, counselling and education. Periodic detention is an excellent example of how minor offenders, particularly debt defaulters, can serve a sentence without being taken out of their community. Many of the community service programs being planned, such as the Landcare programs, are also positive. I hope that this Bill gains the support of the whole Assembly and that the Government continues to work towards the provision of more facilities such as transitional release programs. I also hope that this Assembly works with the community to tackle some of the root causes of crime and violence in our society.

MR HUMPHRIES (Attorney-General) (3.38), in reply: In closing this debate, I thank members, particularly Mr Connolly and Ms Tucker, for their comments. I am glad that there has been some contribution to the debate because this really is a very significant piece of legislation. For the first time, this will give us in the ACT some new method of offering a solution to a particular penalty question between the two options of full-time gaol in New South Wales - or transportation to New South Wales, as I have been known to call it - and community service orders, and that is very important.

I think members of the judiciary in the ACT would be the first to admit that sentencing policy in our courts is profoundly influenced by the nature of the options available to the bench. I think members would be ready to admit, for example, that the absence of correctional institutions for full-time detention within the ACT has sometimes caused people to be sentenced in a way in which they would not be sentenced if that same crime had occurred, and sentence was being passed, in New South Wales. That kind of judicial decision-making dependent on the lack of facilities is a very unfortunate way to construct a good policy for corrections. It is much better to have an appropriate range of facilities, to the extent that we can afford them in a small jurisdiction like the ACT, and then build up over a period appropriate understanding of the value of those options and get judges and magistrates to use them as appropriate to deal with particular cases in a way that is constructive and meets the problem of the system.

I was encouraged to hear particularly Ms Tucker's comments about the value of this option, and I was also encouraged to hear her comments about the ACT having a prison of its own. It might at first blush be easy to see this as a desire by the ACT, or even by the ACT Liberal Government, to be punitive on its own part rather than having it being punitive through the agency of New South Wales. That is not the reason we have long supported an ACT institution. We simply take the view that the New South Wales prison system is not conducive towards rehabilitation or a constructive way of dealing with the ACT's problems. We can have that solution only by having our own institution within our own control. I firmly believe that there are much better ways of doing things than the way they are done in the New South Wales prison system, and we must explore that option. It has never been a high priority in terms of time; it has always been a matter that would take a number of years to put in place. I am encouraged by what I hear in the chamber, and I believe that there will be support for the Government to explore ways in which we can advance this process to the next stage.

Periodic detention is a very important way of indicating that people should suffer some kind of penalty for particular acts they have committed through sentencing in our courts, without necessarily having to be sent a long way away to New South Wales and possibly finding that their process of reintegrating themselves into community life and their own families and workplaces is hampered by the fact that they have gone so far away. For example, a person who has committed an offence such as fraud - defrauding a company or whatever - and who might otherwise have a stable relationship or be able to get a job of some kind is severely disadvantaged by having to lose their job, quite possibly have their relationship disrupted, lose contact with members of their family and their friends, and be therefore potentially on a slope downwards towards behaviour that will perpetuate the problems that gave rise to the sentence in the first place. We need to be exploring options of people remaining within the community to some extent, while imposing a real penalty on them.

For Australians the weekend is a very important part of their lives - not for politicians, perhaps, because our weekends do not work like ordinary weekends, but for others in the community. If you know that at the end of the working week you have to go off to an institution and spend your time doing community work under the supervision of the institution you have gone into, that is a quite significant penalty, which in a number of cases will be an appropriate penalty for certain sorts of crime.

We have had some consensus on the need for periodic detention. There have been a few hiccups in the process of getting this legislation in place. I did hear, when the announcement was made about proceeding with this Bill a few weeks ago, a claim by, I think, someone purporting to represent workers at either the new Quamby centre next-door to the old Quamby centre, which is now the Symonston Periodic Detention Centre, or the latter centre, that the juxtaposition of those two centres constituted a breach of UN guidelines on the way in which correctional institutions should be established. I indicate that that is, in fact, the opposite of the truth. I have a copy of article 26(3) of the UN Standard Minimum Rules for the Administration of Juvenile Justice, which requires:

> Juveniles in institutions shall be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

That is the case here. There is, I am advised, no intercourse at all between the Symonston centre and the Quamby centre. There is a quite substantial fence between those two centres, and a new fence is being or has been erected to eliminate visual contact between those two centres. So, people should not feel that there is any danger or risk in having these two centres side by side. There are probably economies to be obtained by having the administration that way, but it is still important to be able to separate adults and juveniles in those circumstances. We must also bear in mind that the Symonston centre contains people who are not, in a sense, in imprisonment. There is little point in trying to escape from the Symonston Periodic Detention Centre on, say, a Saturday night, because at 4.30 on Sunday afternoon you would be let out anyway. So, there is very little point in feeling that this is some kind of prison with high barbed wire fences. In fact, you could arguably not have any fences at all; it would serve the same purpose.

