DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

12 December 1995

Tuesday, 12 December 1995

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MR SPEAKER (Mr Cornwell) took the chair at 10.30 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

FIRE BRIGADE (AMENDMENT) BILL 1995

MR HUMPHRIES (Attorney-General and Minister for Emergency Services) (10.31): Mr Speaker, I seek leave to present the Fire Brigade (Amendment) Bill 1995.

Leave granted.

MR HUMPHRIES: I present the Fire Brigade (Amendment) Bill 1995.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

I also present the explanatory memorandum to the Bill. The Bill proposes amendments to the Fire Brigade Act to allow the chief officer to apply to a magistrate for a notice requiring premises to be closed, specifying the number of persons that may be allowed in the premises, or specifying work to be carried out. The basis for the exercise of the magistrate's discretion is a belief that compliance with the notice is necessary to eliminate a risk to public safety from fire or other hazard or to the persons using the premises.

The Bill requires the chief officer to provide appropriate written notification of the notice to the owner and/or occupier of the premises. There is a right of appeal to the Supreme Court, but the validity of the magistrate's order is not affected pending the outcome of any appeal. The Bill also includes provisions dealing with a failure to comply with a notice. Work carried out in compliance with an improvement notice is to be undertaken at the expense of the occupier.

The catalyst for the Bill was a fire engineering report commissioned from the CSIRO in relation to premises the subject of an appeal, currently before the Administrative Appeals Tribunal, against an occupancy loading determined by the Registrar of Liquor Licences. The report, which was prepared by an expert generally acknowledged to be pre-eminent in Australia, concluded that the occupancy loadings that had been determined by the registrar were greatly excessive from a fire engineering-safety point of view. This means that, if a fire were to break out in the premises when it is at the determined capacity, there is an unacceptable risk of people being burnt to death or being seriously injured.

The advice of the Government Solicitor's Office is that the registrar, the Liquor Licensing Board and the Fire Commissioner lack legal power to require the risk to public safety to be reduced, pending finalisation of the appeal proceedings, which have been adjourned to mid-February.

The issue is a quite different one to the question of how the loading is determined. The question is: Once the loading is determined, how can it be applied if it is different from the present loading? At the present time, legislation is inadequate in respect of allowing a different loading to be determined to deal with an issue which emerges subsequent to a determination by the Fire Commissioner or by the Registrar of Liquor Licences. As a responsible government, we are not prepared to wait until the determination of that appeal, in the hope that there will not be a tragedy. In any case, the same grave risk may exist in relation to a small number of other premises. It is thus appropriate, indeed imperative, that these discretionary powers be immediately available to protect the public safety.

I should mention that there are precedents for what this Bill proposes to do. Analogous powers have been conferred on health inspectors, where they believe that there is an imminent risk to public safety from unhygienic food preparation; and on the Building Controller, to deal with circumstances where there are unacceptable levels of legionella bacteria in buildings. Our advice is that there are very few premises where the emergency discretionary power is likely to be invoked. We do not believe that there will be a widespread impact on business generally. The adverse impact of a notice for a particular business must be weighed against the serious risk to public safety of allowing a fire or other hazard to persist. This Government will not compromise on that matter.

I commend this Bill to the Assembly. In view of the emergency nature of the proposal, I will seek leave to have it brought on for debate as a matter of urgency, with a view to passage this session. I have arranged for a briefing to be provided in relation to this to members of the Opposition and the crossbenches, and I understand that they are agreeable to that course of action being taken.

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

PUBLIC SECTOR MANAGEMENT (AMENDMENT) BILL 1995
Detail Stage

Clauses 1 to 3

Debate resumed from 7 December 1995.

MR MOORE (10.36): I adjourned the debate on these clauses with the intention that I would have more time to consider the amendments that had been circulated by the Greens, the Chief Minister and the Leader of the Opposition. I have now had the time to do that. I believe that it is appropriate that we proceed with the detail stage of the Bill.

Clauses agreed to.

Clause 4

MS FOLLETT (Leader of the Opposition) (10.37): I move:

> Page 2, lines 13 to 16, paragraph (a), omit the paragraph, substitute the following paragraph:
>
> "(a) by inserting ', or employed under section 28A,' after 'section 28' in the definition of 'Chief executive' in subsection (1);".

This is the first of a number of amendments which are related. The related amendments, which have also been circulated in my name, are Nos 3, 5, 6, 9 to 30, 32, 35, 37, 39, 41, 42, 44 and 50. This amendment is the first of a group that implements recommendations Nos 1 and 2 of the Public Accounts Committee's report on this legislation.

The underlying issue in this amendment is whether the chief executives of ACT departments should, without exception, have to be on contract. On the general principle, the Australian Labor Party believes that there are good reasons for making such officers permanent employees, consistent with the concept of a career service. That view is reflected in the existing Public Sector Management Act, which was passed when we were in government.

We do accept, however, that governments are entitled to employ those public servants that it appoints on such terms as it chooses. This is an acceptance by the ALP that the Executive - that is, the current government - is entitled to manage the chief executive structure of the public service in what it considers to be the most appropriate way. We do not, however, support the use of legislation to remove existing rights from currently serving officers after there has been a change of government. That is what the current legislation proposes to do.

What the Government is proposing is retrospective legislation at its worst and its most reprehensible. Accordingly, our amendments provide that contracts for chief executives will be an option. Current chief executives will have the option of choosing this method of employment, if that is their preference. Such a proposal is consistent with the approach taken by the Commonwealth and by South Australia when they moved to contract employment.

As I said earlier, the existing legislation gives the Chief Minister absolute control over the tenure of chief executives. The existing section 30 enables the Chief Minister to transfer a chief executive; while subsection 126(1) enables the Chief Minister to terminate the appointment of a chief executive. The Act then allows for a displaced chief executive, after 28 days' notice, to be demoted to a position in the Senior Executive Service or, if they choose, to be retired from the service.

If the Chief Minister chooses, she can offer all, or some, of the existing chief executives contracts. If some choose such contracts, then so be it. If they do not elect to take such contracts, then the Chief Minister is at liberty to retain them on their current conditions or to remove them from their office and appoint another person instead. She is at liberty to make no offer at all to current chief executives. But, in such circumstances, the individual concerned - and I think that this is very important - retains the rights entrenched in the existing legislation. In a case as outlined above, the displaced officer may be able to return to an SES position within the ACT public service.

The critical difference between us and the Government is that we believe that current officers are entitled to the terms and conditions of employment that they were offered when they accepted their current positions. I repeat: It is an unacceptable proposition, to us, that workers at any level should have their conditions of employment legislated away. That is what the Government's legislation proposes. This offends, significantly, against the fundamental rights of workers. It was in order to protect such rights that the ALP was formed over a hundred years ago. Members will hardly be surprised that our position in protecting such rights remains unchanged.

I suggest to all other members of this Assembly that they seriously consider the alternatives currently before them on this issue. Both the Government's original propositions and my amendments allow the current Liberal Government to employ chief executives on contract. Indeed, the existing provisions and my amendments would allow the Government to have all chief executives on contract, if that were their wish. The choice that members have to make is whether they, as legislators, are prepared to remove the rights and conditions of service of employees by legislative action where such employees have no right of redress whatsoever. It seems to me and to my party that the more appropriate way to proceed is to allow the Government the option that it wants - and, as I have said, I am not averse to that - but also to protect the existing rights and conditions of current employees. I urge all members to very seriously consider whether the fairer way to proceed is the way that I have proposed, rather than what I call the sledgehammer approach that the Government is proposing.

MRS CARNELL (Chief Minister) (10.43): The Government will be opposing this amendment and the related amendments. I think that Ms Follett has certainly misinterpreted the Bill in its current form, because the overriding principle in drafting this legislation was to preserve the rights and entitlements of existing staff. In fact, apart from tenure, there are no changes in the rights and entitlements.

Ms Follett: Apart from tenure.

MRS CARNELL: Apart from tenure; that is right. Rights and entitlements are retained. In fact, transitional staff will continue to receive the existing special benefit on accepting early retirement. That was an interesting one, because initially, when we started the consultation, that was not in the Bill. But it was put to us by a number of people that that was an existing entitlement. We added it. This has been part of an ongoing consultation with the SES officers involved. Apart from tenure, the entitlements, rights and so on of people involved have been retained; things like leave entitlements, superannuation and EEO have been retained.

Very importantly, these positions will be filled by merit selection. Of course, that is somewhat different to what has happened in at least some circumstances in the past. Certainly, the whole basis of this Bill is that SES officers will no longer have life tenure; but they will have performance-based contracts for a fixed term. If a relationship between a Minister and an agency head, or between an agency head and an SES officer, breaks down to such an extent that both parties believe that it cannot be continued, then the only way for that person to leave that job is to have their contract paid out - unless they are dishonest or something.

This new provision gives the people involved substantially more rights, substantially more responsibility, than was the case in the past. There will not be a very convoluted system, as Ms Follett said, of standing them down, moving them sideways, attempting to find something else for them to do and going through an amazing sort of approach. There will be a quite up-front contractual arrangement between two parties. We believe that is an appropriate approach. It is interesting that Ms Follett still does not know the difference between a time contract - a contract that goes for three years but has no performance base in it - and a performance-based contract. The basis of this whole legislation is that from now on, if this legislation is passed in its current form, there will be very definite goals, requirements and outcomes written into the contracts that exist at SES level, as there should be with any senior management.

To recap: There are no reductions in rights or entitlements of existing staff; they are not diminished. The only change is tenure, and loss of tenure is being recompensed by an increase in salary. Therefore, in my view, there is no loss of rights or entitlements.

MR MOORE (10.47): I have given quite some thought to this issue because I think that it is fundamental to what the Liberal Government and the Chief Minister are trying to achieve and is quite fundamental to what Labor is trying to oppose. If I had been supportive of the position that Rosemary Follett has taken, I would have opposed the Bill in principle. The Leader of the Opposition indicates that that is correct. We have a division of ideological positions. I think that it is appropriate that the Government, which had a substantial swing towards it at the last election - - -

Mr Berry: There are seven of them.

MR MOORE: The seven of them, as Mr Berry indicates, but with a 10 per cent swing - - -

Mr Berry: There are 10 others.

MR MOORE: We can look at it, Mr Berry, as either a 10 per cent swing towards or - - -

Mr Humphries: It was 11 per cent, actually.

MR MOORE: There we are; an 11 per cent swing. I was giving them the benefit of the doubt. There was an 11 per cent swing against a government that had been in office for five years. Any political analyst would see that that is a fair measure of dissatisfaction with what was going on.

The real issues here are about how the public service is going to work, and whether or not it should be able to work in a contractual system. That contractual system will give some benefits, I am sure, in terms of remuneration to chief executive officers in particular; but, of course, it does have the disadvantage in terms of the issue of tenure. My understanding - and it was reinforced by what the Chief Minister said - is that, for current CEOs, their conditions will still apply, except for the issue of tenure. It is an appropriate piece of legislation that looks at reform of the public service and takes the next step to ensure that we have an accountable public service. I will be opposing this amendment and the related amendments.

MS TUCKER (10.49): The Greens will be supporting Ms Follett's amendments. I have listened to the debate this morning - and we have also thought about it a great deal - and it seems that this is a reasonable amendment. It is offering a choice. Tenure is incredibly important to some people. Perhaps people in the political field have a more reckless or free approach to their employment because there is not a lot of job security in this work. But it is very important to some people, and I think that there should be a choice.

It is maybe timely to add that there is a reform fatigue apparent in a lot of the public service. Perhaps we should have been listening more to people who were working in the service and who for some time had been coming up with intelligent suggestions about training, peer assessment, assessment of managers, and performance pay, which we have gone through and which has not seemed to work either. There are more thoughtful ways of looking at reform that would not have such a traumatic effect on the employees.

MR BERRY (10.50): I want to speak briefly in relation to some of the comments that Mr Moore has made on this matter. First, I will dwell on the issue of tenure. Mrs Carnell says that only tenure is affected. Tenure is everything. If you do not have a job, if you have been dispensed with because you are incompatible, tenure means a fair bit, I can tell you. It is a fundamental issue when it comes to employment.

I could not believe my ears when Mr Moore rose to his feet and talked about how an 11 per cent swing, which delivered seven members, gave them all the say on employment legislation in the Territory. It is irresponsible for an Independent like Mr Moore to use that as a basis to throw his hands up in despair and say, "It is not my fault". In truth, he has to say, "I am comfortable with the political position of the seven who have been elected, and I am going to help them form a majority on this issue if I can". That is the truth of the matter. Do not run this humbug about an 11 per cent swing, which delivers seven members in the Assembly, giving them the majority, because it does not. There are 10 other members in this Assembly.

If you want to support the Liberals on this question, and you do, you must have the good conscience to get up and say, "I think that their ideological position on this is correct". That is what it comes down to. This is the ideological position of the Liberals in relation to individual contracts for workers. They are applying it at the top end in this case. It is their preference to have it applied across the board. There is no question about that. None of them will deny that.

Mr Connolly: Where was sacking the doctors in any policy? Where was shutting mammography at Woden Valley Hospital in any policy?

MR BERRY: Where was closing Charnwood High School?

MR SPEAKER: How is this relevant?

MR BERRY: Bill Stefaniak went out there and won a 10 per cent swing on, "I will not close Charnwood High School". Harold Hird was elected on that basis.

MR SPEAKER: Relevance, Mr Berry.

Mr De Domenico: On a point of order, Mr Speaker: Can I suggest that Mr Berry be asked to talk on the Public Sector Management (Amendment) Bill? As much as he would hate the wise decision that the Government did make about Charnwood High, can you alert him to the fact that we are discussing the Public Sector Management (Amendment) Bill?

MR SPEAKER: I uphold the point of order.

MR BERRY: Would you allow me to defend my side of the point of order? Mr Moore was allowed to enter the debate and talk about the electoral swing at the last election. I am merely drawing attention to the fallacy of that argument. The argument was allowed initially. A defence should be allowed as well.

MR SPEAKER: Charnwood High is not relevant to this debate.

MR BERRY: This is an issue about an ideological position and how many people are going to support that ideological position. Mr Moore is going to assist the conservatives opposite in their agenda and help them to introduce it by way of change to the employment status of senior public servants in the ACT Government Service. That is his entitlement. But I cannot sit quietly by and allow him to get away with the argument that, because you have seven votes in this Assembly, you have a majority. Ten votes clearly outvotes seven. Mr Moore cannot continue to push that argument. If he is locked ideologically into the position of the Liberals, he is in.

MR MOORE (10.55): It is important to rise to clarify an issue or two. When we are dealing with administration and public sector management, it is the role of this Assembly to delegate the power therein to the Government. However, that does not mean that we do not retain the power to modify anything that the Government is doing in this regard, particularly with reference to legislation that is brought before us. The point which I was making and which is a little bit difficult for Mr Berry to comprehend is that, as far as possible, I am prepared to allow the Government to govern. That does not mean that I will not modify the position if I think that is appropriate.

That is exactly the same position as I took when Mr Berry was a Minister. On many occasions I gave him the benefit and allowed the Labor Party to run the administration in the way that it wished to run the administration. I do not resile from that responsibility at all. I accept the point that Mr Berry raises that there are certainly 10 votes here that could easily knock this legislation over. When I take the position that I will allow the Government to govern on this, I then - - -

Mr Berry: Explain - - -

MR MOORE: No; I accept the point.

Mr Berry: Explain to the Assembly how you would modify their excesses, which you said publicly that you would do.

MR SPEAKER: Order!

MR MOORE: Then we have the situation that that is how I am going to vote. Mr Berry interjects, "Show me how you are modifying their excesses at all". Mr Berry, watch this place.

MR HUMPHRIES (Attorney-General) (10.57): I want to briefly enter the debate to pick up a point that Ms Tucker raised about tenure in the course of the debate. The remarks that she made do lead me to suggest that there is an ideological difference between us in government and Ms Tucker. She made the point that the view that she took was that many employees of the Government Service found tenure very important, and for that reason tenure ought to be retained. The ideological difference in that respect is that this Government believes that the Government Service is primarily not about offering employment, although it is a very important subsidiary effect of having a Government Service, but about delivering a service to the people of the community. That is the primary goal.

Most people would acknowledge that tenure has not been a constructive component of good quality government service. In some cases it has achieved that. In some cases it clearly has failed miserably. In fact, you could go beyond that and say that in most situations tenure has serious drawbacks. I point, for example, to the decisions of the present Federal Government which seem to be eroding concepts of tenure in academic circles. That has been long acknowledged as an important part of the academic world, but it is now realised to be also contributing towards a decline in the quality of academic work. People ought to be made to expect that when they are in a position where they have to deliver certain services, be they to the academic world or to the community at large, they ought to be able to prove that they are continually doing that. Tenure erodes that capacity. There is a place for tenure in some circumstances; but, generally speaking, people ought to be able to demonstrate on an ongoing basis that their work and their position within the public service warrant the continuation of their position at that level. That is what this legislation is about.

MS FOLLETT (Leader of the Opposition) (10.59): There are a couple of points in the debate that I would like to re-emphasise. The first of those is that the existing Public Sector Management Act would allow the Government to employ chief executives on contract. This point has completely escaped the Government. I accept that the government of the day may want to employ chief executives in a way that suits its own particular ideology. I say again that, under the Public Sector Management Act, if this Government wanted to, it could appoint all of those chief executives on contract. There is no doubt whatsoever about that.

The amendment that I have moved today still allows the Government to do that. It does not compel all chief executives to be employed on contract. The existing legislation and the amendment that I have moved allow a situation of choice, of consultation, of accommodation of particular wishes, to occur. The Government's proposal does not. The Government's proposal imposes the contract situation on all chief executives by law. I should say that also, by making the changes in this way, the Government is making a retrospective change to people's conditions of employment. That is an unarguable position. It is simply the case that, by removing tenure compulsorily, not by choice, the Government is retrospectively removing a condition of employment that people had enjoyed. I think that is a serious matter, but clearly the Government does not.

There was another issue that I wanted to address, and that was Mrs Carnell's comments about a merit selection process. It is the case that previously chief executives were always selected after a merit process, with one notable exception. That was when Mr Kaine was Chief Minister during the period of the Alliance Government, when all of the chief executive appointments were simply signed without a process of interview or selection. The legislation that is already in place envisages a merit selection process. That was the course that we followed when we were in government. In trying to make some point about merit selection, Mrs Carnell is attempting to mislead this Assembly, because the fact of the matter is that there was only one instance where there was no merit selection process, and that was under a Liberal government. That is an absolute red herring, and one of a number.

As I say, the amendment allows the Government to do exactly what it has said that it wants to do; and it cannot argue that it does not. The amendment would allow the Government to appoint all chief executives on contract, on whatever contract it believes is most appropriate, but would also, and very importantly I think, protect the right of chief executives to make a choice about whether they have a contract or have tenure. Mrs Carnell has said that those going on contract will get increased remuneration, presumably to make up for the loss of tenure. The very fact that you are having to increase the remuneration indicates that they are losing a right. There is no doubt that it is a loss. My view is that there should be some room for negotiations, some room for autonomy by the chief executives in having a say on how they are employed. I commend the amendment to the Assembly because that is what this amendment achieves. It does allow the chief executives some say in their own conditions of employment. That is only appropriate. We are dealing with the very small number of people at the very top of the ACT public service. We can trust them to make a good decision about whether they want to go on contract or remain on tenure. I commend the amendment to the house.

Question put:

That the amendment (**Ms Follett's**) be agreed to.

The Assembly voted -

AYES, 8	*NOES, 9*
Mr Berry	Mrs Carnell
Mr Connolly	Mr Cornwell
Ms Follett	Mr De Domenico
Ms Horodny	Mr Hird
Ms McRae	Mr Humphries
Ms Tucker	Mr Kaine
Mr Whitecross	Mr Moore
Mr Wood	Mr Osborne
	Mr Stefaniak

Question so resolved in the negative.

MS FOLLETT (Leader of the Opposition) (11.08): I move:

Page 2, lines 17 to 19, paragraph (b), omit the paragraph.

Again, this is the first of a number of amendments that are related. The related amendments in this case are Nos 4, 34 and 35, 37, 46, 48, 49, 51 and 53. This amendment, which I have circulated, implements recommendation No. 3 of the Public Accounts Committee report on this legislation. The underlying issue in this amendment and the related amendments is whether the current Senior Executive Service are also to be forced from their current status as career public servants to a system which is completely contract based, with no guarantee of tenure beyond the expiry of the current contract.

As I said during the in-principle debate on this Bill, the move to an entirely contract-based Senior Executive Service, with current senior executives being forced to give up their public service career or be demoted, is by no means universal. The Government has attempted to tell us that it is doing only what everyone else is doing. That is not the case. The Commonwealth is not doing it; Queensland is not doing it; the United Kingdom is not doing it either. Even where it has been done elsewhere in Australia, such as in South Australia, the system has been introduced prospectively, not retrospectively. It is a very serious step that we are considering here. The current senior executives in South Australia have retained their existing terms and conditions, while the new appointees are offered contract appointment.

The amendment that I have moved and the related amendments retain a career-based public service at the SES level, with promotion on merit, through a prescribed process, and with the necessary checks and balances to avoid nepotism and politicisation. The system was retained at the time of separation from the Australian Public Service.

I believe that it served the Canberra community well prior to self-government and has done so since. The procedures involved in the selection of SES officers have meant that the ACT service has had high-quality officers, with applicants from within the ACT Government Service, from the Australian Public Service and from outside the public service also. There has never been any question of political influence in the selection of a person for any public service position, and the community has had confidence that successful applicants were regarded as the best available people.

Last week, in the debate on the PAC report on this Bill, I pointed out that the current provisions allow for contract or fixed-term appointments to the SES. Chief executives are at liberty to use this mechanism in any case where it is considered appropriate. The Chief Minister continues to complain about the ALP's views on this matter when she talks about a service culture and performance contracts. This often seems to imply that current SES officers are not committed to serving the Canberra community or to performing to the standard expected of officers at their level. I reject any such suggestion about current ACT public servants. The public service in the ACT has served the Canberra community for many years. They did so before Mrs Carnell came to office, and they will continue to do so long after she has gone. The implication that current employees are not serving the public or performing to acceptable standards is one that I find reprehensible, especially since those about whom the comments are made are not in a position to publicly defend themselves.

The proposals contained in the Government's Bill are also contrary to social justice principles. The existing Public Sector Management Act allows for part-time employment at both the chief executive level and the SES level. The Government's Bill removes this provision and acts against access and equity principles. Women, and indeed men, with carer responsibilities will be precluded from executive positions under the Government's proposals, as the Government has stated that all executive positions will, in the future, be full time.