Mr Speaker, this is a quite important initiative. There is an amendment I will be moving during the detail stage. I do thank members for their support for this initiative. I hope that it will produce a system of sentencing in our courts that is more responsive to the things we need to do to produce at the end of the day what really matters, which is not punishment or retribution but rehabilitation and the correction of behaviour and scope to prevent that behaviour from being repeated. That is what really matters most in our system, and I hope that we can produce that with this Bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR HUMPHRIES (Attorney-General) (3.47): Mr Speaker, I seek leave to move three amendments together.

Leave granted.

MR HUMPHRIES: I move:

Page 17, line 8, clause 31, paragraph (1)(b), insert "subject to subsection 31A(1)," before "any".

Page 17, line 14, after clause 31 insert the following clause:

"Conditional release

31A. (1) Where, pursuant to paragraph 31(1)(b), a person is required to serve a term of imprisonment, the court may, by order, direct that the person be released forthwith or after serving a specified part of the term of imprisonment upon his or her giving security, with or without sureties, by recognisance or otherwise, to the satisfaction of the court that -

(a) he or she will be of good behaviour for such period as the court specifies in the order; and

(b) he or she will, during the period so specified, comply with such conditions (if any) as the court considers appropriate to specify in the order, which conditions may include -

(i) the condition that the person will, during the period so specified, be subject to the supervision on probation of a person, for the time being appointed in accordance with the order; and

(ii) the condition that the person will obey all reasonable directions of a person so appointed.

(2) A court shall not release a person under subsection (1) on condition that the person perform unpaid community work.".

Page 17, line 27, clause 33, add the following subclause:

> **"(2)** An order under subsection 31A(1) is enforceable, as far as practicable, in the same way as an order under subsection 556B(1) of the *Crimes Act 1900* and for that purpose sections 556C, 556D and 556E of the *Crimes Act 1900* apply in relation to such order, so far as the same are applicable, with the necessary changes.".

The three amendments are basically supportive of the one object, which is to introduce a note of flexibility into the Bill as it is currently drafted. The Liberal Party raised this concern with the Bill last year and, unfortunately, did not have the chance to integrate this amendment into the Bill before it was tabled this year. What this does is prevent the situation where inadvertently a person could spend a long period in prison when, through the operation of, if you like, human nature, it is not intended that they should serve that period in prison.

At the moment, the Bill provides that, where a person is sentenced to a period of periodic detention, that represents the equivalent of a period that would otherwise have been served in full-time imprisonment. The theory goes that a magistrate decides, "Yes, this person deserves to be in prison for three months; but I have the option here of periodic detention, so I will sentence him to three months worth of periodic detention", which is about 12 weekends of detention, under this form. The theory then goes that, if the person, halfway through this period of periodic detention, breaches the orders of detention and therefore is liable for the option of going back into full-time gaol, they simply serve full time the unexpired period of their period of periodic detention. In other words, if they have six weeks of weekend detention to run, they will serve six weeks of full-time imprisonment.

The problem with this arrangement - and I think this has been borne out by some anecdotal evidence, or even hard studies in New South Wales, where periodic detention has been used for some time - is that magistrates tend not to equate a weekend of periodic detention with a week of full-time imprisonment. Let us face it; in a sense, who would? They have tended to view, say, a three-month period of full-time detention as being the equivalent of, say, six months of periodic detention. Although the Bill requires that they not think in those terms, if it does occur it is better to have in the legislation a provision of this kind which ensures that the case comes back before the court and the court has the opportunity of deciding whether part of the sentence should be remitted, in effect, and a person has the right to enter into a good behaviour bond and not go to full-time imprisonment.

Obviously, each case will be assessed on its merits by the magistrate or judge, but I am confident that the courts will decide properly whether full-time imprisonment is the appropriate option. For a person who might have served a very substantial proportion of their sentence of periodic detention, it might be felt by the court that no period of imprisonment should be added on merely because they have gone off the rails towards the end of that period and they should, therefore, be able to come back and, for example, be put on a good behaviour bond. That is the effect of the amendments. They simply add an element of flexibility into the operation of the Bill, and I commend them to members.

MR MOORE (3.50): I take this opportunity to speak to these amendments, not having spoken at the in-principle stage. I agree with Mr Humphries that, the more flexibility we can give the courts in dealing with people who are detained, the better. I would like to share with members an experience I had after I had been in the Assembly for, as I recall, something like 18 months. We were putting legislation through all the time that imposed one year's imprisonment here, two years there or five years here. I had never been to a prison, and I decided that it would be a very good thing for me to understand what being in a prison was like. Rather than breaking the law and getting myself in in that way, I arranged instead to have a visit to Goulburn prison.

That experience was, for me, a great shock, Mr Speaker. I could not believe that we as a community could keep people in the older part of Goulburn gaol in such appalling conditions. Ironically, it contrasted greatly with the newer section of Goulburn gaol, which the authorities there were rightly very proud of. Since that time, I have been to visit some of the newer prisons. The one in Mareeba in Queensland was particularly interesting. I believe that the way that prison was set out was such as to work for rehabilitation. I cannot believe that, for somebody who is detained in a place like the old section of Goulburn gaol, we can in any way hope to move them towards reasonable rehabilitation, in spite of the best wishes and the best efforts of people who are working there. The odds against them would be just so great. Therefore, when I see legislation for alternatives such a periodic detention, I become very enthusiastic.

I would like to reiterate a great deal of what has been said already by Ms Tucker and other members. We need to keep in mind that in 99 per cent of cases of people who are incarcerated we ought to be looking at rehabilitation. Unfortunately, for a very small percentage of people, it seems to me, there is no choice, for the protection of the rest of society. They are highly unlikely ever to be rehabilitated. No doubt there will always be people who will try; but it seems to me that there are some people who, for various reasons, fit into this category. I think the flexibility Mr Humphries has provided with these amendments is the sort of flexibility we should apply whenever we are dealing with these sorts of circumstances. Over the last six years, under previous Ministers and previous governments, the ACT legislature has been quite advanced in moving towards finding ways whereby magistrates can punish people appropriately without necessarily resorting to imprisonment. I think that is a great credit to those Ministers and to the Assembly as a whole, and I believe that this is yet another step in ensuring that kind of flexibility.

MR CONNOLLY (3.54): I say to Mr Humphries that, while the Opposition will support these amendments, I think this would be the last time, on a Bill as important as this - and we are talking of a Bill that deals with the liberty of the subject, as older lawyers are wont to say - we could agree to amendments that at the moment I have not even seen.

Mr Humphries: They were sent down this morning.

MR CONNOLLY: I did not see them on my desk this morning; I may have been attending to something else. On a matter as important as this, it would be very helpful if members, particularly Opposition counterparts, could be given them some time

in advance, with some briefings. I am sure that, when you were in my shoes, you used to come in here and rail quite eloquently about the need for oppositions to have plenty of opportunity to consult on matters like these.

These are sensible amendments, it seems, and provide appropriate flexibility. They are the sorts of amendments that I would now in opposition, as you would have and did, put on the fax machine and shoot off to the Law Society and say to the criminal law section of that society, "Can you cast your eye over these? Are they all right? Has there been the appropriate consultation?". Given the importance of this Bill and the fact that you have explained to me that everything is ready to go with this Bill and it would be helpful if it could be passed this sitting - it is a one-week sitting and we have a break of some weeks before we sit again - I can understand your wish to get this Bill through. We would be very keen in future, and I would hope to get an undertaking from you, that when there are measures of this sort we could perhaps get more fulsome advice in advance.

I am prepared to take you at your word as to what you have described these amendments as being. In so far as your remarks as I heard them are concerned, it seems a sensible measure; but you can understand a certain reluctance by an opposition to deal with measures that relate to such an important matter on its face. We are prepared to accept that this time because the Assembly is only getting into the swing of things, but I would hope that in future we could get a little more advance notice of these matters. No doubt these amendments were circulated this morning. I must say that I was not aware of them and I had not been aware in any other discussions about this that there were significant amendments. I think it is fair for me to describe these as amendments of some significance; they are not just minor technical issues. Again, I accept what Mr Humphries said about them. It seems a sensible way to ensure that you do not have an undesirable end result; but as an opposition, and also, I think, on behalf of Independent members, we can quite properly flag that there will be a bit of reluctance in the future to accept amendments at this short notice on a matter of such importance.