This Government came to office with a declared policy of consultation. Many segments of the Canberra community now understand that the Liberals' idea of consultation is to tell them what the Government is going to do or, in some cases, what the Government has already done. On that point, I would like to quote from a letter that I received from a concerned constituent. The person said about this Government proposal:

> However, the current approach of edict of take it or leave or downgrade hardly seems to reflect the stated value of and consultation with all involved.

I would like to quote again from that letter because it articulates the matter which this Assembly must decide. It also demonstrates the consequences of the course of action proposed by the Government. That letter ended:

> In conclusion I would ask that you seriously consider these aspects before you decide the approach you will take in the Assembly. I have to apologise that I do not feel confident in identifying myself for fear of discrimination in relation to my own career prospects.

That says it all about the destruction of the career service. The Assembly, I believe, will rue the day that it determined to proceed down the path to what Mr Ayers has called "a third-rate public service". When that comes to pass, those who voted for this legislation will be held accountable.

Once again, I urge members to think very carefully about this decision. It is not a minor matter that we are dealing with here. The legislation, as it stands at the moment, has been used to put people on contract and could be used again for that same purpose if circumstances warranted it and if the chief executives believed that that was the appropriate way to go. The Assembly is now contemplating removing any element of choice and compelling our entire SES, about 150 people, to be employed on contract, be downgraded or be sacked. Those are the choices before them. The amendment is the only reasonable way for this Assembly to move. I do recommend it to the Assembly as the way to ensure that we have a professional and apolitical public service that will serve the Canberra community.

MRS CARNELL (Chief Minister) (11.15): The Government will be opposing Ms Follett's amendment. Ms Follett seems today to be very good at coming up with half-truths, if not no-truths, shall we say.

Mr Berry: On a point of order, Mr Speaker: There is a clear imputation that Ms Follett has lied to the Assembly. That has to be withdrawn unequivocally.

MRS CARNELL: If there is any imputation along those lines, I am very happy to withdraw it.

Mr Berry: No; I require that it be withdrawn.

MR SPEAKER: It has been.

Mr Berry: I require that the words be withdrawn.

MRS CARNELL: I just did.

MR SPEAKER: It has been withdrawn.

MRS CARNELL: If there was any imputation, then it has been withdrawn. That is what I said.

MR SPEAKER: It has been withdrawn.

MRS CARNELL: All States, except Queensland and the Northern Territory, and other countries such as New Zealand and, interestingly, the United Kingdom have, or will have, some form of contract employment for SES equivalents. It is interesting that Ms Follett seemed to indicate that under the current legislation we could employ agency heads on contract. The reality is that we cannot, because the legislation that she passed last year

gave no choice whatsoever. They had to be on tenure. Certainly, there was some capacity, under agency heads, for SES officers to be employed on contract; but, at agency head level, there were no choices whatsoever. The reality is that in States such as New South Wales and Victoria there is straight contract employment for SES or equivalent officers. That is common and is working extremely well in one Labor State and in one Liberal State.

The question of politicisation is a very interesting one, because the Government's model requires, under contract, frank and fearless advice. In fact, in the current situation there is no specification of agreed things to be achieved, what has to be measured and how it will be measured. In other words, there is no absolute understanding between agency heads and Ministers or between agency heads and SES officers of exactly what has to be achieved and how it will be achieved. Under a contract arrangement everything is there in writing. Both parties know exactly what is expected of them. That removes all ambiguity from the relationship and, therefore, removes the capacity, as exists under the current legislation, for people who might be politically unpalatable but who are doing the job to be removed. They simply cannot be removed under the contractual situation. If somebody is performing the task, doing the job, then they are there, simply because they are performing their contractual arrangement.

The other thing that Ms Follett seems to overlook the whole time is that - I do not know about under the previous Government - under this Government we are looking for continual improvement in the public service. We are not saying, "We have done a good job in the past; we will all be right; it is all fine; we will look just to the past". We are looking for continual improvement. Certainly, public servants have done a good job in the past, but we believe that performance can be improved. I know that the public service believes that it can be. Management and the way things are done are changing very quickly, not just in the ACT but in the whole world, and particularly in Australia. We believe strongly that those changes are things that should be shared by the ACT public service. I know that they want to. Continual improvement should be embraced, not thrown out for some particular reason.

Ms Follett made the comment about career structure being destroyed. Certainly, that has not been the case in New South Wales, Victoria or other places where contracts have been in place. In fact, people have had a series of contracts over a period of time. At the end of each contract there is a capacity to renegotiate that contract and look at new outcomes and new contractual arrangements generally. That is how career paths work in every other area of normal enterprise. I do not understand why the ACT should be all that different and that somehow a career service cannot exist if you have your senior managers on contracts. Quite the opposite. It allows the service to exist much, much better.

Ms Follett, in her previous statement, made the comment that merit selection was only ever not used under Mr Kaine. I am a bit concerned at Ms Follett's comments, taking into account the appointments of the head of the ACT public service, Dr Rosalky, by Ms Follett, and the current head of Health. I am extremely interested to find out from her how, when those two people applied for their jobs, the merit selection process went.

MS TUCKER (11.21): I will be supporting this amendment. I have to pick up a few points that Mr Humphries made before. I thought that he would understand our position on this issue, because we have spoken about it at length in the Assembly before. But I will repeat, although he is not here, for his benefit, why we have general concerns about using contracts in the public service. We have made it quite clear that there is a danger that job security concerns could undermine the capacity to offer fearless advice in long-term planning. We have made the statement that this legislation, in its current form, is about privatising and further politicising the bureaucracy and setting up a culture of efficiency rules in the higher echelons of public sector management.

We obviously have concerns about the Senior Executive Service. I did state before that it may be appropriate to put some people on contracts. There does not seem to be any real evaluation of where a contract is appropriate and where it is not. We have also highlighted, over and over again, that these contracts are based on an evaluation of performance that we do not necessarily have great confidence in. How do we measure performance? We must acknowledge that performance itself is a subjective assessment. We are concerned that governments, on the whole, are moving towards a narrower definition of performance, based on efficiency and outputs.

We have to get our performance indicators right. It has not happened so far. We were very concerned at the poor quality of performance indicators right through the estimates process. We are not confident at all that this Government is going to be putting together contracts that are going to reflect the common good, the social good and the environmental good of our community. We do not see any integration in the indicators for the economy, social policy and environment across programs. We have concerns right across the board about how this Government is so-called managing. We want to see these contracts, if they are going to occur - and I will be speaking to that later - open, so that at least we have some chance of making an assessment and critique of how effective they are going to be for the good of our community.

The contracts change the basis of accountability from public accountability to accountability for contract specifications. The focus on performance indicators represents a narrow understanding of performance evaluation. We will be supporting this amendment.

MRS CARNELL (Chief Minister) (11.24): Very briefly, I wish to clarify one other point that Ms Follett raised, and that was the point of part-time employment. There is no problem in this legislation in having a contract that is for 10 hours, 20 hours or 30 hours. There is no requirement for that contract to be for full-time employment. I am not too confident that the part-time provisions of the previous Act were used very often at all.

MS FOLLETT (Leader of the Opposition) (11.24): What we have had from Mrs Carnell is an obfuscation of the issue of who is doing what in other public services. I would like to repeat that the Commonwealth has not moved to all compulsory contracts for its SES. Contract provisions are available, as they are in the ACT; but there is no compulsion about contract employment. Queensland has not moved to all contract employment. In South Australia, new senior executives will be on contract; existing senior executives retain their existing conditions. Their legislation is prospective; not retrospective, as we are seeing put forward by the Government here.

In the case of the United Kingdom, the material has been very much misstated by all and sundry on the other side of the chamber. I have the report on the United Kingdom Civil Service, as it is called. It is a very long report. It is called "A Civil Service Which Meets the Challenge". At paragraph 4.33 of that report, this statement is made:

> The Government believes that there should be one form of contract to cover the great majority of circumstances. It favours contracts in which employment is for an indefinite term but with specific periods of notice.

These are clearly contracts which are not time limited. The report goes on, at paragraph 4.35:

> The Government does not favour fixed term or rolling contracts as a model for general application.

The information about what is happening in the United Kingdom Civil Service has been applied very poorly indeed. Mrs Carnell also made a point about part-time employment for the SES. She has overlooked the fact that her own legislation - I think that I am right in this - withdraws the provisions in the Public Sector Management Act that allow for part-time employment. She has failed to address how, under her amended legislation, she proposes to provide for part-time employment. A simple reading of the legislation would indicate that there is no such provision. Mr Speaker, I believe that the legislation as proposed by the Government is wrong in principle and it is wrong in practice. I believe that it is appropriate for the SES to continue as a career public service, as a permanent public service, except in those cases where contracts are clearly required because of the nature of the work or the person required to do that work and so on, and that is the existing situation. Mr Speaker, I commend my amendment to the Assembly.

Question put:

> That the amendment (**Ms Follett's**) be agreed to.

The Assembly voted -

AYES, 8	*NOES, 9*
Mr Berry	Mrs Carnell
Mr Connolly	Mr Cornwell
Ms Follett	Mr De Domenico
Ms Horodny	Mr Hird
Ms McRae	Mr Humphries
Ms Tucker	Mr Kaine
Mr Whitecross	Mr Moore
Mr Wood	Mr Osborne
	Mr Stefaniak

Question so resolved in the negative.

MS FOLLETT (Leader of the Opposition): Mr Speaker, I seek leave to make a statement under standing order 46.

MR SPEAKER: Yes, proceed.

MS FOLLETT: Mr Speaker, in the debate on my second amendment Mrs Carnell asserted that it would be possible under her legislation for executives to be employed part time. I would refer the Assembly to the explanatory memorandum on this Bill, which states, at page 7, in the explanation on clause 12:

> Clause 12 inserts an interpretation section, section 59A, before section 60 of the Act. Section 60 is the first section in Division 2 of Part IV, which contains provisions about part-time officers. Proposed section 59A defines "an office" in Division 2 of Part IV to exclude an office of Chief Executive and Executive, thereby excluding these executive positions from provisions dealing with part-time offices. This is because all executive jobs will be full-time.

Mr Speaker, I offer Mrs Carnell the chance to apologise to the Assembly for having given, quite clearly, misleading information.

Mr Kaine: Mr Speaker, I have been on my feet to take a point of order. I would have thought that the Leader of the Opposition would have been invited to sit down while I made it. Mr Speaker, what we have just heard has nothing whatsoever to do with a personal explanation under standing order 46.

MR SPEAKER: I am sorry, but it does. The Leader of the Opposition was responding to a comment made by the Chief Minister, who I am sure will now seek, if she so wishes - - -

Mr De Domenico: But what has it to do with a personal explanation from Ms Follett?

MR SPEAKER: She will have the opportunity to do so.

MS FOLLETT: I was misinterpreted or misrepresented.

Mr Kaine: Ms Follett does not claim to have been misrepresented in any way.

MS FOLLETT: I do, indeed.

Mr Kaine: She is quoting from the explanatory memorandum on a Bill. How does that misrepresent her?

Ms McRae: Which the Chief Minister has not read.

MR SPEAKER: Order!

Mr Humphries: On the point of order, Mr Speaker: I want to support Mr Kaine's contention. Standing order 46 says that a member may explain matters of a personal nature. If a member wishes to re-enter the debate in the course of making a standing order 46 explanation, I think there is an abuse of that standing order going on. Members should seek to change the standing order if they simply want to reopen the debate rather than explain the way in which they personally have been attacked or misrepresented.

MS FOLLETT: Misrepresented. Well, standing order 47 then.

Mr Humphries: She has not been misrepresented. Nothing Ms Follett has said has been attacked. It is what Mrs Carnell has said that is being attacked.

MS FOLLETT: Mr Speaker, I am happy to make it under standing order 47 if that is more appropriate.

MR SPEAKER: Yes, I thought that may in fact be the explanation.

MS FOLLETT: The fact of the matter is, Mr Speaker, that in my speech on this matter, I said - - -

Mr Humphries: Mr Speaker, I take a point of order.

MR SPEAKER: Order! Please resume your seat, Ms Follett.

Mr Humphries: With great respect, standing order 47 is also not available to Ms Follett. It refers to a member being able to rise to explain "where some material part of that member's speech" - the speech of the person rising - "has been misquoted or misunderstood".

Ms Follett: Well, it has - "or misunderstood".

Mr Humphries: No, it is not the Chief Minister's speech that has been misunderstood. It is Ms Follett who has to have some element of her speech misunderstood.

MR SPEAKER: Order! I will examine the *Hansard*.

Ms Follett: Mr Speaker, if I may speak, again, just briefly. For the members opposite - - -

MR SPEAKER: On what point?

Ms Follett: On the point of order.

MR SPEAKER: Order! I have ruled that I will examine the *Hansard*.

Ms Follett: What does that mean?

Ms McRae: That you cannot have personal explanations? That is nonsense.

MR SPEAKER: So that I can then make a decision on this issue.

Ms McRae: That is just rubbish.

MR SPEAKER: That may be rubbish. Resume your seat.

Ms Follett: May I get up again?

MR SPEAKER: I will examine the *Hansard* and advise the Assembly what the situation is. We are clearly in a situation where we are arguing as to whether the Leader of the Opposition has been misrepresented or not. As to whether it is standing order 46 or standing order 47, I will have to examine the *Hansard* in order to resolve this monumental issue. Now, can we proceed with what is before the Assembly? Ms Follett, are you rising on a point of order?

MS FOLLETT (Leader of the Opposition): I seek leave to make an explanation under standing order 47.

MR SPEAKER: Proceed.

MS FOLLETT: Mr Speaker, the purpose of my rising on this occasion was to address a matter of whether or not part-time employment is provided for under the Chief Minister's legislation. In my speech on my amendment I said that it was not.

Mr Humphries: Mr Speaker, I rise on a point of order. I would ask the member to resume her seat when I have risen on a point of order. Mr Speaker, clearly, what Ms Follett is trying to do is describe what she believes is some misdescription on the part of the Chief Minister in her remarks before the Assembly. It in no way constitutes an explanation of how some material part of her speech - that is, Ms Follett's speech - has been misquoted or misunderstood, and therefore, Mr Speaker, she ought not be able to use standing order 47. You have also ruled, I thought, that this matter would be taken on board by you.

MR SPEAKER: Yes, indeed, I have.

Mr Humphries: I therefore think that to press the point on her part is unreasonable.

Mr Berry: May I speak to that point of order, Mr Speaker? Mr Speaker, the Minister rose at the time when Ms Follett had just mentioned the statement that she had made in her speech which had been misquoted or misunderstood and about which she was trying to make an explanation pursuant to standing order 47. Mr Speaker, I think Mr Humphries is being mischievous here. I think Ms Follett has rightly interpreted the use of the standing order and should be allowed to proceed.

MR SPEAKER: I have ruled that I will examine the *Hansard*.

Mr Berry: That will not get us far.

MR SPEAKER: We will be here all day otherwise, because all we will end up with is a debate back and forth across this table about who might have said what. Until I can examine the record it is not possible for me to rule.

Mr Berry: May I rise further on the point of order? Mr Speaker, it would be pointless examining the *Hansard* until Ms Follett has given you the entire speech. At that point, once you have examined what Ms Follett has said, you can make a ruling in relation to standing order 47.

MS FOLLETT: And I will be very brief, Mr Speaker.

Mr Humphries: Mr Speaker, on the point of order: The fact of the matter is that Ms Follett was given two or three minutes for a personal explanation and did not, at that stage, in any way address the standing orders as they are written on our books. Therefore, she should not be allowed to continue.

MR SPEAKER: It seems to me that we are now not debating the question of whether Ms Follett or the Chief Minister was misrepresented. We are now debating whether we are discussing standing order 46 or standing order 47. I have stated, to get right back to the issue, that I will examine the *Hansard*. That is my ruling.

MS FOLLETT: Mr Speaker, I was under the impression that I was speaking under standing order 47.

MR SPEAKER: I have said that I will examine the *Hansard*. That is my final ruling on the matter. Resume your seat.

MS FOLLETT: Mr Speaker, I wish to conclude my remarks, very briefly, and to say that, on the question of part-time employment, Mrs Carnell's explanatory memorandum says - - -

MR SPEAKER: Order! I have already ruled that I will examine the *Hansard* on the issue. Resume your seat, Ms Follett.

Mr Connolly: How can you examine the *Hansard* if you do not know what Ms Follett wants to say as to how she was misrepresented? This makes a farce of the standing order.

MR SPEAKER: Ms Follett has made her position clear.

MS FOLLETT: As I resume my seat, I will say that the explanatory memorandum on Mrs Carnell's Bill says, "This is because all executive jobs will be full-time".

Mr Kaine: I take a point of order, Mr Speaker. The Leader of the Opposition is in contempt of the Chair. I suggest that you do something about it, not sit there taking it.

MR SPEAKER: Order, or I will deal with you, too, Mr Kaine. Just be very careful.

Clause agreed to.

Clauses 5 and 6, by leave, taken together, and agreed to.

Clause 7

MS FOLLETT (Leader of the Opposition) (11.40): Mr Speaker, I move amendment No. 1 that has been circulated in my name on the pink sheet, which reads as follows:

> Page 4, line 31, proposed new section 28A, after subsection (1), insert the following subsections:
>
> "(1A) A contract under section 28 that contains a provision of the kind referred to in subsection (1) shall specify the grounds on which the contract may be terminated under that provision.
>
> "(1B) The grounds specified pursuant to subsection (1A) shall not include -
>
> (a) the ground that the person employed under the contract is incompatible with another person; or
>
> (b) any ground to the same effect.".

I advise members that I have now abandoned the white sheets with my amendments on them and will deal entirely with the pink ones, for ease of reference and so on. Mr Speaker, the amendment that I am moving here addresses one of the most serious inadequacies of the Government's legislation, and that is the proposal by the Government to be able to terminate contracts on the basis of incompatibility with an executive. It seems to me that, if we are to legislate along these lines, then all SES officers and all chief executives are very much under threat of having their employment terminated merely at a whim and for no good reason. I do not believe that that is good enough. It is a matter that we did examine at some length in the Public Accounts Committee's review of this legislation, and I have to say that we never got a satisfactory answer from those who were providing advice to the committee.

Mr Speaker, what the Government says it is seeking to do is to legislate or to codify against what they purport to be an existing situation where people are sacked for no good reason, yet they have consistently failed to come up with any example of where this has happened or where it might happen. The fact is it has not happened, Mr Speaker.

I think that by attempting to make incompatibility a ground for dismissal the Government is saying to its employees, "We will employ you if we like you". The fact is, Mr Speaker, that compatibility is also a test between employees. So where there is a disagreement - it may be a professional disagreement; it may in fact be an entirely guiltless matter - on the Government's grounds of incompatibility that could spell the end of somebody's career.

I do not believe that that is good enough. It certainly runs contrary to any concept of a career public service and any concept of an apolitical public service. Where compatibility is not defined at all it leads to everybody having to make their own decision about what compatibility means. Clearly, to some people it will mean political compatibility. At another time it may well be religious compatibility, or even a matter of friendship. Mr Speaker, I know that members will want to pooh pooh that idea, but if they have a long history in Canberra and in the ACT and a long history of dealing with the Commonwealth Public Service, for instance, they will know that for many years, and this was many years ago, religion was indeed an issue. It was an issue which could determine not only which department you were in but how far and where you were promoted to. That is no longer the case, but reintroducing this ground of compatibility opens the way for further such examples.

The thing that concerns me most about incompatibility, Mr Speaker, is the question of political incompatibility. Where a government or a senior executive makes a judgment about another person's politics, or about their particular allegiances, and therefore seeks to have some effect on their employment on those grounds, they will simply say, "They were not compatible", or, "This person's views are not compatible with those of the Government". I think that is cause for very great concern.

On a more practical level, I also believe that being able to be dismissed on the grounds of incompatibility is surely going to constrain the most conscientious of public servants in the advice that they give to governments. As I said before, who is going to be able to tell the can-do Government that they cannot do something when they risk being found incompatible? Mr Speaker, it is absolutely essential that public servants are able to give frank and fearless advice, and that advice, as we all know, is not always popular and is not always compatible with the government of the day; but, it is, I believe, a fundamental in a good public service that that capacity should continue to exist.

Mr Speaker, I do commend my amendment to the Assembly because it attempts to get rid of what I believe is a totally inappropriate clause in the Government's legislation, a clause that not only will lead to a lesser public service - lesser in terms of their own impartiality, lesser in terms of the frankness and fearlessness of their advice - but also will lead to a possible victimisation of certain employees, senior employees admittedly, because of the views that they hold or some other factor. There is nothing in the Government's legislation that is beyond the pale in terms of compatibility, because it is simply not defined. It could be anything. That is clearly a gross disadvantage to the employees concerned; but I would also say it is a gross disadvantage to the government of the day and to the Canberra community, for they are the ones who at the end of the day will have to wear whatever it is that this Government means by compatibility. Mr Speaker, I do not believe that is good enough, and I commend the amendment to all members who are prepared to keep a public service that we can be proud of.

MR HUMPHRIES (Attorney-General) (11.46): Mr Speaker, I think that someone listening to Ms Follett's remarks could be forgiven for thinking that she is opposed to the idea of dealing with public servants on the basis of incompatibility with the government of the day. Those remarks, I think, sound very noble and fair and make her sound like a person who is out to defend the public service. I think members who have not been here for a while ought to be told a bit of history about Ms Follett's very early days in self-government. Almost the first action taken by the Follett Government elected in May 1989 was to unceremoniously and without reason sack a very senior public servant who was in the Government Service. Members know who that person was. That person was a senior member of the Government Service at the time. He was removed from the purview of the ACT service. At that stage, of course, there was no separate ACT Government Service, admittedly, but this particular officer had been assigned to work in the then ACT component of the Federal Public Service. He was booted out of that position, as I recall, in the Department of the Environment, Land and Planning and sent packing back to the Commonwealth.

Mr Berry: You said "sacked".

Ms Follett: He never left the Commonwealth, in fact.

Mr Connolly: He was transferred, actually.

MR HUMPHRIES: Mr Speaker, apparently those opposite are going to draw some distinction between being put out of a job altogether and being taken out of a particular job in the public service.

Mr Connolly: It is a pretty substantial distinction, Gary, either out the door or move to that office.

MR HUMPHRIES: Apparently they see some distinction in that. I do not see much of a distinction at all.

Mr Connolly: Yes, we do.

MR HUMPHRIES: The question needs to be asked, "Why was this person moved?".

Mr Kaine: Because he was incompatible.

MR HUMPHRIES: Because he was incompatible; because he had had a stoush with the then Deputy Chief Minister. The two men disliked each other intensely. As soon as that particular Deputy Chief Minister was elected he called this man in and said, "X, you are sacked".

Mr Speaker, the argument that we must not sack people because they are incompatible really does not carry much weight when you realise that those people who are espousing that argument are themselves the ones who have used that capacity. At least, Mr Speaker, in the circumstances which they often throw back, where Mr Bissett some time later was removed from office by the Alliance Government, there was a serious policy problem, namely, a blow-out in the budget of the Department of Health,

which gave rise, on the basis of a recommendation by Mr John Enfield, to that person's removal from that position. In the case of Mr Lyon there was no such recommendation. It was simply the fact that Mr Keith Lyon - I have already named him, I am sorry; I did not mean to, but I have done so anyway - was incompatible with the then Deputy Chief Minister. Those opposite here who expect us to wear the line, "We are concerned about public servants and we would not gang up on anybody because they are incompatible with us", expect us all to have very short memories, Mr Speaker.

Ms Follett: Mr Speaker - - -

MR SPEAKER: Do you want to make a personal explanation?

Ms Follett: I do not mind, Mr Speaker. Whatever standing order you will let me speak under I am prepared to have a go at.

MR SPEAKER: The fact is that you can speak a second time anyway. If the Chief Minister wishes to speak - - -

Ms Follett: Thank you; I will take it.

MR SPEAKER: Go on, if you wish to speak now.

MS FOLLETT (Leader of the Opposition) (11.49): Mr Speaker, I want to address the matter of Mr Keith Lyon which Mr Humphries has raised. The fact is that Mr Lyon is still a permanent public servant. In fact, I think he is a deputy secretary at Veterans' Affairs.

Mr Kaine: I raise a point of order, Mr Speaker. Again the Leader of the Opposition is taking a standing order 46 objection when the - - -

MR SPEAKER: No, she is using her second opportunity to speak.

Mr Kaine: The Leader of the Opposition is taking exceptions under standing order 46 when what she is complaining about has nothing to do with her. Mr Humphries did not say that the then Chief Minister fired this officer. She was not mentioned. So she has no grounds on which to make a personal explanation.

MR SPEAKER: She is not making a personal explanation, Mr Kaine. She is using - - -

Mr Kaine: Well, what else is she doing under standing order 46?

MS FOLLETT: Why don't you have a good fight?

Mr Berry: Change your medication. I would.

MR SPEAKER: Order! She is not taking a point of order or making a personal explanation under standing order 46. Ms Follett is exercising her right to speak a second time on this question. In fact, when she first stood, I invited the Chief Minister, if she wished to make a comment, to do so, so that Ms Follett could wrap the whole thing up when she closed the debate; but Ms Follett chose to stand and speak now.

MS FOLLETT: Thank you. I want to speak about the matter of Mr Keith Lyon, Mr Speaker, and I will speak a third, fourth or umpteenth time if it is going to keep causing brawls between the Liberals. We are enjoying it enormously.

MR SPEAKER: Relevance, Ms Follett.

MS FOLLETT: Mr Speaker, Mr Keith Lyon is still a permanent public servant and I believe he is a deputy secretary at Veterans' Affairs. The fact is that he was not appointed to a chief executive position by the first ACT Government - he was not - and those, Mr Speaker, are the only positions to which the Government appoints. We did not appoint him, nor did we sack him, as Mr Humphries asserted. Mr Lyon was then, and remains, a public servant. He was not sacked and his career most certainly was not terminated. If members opposite understood the first thing about their own legislation they would see that that is a very important point indeed. The fact of the matter is they neither know nor care about our public service at all. That is what we are seeing coming through in this legislation - - -

Mr Humphries: Mr Speaker, I take a point of order. To talk about what we do not know or do not care about goes well beyond any standing order.

MR SPEAKER: I uphold the point.

MR HUMPHRIES (Attorney-General): I seek leave, under standing order 47, to further explain my position, Mr Speaker. When the ACT was granted self-government it did not have its own public service. It inherited a public service - - -

Mr Connolly: Mr Speaker, this is a fatuous point of order. The phrase that someone "neither knows nor cares" is common in debate. Mr Humphries persists in interrupting the Leader of the Opposition as she speaks and he is now attempting to debate the merits of the case. He still seems to think the Leader of the Opposition is making a statement under standing order 47; whereas, as you have clearly ruled in response to the fatuous debate - - -

MR HUMPHRIES: No; I am making a statement under standing order 47.

Mr Connolly: Not in the middle of her speech, you do not. You wait until the break. Mr Speaker, can you control these fatuous points of order from the other side which are clearly delaying this debate?

MR SPEAKER: The question of who is delaying the debate, I think, is in itself debatable.

MR HUMPHRIES: Under standing order 47, Mr Speaker, I seek leave to make an explanation.

Mr Berry: No, you cannot interrupt debate.

MR SPEAKER: Ms Follett had finished her comments. Mr Humphries is making a statement under standing order 47. Proceed.

MR HUMPHRIES: Thank you, Mr Speaker. I think members opposite misunderstood the comments that I was making and therefore I am making this explanation. The fact is, Mr Speaker, that when the ACT obtained self-government it did not have a public service of its own, but it had agencies that were responsible for administering different parts of the ACT's - - -

Mr Moore: Come on! It is a second speech.

MR HUMPHRIES: No, I have explained what I said before.

Mr Berry: Mr Speaker, I take a point of order. If Mr Humphries wants to enter the debate in relation to this legislation he is quite entitled to do so under the standing orders. He is not entitled to enter the debate under standing order 47.

MR SPEAKER: Why not?

Ms Follett: Have a read of it.

Mr Hird: The rule of Wayne.

Mr Berry: No, read it.

MR SPEAKER: It says "misquoted or misunderstood".

Mr Berry: No, no, Mr Speaker - - -

Ms McRae: But he is debating.

MR SPEAKER: If he has not been misquoted, then presumably Mr Humphries believes he has been misunderstood.

Mr Berry: Mr Speaker, may I just point out to you that it says that "no debatable matter may be brought forward nor may any debate arise upon such explanation". It says "no debatable matter", and we are in the course of a debate about legislation. Take it easy!

MR SPEAKER: I believe that Mr Humphries claims to have been misunderstood, under standing order 47. Is that correct?

MR HUMPHRIES: Yes, it is.

Ms Follett: It is their legislation, Mr Speaker. Do they want to get on with it or not?

MR SPEAKER: I remind all members: If you want to get on with the debate, fine. Otherwise, we can sit here and go right through 275 standing orders.

MR HUMPHRIES: I will desist, Mr Speaker.

MRS CARNELL (Chief Minister) (11.55): May I speak on the amendment?

MR SPEAKER: You may. I would be delighted if somebody would.

Ms McRae: That would be novel.

MRS CARNELL: I know this is a novel approach in this debate. With regard to incompatibility, I think we should get back to the reality of the situation. We are talking about senior managers here. We are talking about people running multimillion dollar agencies and programs and so on. When you get a situation where your senior managers cannot work for their immediate superior you have a problem, not just with regard to contracts or to their future in the public service, but with regard to the provision of programs within the ACT. That has to be our bottom line.

This is an outcomes-based performance contract approach that we have taken in this legislation. If we get to a stage where, because of a breakdown in the relationship between two people, we cannot actually achieve what we, this whole Assembly, should be attempting to achieve for the people of Canberra, I believe we have to do something about it. That is what this amendment was to achieve. If you ended up with a situation where two people simply could not work together, where the relationship had broken down beyond help, then there needed to be a way out in that circumstance. This is not a Sunday school picnic here; this is a multimillion dollar operation. We have responsibilities to the people of Canberra to manage their money and their services appropriately, and we believe that is just part of this management.

MR CONNOLLY (11.57): Mr Speaker, Mrs Carnell has just sunk her own case in the only attempt to justify incompatibility. As opposed to Mr Humphries's diatribe, in which he accused the first Follett Government of sacking a public servant who was never appointed and was never sacked, Mrs Carnell seeks at least to return to the substance of the debate. Mr Speaker, we obviously are not convinced about this proposal to reform the public service. We opposed it in principle, and the Leader of the Opposition put forward some very substantial amendments which would have altered the whole thrust of the debate. They have been voted against by the house; so we are now in a context where people are accepting, or where this house has accepted, the premise of Mrs Carnell's reforms, which are, on her views, about a system which is being changed to make it more accountable, and more accountable against objective criteria.

We have heard lots about the need to have performance-based contracts. The principal difference that Mrs Carnell would strike between the availability of contract employment under the pre-existing Act and the new regime is that the new regime is based on performance contracts. The essence of performance contracts, which this house has voted in favour of, is that they are objective; that you can objectively measure whether a person performs or does not perform.

Mrs Carnell just painted a scenario where a relationship between a Minister and the permanent head has totally broken down and as a result, she said, nothing is getting done and things are falling apart. If that had happened, Mr Speaker, the agency head would be in breach of the objective performance aspects of his or her performance contract, and could be removed on that basis. A system of performance contracts, which this house has voted in favour of, objectively structured around performance outcomes that are expected - some of us have some doubts about how effectively that can be done, having sat on both sides of estimates committees over the years - is what you are saying you will achieve. You are saying you will have contracts with objective performance criteria set against each agency head. If the agency head fails to deliver against those objective criteria their position is in jeopardy, and that is what this house has clearly voted for.

What the Leader of the Opposition is saying is that you are now adding to that this dangerously subjective element of incompatibility. Mrs Carnell paints the scenario of the person who is failing to perform against their performance contract, and you can deal with that person without incompatibility. The only reason you need incompatibility is if you do not like the person's political background, or, as the very senior public servant said in his Garran Oration the other day, "If you do not like the way they part their hair".

Mr Speaker, members who are convinced of the Government's reform package, who support a reform package that is based, as the Chief Minister says, on accountability and on performance against identified criteria, should support the Leader of the Opposition's amendment, because it removes the subjective element. We have heard absolutely no defence as to why a subjective basis of incompatibility is needed. We have heard a diatribe from Mr Humphries which leads us to suspect that what is really behind incompatibility is a desire on the part of some members of the Liberal Party to square up over old grievances. They clearly think they had some grievance back in 1989.

Mr Speaker, those members who support the reform package of the Chief Minister - we have grave doubts about it - should support this amendment, because it is consistent with at least the rhetoric of Mrs Carnell's package. This provision, if it remains, means that the rhetoric of Mrs Carnell's package is really a disguise for a blatant politicisation of the public service by allowing the permanent head not to be measured against objective criteria but to be able to be dismissed at the whim of a Minister. The Minister simply has to say, "I find you incompatible". It is a dangerous, subjective element which subverts the stated aims of this reform package.

MR MOORE (12.01): Mr Speaker, I have listened with interest to the argument and I spoke for some time with the Chief Minister's chief executive officer, Mr Walker, about this issue. I listened to the arguments presented, saying this is the sort of thing that happens and therefore it is an open way of dealing with something that already happens. The major difference, I think, is highlighted by the example of Mr Lyon. On the one hand, where somebody is incompatible they are dealt with in the way Mr Lyon was dealt with. He was effectively transferred from one spot to another. His salary package still came in. It was not a matter of questioning his competence.

The argument that was put to me is that the advantage of having the ground of incompatibility is that it means that the person who loses their position is not questioned in terms of their competence. It is a question of saying this was just an incompatibility, not a question of the person's competence. Therefore, even though they are not working for the Minister any more, their chances of getting a further job would be increased. Without this amendment moved by Ms Follett, effectively, somebody would create a situation where somebody is made to look incompetent so that they can then be removed.

Mr Speaker, having listened to the arguments, I find the Government's arguments unconvincing. I believe it is appropriate that the ground of incompatibility not be included in this legislation. In other words, I support the amendment that has been put forward by Ms Follett. I presume it will be followed by her amendment No. 4, which is a similar amendment to the legislation.

MR HUMPHRIES (Attorney-General) (12.04): I realise, Mr Speaker, that the legislation will be amended in this way, but I would pose one question. It is true that in a circumstance where someone can be taken back to the Commonwealth the problem is not so severe, but what happens when there is incompatibility of the kind that a government just cannot live with, be it a Labor government or a Liberal government? What do they do? Do they find a special job for this person somewhere else and send them away? I think we are turning a blind eye to the reality of the situation. I simply say that governments will have to find ways of dealing with the situation. They always have. This will be done behind closed doors and will be less than open because of not having this kind of capacity within the legislation. So be it. It will still happen. It will just happen in a way which is less open to the public.

MR WHITECROSS (12.05): Mr Speaker, Mr Humphries's little speech just then ought to be a cause of some alarm to members and the community. What Mrs Carnell was describing is an outcomes oriented, performance-based contract system. Mr Humphries is saying he will find a way of subverting it to get rid of someone he thinks is incompatible with him. Never mind whether they are performing, never mind whether they are meeting the outcomes; Mr Humphries is saying, "If we do not like them, if they are incompatible, I will find a way of getting rid of them anyway". That is something that we should be very concerned about because Mr Humphries is saying that he is going to subvert the whole purpose that this is covering.

That is not surprising, coming from Mr Humphries, Mr Speaker, because the whole ground of incompatibility is the move-on power of the Public Sector Management Act. Mr Speaker, before they have failed to do their job, before they have actually committed a crime - to use the parallel of the move-on power - Mr Humphries will come in and say, "Look at this person. He is actually performing his job, but I suspect that he is not going to perform his job due to an incompatibility, and therefore I am going to sack him". In the same way as Mr Humphries, in his past life, felt it appropriate that you should be able to harass people who were not doing anything wrong because you thought that maybe they would, he is now arguing that someone who is performing their job, who has signed an outcomes oriented performance contract of the kind described by Mrs Carnell - - -

Mr Humphries: I take a point of order, Mr Speaker.

MR WHITECROSS: Another point of order.

Mr Connolly: "Oh, another Opposition member is speaking; we had better interrupt them".

MR SPEAKER: Order!

Mr Humphries: I think Mr Whitecross has made some sort of inference - I am not sure what he is referring to - about me harassing people. I would ask that he be asked to withdraw any imputations.

Members interjected.

MR SPEAKER: Settle down.

Mr Connolly: I take a point of order. If Mr Humphries does not know what Mr Whitecross is talking about, how can he possibly take a point of order about the remarks?

Mr Humphries: It is still an imputation.

Mr Connolly: He does not understand the remarks; yet he asks that they be withdrawn.

Mr Humphries: There is still an imputation, whether I understand it or not.

MR SPEAKER: If there were any imputations, would you withdraw them, Mr Whitecross.

MR WHITECROSS: Mr Speaker, on the point of order, may I make two points? One, I was not making an imputation about Mr Humphries harassing people; and, two, I think Mr Humphries is really stretching the bounds of proper process in this place by keeping on taking points of order while Opposition members are speaking, in order to interrupt our speeches. He ought to be encouraged to treat the Opposition with a bit more respect.

MR SPEAKER: If you people wish to waste time all day, it does not fuss me in the least, but I suggest that there are other members in this place who would like to get on with the legislation.

Mr Humphries: Mr Speaker, it has always been proper to take a point of order on inferences at the time the remark is made, not at the end of a speech, and I would ask him to withdraw.

MR SPEAKER: I uphold the point of order. If there was any imputation, would you mind withdrawing it, Mr Whitecross, and get on with the debate.

MR WHITECROSS: Mr Speaker, I have already indicated that there was never any imputation that Mr Humphries was harassing anybody.

MR SPEAKER: Thank you. That is fine. Continue, Mr Whitecross.

MR WHITECROSS: If he had been listening he would have heard that. Mr Speaker, the point I was making is this: Mr Moore has correctly summed up this situation. Mrs Carnell says that what we are introducing here today, against some severe reservations on the part of the Labor Party, is an outcomes-based performance type of contract; yet we are being told that the argument in favour of an incompatibility clause gets around the need to sack anyone for actually failing in their performance. Instead, you just fall back on the ground of incompatibility because in that way you will not have to besmirch their good character by suggesting they have not been doing their job. This is a total undermining of the whole purpose of the legislation.

The Government is arguing that this is going to produce a new regime where what people are required to do will be clearly set out on a piece of paper and everyone will know where they stand. Let them stand and fall on the basis of those contracts. Let us not get into these other sorts of subjective criteria which are going to be used to get around the plain words of the contract. That is what this is about. If the relationship breaks down and if, as a result of the relationship breaking down, the officer is not performing against the contract, let them take action then. If the relationship is a bit prickly but the officer is doing the job, why should they be subject to a termination of their contract? That is what this is all about. We will be watching with interest Mr Humphries's performance on this, given his avowed intention to find ways of getting around our removal of this ground.

MS TUCKER (12.10): I heard Mr Humphries say earlier that Labor was just espousing noble sentiments, but that they were not worthy of being listened to because of their taking what he perceived to be inappropriate action themselves when they were in government. I listened very carefully to the concerns that Ms Follett raised and I have not heard them really successfully argued from the Government.

It seems to me that there is something very fundamental about the public sector that is being challenged by this particular part of the legislation, because who is going to want to be purchasing bad news? It is quite likely that a person who is under a contract to provide certain outcomes is going to be hesitant about accepting things that will not make their performance look good. If we are going to have contracts down through the service into the Senior Executive Service as well, which it seems we are going to have, and as well as that you have this incompatibility clause, I cannot see that the public can have confidence in the public sector at all. It is already being undermined, in our view, by this increase in contracting out. For that reason, we will very definitely be supporting this amendment by Ms Follett, and I encourage other members to do so.

Amendment agreed to.

MS FOLLETT (Leader of the Opposition) (12.12): Mr Speaker, I move amendment No. 2 which has been circulated in my name on the pink sheet. It reads:

> Page 5, line 19, after proposed section 28A insert the following section:
>
> **"Effect of contracts on responsibilities of Ministers**
>
> "28AB. Nothing in a contract under section 28 shall be taken to derogate in any way from the responsibility of the Minister administering an administrative unit for -
>
> (a) the policies developed or applied by the administrative unit; or
>
> (b) the financial and other performance of the administrative unit.".

This is an amendment that also was canvassed in the Public Accounts Committee's report on the Government's legislation. The effect of this amendment is to ensure that the buck stops with the Minister; that, in the Government's haste to put their chief executive officers on performance contracts, they are not allowed the luxury of then blaming those chief executive officers for anything that goes wrong, or holding those chief executive officers responsible for performance, when it ought to be the Minister who is held responsible for performance.

I think this is a commonsense precaution that the Assembly ought to be taking to make it very clear that the Minister is the person responsible and accountable for what occurs within their portfolio. I do not believe that this weakens in any way the effect of performance contracts, if that is what the Government wants to have; but it seems to me necessary, with this Government, to ensure that Ministers do retain their proper role under a parliamentary system, and that role encompasses full accountability and responsibility.

It has been the case over and over, since Mrs Carnell came to government, that this Government has tried to palm off responsibility for any number of actions to other people or other organisations. Mr Speaker, we have seen that occur time and time again. It has been made very clear that Ministers are trying to duck their responsibility. Half the time they blame the previous Government; they blame the current Opposition; they blame some group or some administrative entity for matters that - - -

Mr Connolly: Or Paul Osborne for sacking the doctors.

MS FOLLETT: Or they blame Mr Osborne, indeed, for their own decisions in relation to health care centres. It seems to me that this amendment is necessary, Mr Speaker, in order to ensure that under the contract arrangements, which the Assembly has now voted on and I accept will be occurring, Ministers do accept the proper and accountable role that a parliamentary system imposes on them. I commend this amendment to the Assembly.

MR MOORE (12.15): Mr Speaker, I think this amendment is probably redundant, as I think that ministerial responsibility does apply; but it does have the advantage that it makes very clear exactly where the buck stops. For that reason, I will be supporting it. There will be no doubt in the minds of people who look at that legislation that it is Ministers who ought to be held responsible. If they delegate their powers, that is their prerogative; but they still wear the responsibility. I think that is the effect of the amendment. As I say, I think it probably is redundant; nevertheless, it has the advantage that it does make very clear exactly where that responsibility lies.

MRS CARNELL (Chief Minister) (12.15): The Government will not be opposing this amendment, although section 29 of the Public Sector Management Act says:

> A Chief Executive, ... shall, in relation to each administrative unit under his or her control -
>
> (a) be responsible, under the relevant Minister, for its administration and its business;
>
> ... ...

That is already in there. I do not think the amendment is necessary, but we have no problem with restating something that we support.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 8

MS TUCKER (12.16): Mr Speaker, I move my amendment No. 1, which is No. 3 on the pink sheet. It reads:

> Page 7, line 8, after proposed new section 31, insert the following section:
>
> **"Tabling of contracts and variations of contracts**
>
> '31A. The Chief Minister shall cause a copy of -
>
> (a) each contract made under section 28 or 30; and
>
> (b) each instrument by which such a contract is varied;
>
> to be laid before the Legislative Assembly within 6 sitting days after the day on which the contract or variation is made.'.".

Mr Speaker, I urge members to give serious consideration to this amendment, which calls on the Minister or Chief Minister to table the contracts that set out the priorities and performance objectives of the executives or chief executives in question. The rationale for these contracts from the Government is increased accountability and transparency. I do not see how increased transparency can be achieved if these contracts are kept a secret. Open and accountable government means that the actions of our senior managers, who implement many government decisions, must be open and accountable. We are not asking for these contracts to be disallowable, or for individual executives or contracts to be scrutinised prior to finalisation of the details. What we are asking is that, once these contracts are signed and sealed, they be made public.

Members of this place have already expressed concern about the difficulties in specifically defining exactly what we want to produce. I believe that this provides an even stronger case for public scrutiny of these contracts. We were also told by Mr Walker that these contracts might provide details of the subsidies or cross-subsidies that may be involved in producing any given output. Is this not important public information? If we are letting our managers manage, should we not have the details of how they are being asked to manage - not only the specific outputs but also the managerial responsibilities? In the New Zealand public service most contracts are accessible under the Official Information Act, and the purchase agreement between Ministers and a chief executive is available to parliament for scrutiny.

We are also told that part of the contract specification will be to provide frank and fearless advice. Well, let us see. How is the Assembly to judge the performance of an executive if we do not know what they have been contracted to do in the first place? The Government is asking the executives to implement its reforms from the top and is entering into contracts with individual executives to deliver these reforms. Yet, it is saying it will not give us details of the specific tasks that individual executives are being asked to perform. The specific tasks will not necessarily be part of a pro-forma contract, which is likely to be vague. The Assembly must be able to scrutinise individual agreements.