MR HUMPHRIES (Attorney-General) (3.57): Mr Speaker, to pick up Mr Connolly's observations, I discussed the substance of these amendments immediately with his predecessor as corrective services spokesman for the Labor Party, Mr Lamont, when his Bill came down late last year. I had thought he accepted the concept of that change. I obviously should have discussed it further with Mr Connolly. They were tabled this morning. That has not been a departure from the standard used in this house before. In the past amendments of this complexity, and much greater, have been tabled on the floor of the house on the day they were to be debated. However, I have made an issue in the past about being properly informed, and I take the point Mr Connolly raises. I hope that we can have a high standard of advance notice to members of the Opposition and crossbenchers about these matters, and I will endeavour to make sure that these things are circulated in advance in the future.

Amendments agreed to.

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

Bill, as amended, agreed to.

INFANTS' CUSTODY AND SETTLEMENTS (REPEAL) BILL 1995

Debate resumed from 9 May 1995, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR CONNOLLY (3.59): Mr Speaker, my colleague was just reminding me that we did not seem to have those amendments on our desks, although no doubt they were put on the amendments pile, or they may have been - - -

MR SPEAKER: For the previous legislation?

Ms McRae: Yes, for the previous Bill.

MR CONNOLLY: Anyway, I accept all that Mr Humphries says. I should also say that at the beginning of that debate I would also have been somewhat distracted because I had been having a conversation with Mrs Carnell and Mr Moore in relation to some material that we had been requesting in question time and the possibility of moving a motion to require that material to be tabled. Mrs Carnell did give me an undertaking, which I accept, that that material will be circulated as soon as it is available. We will expect members to get the information I asked for about VMOs in the next few days. I put that on the record.

Mrs Carnell: I did not say "in the next few days". I said "as soon as I have it, before the next sitting".

Mr De Domenico: Before the next sitting.

MR SPEAKER: Order! Mr Connolly has the floor.

MR CONNOLLY: We shall see when we get it, if we get it.

In relation to the Infants' Custody and Settlements (Repeal) Bill, Mr Humphries no doubt sees this as the start of a whole new era in cleaning old legislation out of the stables - something that he waxed lyrical about in opposition. This Act is no longer of any particular significance or importance. I did, however, when I first saw the Bill, raise a concern by way of letter to the Attorney seeking his assurance that orders made under the old legislation would be very easily registrable under the Family Law Act. I received a reply which I was going to bring down and have incorporated in *Hansard*, but I did not bring it down. Nonetheless, the tenor of that reply was that the rights created under that order would still be in force despite the repeal of the Act. It is resolved by section 38 of the Acts Interpretation Act. The advice of the Attorney-General's Department, conveyed by the Attorney, is that there would be no difficulty and that such an old order under the now repealed Act can easily be registrable under the Family Law Act. Having been assured of that, and reading it into the record here so that, should there be any question, people are satisfied, the Opposition supports this measure of tidying up an Act which was once important but which has been overtaken by events.

MR HUMPHRIES (Attorney-General) (4.01), in reply: I thank members for their support for this Bill. As Mr Connolly indicated, there was a question about the operation of old orders under the repealed legislation; but the case is as he has described it. It should not present a problem if there are any orders in that category.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

LAND (PLANNING AND ENVIRONMENT) (AMENDMENT) BILL 1995

Debate resumed from 4 May 1995, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MS HORODNY (4.03): Mr Speaker, this issue of mobile homes raises many concerns surrounding land use and contractual arrangements. As patterns start to develop with respect to contractual arrangements in relation to mobile homes, it may be appropriate to consider regulatory measures. There may be a need for a code of practice for the mobile home industry. There is also the issue that we, as a society, must address about the desirability of promoting mobile home use. There are some good aspects about mobile homes in terms of flexibility and affordability; but there are also social concerns about the expansion of mobile home parks, particularly if they become an alternative to equitable housing programs and a good government housing stock.

Affordability of housing has decreased over the last decade, so we must tackle the issue of equity and access to housing as well. The existing base of community housing is very low in Australia compared with many other countries. We need to look at ways of expanding alternative housing options which do not create pockets of poverty. It may also be that the expansion of the availability of mobile homes also carries some serious environmental considerations. At a time when we are expecting a higher standard of housing in terms of energy needs, we must also look at whether mobile homes meet the environmental standards we expect. If, as may be the case, this Bill makes it more commercially attractive to establish mobile home parks, then this Assembly is likely to have to consider all these issues very carefully.