MR MOORE (12.19): Mr Speaker, this is an issue that I must say I have been wrestling with for some time. My mind has been oscillating as to which way I would go. On the surface of it, the proposed amendment put by Ms Tucker appears to me to make good sense.

When I raised the matter with the officers that the Chief Minister made available to me for briefing, the argument that they put was that if individual contracts were publicly available, rather than a contract pro-forma, what would tend to happen is that, rather than the specifics being put in them, they would tend to have much more loose descriptions, so it would be more difficult for people to be held accountable by the Assembly for the contract. In other words, it would be the Assembly holding the public servant accountable rather than holding the Minister accountable. That was the argument put and that has carried quite some weight with me because, in one sense at least, this is inconsistent with the amendment that we have just passed. I say "in one sense" because on this issue I am balanced in a fine way as to how I should go with this decision.

I having spoken to those members of Mrs Carnell's department, she, in turn, wrote to me and said, "Well, there is a method we can use to make these things available should the necessity arise". I will seek to table her letter in a minute, Mr Speaker. The Chief Minister wrote:

> In balancing these several interests I have directed that the following procedures be adopted in the ACT Public Service and that they be included in the *Executive Handbook*, which will be published once the result of the Assembly's deliberations on the Bill is known. These procedures are:
>
> . the Commissioner for Public Administration will keep copies of all current executive contracts;
>
> . if an Assembly Member requests access to a contract, in whole or in part, the Commissioner will decide whether it would be unreasonable to withhold access to the contract, having regard to
>
> - the reasons given for seeking access
>
> - the wishes of the executive to whom the contract relates
>
> - any other relevant policy consideration;
>
> . if the Member is not satisfied by the Commissioner's decision, the Commissioner will, at the request of the Member, treat the request as a formal request under the *Freedom of Information Act ...* ;
>
> - any applicable fees under that Act will be waived and the request expedited, as the full period usually required to locate and consider documents will not be needed in that instance;
>
> . if the Member is not satisfied with the formal decision under the FOI Act, the usual appeal rights to the Administrative Appeals Tribunal will be available.

Of course, members also have the ability to come into the Assembly and effectively alter the legislation. Mr Speaker, I seek leave to table that letter.

Leave granted.

MR MOORE: Thank you, members. Mr Speaker, although this has been a difficult decision, I am inclined, at this stage, to go with the Government, while keeping that letter as part of the reassurance that there will be openness in the system. I must say that I do so with a great deal of reservation. It may well be, Mr Speaker, that this matter needs to be revisited if the amendment is lost. It may even be, Mr Speaker, as my decision is so finely balanced, that the arguments put in the Assembly today make me change my mind. At this point I am inclined to go with the arguments put by the Chief Minister.

MS FOLLETT (Leader of the Opposition) (12.23): Mr Speaker, Ms Tucker's amendment will be supported by Labor. Indeed, it mirrors an amendment which I had had drafted on this exact topic. One of the greatest difficulties that I have had with the notion of compulsory contract employment for chief executives and the SES, Mr Speaker, has been the secrecy that has surrounded the nature of the contracts that would be made. I have to admit that I believe that that secrecy is totally inappropriate.

At present, Mr Speaker, there is a large level of transparency and accountability in the employment arrangements for chief executives, and that is who we are dealing with here. For instance, their remuneration is set by the Remuneration Tribunal and the determinations made are a matter of public record. Also, Mr Speaker, because they are employed under the Public Sector Management Act or other legislation, their conditions, or the terms on which they are employed, are also available for anybody to scrutinise. The Assembly has taken the decision to move to compulsory contracts; so the nature of the employment basis of those people has changed very markedly, in my view. I no longer regard them as public servants. I now regard them as contractors to the Government.

Mr Speaker, in the case of any other contractor to the Government, the fact of the matter is that this Assembly is able to scrutinise, to a large degree, everything to do with the arrangements. For example, the consultants and contractors are regularly reported in the annual report. Those matters are available for scrutiny by the Estimates Committee. The terms of reference for contractors and consultants can be asked for, and are often asked for.

Mr Speaker, it seems to me that what Mrs Carnell, through her letter to Mr Moore, is offering is a very much lower level of scrutiny. I have not seen the letter yet, and I will be looking at it. From the reading of it by Mr Moore, it seemed to me that there was, clearly, insufficient scrutiny of these contracts available. It is not good enough, Mr Speaker, for this Assembly and the Canberra community to be subject to the behind closed doors decision-making of the Public Service Commissioner, I believe it was, as to these contracts, and/or if the commissioner will not make material available, I believe I heard that we would then be able to move under the FOI Act.

If the Government really wanted to guard the credibility and the reputation of its chief executives, it would be much more interested in a higher level of transparency than that. It seems quite obvious that the Public Service Commissioner could refuse access to a document and then access under FOI would be refused as well. There is absolutely nothing to prevent that from happening. Mr Speaker, we have heard before from this Government that documents were commercial-in-confidence - for instance, the VMO contracts, try as we might. We tried to get individual VMO contracts under the scrutiny of this Assembly. We have asked for other contracts as well, only to be told they were commercial-in-confidence. I have no doubt whatsoever that that is the answer you would get under FOI as well. So, Mr Speaker, I do not think that the provisions outlined in the letter to Mr Moore are adequate.

It is my view that the secrecy surrounding these contracts not only does the community and this Assembly out of information which ought to be public, but also brings the whole chief executive status and structure under a level of scrutiny that I do not think they ought to be under. There is a secrecy around all of their employment provisions that I believe is inappropriate.

Mr Speaker, I have said before that I do not believe that people should join the public service or continue in the public service just for the money, and I still hold to those principles. I do commend Ms Tucker's amendment to the Assembly because I think it does inject into this matter an appropriate level of transparency which is not subject to decision-making by any other body except this parliament, and I think that is the way it ought to be.

MR KAINE (12.29): Mr Speaker, the Public Accounts Committee examined this matter and members will recall that I attached a dissenting report to the report that came back to the Assembly. This was one of the three matters with which I noted that I had some sympathy. I quote from my dissenting report:

> I am not convinced that details of contracts between public officials and the Government should be confidential. I heard no evidence that would change my opinion. I therefore support, in principle, the content of Part 7 of the Report.

And I do; but I think that what is before us here for consideration today is overkill. When the first draft of the report came to the committee the words "secret" and "secrecy" were scattered through it like pepper and salt. I took exception to that, and the chair of the committee removed them and used the proper words, "confidential" and "confidentiality". I do not believe that there is any attempt at secrecy, but I believe that senior officers of our ACT Government Service are entitled to some degree of confidentiality in terms of their private affairs. What we have here is, I believe, overkill.

Information about the conditions under which senior officers of our public service are employed ought to be available in the public interest, but I think the words that we should keep in mind are "in the public interest". That does not mean that every contract should be published on the front page of the *Canberra Times*, any more than every other contract let by the Government should appear on the front page of the *Canberra Times*. There is a certain confidentiality about many contracts that the Government enters into. Many of our commercial contracts for services and for work to be done for the Government have a certain confidentiality about them, and we all recognise and understand that. We accept the term "in confidence". We accept the term "commercial-in-confidence". I think that even in connection with the contracts of private individuals who are employees of the ACT Government there is a sense in which there ought to be an element of protection for them.

I believe that there are other arrangements that could be set up, and I understand that the Chief Minister is prepared to set them up, whereby when somebody has a good reason, in the public interest, to have access to a particular contract they may have it; but it is a very long way from that to publishing every one of them and tabling them on the floor of the house within six days of their being written, and I believe it is more appropriate.

It is very interesting. Members of this place have to make a statement about their interests. That is not tabled in the house and published. It is properly held to have some degree of confidentiality. People who, in the public interest, need access to it can get it. I do not believe that that statement that we make, and which you, Mr Speaker, hold in a certain confidential way and people have a look at only when they have good reason to, is in any way different from the nature of a contract between a senior employee of the public service and the Government. It is no different whatsoever. I can conceive of the Chief Minister setting up an arrangement similar to that which applies to the statements of interest that we submit to you, Mr Speaker. That would give adequate access to those who need it and would not impose an undue obligation on either the Government or the individual concerned. Mr Speaker, I said that I had some sympathy, in principle, with the notion that there should not be undue confidentiality imposed on contracts of this kind. I still believe that; but, I repeat, this is overkill and I do not support it.

MRS CARNELL (Chief Minister) (12.33): I think that one of the most telling things that have been said in this debate was said by Ms Tucker when she suggested that senior executives and agency heads were responsible to this Assembly. That is simply not right. The Government is responsible to the Assembly. We are accountable to the Assembly and to the people of Canberra. We must not end up with a situation where senior managers are responsible to this Assembly for their performance, rather than to their Minister.

The last amendment that we supported being passed was about exactly that - that Ministers are responsible. They must be, under our form of government. By passing this amendment we would end up with senior managers, SES officers and agency heads being responsible and being accountable directly to this Assembly, which is totally contrary to our current form of government. It is the Minister who is responsible if things do not go right, or if the Assembly is unhappy with the Minister's performance or the outcomes that are being achieved, not the senior manager.

It is the performance part of the contracts that is the concern, not the financial part, because the financial part will be determined by the Remuneration Tribunal, as always. The determinations of the Remuneration Tribunal will be public. It is the performance-based part that is of concern to me. We do not want a situation where a Minister and an agency head, or an agency head and their senior managers, have a set of performance-based criteria which says, "We will achieve this by this date, and this by this date, and this by this date", and then have that used politically in this place. People have the performance contracts and are told, "Well, you managed this one, this one and this one, but you did not manage this one. The Minister is responsible for that". The fact that you might have - - -

Mr Connolly: That is what happens at the Estimates Committee every year, Kate, in every program.

MRS CARNELL: Who is the primary witness at the Estimates Committee? The Minister. It is the Minister who is the - - -

Mr Connolly: No. The Estimates Committee is the opportunity to ask the agency heads direct questions.

MRS CARNELL: That is right, but the Minister is the person who is the primary witness. The Minister is there with the agency people, not the other way round. They are not responsible to the Assembly; the Minister is. That is the way that this Government has always worked. We must not end up - - -

Mr Humphries: The way all governments have worked.

MRS CARNELL: All governments. We must not end up with a situation where those sorts of performance contracts are used not for management outcomes, not for good outcomes for the people of the ACT, but for political purposes in this house. They would be, as sure as night follows day. We would see situations where senior executives may have done better in a few areas and not as well in others. That means that a Minister or a chief executive would sit down with that person and determine how to do better in those areas. That is good management. That is how contracts are used. That is the approach that I would take, and so would my Ministers. We do not want a situation where that sort of debate is held on the floor of this Assembly, because it is simply not fair to the people involved. It is fine to take the Minister on if he or she does not perform; that is the basis of government. But it is not fine to take senior managers on, on the floor of this Assembly or on the front page of the *Canberra Times*, for their performance.

Therefore, I believe that the approach that we have taken in response to Michael Moore's concerns, which allows members of this Assembly to see contracts, if they have a good reason for doing so - - -

Mr Connolly: And what is a good reason?

MRS CARNELL: That would depend on which bits they wanted to see, I suppose. Just as our expressions of financial interests do, this will allow people who have a good reason to have a look at them. They will not be tabled in the Assembly, and they will not end up on the front page of the *Canberra Times*, but people will be allowed to see them if there is a good reason to do so. It then backs that up with FOI legislation and the AAT, if necessary, just to make sure. Just as people who ask to have a look at the financial interest statements of members of this Assembly, when they have a good reason, are rarely, if ever, knocked back, to my knowledge - - -

Ms Follett: They do not have to go to FOI, do they? No.

MRS CARNELL: If they were knocked back, if they did not have a good reason, in the view of the Speaker - - -

Ms Follett: You do not need a good reason.

MRS CARNELL: You do need a good reason. I am sorry; you need a good reason to have a look at the financial statements.

Mr Connolly: Research and public interest.

MRS CARNELL: But you need to have a good reason. I believe the approach that we have taken allows the accountability necessary for these contracts, but does not go overboard and does not start creating a chain of responsibility that cannot exist when we have just passed the previous amendment whereby it is the Minister who is responsible and the Government that is responsible for the performance of the Government, not senior managers. I think this is a very important point. Ms Tucker seemed to believe, in her statements, that it was the senior managers who were responsible directly to the Assembly. That is simply not the case. It is the Minister, and it must stay that way.

Debate interrupted.

Sitting suspended from 12.39 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Government Service - Part-time Employment

MS FOLLETT: I have a question for Mrs Carnell, the Chief Minister. This morning in the debate on the Public Sector Management (Amendment) Bill you said that an executive contract could provide for part-time employment, but the explanatory memorandum to the Public Sector Management (Amendment) Bill says:

> Proposed section 59A defines "an office" in Division 2 of Part IV to exclude an office of Chief Executive and Executive, thereby excluding these executive positions from provisions dealing with part-time offices. This is because all executive jobs will be full-time.

I ask Mrs Carnell: Could you advise the Assembly whether the explanatory memorandum to the Bill is wrong or whether you were wrong this morning; or is this another case where, as usual, the Government has no idea what its policy is?

MRS CARNELL: The position that I stated this morning is absolutely correct. As under Ms Follett, all of our senior executive people are full time. There was a capacity under the previous Government for SES officers to be part time, but I understand that that was rarely, if ever, taken up. It means that in any contract we can stipulate how many hours the person has to work. That is our intention. In any contractual arrangement, there is a capacity to set the conditions of that contract. Therefore, if there is a situation in the future - unlike in the past where there have been very few circumstances where that may have happened - then there is a capacity under a contractual arrangement for the number of hours to be set. Removing from the Act the capacity for part-time employment as such in no way precludes our setting the number of hours that are appropriate in a contract.

MS FOLLETT: It says "all executive jobs will be full-time". Mr Speaker, I do have a supplementary question. You might want to examine the implications of explanatory memorandums that are clearly wrong. I ask Mrs Carnell: Given the very low representation of women at the senior levels of government everywhere - and this was particularly pointed out at a conference yesterday on women in the Australian Public Service - will you guarantee that part-time employment will be an option for executives in the ACT public service in the future?

MRS CARNELL: We will be very keen for women to seek, on a merit selection basis, all positions in the SES.

Ms Follett: "Part-time employment", I said. This is outrageous!

Government Service - Executive Development Program

MR KAINE: If the Leader of the Opposition is quite finished with her fourth supplementary question; through you, Mr Speaker, I ask a question of the Chief Minister. In October you signed an agreement between the ACT Government and the Australian National University for an executive development program. Can you advise us when this program will get under way and how it will benefit the ACT public service?

MRS CARNELL: Thank you very much, Mr Kaine, for this question, because it allows me to focus, for a change, on the many initiatives that this Government is undertaking to support the ACT public service. While debate has raged about contracts and salary packages, we have been quietly getting on with the job of enhancing opportunities for our public servants - opportunities and expertise that have been welcomed by all executives in the ACT public service.

The Government has agreed to sponsor a visiting professorial appointment to the ANU's master of business administration program for three years. We have also agreed to provide an annual scholarship for a senior executive from the ACT public service to undertake full-time study in the MBA program. From July next year, we will have a leading academic working at the ANU for three years, targeting disciplines of importance to the future of our public service. The successful applicant will undertake a major research project of strategic importance to the public sector, as well as providing research papers and seminars for public service staff. This will link in with our overall reform agenda and demonstrates our strong commitment to developing a higher quality public service.

I am pleased to report, too, that applications for the first ACT public service MBA scholarship will be called early in 1996. This will provide a unique opportunity for one SES officer each year to help broaden and refine their business and management skills. The successful officer will have the chance to go off line for up to 12 months to undertake study that is relevant both to the Executive and to the public service.

These developments are worth noting, for three reasons. First, they provide great examples of the close working relationships that are beginning to develop between the ACT public service and the ANU. Second, they show that this Government is serious about giving ACT public servants every opportunity to develop their skills in the national capital. Third, this agreement is proof that our approach to public sector management is the most comprehensive of any government. That means that our approach - - -

Mr Berry: On a point of order, Mr Speaker: I draw your attention to standing order 118, which goes to the issue of brevity. I ask you to draw Mrs Carnell's attention to the requirement to be concise.

MRS CARNELL: Mr Speaker, this has not been a long response, but I am very happy to finish.

MR SPEAKER: It is confined to the subject matter of the question. It has to be concise. I have been listening to the answer, and, as far as I am concerned, there has not been any straying from the issue. Continue, Mrs Carnell.

MRS CARNELL: We believe that this approach, in encouraging excellence in our public service, will ensure that in the future the ACT public service is no longer the poor cousin of the Federal Public Service; it will be the other way round.

Kippax Health Centre

MR CONNOLLY: My question is directed to Mrs Carnell as Minister for Health and Community Care. In view of public pressure, will you now give an assurance to this house that no action will be taken by your Government to sell the Kippax Health Centre?

MRS CARNELL: Public pressure is a very interesting thing; and mounting public pressure has certainly not been the case with regard to the Kippax Health Centre. There have been a lot of people who have said that they want health services to stay at Kippax; there is no doubt about that. Health services will stay at Kippax; there is no doubt about that. There will be an ongoing health centre at Kippax, and the Government will do everything in its power to ensure that that is the case.

MR CONNOLLY: I have a supplementary question, Mr Speaker. I take that to be a no, you will not assure the house; and yes, you will sell it.

Mr De Domenico: It was yes; positive. Health services will continue in Kippax. Listen intently.

MR CONNOLLY: I asked the question: Will you give us an assurance that you will not sell the health centre? I got no assurance. Will you answer my supplementary question?

MRS CARNELL: The ACT Government will ensure that the Kippax Health Centre is used to maximum potential. That means that we are looking at all of the appropriate options. One of the things that we will not be doing is leaving a half or three-quarters empty health centre to decay and end up with fewer and fewer people in it, as occurred under the previous Government. As we know, a number of doctors actually left the health centre last year, because they could not get a lease under the previous Government. That will not be the case. In whatever approach we take with the health centre, we will ensure that that approach will encompass getting the health centre full again, getting services back into the Kippax Health Centre and not ending up with a half empty establishment.

Birrigai - Education Programs

MS TUCKER: My question is directed to Mr Stefaniak, the Minister for Education and Training. Can the Minister guarantee that the Government will not make any changes to the education programs at Birrigai? If not, what changes does he envisage?

Ms McRae: Nobody can afford to go there.

MR STEFANIAK: Contrary to some of the catcalls from opposite, a hell of a lot of people can afford to go there. In fact, 4,623 places for 87 schools have been confirmed for 1996.

Mr De Domenico: How many?

MR STEFANIAK: I will read that out again, Mr De Domenico. There are 4,623 places for 87 schools. At this stage, there are only nine days left in 1996 for education program bookings. People had better hurry up. As Ms Tucker should know, the Government has a duty to the community in terms of properly managing the Birrigai centre. Accordingly, we are looking at more efficient ways of managing it. It is not terribly efficient to manage a centre where you have two lots of cooks and in a support role a lot of additional staff that you do not necessarily need. The Government is looking at ways of doing that better, including tendering out the management of the centre.

The education programs have been written into any tender documents, and it is most important that they remain. The education programs will be conducted by the schools and, already, as I indicated earlier, we do have virtually all those places taken. Ms Tucker, if you know of any other schools or students who are interested in getting involved, there are only nine days left for next year.

MS TUCKER: I have a supplementary question, Mr Speaker. My question was: Will you be making any changes to the education programs at Birrigai? You have implied that there will not be. I refer to a letter to Mr Haggar from the Department of Education and Training, which says:

> Under the restructuring proposal the department envisages that the Level 1 positions would remain but that the Level 2 position may no longer be required under the new restructuring. It would be likely that the Level 2 position would be transferred to a school location.

It also seems that the schools assistant and the bursar will be removed. How can the Minister claim to know that the education programs will stay intact and not be changed in any way?

Mr Osborne: That is a good question.

MR STEFANIAK: No; it is not such a good question. What you are probably looking at there, Ms Tucker, is things that are somewhat peripheral to the education programs. The education programs are the programs delivered to all those students. It is not envisaged that those programs will be changed. As you know, that has been written into whatever happens to Birrigai next year.

Birrigai - Increased Fees

MR OSBORNE: My question, which is also directed to the Minister for Education and Training, Mr Stefaniak, is on the same issue. In relation to your recent announcement of some very drastic fee increases and the calling for management tenders at Birrigai, I ask: How did you evaluate and reject the proposal put forward by the staff currently managing the facility for the Government, which highlighted considerable savings and streamlining of the management facilities there?

MR STEFANIAK: If anything was rejected there, it probably was because it did not match up at this stage with what we might be able to get. As I said to Ms Tucker, this Government does have a duty to manage the centre as efficiently as possible. We also realise that we have a duty to provide those education programs, which we will do.

Those fee increases have not affected all those schools and all those students who are keen to utilise the centre next year. The recreation fees charged by the centre are still considerably cheaper than those charged by Warrambui.

Mr Wood: What about the Hyatt?

MR STEFANIAK: Heaps cheaper than the Hyatt, Mr Wood. At Warrambui, the charge is $13 a night for both adults and children. That is for the recreational side of the facility. From what we have seen to date, I do not think anyone has any problem whatsoever with the increases, which are most reasonable, sensible and realistic fee increases.

Mr Humphries: Can I go there, too?

MR STEFANIAK: You can.

MR OSBORNE: I have a supplementary question, Mr Speaker. Minister, would you explain how the tender process for the management of Birrigai is going to be evaluated? What safeguards are going to be put in place to prevent the proposed new managers from increasing the fees even further?

MR STEFANIAK: I take it that your supplementary question is in relation to the tender. The provision that has been put in place in relation to the education programs includes fees for - if I recall it - two, three and five nights' accommodation for students. Set fees are there. They were detailed in the tender. If there is a successful person or body for the tender, those fees have to be honoured.

Government Service - Enterprise Bargaining

MR BERRY: My question, which is directed to the Minister for Industrial Relations, is in relation to the recent debacle on industrial relations in the ACT and, in particular, in relation to Mr De Domenico's disappearing act in the latter stages of the dispute. Would you tell us why you were sidelined, or sat in the back seat, during the negotiations to resolve the threat of a Government lockout of its staff? Tell us why you were sidelined; why you sat in the back seat; why you were pushed aside when it was clearly shown that you were out of control.

MR DE DOMENICO: I welcome the question from the future, hopefully, Leader of the Opposition, Mr Berry, who would be the longest serving Leader of the Opposition this world has seen, I have to say. Contrary to Mr Berry's outmoded, out of touch, irrelevant comments about this issue - and he needs to go no further than to the Trades and Labour Council to see what they think of him as well - I was not set aside, sidelined or whatever. Mrs Carnell and I have said from the outset that we will intervene when and if it is required. For Mr Berry's edification, the Government has been involved in negotiations with the Trades and Labour Council since 22 August.

Ms Follett: It has been going well, has it not, especially when you threatened to lock them out?

MR DE DOMENICO: Ms Follett interjects. Yes, the Government is going well. I will read to you the statement of Mr Pyner, if you like. He said that he thought that the discussions with the Government yesterday were a small but significant breakthrough.

The other thing that needs to be said is about the former Government, this lot opposite over there. Do you know how long it took them to negotiate their enterprise agreement? It took 18 months to negotiate their agreement. The hide of the man to come in here and say that I or anybody else was sidelined! They left you in droves, mate; they would not even look at you because they knew that, whatever they wanted, you gave them.

This Government is different. This Government will take a rational approach to industrial relations. This Government will sit down and negotiate a proper enterprise bargaining agreement with the Trades and Labour Council. We will ensure that the interests of the people of the ACT and the integrity of the budget which was passed by this Assembly are also protected at the same time. No, the Minister was not sidelined; the Government was not sidelined. I know that it hurts the members opposite to have to listen to this, but commonsense and flexibility will always get the job done.

MR BERRY: I have a supplementary question, Mr Speaker. Noting the local Liberals' policy of confrontation with the unions and the lockout threats, which quite clearly demonstrate the Liberals' philosophy on industrial relations in the ACT, and considering John Howard's policy - - -

Mr Kaine: On a point of order, Mr Speaker: I am pretty familiar with the Liberal Party policy; I have read it. It does not mention lockouts anywhere.

MR BERRY: And considering John Howard's intention to not reveal his industrial relations policy, will you now deny that you received anxious calls from your Federal colleagues, who were concerned that your action would reveal that policy and threaten their electoral chances in the next election? Come on; deny that.

MR DE DOMENICO: Yes, I deny that I received frantic telephone calls from my Federal colleagues. I will tell you whom we did receive frantic telephone calls from. The frantic telephone calls that Mrs Carnell and I received over the weekend were from the Trades and Labour Council saying, "Would you please meet with us?". Can I also say that it was the first time that Mrs Carnell and I got a formal request from the Trades and Labour Council to sit down eyeball to eyeball with them. We have had requests from Mr Berry and from others - from all sorts of rent-a-crowd people that come in from time to time - but never from the Trades and Labour Council to talk to the Trades and Labour Council. As soon as the Trades and Labour Council asked Mrs Carnell and me to meet with them, we did.

Once again, so that Mr Berry understands: No, I did not receive any frantic or non-frantic telephone calls, or even pleasant ones, from my Federal colleagues. Had I received any calls from my Federal colleagues, I would have told them to mind their own business, because industrial relations in the Territory is in good hands.

Sport and Recreation

MR HIRD: Just like Premier Goss did to the Prime Minister! My question is directed to Mr Stefaniak in his capacity as Minister for Sport and Recreation. How does the Government intend to foster the development of sport and recreation in the Territory to maximise the benefits to the Territory community in terms of its overall health and wellbeing? I know that those opposite would be very interested in that.

MR STEFANIAK: Hopefully, as the Opposition has realised, sport and recreation activities are an integral part of our business and community life.

Ms Follett: Mr Speaker, on a point of order: Could I ask whether a question which asks the Government to announce its policy is in order. In fact, I would suggest to you that it is not.

MR SPEAKER: Standing order 117(c)(ii) states:

> to announce Executive policy, but may seek an explanation regarding the policy of the Executive and its application ...

MR STEFANIAK: I think that Mr Hird is referring to the recent announcement of the grants to the sporting community, which went down terribly well with the sporting community. I had the pleasure of announcing them yesterday. I commend the Sport and Recreation Council for its efforts in relation to that.

In answer to Mr Hird's question: The Government has provided a number of grants this year to foster sport, especially to foster sport as we approach the year 2000.

Ms Follett: It is mostly to consultants.

MR STEFANIAK: We have provided $1.3m in direct grants to 151 sport and recreation organisations. This reflects our election commitment to maintain the grants program in real terms. It also reflects the importance that the Government places on opening up participation opportunities to improve fitness and health standards. It also recognises the major financial contribution that sport and recreation tourism makes to our local economy.

A major initiative of the development part of the program will assist the large number of volunteers and professionals involved in sport and in recreation to receive appropriate skills training. Some $43,000 has been allocated to a skilling program in a partnership between ACT Sports House, ACTSport and the Bureau of Sport for 1996. These funds will provide for a program coordinator and towards the costs of provision of the program itself. In the words of Harry Marr, the longstanding director at Sports House, sport really does need to get away from the kitchen table and into the world of more professional management. It is something that our sporting bodies do very well. This will further assist them in that regard.

As well, 21 major sporting organisations will receive $825,000 in grants in the first year of a three-year funding contract package based on achievement of agreed key results. In addition, bureau staff will take on a consultancy role in working with these groups. Bureau staff have been allocated six or seven sporting groups to foster and to assist. These 21 organisations have a combined annual turnover in excess of $8m. That is a further reflection of the economic importance of sport and recreation to the local economy. A further $131,000 will be spread amongst 36 smaller organisations for annual assistance. Capital and equipment grants totalling $320,400 and project funding of $45,000 go to some 28 organisations to undertake the hosting of major events and the establishment of special sport and recreational programs. Of significance are $20,000 to the women and girls development program and $10,000 to the disabled special measures program.

The Government, through this program, also recognises the recreational opportunities provided by many community organisations. The Belconnen Dog Obedience Club, the ACT Debating Society, and the leapfrog program for the intellectually disabled have also all received major grants. Other recreation organisations to benefit include the Radio Controlled Car Club, the Hall and District Progress Association, Pedal Power, the ACT Bridge Association, the Canberra Pensioners Club, the Woden Senior Citizens Club, the YMCA, and Pegasus Riding for the Disabled. These grant strategies signify the Government's ongoing commitment to the development of sport and recreation opportunities for Canberra citizens and emphasise the importance of cohesive partnerships as we plan for the future. The integration of well-developed programs and sensibly designed facilities will help to identify Canberra as Australia's true sporting capital.

Monash Drive

MR WOOD: My question is directed to Mr De Domenico in his capacity as Minister for Urban Services. In the letters to the editor in today's *Canberra Times* you state:

> ... there is no current proposal for Monash Drive being considered by the ACT Government nor, based on current plans, is there a likelihood of such a proposal in the next 10 to 15 years.

Why are you still holding over the heads of North Canberra residents a threat to build this road, when the former Government took action to see that this destructive road would never be built?

MR DE DOMENICO: I thank Mr Wood for his question. I do not think that I can make it any plainer than to say once again what the letter said. There are currently no proposals to build Monash Drive, and there appear not to be any proposals for the next 10 to 15 years. If I am still the Minister after 15 years and I change my mind, I will let you know.

MR WOOD: Mr Speaker, I have a supplementary question. I should indicate to Mr De Domenico that, as Minister and as part of the former Government, we introduced a variation to the Territory Plan - it is now part of the plan - which wiped out the major access from Gungahlin to that proposed Monash Drive. We changed it from a six-lane highway to a buffer zone.

Mr Moore: Unless we change the plan again. You cannot say "forever".

MR WOOD: That is the question I want to ask. Mr Humphries in this chamber has been giving unspecified reasons for rethinking the whole of that North Watson development. Mr De Domenico, are you in collusion with Mr Humphries? Is the return of this to a six-lane highway the reason for his obfuscation on the issue and for your keeping this option open, when it has been excluded from future planning? Why can you not give that assurance, too?

MR DE DOMENICO: Thank you for that supplementary statement, Mr Wood. Can I say again that there are no intentions either now or in the future, under this Government, for that road to go ahead. I have just consulted my colleague Mr Humphries. He informs me once again that since I spoke to him last, which was about three minutes ago, he has no intentions of making any such changes to the Territory Plan. That being the case, as I said, should we change our mind within the next 20 years, this Assembly will be the first to know.

Roadworks - Barton Highway

MR MOORE: My question is also about roads and is also directed to Mr De Domenico. Could the Minister advise the Assembly when the roadworks on the Barton Highway from the roundabout to the ACT-New South Wales border will be completed? These works have now being going on for six months, with basically no end in sight. With traffic increasing in the lead-up to Christmas, the conditions are probably ripe for a major accident. The other odd thing that appears to have happened there is that work which was already completed has been torn up again and replaced. This has meant an enormous amount of disruption to commuter traffic, particularly commuter traffic from New South Wales and the outer Canberra suburbs.

MR DE DOMENICO: I thank Mr Moore for his question. The roadworks are funded by the Federal Government, as Mr Moore would know. Construction had to start before 30 June 1995 to secure the funding. The ACT Government successfully sought additional Federal Government funds, which has allowed the extent of the work to be increased. This also contributed to the extension of the construction period.

Construction began on 29 May, and wet conditions in the following months have limited construction activity. In August 1995 traffic was switched to the newly reconstructed slow lane. After three days, small isolated pavement failures began to appear in the slow lane. Traffic was then switched back to the fast lane while the cause of the failure was determined. The completed works were investigated and tested, and remedial works were identified. The remedial works on the slow lane and completion of the reconstruction of the fast lane were delayed by rain in late October and November 1995, which saturated the exposed pavement. The fast lane should have been open by 8 December 1995, and repair works in the slow lane are programmed for completion before the end of December 1995, provided suitable weather conditions prevail.

Yes, I am aware that it has taken a long time. For all those reasons that I put out, it has taken a long time. I have tried to expedite works as quickly as we could, but we have to make sure that the job is done properly - unlike the experiences we have had with other roadworks in Canberra where they have had to be dug up again. One notable example of that was parts of Drakeford Drive in Tuggeranong. By the end of December, hopefully, it will all be finished.

Children with Disabilities - Summer Programs

MS McRAE: My question is directed to Mr Stefaniak, the Minister for Education and Training. I believe that the Secretary to the Department of Education and Training met with the parents from Malkara this morning and apologised for the way in which the Government has mishandled the whole question of the holiday program. Are you also planning to apologise? Will you explain to the Assembly precisely what arrangements have now been put in place to reassure parents that there will be a holiday program which will not endanger their own and other people's children, which they can afford and which will very belatedly be developed in consultation with the parents?

MR STEFANIAK: I thank the member for the question. In relation to this matter, the department perhaps acted a little bit too close to the event. That has certainly been made known by Ms Vardon and by me to the parents. What is being put in place, or has been put in place over the last few weeks, is a very good program to ensure the safety of the children. In fact, the main reason the department was concerned about the Malkara program - and it has stressed this to me on a number of occasions - was concerns about safety.

As I indicated earlier, we have 60 places at about 10 different centres in Canberra for people who would normally use the old Malkara program. Apart from simply meeting with, I think, four parents today, Ms Vardon also, as of yesterday, sent out her own letter to all parents in relation to the summer holiday program. That advises all parents, including those who had been advised by the department earlier, through the schools, the special schools, and the focus programs people in the department, that places will be provided in the community organisations in Canberra for the 1996 holiday program and that efforts will be made by the department to ensure that the individual needs of each child are looked after in terms of additional support, because some of these people, as Ms McRae well knows, need additional support.

One of the main reasons for having 10 different areas in Canberra is ease of transport for parents. No doubt some parents will be keen to avail themselves of that. Obviously, others will need transport for their child. We have also set up a hotline for parents to ring. Ms Vardon has indicated to parents that she is quite happy for them to ring her after hours. The hotline number is 2059190. As well, I have ensured that at the end of the program the department will do an evaluation with the parents to see how it all went and what improvements can be made.

A number of parents have expressed to officers in my department their pleasure that an integration program is being put in place. One suggested, I am advised, that this should have been done two years ago. I am looking forward to a very good program. I have also indicated to a couple of parents that I have spoken to that, if they have any further concerns, I am happy for them to contact me. As I said, I think last week, I am looking forward to a very good program. We will have evaluation with all parents at the end of it. The parents involved and the children involved will have an excellent time in this summer program.

MS McRAE: I am not sure that I heard the apology, Minister, but what I would ask by way of a supplementary question relates to all these arrangements that you say that the department will undertake in determining the needs of each child and the different types of transport that are and are not going to be available. Different parents have already heard quite different stories. When, and at which point, will you be writing to them so that every parent has the same set of information in front of them, instead of being given a range of different stories; in particular, in relation to transport support which they normally would have had if they had been going to Malkara, in relation to costs and in relation to confirmation of the type of supervision that is going to be available to their children? When will this be given to them in writing?

MR STEFANIAK: I am advised that a number of children are already in programs. The reason for giving a contact number, the reason for the letters which went out through the schools and for the individual letters to all parents from the CEO of the department, is to ensure that suitable programs are available for each of these children. Some of these children's needs are very different. Some of these children probably need extensive assistance; others need less assistance. Parents and children might like to go to certain geographical areas of Canberra. Those are the things that have to occur. A number of children have been placed already, and that is why, as I indicated last week, parents are being encouraged to contact the department to work out the specific suitable needs for their child.

Charnwood High School

MR WHITECROSS: My question is directed to Mr Stefaniak, the Minister for Education and Training. It is in regard to the future use of the buildings formerly occupied by Charnwood High School, before it was closed due to lack of funds. Can you give the Assembly and the community an assurance that the community in West Belconnen will be consulted before you decide on a future use for the buildings?

MR STEFANIAK: The simple answer to that is: Of course we will.

MR WHITECROSS: I have a supplementary question, Mr Speaker. I ask the Minister: Will you now give an assurance that this future use will involve public facilities for the people of West Belconnen; or are you envisaging a private use for the facilities? Will you give an assurance that the existing buildings will not be knocked down?

MR STEFANIAK: The Government at this stage has not made up its mind in relation to the possible uses of Charnwood High, because the school is still being used, as you are well aware, and will be until the end of the week. Certain furniture has to be taken out and moved to Ginninderra. But the Government is considering possible uses. A number of suggestions have been made to it, and, obviously, the concerns and suggestions of the West Belconnen community will be very important in terms of any decision that the Government will ultimately make as to the use of Charnwood High School. The Government is keen to deal with this matter as expeditiously as possible and not let the situation develop, as developed at Holder High School, under your Government, where the buildings were unused for many years.

Housing Trust - Environmental Policies and Guidelines

MS HORODNY: My question is directed to the Minister for Housing and Family Services, Mr Stefaniak. In light of the Government's stated support for the environment, what policies and guidelines are in place to promote environmentally sustainable practices in public housing in the ACT?

MR STEFANIAK: I thank the member for the question. I give credit where credit is due. Credit is due not just to this Government; it is due to previous governments, including previous Labor governments and previous Federal governments. Traditionally, ACT housing has often been in the forefront of environmentally friendly and up-to-date designs for public housing. This Government is certainly no exception. In fact, we have in our party policy - and it is being implemented by the Housing Trust - that any new housing properties must have due regard to the latest thinking in terms of environmental matters; they have to be environmentally friendly. I recently had the pleasure of opening a number of trust properties which are new and which bear that in mind. We have not only the physical environment but also the human environment. We are putting smoke detectors in all of our Housing Trust properties in an effort to ensure that the safety of our tenants is maximised.

MS HORODNY: I have a supplementary question, Mr Speaker. I have been informed that ACT Housing will not repair or set up clothes lines at public housing facilities where electric clothes driers are available. Does the Minister believe that promoting the use of a power-hungry electric clothes drier, when a cheap air- and solar-powered alternative has been used since time immemorial, is an environmentally sound practice?

MR STEFANIAK: I would be interested to see how many electric driers are used; but we do have to take into account our climate in Canberra and things like that. I am happy to look into that further if you have any specific concerns. I would be grateful if you would supply me with some more information. It may well be that that is appropriate in a number of instances. Our Housing Trust homes have been given a five-star rating.

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

Public Accounts Committee

MS FOLLETT: Mr Speaker, on 7 December 1995 I was asked a question without notice by Mr Kaine about people consulted by the Public Accounts Committee in relation to its inquiry into the Public Sector Management (Amendment) Bill.

MR SPEAKER: Yes; it was in your capacity as chair of that committee.

MS FOLLETT: At that time I undertook to obtain advice from the committee secretary about that matter. I would like to read into the record the following statement by the committee secretary:

> At its meeting on 23 October the committee agreed to invite submissions from the CPSU, the CPSU Professional Division, Institute of Certified Practising Accountants, Australian National University, Canberra University, Institute of Public Administration, the Australian Public Service Commission, and to request a submission from the Chief Minister's Department.
>
> The Chief Minister's Department offered to assess whether the committee's list gave adequate coverage of those able to assist the committee in its inquiry and, to facilitate that offer, the above list was faxed to the Department. The Department advised that the list was appropriate.
>
> Responses from the list were received from the CPSU, the CPSU Professional Division and the Institute of Certified Practising Accountants. The Chief Minister's Department also provided a submission. The Australian Public Service Commissioner advised it was not possible to make a submission in the time available.
>
> On or about 8 November -

that is, two weeks after a three-week inquiry had been begun -

> Mr Kaine suggested to the committee secretary persons who could be asked to advise the committee on the Bill. One was the NT PS Commissioner, David Hanks. Mr Hanks was expected to be in Canberra towards the end of November but it was not possible to coordinate an opportunity for him to meet and give evidence to the committee.
>
> Mr Baxter of the New South Wales Premiers Department and Mr Solway, Vic Premiers Department, were also suggested. However, phone contact with their offices indicated that, having regard to the very short time available for the inquiry and the intervening sittings of the Assembly, it would not be feasible to arrange a hearing involving them.

That statement is signed by Bill Symington, committee secretary.

Schools - Sport and Physical Education Programs

MR STEFANIAK: Mr Speaker, Mr Wood asked me a question on school sport on 5 December 1995. I table my response.

Community Health Centres

MRS CARNELL: Mr Connolly asked me a question with regard to superannuation payouts of community medical practitioners. I table that response.

BUSINESS DELEGATION TO JAPAN
Mission Report

MRS CARNELL (Chief Minister) (3.12): Mr Speaker, for the information of members, I present the mission report of the 1995 ACT business delegation to Japan, and I move:

That the Assembly takes note of the paper.

Mr Speaker, I am very pleased to present this ministerial statement to the Assembly today and to talk about the visit by the ACT business delegation to Japan which took place between 3 November 1995 and 11 November 1995. Mr Speaker, the 16-member delegation included representatives from both the private sector and the Government and followed an invitation from the mayor of Nara to launch the inaugural Canberra wine fair, a promotion of Canberra region food and wine products. I think it is important to place on record my appreciation of the work done by the delegates to raise our profile in Japan. They were excellent ambassadors for our city and for the Canberra region, acting as a small cohesive and united group actively marketing Canberra's many attributes. They worked hard to establish our credentials in the minds of our hosts at the many meetings we attended.

The delegation set out to identify potential export opportunities for Canberra region business in the Kansai region and particularly to promote wine and food products; to improve awareness in the Kansai region of Canberra's strengths, particularly in business, tourism, education, sports and advanced technology; and to assist in the promotion of Canberra region businesses currently operating in the Kansai region and generally to raise the profile of the Canberra region in Nara and in the wider Kansai region. The delegation was not sales orientated. It did, however, have the objective of gaining exposure for those Canberra companies currently marketing their products and services in Japan. Our major focus, given that many of the delegation's members were from the private sector, was on encouraging trade and economic exchange between the two regions.

I believe that we were very successful in achieving our aims, and a number of significant opportunities have emerged as a result of the delegation's activities. To realise them, we need a commitment from the private sector. Mr Mark Baker, the president of the ACT Chamber of Commerce and Industry, and the delegation's other private sector members have agreed to follow up these initiatives and opportunities and to regularly advise the ACT Government on their ongoing progress.

Of course, the ACT Government, through CanTrade, will also monitor progress. CanTrade will work in conjunction with the ACT Chamber of Commerce and Industry, the Canberra Business Council, Canberra Tourism and the Bureau of Sport, Recreation and Racing and will act as a facilitator.

Our meetings in Nara, Osaka and Kobe were indeed very wide ranging and included discussions with business leaders in the cities' chambers of commerce and industry and one of Japan's most influential economic bodies, the Kansai Economic Federation. We also met with the mayors of Nara and Kobe and senior officials in the Australian Tourism Commission, Ansett, Qantas and Austrade. We visited the Asia Pacific Trade Centre, where two local Canberra companies have their Japanese operations, and met with more senior officials from the Nara Board of Education and Osaka's Olympic bid office. We also met with the Panasonic Gamba-Osaka, a soccer team which has strong ties to Canberra and which, along with another J-League side, will visit Canberra from next February. Delegates also visited Nara University; a number of schools, all of which are twinned with schools in the ACT; and Insearch, an agency of Education Australia located in Osaka. We visited a housing development site in Kobe where residential development is being assisted by a Canberra business specialising in prefabricated dwellings. We inspected waterfront developments in Osaka and Kobe to gain ideas for the proposed Kingston foreshore development.

Mr Speaker, as I mentioned earlier, these meetings provided invaluable insights into the marketing of Canberra as a tourist and investment destination and offered significant opportunities for our business community. Those opportunities which I believe should be pursued include the need to prioritise our tourism marketing strategy in Japan. I have already held preliminary meetings with Canberra Tourism to discuss the issue of effectively marketing Canberra in Japan and how we can address the lack of promotional material identifying Canberra as an ideal holiday destination. We must also consider whether it would be appropriate to focus our efforts on specific target markets such as students and retirees as well as specific areas of Japan such as the Kansai region, rather than use a scatter gun approach to try to cover the whole of Japan. To this end, I have asked CanTrade and Canberra Tourism to develop relevant policy advice for the Government and to consider the benefits of working with other agencies such as the New South Wales Tourism Association.

The chief executive of BASAT met separately with the Nara City Tourism Association and will be pursuing proposals for further contact and staff exchanges. Such exchanges will result in a clearer understanding of how to maximise the benefits that can be obtained from the sister city relationship and will assist in identifying the needs of tourists from both communities. Canberra Tourism will also follow up the student market, preparing itineraries to include low-cost accommodation, special after-hours activities, ecotourism, viewing Aboriginal artefacts and other activities suited to young student visitors.

We will also follow up an invitation from the Hilton hotel chain to consider exhibitions of Canberra region food and wine in their Osaka and Tokyo locations during October 1996. Whilst the ACT Government will act as a facilitator, the ACT Chamber of Commerce, the Canberra Business Council and private sector delegates will work together to progress the promotion. The president of the ACT Law Society will follow up the meeting with

the Nara Bar Association by providing regular updates on new developments in legal practice in Australia. The Nara Bar Association will reciprocate, and both organisations will work towards arranging further exchanges to strengthen the bonds of friendship and understanding that have developed.