We will support this legislation, Mr Speaker, because, when sites for mobile homes are leased, it is appropriate that there is a legally recognised lease associated with them. However, the Greens feel that it is appropriate that the Assembly closely monitor the use of mobile homes and the contractual arrangements surrounding mobile home use. I understand that the Community Law Reform Committee is looking at some of these issues and is monitoring developments in other States, and it may be appropriate for the Assembly to look at this issue further in the future.

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

TRADE MEASUREMENT (AMENDMENT) BILL 1995

Debate resumed from 30 May 1995, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR CONNOLLY (4.06): The Opposition supports this piece of legislation. Given some of the media attention to this - in the *Canberra Times* there was a picture of a baker and a story that the Government is proposing to deregulate bread - there may have been some thought that the Opposition might take political issue about this and say, "Shock, horror!"; but in fact what is happening is the implementation of a now nationally agreed scheme for a single uniform trade measurement regime across Australia for a whole range of consumer items. That had been agreed in its basics way back in about 1991.

There had been a sticking point about the way bread would be measured. For reasons which seem obscure, even though I was present at the meetings when these decisions were taken, Ministers could not agree on a uniform regime for the way bread should be sold and packaged. It may have some historical connections. Regulation of bread sales and the need for uniform measures for the sale of bread have great historical precedent. *Magna Carta*, in fact, contains references to uniform measures for the sale of bread, ales, wines and bolts of cloth. Parliaments and law-makers have, for a very long time, interested themselves in the purity of measures of the staples of life, and bread has always been seen as one of those. It did mean that there were some peculiar anomalies, in the sense that people who sold packaged bread had to sell to certain sizes. Quite sensibly, parliaments say that the public must know what they get, and the public must have some assurance that if they are sold a kilo they get a kilo; but is there any particular need that bread be sold in a certain size or shape or what have you?

Consumer Affairs Ministers at last year's meeting finally decided that this was a little silly and that the specific laws for the sale of bread that applied in various States would be abolished, and the regime for bread sales would, in effect, be brought into the national uniform trade measurement regime. This Bill implements that. It was announced just before Christmas by the former Government that this was legislation that we were intending to proceed with. I think it may have been presented as an exposure draft of the Bill. This is a sensible measure which brings into effect a single national uniform regime for weights and measures for consumer goods generally and does away with a specific regime which once used to apply to the sale of bread.

MR HUMPHRIES (Attorney-General and Minister for Consumer Affairs) (4.08), in reply: Mr Speaker, I thank the Opposition for their support for this Bill. It is good to see that they have not made an issue of the question of wild Liberal deregulation leading to all sorts of rorts and so on. You could say that they have used their loaf and decided not to behave strangely on the matter.

Mr Speaker, members will be aware that in the ACT for some time now you have been able to buy bread in all sorts of different shapes and sizes. Some very good bread is now available in shops around the ACT. I think that the effect of this legislation is basically on packaged bread, which had to be in particular sizes. There was a much smaller variety in that particular medium, and this overcomes that by removing that requirement for particular sizes to be effective. As Mr Connolly points out, it is still obligatory, obviously, that if one puts on the side of a package of bread that it weighs 600 grams it still has to weigh 600 grams. There is no removal of that requirement to accurately describe the contents of packets. We do not need to worry particularly much about bakers selling loaves that are basically hollowed out, or whatever. People are fairly effective in shopping around in those circumstances, and I very much doubt that bakers who decide to pull that trick would stay in business for very long.

This is only a small measure in the overall scheme of giving people greater choice and removing unnecessary restrictions on consumers. It is foolish to be suggesting that only certain loaf sizes should be sold in our shops. It is welcome that we have support in the Assembly today in taking a small step towards freeing up the market from those sorts of silly and outdated regulations.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

WORKERS COMPENSATION PROVISIONS - SELECT COMMITTEE
Membership

MR SPEAKER: Pursuant to the resolution of the Assembly of 31 May 1995, I have been notified in writing of the nominations of Mr Berry, Mr Hird and Mr Moore to be members of the Select Committee on Workers Compensation Provisions.

Motion (by **Mr Humphries**) agreed to:

> That the members so nominated be appointed as members of the Select Committee on Workers Compensation Provisions.

ADJOURNMENT

Motion (by **Mr Humphries**) agreed to:

That the Assembly do now adjourn.

Assembly adjourned at 4.12 pm until Tuesday, 20 June 1995, at 10.30 am

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