The private sector should also be encouraged to play a major role in staging next October's Canberra wine fair in Nara. The wine fair was a resounding success, with more than 3,200 guests paying almost $30 a head to consume Canberra district wines and Canberra region cheeses. The mayor has indicated a strong interest in expanding the fair in future years to include arts, crafts and music from the Canberra region. He is also keen to encourage private sector involvement from both the Nara and Canberra communities. It is very important that the many leads generated as a result of the fair be followed up. It is equally important that local wineries and other businesses considering exporting products to Japan ensure that they are in a position to meet the potential future demand for their products from Nara and from the Kansai region.

The ACT Department of Education and Training will follow up the proposed posting to Canberra of a Japanese language teacher from Nara as part of the teacher exchange program. Currently, two English language teachers from Canberra are working at Ichiyjo High School in Nara, having replaced the initial two teachers, who returned from their six-month posting in September this year. The department will also consider ways in which to expand the current student exchange programs to attract greater numbers of fee-paying students to our colleges, universities and the Australian International Hotel School.

The Government will follow up the possibility of arranging a Japanese art and/or craft exhibition in Canberra, perhaps at the Australian National Gallery. As there is also a strong possibility that Canberra can exhibit a number of Taikichi Irie's beautiful photographs, the Government will undertake to investigate locations suited for such an exhibition. We will arrange for Australian songs and music to be sent to Nara for use in the city's music therapy centre. This was a special request made by the mayor of Nara, who has a particular interest in providing the children of Nara with cultural and other information about Nara's sister cities. The ACT Government will liaise with the relevant agencies to provide a wide sample of Australian music for these children.

We will consider the establishment of a peace park in Canberra that will include particular species of Japanese cherry blossom trees and house the large Japanese lantern the mayor has indicated he will present during his visit early in 1996. A peace park will encourage tourists to Canberra. A visit to the park could include an invitation to plant a cherry tree at a special ceremony, an activity which has proved effective in encouraging Japanese family members to visit the same location in future years. The Kingston foreshore area could be considered an appropriate location for a peace park.

We will encourage local business to take advantage of opportunities to participate in annual import fairs held in the Kansai region, the rehabilitation and redevelopment of Kobe, and the export of Australian timbers, prefabricated houses, furniture, and software applications. Delegates were informed that these areas all present major export

opportunities for Canberra's private sector. The Chamber of Commerce also plans to investigate the potential for displays of Japanese language Canberra brochures and products in display homes built by Mori Ltd, a Japanese company which is building prefabricated kit houses developed by City Limits Development.

We will also pursue significant opportunities in the area of sport. For example, two teams from Japan's $7 billion J-League Soccer Association will visit Canberra next February. One of them is currently second on the soccer ladder in Japan. The teams will bring a number of media personnel and training coaches with them. This aspect alone offers opportunities to market Canberra as a targeted sector for the Japanese community. We will pursue opportunities for young ACT school students to participate in skills sessions with some of the leading Japanese soccer players during their visit to Canberra. The Bureau of Sport, Recreation and Racing, in conjunction with the Australian Institute of Sport, will also follow up the delegation's meeting with sports officials and work to further raise the profile of Canberra as a city with excellent training facilities and a strong interest in providing these facilities for pre-season training sessions and for pre-Olympic acclimatisation and training purposes.

Mr Speaker, many of the private sector delegates have advised that the visit provided an excellent opportunity to market their own products and services. In fact, they have indicated that they will compile a comprehensive report detailing potential benefits and business opportunities that can be followed up now and in the future. I hope that this report will be the first of many and, unlike my predecessor, Rosemary Follett, I will regularly update the Assembly on the progress of the delegation's initiatives and on other sister city related activities.

Mr Speaker, this visit to Japan taught us all that we must broaden our horizons if we are to move ahead. We are only a very small player on the international stage, but we do have considerable strengths in a number of fields, and we can market them to our advantage if we are prepared to do it in a planned and smart way. The delegation confirmed the importance of the sister city relationship to the Canberra community and the excellent window of opportunity it offers to local business wishing to access a particularly difficult market. It also demonstrated the economic, educational, and sporting and cultural benefits that result from well-managed sister city relationships and confirmed the importance of pursuing the ACT Government's commitment to marketing Canberra internationally. In line with this commitment, a new Canberra-Nara sister city committee will be appointed to better reflect the economic and educational interests of the relationship. I am also considering the appointment of an agent in Japan for a period, with a brief to assist local businesses interested in accessing the Japanese market and to advise the ACT Government about potential business opportunities and joint ventures.

Mr Speaker, the costs of the delegation are currently being acquitted by the Department of Business, the Arts, Sport and Tourism, but I can say that they will certainly come in under the $55,000 I previously estimated. *(Extension of time granted)* To put the costs of the delegation in perspective, it is important to note that an increase of just one per cent in the number of Japanese visitors to Canberra would result in an additional $1m flowing into our local economy. If our delegation manages to achieve even a small percentage of this figure on an ongoing basis, I will consider the sum of $55,000 very well

spent indeed. Mr Speaker, I commend the mission report of the 1995 ACT business delegation to Japan to the Assembly. I thank Mr Moore for his participation in this delegation. I think it is very appropriate to have cross-party delegations. I did ask Ms Follett to join me on this delegation, and I was disappointed that she could not. I think it is important to make sure that delegates on these trips represent more than just the government of the day.

MR MOORE (3.29): Mr Speaker, I rise to speak on this statement because I was fortunate enough to take part in the delegation. The delegation represented a very wide range of interests in the community. This Assembly was represented by the Government and the crossbenches. There were also people from the bureaucracy, the Law Society, the Chamber of Commerce, a number of business people and a number of academics. It was a delegation that I felt very proud to be on, and I must say that I believe that all members of the delegation acquitted themselves particularly well throughout the visit.

Mr Speaker, the Chief Minister touched on the point that she had invited Rosemary Follett to be part of the delegation. In fact, I brought back a message from the mayor of Nara saying to Ms Follett that he would like to have had the opportunity, and would still like to have the opportunity, to grant her the honorary citizenship that he granted to the current Chief Minister. Indeed, it was Rosemary Follett who led the first delegation to Nara after self-government, and I believe appropriately so. I was positive about the situation then and I am positive about it this time. I am quite comfortable standing here and saying that I have not been one of the people who have been critical of the situation.

Ms Follett: Like them. They are hypocrites.

MR MOORE: Ms Follett points to the Liberals and says, "Like them". I thought it was churlish of them to be critical, and I still believe that that was the case. I know that they have said, "We were not arguing about whether or not you should go. We were arguing about the amount of money you should spend on it". Mr Speaker, I do not buy that argument. By and large, rather than buying into that, I believe that delegations should be prepared in the most effective way possible and should be able to try to seek the sorts of goals that the Chief Minister has elaborated this afternoon and that the mission report presents to the Assembly.

I would like to give one example of why I think that a non-partisan approach is particularly important. Standing very clearly in my mind is a meeting at which one of the leaders of the Osaka Chamber of Commerce, in asking about the delegation, raised the issue that the Chief Minister was the leader of a minority government. At a number of places we visited in Japan people were aware that it was a minority government. I presume that was the case when Rosemary Follett also led her delegation. When issues were raised about the attitude of the Assembly as a whole to the issues the Chief Minister was raising, I was in a position to say that I believed from my perspective that there would be a positive response to the sister city relationship. I certainly referred to the fact that Rosemary Follett had been there on a previous delegation. I think this helped present a unified view of what they could expect of Canberra.

Mr Speaker, I must also emphasise that it was not a delegation that was just about business. I know that the Chief Minister has touched on this, but I think it is worth emphasising. It was not just about business, although that was its prime purpose. It was also about social and cultural aspects. Certainly, when we were at meetings about schools and the wine fair, a full range of other issues came up. Social, cultural and sporting contacts create more interest in the Australian Capital Territory among the people of Japan and enhance our interest in Japan as well.

The issue of a peace park came up in general discussions. One of the options that members of the delegation talked about, although obviously it would have to go through an appropriate process, was incorporating a peace park into the development of Kingston foreshore. It came through to me in discussions with students at schools that they are very conscious of Australia's anti-nuclear stance and the stance taken by the Australian Capital Territory on its sister city relationship with Versailles. They were very conscious of the whole notion of sister city relationships.

Mr Speaker, I think that the delegation was indeed a success. I was delighted to be a member of it. I would hope that the next time a Chief Minister leads a delegation from this place it does what parliamentary delegations all over the world do and includes members of the Government, members of the Opposition and, where appropriate, crossbench members. That is the system that applies internationally, Mr Speaker. We know that from the delegations that come through Canberra. We know that from the delegation from Nara that was here a few weeks ago and that you met, Mr Speaker. This is the way these delegations are usually made up. The bickering that the Liberals started should now pass. We should be mature enough to take part in delegations in a way that provides a critical analysis of what is achieved - that is entirely appropriate - and in a non-partisan way so that the people we are dealing with know that even if there is change of government the attitude will remain the same.

I hope that Ms Follett is one of the people who will go back in the not too distant future and that she will be able to accept the mayor's offer of honorary citizenship, which he was keen to give her, because he obviously believed that she had done an excellent job in leading the delegation that preceded this one. It was very clear to us that that delegation had broken so much of the ice. People who understand how the Japanese do business know that that was really the task that she had to achieve when she led her delegation to Japan. Mr Speaker, I look forward to further delegations benefiting the people of the ACT.

MS FOLLETT (Leader of the Opposition) (3.38): Mr Speaker, there is a very strong odour of hypocrisy emanating from the Liberal ranks on this issue. I can very well remember the constant carping that was indulged in by the Liberals over the initial Government and business delegation to Japan in late 1993. Mr Speaker, I can well remember before, during and after that delegation how frequently I had to explain to the Japanese and apologise to the Japanese for the blatant politicking that the Liberals indulged in. This was a concept which was foreign to the Japanese and which they took very seriously indeed.

Mr De Domenico: You could have fixed it by inviting the then Leader of the Opposition to join you.

Mr Humphries: Yes, that is right.

Mr Berry: So you could have been bought off?

Mr Humphries: It was about bipartisanship.

MS FOLLETT: If you just want to have a chat across the room, I will wait. Mr Speaker, there is no doubt whatsoever in my mind that the Liberals, when they were in opposition, took the fullest and most crass political advantage of the delegation to Japan which I led. Now, in a belated attempt at rationalisation, they have asserted that it was related to the cost of the delegation. That, of course, is not true. Mr Speaker, we know from the Liberals' own words what their objections were. Let me list them for you. As Mr Humphries has just reiterated, had I taken them with me, they would have shut up. I am not in the business of buying people off. The Liberals might be, but I am not. I was not then and I am still not. I think that demonstrates the kind of venal attitudes of those opposite. Had I taken them with me, they would not have criticised me. You know what you can do with that idea.

Another objection we heard from Mr Humphries was that Japan had yet to apologise for the Second World War. We heard that little gem come from him. We heard from Mrs Carnell that we really did not want to do this because the Japanese were still whaling. I happen to think that the Japanese should stop whaling. We heard all those criticisms trotted out. Mr De Domenico, at least with some honesty, admitted that they were not in favour of the twinning arrangement with Nara. At least, he admitted it. In fact, he did that in a public place.

Mr Humphries: Rubbish! You are making all this up, Rosemary.

MS FOLLETT: No, I am not. Mr Speaker, I believe that those opposite have a great deal to do when it comes to proving their credentials in regard to this relationship. The fact of the matter is they were remorseless in pursuing every petty political point that they could at the time that the whole idea got off the ground. Of course, they recently changed their tune, only when they realised that there was something in it for them.

Mr Speaker, I believe that the relationship between Canberra and Nara is a very good and potentially very productive one, but the major reason why I have pursued it in the past and will do so again in the future is the potential that these kinds of arrangements have for cultural exchange, for friendship and therefore for world peace. I believe that, had it been merely a matter of pursuing respective business interests, that could have been done without government help and probably should have been done without government help. I believe that there are enough businesses around with the capacity to enter a market like Japan, make their own assessments, pursue their own opportunities and so on. These kinds of arrangements are entered into and/or sanctioned by government for a much broader purpose and, I think, a much more important purpose. For that reason, I was very pleased indeed to be involved at the outset with this relationship with Nara.

Mr Speaker, I have heard what both Mrs Carnell and Mr Moore have had to say about it being a bipartisan deal. I reckon that works both ways. I think that the Government has a lot to prove about bipartisanship here. That was the reason I would not join their delegation. It was not because I could not; it was because I did not want to. In my view, they were the ones with the job ahead of them, not me, and they had to get out and do it themselves. Mr Speaker, I also believe that, if it came to a further offer by the Government for me to accompany a Government delegation, I think I would be well justified in refusing it again. It is one matter for a parliamentary delegation to go. We have had many a parliamentary delegation from Nara. That is clearly a matter for all parties in the parliament, but it is an entirely different matter to join a Government delegation. That is a matter which I would have to consider and reconsider very carefully. You do not find Gareth Evans or Kim Beazley taking the Opposition along with them. Come on, grow up!

Mr Speaker, it depends on what the purpose of the visit is and what purpose the delegation is expected to accomplish; but, in my mind, it is the Liberals who have been extremely crass, very ill advised and very ill informed and who have acted in the poorest of taste in regard to this relationship between Canberra and Nara. They were the ones I have had to apologise for year after year. They were the ones I had to write to the mayor of Nara about immediately after the ACT election to say, "I believe if you approach them properly they might do the right thing". I believe that, now that they have at least taken the first step in persevering with the sister city relationship, it is up to all of the Assembly to support the development of that relationship, but it was the Liberals who mucked it up. It was the Liberals who jeopardised it in the first place. They are the ones who have had to be apologised for. If they have now finally, belatedly, picked up their game and started behaving like adults, then I can say that I am very pleased. I will certainly be keen in the future to pursue this relationship, because I think it is an important one and one that I have been very pleased and very proud to be part of.

MR HUMPHRIES (Attorney-General) (3.45): Mr Speaker, it is important that I put a few things on record about this debate.

Ms Follett: Yes, tell us about the Second World War.

MR HUMPHRIES: I never said anything about the Second World War.

Ms Follett: It is in the *Hansard*.

MR HUMPHRIES: You find it.

Ms Follett: I will.

MR HUMPHRIES: Mr Speaker, Ms Follett suggested that I made reference to the Second World War. I think if she checks the *Hansard* she will see that the references to both whaling and the Second World War were not to do with the delegation to Nara; they were to do with the debate about Versailles and why it was inappropriate to single out Versailles for the activities of the French Government, when the same arguments would apply to Japan in respect of other activities. In fact, I did not make reference to the Second World War. It was Mr Cornwell who made the reference, as I recall.

Those opposite say that they are all in favour of strengthening a relationship, but they attack the opportunities for the bipartisanship which we need to build up. Those opposite have suggested that it was wrong to attack a delegation which cost $180,000 - - -

Ms Follett: It was $120,000.

MR HUMPHRIES: My recollection is that it cost $180,000 to send the delegation to Japan in 1993. If my party was in opposition or in government, I would maintain the view that that cost was inappropriate. I would do that irrespective of where I was. I simply maintain that it is inappropriate. I know that Japan is an expensive place - - -

Ms Follett: It was for three weeks.

MR HUMPHRIES: It should not have been for three weeks. The Chief Minister has just travelled to Japan for a fraction of that cost. The previous delegation ought to have been on that basis. Self-government is still viewed with some sensitivity by the citizens of Canberra, and in my view we ought not to be spending money on a large scale for those sorts of things. I am sorry if those opposite think that it is all right to spend a lot of money on it. I do not think that is the case, and I stand by the view that we should be spending frugally on these sorts of things.

The second point I make is that we ought to have bipartisan delegations, if we send them. I think it was, to use Ms Follett's word, venal to take Mr Lamont on the last trip.

Ms Follett: He did not pay. He was a guest of the Japanese.

MR HUMPHRIES: As I recall, he did go with you and he did pay his air fare.

Ms Follett: No.

MR HUMPHRIES: I think that is the case, but I will stand corrected if I am wrong. My understanding was that the Government was picking up at least part of the costs of his trip. It would not have been difficult to offload one or two public servants in favour of a member of the Assembly, to show the bipartisanship of the approach.

Ms Follett: I could have bought you off, could I? That would have bought your silence. We could have bought your silence for just a few thousand more.

MR HUMPHRIES: Mr Speaker, I do not intend to press this point. I simply say that I disagree with those opposite. I might also say that there are not any parliamentary delegations from this place that are paid for by the ACT. The only parliamentary delegations we go on are ones paid for by the Australian political exchange program and therefore there are not the options for ACT members to go on parliamentary exchanges involving only ACT members. We have only government delegations, and it seems to me appropriate that if we use government money we should indicate to the Japanese - - -

Ms Follett: That is up to the Speaker.

MR HUMPHRIES: If you do not mind, we do have that capacity on the part of the Government, and I think that we ought to take it up. I am sorry that there is still controversy about this. If Ms Follett really thought that we were wrong in our criticism, she should have shown her statesmanship by taking the attitude to this year's trip that she expected of us; but she did not do that, which I think shows that she is as likely to want to take a point about this as any other politician, and that is most unfortunate.

I think that we can establish a basis for this to happen in future. I have suggested to those opposite that we should talk about travel arrangements in the future, because we will all want to make trips in the future in various ways that will occasion the opportunity for criticism. If we want to overcome the problems of the past - for example, people publishing newspapers alleging that members of the Government spent six weeks in a French chateau and falsehoods like that - we ought to work on an opportunity to build up an acceptable way of travelling in the future.

Question resolved in the affirmative.

SUBORDINATE LEGISLATION
Paper

MR HUMPHRIES (Attorney-General): Pursuant to section 6 of the Subordinate Laws Act 1989, I present the following paper:

> Electoral Act - Instrument to determine the purchase price for printed electoral roll products - No. 161 of 1995 (S301, dated 5 December 1995).

PAPER

MR HUMPHRIES (Attorney-General): For the information of members and pursuant to section 21 of the Ombudsman Act 1989, I present the Australian Capital Territory Ombudsman report for 1994-95.

WELFARE OF DOMESTIC POULTRY
Code of Practice and Papers

MR HUMPHRIES (Attorney-General) (3.50): Mr Speaker, pursuant to section 6 of the Subordinate Laws Act 1989, I present the following papers:

> Animal Welfare Act - Code of Practice for the Welfare of Animals: Domestic Poultry -
>
> Approval No. 162 of 1995, dated 3 December 1995.
>
> Explanatory memorandum.
>
> *Gazette* S304, dated 7 December 1995.
>
> Model Code of Practice for the Welfare of Animals - Domestic Poultry, 3rd edition.

I move:

> That the Assembly takes note of the papers.

Mr Speaker, I am pleased to table the third edition of the National Code of Practice for the Welfare of Animals: Domestic Poultry, which I recently approved under the ACT Animal Welfare Act 1992. I am making this statement in view of the community interest in battery egg production and to put on record the ACT Government's approach to this issue. The new code applies to the ACT from the date of its gazettal. This code is the result of much deliberation by a national working party which included representation from industry, animal welfare groups and independent scientists. The code of practice incorporates improvements endorsed by the Ministerial Agriculture and Resource Management Council of Australia and New Zealand and is now a national model code of practice for Australia.

The code specifies space allowance requirements to be provided for poultry until the end of this year and the increased space allowance to be provided from 1 January 1996. I understand that the majority of Australia's battery hen farms will need to modify their systems to meet the new standard - a standard which provides a significant increase in the space for battery hens. Parkwood Eggs supplies 80 per cent of the hen eggs consumed in the ACT. It is inspected regularly, at least twice per year, by ACT government inspectors. In 1995 it has been inspected five times by government inspectors, accompanied on one inspection by RSPCA inspectors and two independent veterinarians. The inspectors are entitled to demand rectification of any failure to meet the code's standards or to prosecute. Parkwood Eggs has always proved fully cooperative to all suggestions for matters requiring rectification. Parkwood Eggs' farm complies with the requirements in the current code and it is aware of the increased floor allowances specified in this code to be provided from 1 January 1996. These revised requirements will be strictly enforced, as have been the requirements of the earlier code.

Recognising that a code of practice does not have the force of a law, I have agreed, along with Ministers in the States and the Northern Territory, to amend the ACT animal welfare legislation to incorporate the minimum floor allowances which apply from 1 January 1996 to ensure national uniform enforceability. This arrangement will permit breaches of the minimum floor allowances to be treated as breaches of the legislation itself. My department is in the process of drafting the necessary amendment to the Animal Welfare Regulations. Unfortunately, the deadline for national standards requested by the national council has not permitted the ACT Animal Welfare Advisory Committee to complete its deliberations on the national code. The committee sees the need for increased space allowances, however, and only minor amendments to take account of the special circumstances of the ACT are likely to be suggested. As soon as its advice is received, I will consider further changes and inform the Assembly.

Some sections of the community have argued that battery hen farming in the ACT should be stopped altogether. I understand their motives, but the suggestion is illogical. Stopping battery hen farming in the ACT will only retrench 60 ACT workers, close down a major ACT business, require the ACT to import more eggs from elsewhere and, more importantly, move 250,000 hens interstate but not improve the conditions for a single bird. If battery hen farming is to be stopped, it must be a national decision. Anything less will simply encourage jurisdictions with the weaker codes to export cheaper eggs to States where battery farming is banned or more heavily constrained. I commend the national code of practice to the Assembly.

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

LIQUOR ENFORCEMENT MEASURES
Ministerial Statement

MR HUMPHRIES (Attorney-General): Mr Speaker, I seek leave of the Assembly to make a ministerial statement on liquor enforcement measures.

Leave granted.

MR HUMPHRIES: Mr Speaker, in recent years the wide availability of liquor in the Territory has highlighted significant problems which we as a community must confront. These problems are forced upon us each year in growing proportions as we face the reality that many Canberrans wish to celebrate anything from a sporting win to a graduation, a wedding or birthday by availing themselves of the variety of night-life which this city now offers. The Government takes the view that Canberra should be about attracting a diverse range of entertainment to cater for the wishes of its citizens and also attract tourists. But in order to do this we have to accept a responsibility to ensure in the best way possible that liquor is used responsibly, not dangerously. Further, those selling liquor need to understand their responsibilities as retailers of a product which, if not handled properly, can turn into a killer. And, most importantly, users of alcohol need to understand the dangers of its irresponsible use.

The Government's approach to liquor enforcement centres on one principle. As a government we have a responsibility to ensure the framework is right to promote the responsible use of alcohol. We will do this by promoting the responsible sale of liquor by licensees, sanctioning those who set out to make profits at the expense of being responsible traders and, secondly, we will promote a greater awareness among the Canberra community of the dangers of irresponsible use of alcohol but reinforce the message that there is nothing wrong with socialising and responsibly enjoying liquor.

Members will be aware of an exercise conducted by the Australian Federal Police to target drink-drivers in the Civic area over the last weekend of September. The exercise was a response to a perceived problem with drivers ignoring warnings not to drink and drive. That weekend some 3,222 drivers were tested in a variety of locations around the city area, including Dickson, Civic, Manuka, Mitchell and Kingston. Eighty-nine drivers were apprehended for being above the legal limit of .05. Of these, alarmingly, one driver was apprehended with a reading of .245. Another, on a special licence issued by the court for a previous offence, recorded .235 - nearly 12 times his legal limit. Another driver was apprehended twice within 90 minutes. He was first apprehended with a reading of .195. Ninety minutes later he walked out of Civic police station, got into his car and drove off. He was again apprehended and recorded a reading of .165 - still more than three times the legal limit. Two drivers aged under 18 were apprehended for being over the limit while on P-plates.

While accompanying officers on the Friday and Saturday nights of that weekend, I made several observations which I would like, firstly, to share with members and, secondly, to move to address in this statement. Since that weekend I have pursued some horrifying facts about drink-driving. In the period 1 July 1995 to 22 November 1995 inclusive, some 20 accidents with injuries on the ACT's roads were a result of alcohol. In addition, three fatalities involved alcohol. In another frightening incident, at 2.30 am on Sunday, 12 November, police apprehended a driver in a Civic car park who allegedly ran down a pedestrian. His blood alcohol reading was .115. After being charged and then released, it appears the alleged offender returned to the city, continued to drink and then drove home. He was stopped on Northbourne Avenue at 6.10 am and recorded a reading of .110. So less than four hours after being detained the first time he again offended.

Each time an offender is detained, a significant amount of police resources is devoted to processing that single offender. Firstly, one officer is required to drive the offender to the police station in order to conduct a breath analysis, while another officer is then required to drive the offender's vehicle to the police station. That takes two officers out of the system for often up to an hour to process an offender, and one of those, having driven the offender's vehicle back to the station, is often left at a loose end while the other processes the offender. That is not an efficient use of police resources.

I also found that a good number of offenders were not overly concerned about the situation in which they found themselves; that they were not convinced they had done anything seriously wrong. They did not regard the penalties as a significant deterrent to offending, especially when they were faced with the decision about whether to drive

home or not. Many drunks behind the wheel seemed to be almost shocked to see police on main roads. That contrasts with police practice to target drivers through mobile patrols, which are highly effective but not as visible as blocking off main streets with flashing lights and beacons.

This statement focuses on the community safety aspects of alcohol use, especially in relation to drink-driving. There is a range of health and social issues associated with excessive alcohol consumption which, I acknowledge, are beyond the subject of this statement. However, I would hasten to state that nothing in this statement should be taken to condone or encourage drinking over the recommended safer levels just because the person is not driving.

The strategy this Government intends to introduce with legislation in this place soon will be multifaceted in its approach. Firstly, we aim to educate drivers about the dangers of drink-driving. The warning must be clear and unequivocal. If you drink and drive, you face three options - the courts, the hospital or the morgue. As members will have seen, graphic television advertisements have been used in other States, and a series of television ads have just begun screening in our region to promote Operation RAID, which is being conducted by Australian Federal Police and New South Wales Police over the Christmas period. In line with the education strategy I am announcing today, my colleague the Minister for Urban Services has agreed that from next year all ACT drivers licences and motor vehicle registration labels will carry a bold “Don't drink and drive” warning. So, by the end of 1997, every motor vehicle will carry a simple message to each driver not to drink and drive.

Secondly, in conjunction with Operation RAID, more police will be attending anti-drink-driving campaigns in high-profile locations. While I can apologise in advance to some motorists for the inconvenience, they should not be surprised to see police conduct regular random breath testing on major arterial roads within Canberra. If more Canberrans see that drink-driving is a high priority for our police, they will think again before they get into a car when they are over the limit. So, while I look at high-profile random breath testing as a measure to catch drink-drivers, I would rather look at it as a preventative measure to make people think again before they get behind the wheel after having a few more drinks than they should have had.

It is about time that drink-drivers realised that they are criminals and they will be treated as such. To drive this message home, the Government will be closely examining a range of measures with a view to bringing forward legislation early in the new year. We will be concentrating on increasing the penalties available to the courts for dealing with these offenders. In particular, we will be aiming to put in place the heaviest penalties in Australia, and I do not rule out the possibility of minimum penalties if that is what it takes to convince drivers just how serious and dangerous their behaviour is. At the same time, we do not want to increase the number of people going to prison for fine default, which might occur because of increased penalties. The Government is proposing, therefore, to provide for a range of options for dealing with potential fine defaulters, including civil enforcement mechanisms such as garnishee of wages and seizure of goods as well as community service orders. These options would be available for fines imposed in respect of any criminal offence.

A three-tier offence structure with increased penalties at each level of prescribed concentration of alcohol will be considered. This is based on the New South Wales drink-driving experience. We will also be removing the opportunity for a low-range offender to be dealt with by a traffic infringement notice. We should not and will not treat getting caught for drink-driving as a simple matter of filling out paperwork and paying a bill. Like anyone else accused of a criminal offence, those caught will have to go to court and be dealt with and punished in the public eye.

We also propose tightening up eligibility for special licences. Consistent with this approach, we will give police, in addition to their ordinary powers of arrest, power to temporarily confiscate the car keys of people who are charged with a drink-driving offence and are unaccompanied by a driver under the limit to take them home. We will also be coming down - and hard - on those extremely irresponsible people who, even though they have lost their licence, still think they can drink and drive.

There is no doubt that the process of diversionary conferencing is well worth while examining, as the reintegrative shaming experiment is currently doing. I think this has particular potential for punishing young people for, and deterring them from, crime. However, I am going to more closely examine the suitability of this process for drink-drivers, particularly in relation to its effectiveness as a general deterrence, compared to the usual court-based approach of dealing with offenders. People should not assume that diversionary conferencing is an easy option compared to being dealt with by a court. However, I do want to be certain that all drink-drivers get the message that their behaviour is criminal and unacceptable and that anyone caught will face harsh consequences.

The message is clear. This Government is getting tough with people who drive when over .05. The challenge is how to get this message through to those people who persist in driving when over the limit. Exposure to the agony of accident victims and bereft relatives is a tempting solution and one used to at least temporary good effect in Victoria with its graphic television campaigns. However, we need longer-term solutions. We need to teach people how to count their drinks so they do not go over the limit and drive. We need the liquor industry to reinforce responsible consumption of alcohol. I have already been discussing with the liquor industry its greater role in getting those messages through to its customers.

The Government also acknowledges that it has a role to play in facilitating transport arrangements for people who do wish to consume alcohol but who are sensible enough to avoid driving home. Last year efforts were undertaken to trial the Nightrider bus service - a late-night service provided by ACTION to enable people to have the option of using buses to get to the area of their homes. Whilst over certain periods the service was popular, it was also very expensive and certainly could not be sustained as a budget concern by the ACT Government. Each weekend it cost $4,800 to provide the service, while the amount recouped was only $900. After the introductory period, levels of patronage were such that they could be handled by several taxis per hour.

To get people home safely this summer the Government is pursuing other options which will focus on taxis and possible revised hiring arrangements. An additional 15 taxi plates were recently auctioned and a further 30 taxi plates are proposed to be auctioned in the next two years, helping to address concerns that there are not enough taxis to supply a service. ACTION will be operating services from Manuka and Civic to the other town centres on New Year's Eve. Further, as groups of people go out on the town, I suggest they consider a "buddy" or "captain" system whereby one person nominates early as being the one who will not drink, who accepts the responsibility of ensuring that those who do drink do not drive and that everyone gets home safely. Drinking and driving does not make sense. While the Government cannot legislate for commonsense, we can make an appeal and issue a warning.

A problem with the consumption of alcohol is that excessive consumption has led to an increase in street crime. Assaults, vandalism, hooliganism, drunkenness and other street crime are almost a nightly occurrence for our police. In summer months, as more and more people hit the streets, the challenge to police grows. What used to be a problem in Civic has certainly spread beyond its boundaries. Recently I received the *Manuka by Night* report from the Community Safety Committee, which identifies drunkenness and abuse of alcohol as a factor contributing to crime in that area now also. The Chief Minister and I have had the opportunity to see first hand the problems confronting police and liquor licensing inspectors as they attempt to cut down the incidence of alcohol abuse and related criminal activity.

A number of measures will be introduced to combat these problems. Recently I announced some operational changes to the city beat squad to put a greater focus on alcohol-related offences. Six additional police, including two plain-clothes detectives, have joined the beat squad, boosting the number of officers working in that team to 22. A permanent police presence has been established in Manuka on Friday and Saturday nights, while regular patrols have been increased from both Civic and Woden into Manuka during its busiest hours. A team of three beat squad officers has been assigned to liquor-related compliance work on Thursday, Friday, Saturday and Sunday nights. Their primary task will be to combat alcohol-related violence and under-age drinking and ensure compliance with occupancy loadings. That policing presence has been put into effect already in preparation for the summer months. Those officers will work in a much more coordinated fashion with officers of the Liquor Licensing Branch of the Attorney-General's Department to ensure compliance with liquor laws. The time has come to put those handful of licensees who think they can continue to profit from irresponsible selling of alcohol on notice that their time is up.

I had a very successful meeting with representatives of the AHA recently to talk about the standards of responsible serving of alcohol in the industry. We all agree that most licensees behave with a high degree of responsibility, but unfortunately there are a handful who do not. It is the intention of the Government, through its liquor law enforcement agencies, to come down hard on those few liquor retailers who do not follow the standard the law considers acceptable. The AHA and the Government will work together through their respective channels to pressure those few licensees to lift their game. *(Quorum formed)* I am a firm believer in the industry being the best source of discipline, but where that fails I want the industry to be aware that this Government will be using every legal means available to us to pull those licensees into line.

The Government will require all new licensees, and those receiving a licence on transfer, to have completed a recognised responsible serving of alcohol course. In addition to the course offered by the Canberra Institute of Technology, I am delighted that the ACT branch of the AHA is seeking to institute its own accredited responsible serving of alcohol course. CIT is also in the process of organising a short half-day seminar for licensees and bar managers which will highlight the various concerns of the police and liquor licensing authorities. It is hoped that this seminar will clarify those roles and expectations and build a more united solution to the Civic and Manuka problems.

This goes some way to ensuring that licensees accept the broad community responsibility that they have to their patrons. Operating licensed premises does not mean seeing how many alcoholic beverages one can sell in a night; it means understanding the community responsibility that comes with a position like this. I applaud those licensees who are already making an effort to have themselves and their staff trained in responsible serving of alcohol. This concept stems from a code of practice which was adopted by my predecessor, Mr Connolly - a concept which at the time I strongly supported and still do. The code of practice monitoring group established to monitor the implementation of the code has been very successful in heightening awareness among licensees of their responsibility and of the appropriate conduct of their premises, but I think they must now go a step further.

In recent weeks a Manuka safety committee has been established - it consists of business leaders, community group representatives, the clergy and local residents - to deal with the safety issues around Manuka. The code of practice monitoring group now needs to take on a wider role as a Civic safety committee. We are keen for local business, not limited to licensees, to work through the issues they face from a community safety perspective at a local level. They can do this by working with other businesses, residents and community groups to confront the problems and tackle them at a local level.

Another initiative I announced recently was the development of a Civic Business Watch, initially taking in businesses in Garema Place in a structure similar to Neighbourhood Watch. These groups provide an opportunity for businesses to identify trends and safety issues in their own areas and work with police to develop strategies to combat their problems. A Civic safety committee can do just that in terms of liquor problems in Civic.

The Government’s commitment to broad community participation in safety strategies is strong. We have continued the process to implementing the recommendations of the Community Safety Committee's reports on Civic and Manuka, and we will be further expanding the role of that committee in coming weeks. I am also delighted to announce today the reappointment of Mr Ken Begg to a further term as chairman of the Community Safety Committee. In addition, Mr David Biles will remain as deputy chairman, and the membership of the committee will be broadened. I intend in coming weeks to issue the committee with a reference on the impact of crime, including the fear of crime, among the ageing - a key issue to be faced by many in the older areas of Canberra, but an issue facing the growing numbers of senior citizens in newer areas like Tuggeranong and Gungahlin also.

When town centres, regional centres and our Civic Centre were designed, it appears that little attention was paid to designs which provide for minimising crime. In recent times it has become apparent that civic design involves planning to reduce crime. The principles set out in the *Civic Case Study of the Designing Out Crime* report will help the Government's forward planning of physical amenities improvement programs. In the redesign of Garema Place, the Government intends to rely heavily on the recommendations of this report. In other areas the Community Safety Committee has made a number of recommendations in its *Civic by Night* and *Manuka by Night* studies which impact on urban design. In response to one of these recommendations, we will be closing Franklin Street in Manuka on Saturday nights for the remainder of December and all of January, as well as on New Year's Eve.

But it is not just that crime needs to be designed out of our shopping and town centres. The physical amenity of these centres must cater for as diverse a range of people as possible. Alternative entertainment venues will be considered favourably, including the prospect of establishing an alcohol-free nightclub in Civic for young people, predominantly those under 18. One of the major causes of under-age drinking is the seeking of entertainment by those people. The Manuka safety committee is to shortly meet with a group of students at nearby high schools to seek their views on alternative forms of entertainment which could be adopted in Manuka. This is a welcome and responsible move which shows the willingness of local businesses to find solutions to the problems facing young people before they reach the stage of having to deal with these problems becoming liquor related.

One important aspect of liquor law enforcement in Canberra has involved a detailed study by the police and the liquor licensing authorities of the adequacy of licensing provisions and the legal requirements of the Act. In order to ensure compliance, there are a number of provisions which have to change. I have discussed these changes with the AHA, and I am pleased to acknowledge their willingness to participate in an effort to lift the standards of responsible serving of alcohol. It is important to note that the Government regards licensees generally as responsible. Some changes to the law will be necessary to accomplish the Government's desire to crack down on those few licensees who do not perform to the standards the community expects.

At present it is unlawful for a licensee to sell alcohol to an intoxicated person. The difficulty with proving the offence is that the prosecution needs to establish that the person serving the alcohol had a reasonable belief that the person was intoxicated. Effectively, this means a prosecution can take place only where an admission of guilt is present. We intend to introduce amendments to the Liquor Act to change that test from a subjective test to an objective test, the same as in most other States. That means the test will be whether a reasonable person would believe that the person was intoxicated. In addition, it has been necessary to establish that the beverage being served was alcoholic, and that must be done by taking a sample and having it analysed. We will introduce an averment provision that will deem a beverage to be alcoholic if it is served by a licensee from a container, bottle, carton or can which indicates by the label that it is an alcoholic beverage. If a licensee wishes to have a sample analysed to prove it is not an alcoholic beverage, of course they will still have that right.

We will also increase the powers of the Liquor Licensing Board to deal with licensees who fail to conduct their premises correctly. As I indicated earlier, I firmly believe that most licensees do run their businesses responsibly, but a few have allowed the considerations of profit to override their other responsibilities. Alcohol is not just another commodity. It is a drug. For some it is a drug of addiction and for some it can be physically and socially harmful. A licensee needs to be conscious of this and conduct his or her premises accordingly. Penalties such as licence suspensions, licence cancellations or trading hour limitations are open to the board in cases of a licensee failing in his obligations under the Act. The Government will press for appropriate uses of the sanctions contained in the Act for breaches and will press for criminal sanctions where those offences are serious or breach criminal law.

Mr Berry: This is a nice stunt.

MR HUMPHRIES: Mr Berry does not seem to think it is very important. That is too bad. Concern has been raised by the industry about the structure of the Liquor Licensing Board. In particular, there is some concern that the registrar, who is the enforcement officer, is one of three voting members of the board. This leads to a perception that the registrar is both the prosecutor and a member of the judging panel. The Government will change the structure of the board, expanding it from three to five. It will include a senior police officer not directly involved in liquor law enforcement, or a retired senior police officer, and a community representative who is appointed by the Minister in consultation with industry representative groups but who is not a licensee. In addition, the registrar will no longer have status as a voting member of the board but will be retained as a member to provide technical advice to the board in its deliberations.

I am happy to consult with the industry in the appointment of a member of the board, because I am satisfied that the industry generally would like to see high standards maintained. If the industry itself acts to prevent many of the problems we see from time to time by maintaining pressure on those who skirt the provisions of the Act, I am sure we will see fewer matters being brought before the board and more compliance with responsible provisions.

The Government strongly supports the use of occupancy loadings as a safety measure in licensed premises and strongly supports a system whereby those loadings are determined with appropriate advice on the fire safety of premises. The Government has always been a supporter of occupancy loadings. Indeed, in the Assembly last year we were instrumental in having amendments made to ensure that in the determination of occupancy loadings the proper range of considerations were taken into account and there was not just an arbitrary fixation on floor areas as a criterion, and we stand by those amendments. Occupancy loadings will be strictly enforced. The formation of a special patrol from the AFP's city beat squad to deal specifically with liquor will provide for the continual enforcement of those loadings. The Government will quickly move to act against premises which fail to comply with those loadings. Members will have noted the legislation which I tabled earlier today. We will not compromise on safety. A determination can now be appealed to an appropriate merit review body, which addresses our concerns about the process of determination, but a licence to make money at the expense of safety standards will not be sanctioned by this Government.

I have already discussed some options which are being considered by the Government and the Manuka safety committee as alternatives for young people to drinking. But, clearly, the practice of under-age drinking will not cease as a result of these measures alone. At the present time a police officer or liquor licensing inspector can request the name, age and address of a person suspected of an offence against the under-age drinking laws, or if they are suspected of being in a licensed premises when not in the care of a responsible adult.

I will introduce an amendment which will seek to extend this power to situations where the police or licensing inspectors have reasonable grounds to suspect that a person is using false identification to obtain liquor, enter premises or obtain a proof of age card. Some enterprising young people still seek to obtain false ID through various methods. No matter how tough laws are, there are always some who will continue to take the risk of using a false ID. They need to be aware that using a false ID is a criminal offence punishable on conviction by a $1,000 fine, and they need to be aware that police and licensing inspectors will not hesitate to bring charges against people who use those false IDs. We would rather young people not play that game.

The Territory depends on encouraging growth in the private sector, particularly small businesses. The Government recognises the substantial employment base provided by small businesses and sees the liquor industry no differently in that process. We also see the effects of selling alcohol as being quite different to the effects of selling many other goods and services. Alcohol, as I said, is a drug. Its responsible use is encouraged, and the effects of its irresponsible use are seen by all of us from time to time.

The measures I am announcing today start a process aimed at making this summer a safer one on our streets. We are aiming to put in place in the first instance measures which will avoid the issue of restricted trading hours being put on the table; but I do foreshadow, as I did to the industry recently, that, if these measures do not show demonstrable results, then closing times will be back on the agenda after this summer. The Government makes no apology for taking a very tough stand against drink-driving. Canberrans seem to have a very blase attitude when it comes to drinking and driving, so if we cannot stop drivers doing it we will expect them to pay heavily when they are caught.

Overall, the package of measures I am announcing today is responsible, because it aims to work cooperatively with industry on the problems caused by alcohol; but it is also tough on those who continue to break the law. Our message to them this summer is that if you want to spoil it for everyone else in Canberra the Government will spoil it for you. The Government also sees a valuable role for education campaigns to be undertaken over the summer period to make people aware of the dangers of alcohol abuse, to make people understand the responsible serving of alcohol and to make the community aware that the Government will be seeking compliance with existing laws.

I thank members of the Liquor Licensing Board, the Australian Federal Police, the Attorney-General's Department and the Department of Urban Services for developing this package of measures, which I believe is comprehensive and will provide for a determined indication from the Government, and I hope the rest of the Assembly, that we are serious on the unacceptability in our community of drink-driving.

I commend these initiatives to the Assembly. I table the following paper:

> Liquor enforcement measures - ministerial statement, 12 December 1995.

I move:

> That the Assembly takes note of the paper.

MR CONNOLLY (4.24): Mr Speaker, this statement is capable of broad bipartisan support. In probably 30 seconds, I can encapsulate what Mr Humphries said in about three-quarters of an hour and support it broadly. It is built on the initiatives that we were taking in government. I am particularly pleased that the - - -

Mr Humphries: You said that it was a stunt a minute ago.

MR CONNOLLY: Taking 45 minutes was. We stand by that. We are pleased that many of our initiatives are being built on. I am very pleased that Ken Begg and David Biles are being reappointed to their respective positions as chair and deputy chair of the Community Safety Committee, because they have done a fine job for the people of Canberra. I am pleased that Mr Humphries has abandoned the traditional knee-jerk 3.00 am or 4.00 am closing time on which endless amounts of radio and print time were expended in the lead-up to last year's election, when Mr Humphries was going to do that. I am pleased that, now in government, he is being more responsible. Now, in the pre-Christmas period, is the time when traditionally the ACT Government reminds the community of its responsibilities. We are leading into summer festivities. We are leading into events like Summernats where large crowds of people will gather, and the Opposition is pleased that its approach is being carried forward by this Government.

Question resolved in the affirmative.

INDUSTRIAL RELATIONS
Discussion of Matter of Public Importance

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

> The urgent need for the Government to change its approach to industrial relations.

MR BERRY (4.25): This issue is one of great concern to the community, for a whole host of reasons. The most important reason is the threat that has been posed to the social fabric in many ways as a result of Mr De Domenico's and the Government's approach to industrial relations generally.

In the first place, I want to run through some of the preliminaries which gave rise to this abysmal performance. One of the first things that emerged as a contentious issue was the appointment of Mr Houlihan. A document which was sent out by the Government through its electronic mailing arrangements, which have been used as a propaganda and threat machine throughout this industrial relations debacle, included some mention of Mr Houlihan. It went on to say that he had been engaged to provide strategic advice to agencies on their reform agendas and so on. Mr Houlihan has a reputation of being associated with confrontationists in renowned industrial disputes in other places in this country. Mrs Carnell, we now know, appointed Mr Houlihan, which tells you everything that you need to know about the policies of this conservative Liberal Government opposite. This is a confrontationist government and an anti-union government, and recent events have pointed to that very clearly.

I should add that the message which was sent through the electronic propaganda machine of the Government to workers in the workplace included, word for word, Mr De Domenico's press release. When it comes to the transmission of information to government workers, the Executive using the public service computer network to propagandise its work force is pretty well unprecedented.

Mr Hird: What was that word again?

MR BERRY: It is a bit too long for you, Harold. That was one of the first issues that turned up. It would have sent a strong signal to workers that this Government was on a confrontation course. We then got a series of enterprise bargaining newsletters which talked about the matters which were raised by unions. One of the first talked about the formal bargaining period that had been initiated by the unions. Mr De Domenico focused on the lockouts. As soon as somebody said, "Lockouts", he said, "Beauty; that is what I want - lockouts". Mr Houlihan said, "Good on you, Tony; go for your life".

Mr De Domenico: Who said "lockouts"? The Federal Industrial Relations Act passed by the Labor Government said it.

MR BERRY: No. Mr De Domenico says, "Who said 'lockouts'? The Federal Industrial Relations Commission". The Act says that there is a formal bargaining period. Bargaining means negotiating and sorting the deal out, not threatening to lock the workers out and dock their pay. These enterprise bargaining propaganda statements go out through the electronic mailing system. The Government makes sure that workers in the public sector are threatened by its approach. It talks about the protected action by unions. All of a sudden, it loses interest in the bargaining period. All it wants to do after that is focus on the protected action by employers, described as lockouts. That became heavier and heavier. Enterprise Bargaining Circular No. 5 says:

> As reported in the media the Government is prepared to agree that the first instalment ... of any overall wage increase that is negotiated could be paid before Christmas.

Mr De Domenico later lauds that in this Assembly as a great and generous, no strings attached offer. Mr De Domenico said that there were no strings attached; none at all; one per cent before Christmas in your pay-packet.

Mr De Domenico: Yes.

MR BERRY: Mr De Domenico says, "Yes", indicating that that is what he said. The unions were getting a bit sick of all of this nonsense and were starting to agitate on the issue. There were more and more threats of lockouts and more and more circulars, which became steadily more threatening, such as, "If you have been or will be involved in industrial action we can lock you out". You never mentioned that you would love to lock them out. You said, "We can lock you out and we will tell you when you can come back to work". The Minister was threatening the workers all the time. This is the style of industrial relations that we have had from this Government opposite. Mrs Carnell, allegedly, backed him up for a while, but that ended. I will come to that a little later.

Amid all of the hyperbole we read in the *Canberra Times* - this is where all the unions read it too, I might add - that the ACT Government had offered a $7 pay deal. They were most impressed to find that in the *Canberra Times*. They might then have substituted their fax machines and post office boxes for daily editions of the *Canberra Times* so that they could get all of their information from the Government through the newspaper, rather than bothering with post office boxes and fax machines. That was on 7 December. It agitated the unions somewhat to see in the newspaper that pay deals were being offered. A good-sized demonstration was organised in Civic Square, even though the Government had spent weeks threatening their workers with threats and intimidation. Still there were hundreds of workers concerned about what this Government was going to do. Mind you, anybody that took industrial action by turning up at that meeting would be subject to Mr De Domenico's threats to lock them out. The Government had indicated their intention to lock them out if they took that industrial action.

In this place on 5 December Mr Kaine asked a dorothy dixer of Mr De Domenico about the Government's pay offer. Mr De Domenico went on at length describing the pay offer. He said in the second paragraph of his answer:

> This pay increase is already accounted for and, despite reports from the unions, has nothing to do with productivity savings. It is up front, no strings attached.

Initially, he says that it is up front, no strings attached; not one string; none at all. Later, after several more paragraphs, after another page of response to Mr Kaine's intelligent question, he says that there are no strings attached. He says that again. Lastly, when he decides to have a little shot at the unions, he says:

> There are a couple of unions, particularly the CPSU and Ms Garvan, who disagree with this concept. Ms Garvan ought to get realistic, -

"Get realistic", Mr De Domenico says -

> talk to her Federal colleagues and not say to her members, "We will continue to adopt a political campaign and deny you $7 per week, no strings attached".

This campaign, which has been conducted by the Government and, in particular, by Mr De Domenico, has been based on dishonesty and intimidation. That has been the process all the way through. Propagandise the work force by use of the public service media network; politicise the public service media network to threaten its employees. That went on for several weeks. I asked Mrs Carnell whether she would give the unions the same access to that network as the Government had. No; no chance of that. The Government does not mind sending all its propaganda through the taxpayer-funded computer network but would never allow the unions to respond. That is the history of the matter.

Most people in the community would have watched with horror as the threat of industrial chaos was provoked by this Minister in particular. We knew who was in the background, as I mentioned earlier, advising the Government on how it should act. There were no real surprises from this Minister. Because of all of his past rhetoric, it did not surprise anybody when it came to the thumping of the chest and the threats against workers by this Minister. The Liberal dogma was alive and out there, thrashing around. There was this confrontation; lock them out; and this continuous recipe for disaster promoted by this Minister.

Industrial relations requires a cool head. There is no room for cowboys. Enterprise bargaining puts the onus on all of the participants to enter with an open mind and to be genuine.

Mr De Domenico: What did you do in the VMOs dispute? What did you call the doctors during the VMO dispute? Were you a cool head when you called them all grubs and whatever? What did you do to the Fire Brigade when you locked out Bill Kerr? Remember? You locked out Bill Kerr because they would not give you the job.

MR BERRY: Mr De Domenico says, "What did you do to the doctors?". We got them to arbitration; that is what we did. We got them to arbitration, and you mucked the deal up. The Government left itself no room to move. The questions raised about whether the Government was genuine were quite reasonable questions, because the Government was never genuine. This is an issue about politicising an industrial dispute. It was typical conservative Liberal undercover policy.

While all of this was going on, their Federal counterparts were getting very nervous because they had heard about second-wave industrial relations policies which had been announced in Western Australia. They were listening to little Tony over here, lashing out at the workers. They were saying, "Hells bells; if this gets out we are in trouble. We cannot allow this sort of approach to become general news across Australia". Over the weekend the phones started ringing; and, by Monday, who is sitting on the sidelines? Mr De Domenico. Who has to manage the industrial relations negotiations with the union? His boss, Mrs Carnell; the one who appointed Mr Houlihan. The Feds became very nervous about the approach and put the heavies on this lot.

Not only has this been bungled throughout, but also this Assembly has been misled. This Assembly has been misled because Mr De Domenico said on a number of occasions that there were no strings attached to this pay rise. He still says, "There are no strings attached to this pay rise".

Mr De Domenico: Sign the agreement, and you can have one per cent right away.

MR BERRY: Here comes the truth now: "You sign the agreement, and there are no strings attached". What a joke you are! Four or five times in this Assembly you misled us. You said, "There are no strings attached". We know for certain that there were strings attached, because the workers had to sign the agreement first. They had to lock themselves in. You tried to spread the lie through this chamber. You tried to use the *Hansard* process in this chamber to spread further propaganda in relation to the untruthful message that you were trying to put to the community. This no strings attached approach that you were taking was untruthful; and you should admit it, because there were big strings attached. You should apologise to this chamber for misleading it. I warn you that, if I do not hear an apology during this debate, further action could ensue. You people set the standard. If you mislead the chamber, you know what happens.

We have a situation where we have bungled industrial relations. One good thing that you did do is that you let the rest of Australia know the real Liberal agenda when it comes to industrial relations. You have shown by your example what people can expect from the Federal Liberals if this country should ever have the misfortune of their coming to office.

MR SPEAKER: Order! The member's time has expired.

MR DE DOMENICO (Minister for Urban Services and Minister for Industrial Relations) (4.41): Finally, after nine months, we get an MPI from the Opposition. Isn't it a blockbuster? Isn't it a beauty? We listened to 15 minutes of trite sayings. Mr Humphries's 20-minute speech was at least interesting and gave us some details about something. Mr Berry's speech was the greatest rubbish that this Assembly has had the privilege of listening to.

There are a number of matters that need to be clarified, to address the false claims made today by the Deputy Leader of the Opposition. Let us look at the Government's responsiveness on negotiations of enterprise bargaining agreements. The fact is that the Government made its initial offer on 22 August 1995, in a letter endorsed by the Government, and signed by the Chief Executive of the Chief Minister's Department. It took six weeks for the Trades and Labour Council to respond to this initial offer.

It is worth setting out in detail the chronology of events since that time. They show just how false are the Opposition's claims regarding delays and further demonstrate that at every stage the Government either has been the initiator of discussions or has responded very quickly to issues raised by the unions. The chronology of events goes as follows: As I said, the Government's initial offer was on 22 August. The first meeting with the unions was on 15 September. The unions' formal rejection of the Government's offer was on 20 September. The unions' counterclaim was on 11 October, six weeks after the Government's initial offer.

The second meeting with the unions, which the Government initiated, was on 13 October, two days after. The Government's written response to the unions' proposal was on 18 October, a week after; not six weeks. The third meeting with the unions was on 27 October. The Government's written response, outlining the Government's proposals, as requested by the unions, was on 2 November. The fourth meeting with the unions was on 3 November. The unions then provided their draft version of the agreement on 16 November. The fifth meeting with the unions was on 17 November. The union letters outlining the basis for continuing discussions relating to agency reform agendas were dated 24 November.

The unions then notified the commencing of a bargaining period. A separate letter announcing their intention, the unions' intention, to resort to section 170 of the Industrial Relations Act was dated 24 November. There was a letter to the TLC advising the agency reforms agenda was being finalised on 27 November. Finally, the Government provided the agency reforms agenda to the unions on 29 November. The unions considered the agenda on 5 December.

The Government then offered the one per cent rise. That was announced on 5 December. The one per cent offer was made very clearly on the enterprise bargaining approach, but with no strings attached in terms of productivity. "Up front, you do not have to give us anything back in terms of productivity", was what we said. Mr Berry, if you misconstrued what I said, I apologise. But the Government said, "Up front; no productivity returns; you can have one per cent before Christmas". There was a meeting with the unions to clarify the agenda on 7 December. There was a meeting with the unions' representatives last Sunday, and then there was the meeting held yesterday between the Chief Minister and me and the TLC. There are meetings going on today.

As you can see, the Government has been fully involved in promoting a conclusion of the enterprise bargaining agreement. We have been, and will continue to be, committed to the proper negotiating process. It is a negotiating process that we inherited from the previous Government. Because of the fact that it was a good process, we believe, we will continue on a proper negotiating basis. It is worth reminding the Assembly that the previous Government took nearly 18 months to negotiate an enterprise bargaining agreement which yielded no productivity benefits whatsoever.

Let us look at the present status of the negotiations. Following the negotiations between the Government and the Trades and Labour Council over the weekend, all threats of protected action have been removed. The unions have been provided with reform agendas from each government agency, and negotiations aimed at reaching a framework agreement before Christmas are well advanced. The Government expects these negotiations to occur in a climate free from threats of industrial disputation. Well done, Government. A No. 1 result. I do not hear Mr Berry saying that. It took his Government 18 months. Well done, Government. He should be saying that. He should be shouting it from the hilltops. This Government has a very good record in industrial relations, but he will not say that.

Let us look at my involvement in the enterprise bargaining process. The Opposition fails to realise that it would be entirely inappropriate for me to intervene in negotiations between management and unions. As a former union delegate, Mr Berry should know that. But let me remind Mr Berry: As the Minister for Industrial Relations, I have made the key decisions at the key points and have had regular reports from those officials responsible for the negotiations.

I remind the Assembly that it was I who agreed to discussions happening with the unions and the Chief Minister on Monday of this week; that it was I who agreed to the negotiating position discussed with officials and unions on Sunday of this week. It is simply not usual practice for Ministers to run enterprise bargaining negotiations. However, it is usual practice for the Government to intervene at those stages when there may be significant industrial disputation threatened. We took such action recently. If matters disintegrate again, we will do so again.

The actions that this Government was prepared to take under section 170 were considered only after the TLC gave the Government no alternative by invoking this little-used provision of the Act. In other words, there was nothing else in law that the Government could do. I reiterate that, by the unions taking such action, the Government was left with little option but to consider its powers under this provision. The actions that we were contemplating were entirely legal under the legislation which was passed by a Federal Labor government.

Let us look at the protected action. Mr Berry should be instructed as to what it is, because it has come in since he left the union movement. He might not know what it is. Part VIB of the Industrial Relations Act 1988, which relates specifically to enterprise bargaining, permits unions and employers to initiate a bargaining period as part of that negotiating process. The bargaining period commences seven days after a union gives an employer notice of its intentions. The union may then give an employer 72 hours' written notice of its members' intentions to engage in direct industrial action against the employer. In these circumstances, the industrial action is protected and an action does not lie under any law in force in the ACT.

Under the same section of the Act, an employer is entitled to lock out all or any relevant employees as a response to protected industrial action taken by employees. In reply to any accusation that we are reactive, I say, "Yes; we react when we have to react under the law, because that is all that is available to us". Action to lock out all or any relevant employees may also be taken by the employer to support or advance the employer's claims as part of the enterprise bargaining process. The employer is required also to give the employees 72 hours' notice of its intentions in this regard, and in these circumstances that action is then protected.

Let us look at the actions taken by the unions to initiate protected action. A mass meeting of union members was held last Friday, 8 December, as Mr Berry said, in Civic Square. The sole purpose of the meeting - which was poorly attended, according to an unidentified union official; not one of the Government's members,

but an unidentified union official - was to plan for industrial disputation; not to negotiate anything, but to plan for industrial disputation. The ACT Trades and Labour Council had made it known earlier, through public announcements, that industrial disputation was looming and had given written notice to this effect.

On 8 December 1995, the Media, Entertainment and Arts Alliance gave notice of its intentions to engage in protected action from the following Monday. The only response available to the employer under the law was to give unions and employees notice under the Industrial Relations Act of its intentions to consider using lockout provisions. It was made clear to employees throughout this period that, whilst all or any relevant employees could be locked out, such action would be taken against only employees directly taking part in industrial action, like the law says.

Let us look at the allegations that the Government has sought to inflame the industrial situation. Such allegations are utter nonsense. The Government and management have gone to great lengths to ensure that there has been a sensible and low-key approach to what has been some months of agitation by certain unions. Mr Speaker, as you would be aware, during the months leading up to the budget many unions made it very clear that they saw it as their role to seek to defeat the Government's budget. It is a reflection on the calibre of the Opposition that the unions took it upon themselves to take action. Public statements at the time were that it was their role to do it because they were not confident of the Opposition being able to do it.

There were a number of occasions on which the Government could have sought orders compelling staff to lift bans, but we did not. The Government was prepared to live with recommendations from the commission to lift bans and to continue discussions with unions as an alternative to going for the big stick or having stand-down clauses in awards. Strange as it may seem to the Opposition, the Government recognises that its greatest resource is its people, its work force. We have, therefore, always seen draconian action on our part as being a response to draconian action on behalf of the unions; definitely not as an initiative of the Government.

Let us look at the use of e-mail and other methods to communicate with staff. Mr Berry made a great deal of that point in his speech. Mr Berry keeps suggesting that it is inappropriate for management to talk to its staff via what he calls the Internet. Apart from being obviously wrong because it is not the Internet, it shows the paranoia that grips the Opposition. Management always has the right to talk directly to staff. There is no law or requirement that communication with staff has to be via the unions only, and Mr Berry should know that.

Throughout the enterprise bargaining process, management has communicated both with unions and with staff. In a number of cases brought before the Industrial Relations Commission, prior to the passing of the Government's budget, no fault was found with the way in which the government agencies were conducting themselves with the unions. Indeed, there were many cases where it was recommended by the umpire, the Industrial Relations Commission, that unions lift bans.

Mr Berry talked about the appointment of Mr Paul Houlihan. It is well known around Canberra that the unions and a number of industrial relations experts have been critical of what is perceived as a lack of strategic capacity in the ACT public service in the management of its industrial relations. The Office of Public Administration and Management earlier this year therefore appointed Mr Houlihan; not Mrs Carnell, as Mr Berry said, but the Office of Public Administration and Management. When Mr Berry starts talking about people misleading the Assembly, he should read what he has to say from time to time. Twice this afternoon he said, "Mr Houlihan was appointed by Mrs Carnell". He was not appointed by Mrs Carnell.

Mr Berry: Whom was he appointed by?

MR DE DOMENICO: He was appointed by the Office of Public Administration and Management earlier this year. It appointed Mr Houlihan as a consultant to advise it and, where necessary, advise its agencies on industrial relations matters. Specifically, Mr Houlihan has been working with agencies to assist them in developing lists of possible productivity measures to form the basis of the enterprise bargaining agreement negotiations. Mr Houlihan has completed this task. It is now clearly up to these agencies to decide whether or not they wish to receive further advice from Mr Houlihan. If their answer is no, Mr Houlihan's services will no longer be required.

Mr Houlihan was not engaged to recommend radical and untoward practices; he was engaged, after a number of other consultants were considered, to fill a gap perceived by members of the public service in its experience. The Government will not be told either by the union or by the ALP which consultant it is to allow its public service to employ. It is worth noting that the quality of the list of productivity measures to be forwarded by agencies is very high. That comes not just from me but from some of the unions. They have also said that they are very impressed with the way the whole thing is going.

In summary, let us look at the facts. Firstly, the Government initiated the enterprise bargaining negotiations; and the unions have often been slow in responding. That is fair enough, because they are complicated negotiations; we all know that. Secondly, the Government has moved to improve its strategic capacity in the industrial relations area. Thirdly, the Government has been careful to ensure that the processes of negotiating the management of industrial relations generally do not become politicised. It makes no apology for the Minister himself not leading the negotiations. Fourthly, the Government has taken a low-key and sensible approach to the management of industrial relations issues and industrial disputation, despite the claim from the Opposition that somehow the appointment of Mr Houlihan is evidence that we have not. Finally, the Government has ensured that management has been talking to staff but has not done this at the expense of communicating with the unions. The test of the pudding is in the eating.

Mr Berry was running around half-cocked yesterday, talking about all sorts of things. Whilst he was doing that, Mrs Carnell and I met with the unions. The unions decided to call off their industrial action before Christmas. We are now sitting down at the negotiating table, and I am very confident that by the end of next month we will have an enterprise bargaining agreement negotiated within a timeframe of four or five months; whereas it took this crowd opposite 18 months to negotiate their own agreement.

It is humbug for Mr Berry to come into this place today and criticise this Government for perhaps negotiating an enterprise agreement in one-third of the time that it took his Government to do the same. We waited for a long time for this wonderful blockbuster of an MPI, and it has gone down like a fizzer.

MS TUCKER (4.55): It has been disappointing for the Greens to witness this Government's approach to industrial relations. Many have put all the blame at the feet of the Minister for Industrial Relations; but, as the agenda for so-called industrial reform is being driven out of the Chief Minister's office, it seems the Chief Minister must shoulder some responsibility for the extraordinary manner in which this Government treats its employees.

This Government was prepared to threaten a fundamental right of all workers, albeit one that was brought in by the Federal Labor people. I acknowledge that. Our colleagues in the Labor Party here are supporting it, obviously. It is a right that has been hard won; it is the right to freely express views about conditions that people work under; it is the right to say, "We are not happy with how our employer is treating us, and we will seek appropriate mechanisms to improve those conditions".

This Government apparently believes that workers do not have these rights and that they should not be given an even chance. There is a very disturbing culture in the public service at the moment. Maybe you are not aware of it because you are not talking to people in perhaps lower positions in the public service. The point is that people are receiving in their e-mail a document which is basically saying, "Failure to correctly sign off duty is an offence and disciplinary action will be taken. It is inappropriate for your union to advise you to take action that is illegal". This kind of intimidation makes ordinary workers very uncomfortable. I have had people from the public service ringing me on quite innocent matters. They are now feeling anxious about calling the Greens at the Assembly, even though it is not about a political matter. If you are interested in the public service being constructive, this surely is not the way to go. If this is how managers manage in the Liberal Government, then we have grave concerns.

From my reading of industrial relations and the history of it, I see that industrial democracy has worked when people in a workplace feel fully informed and empowered; they are not going to be intimidated. The Government's role has to have a very negative effect on the overall culture of the workplace. We are happy to see now that there has been a way found to move forward. I am not sure whether it is, as Mr Berry says, the big stick from the Feds or whether it is that you realise that what you were doing was seen to be totally inappropriate by a majority of members in this place and in the community.

We have been hearing from Mr De Domenico about the very many meetings that he had with the unions. But to give a list of meetings and to say proudly how many there have been, when there has been no resolution or real movement forward during those meetings, does not say a great deal for the ability of either side perhaps to negotiate compromise positions. That is why I think that it is very interesting that we have been able to find this different position now which was reached so suddenly. If the people who were negotiating in these meetings in the past, particularly the Government, had come with a more conciliatory approach, then you might have made progress without having to have such harsh measures as occurred last week. You say that you do not feel that it is

appropriate for a Minister to be involved in an early stage at those meetings but that you thought that it was appropriate at the final stage. It was my impression from a quite long way back that the unions were interested in talking to you, Mr De Domenico - through you, Mr Speaker - and you were not available. I guess that the feeling is that you were not willing to be discussing these issues with the unions. Why it is suddenly appropriate is obviously more to do with how desperate the situation got.

I think that this is a matter of public importance. I do not think that it is a fizzer, or whatever you said it was. I think that a lot of people in the ACT have been very badly shocked by the measures that you introduced last week. I think that it is just as well that you pulled back from them.

MR CONNOLLY (4.59): Ms Tucker's closing remarks about the community of Canberra being quite shocked at where this Government had brought us in industrial relations are very relevant to the matter that we are debating today. The people of Canberra have probably got used to Mr De Domenico's bellicose style in relation to industrial relations and union matters. It is a carry-over from when he was in opposition. He has this tough macho rhetoric: "Let us have a fight with the unions; let us get stuck into it".

Debate interrupted.

ADJOURNMENT

MR SPEAKER: Order! It being 5.00 pm, I propose the question:

> That the Assembly do now adjourn.

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

Question resolved in the negative.

INDUSTRIAL RELATIONS
Discussion of Matter of Public Importance

Debate resumed.

MR CONNOLLY: The people of Canberra probably got pretty used to Mr De Domenico's rhetoric and tended, I suspect, not to pay much attention to it. How shocked people must have been when they unrolled their *Canberra Times* on Saturday morning to see a headline "Showdown: Govt lockout looms". What state of affairs have we got to in this Territory when the Government is threatening a lockout of its work force? What state of affairs have we reached when public servants are getting messages through their e-mail threatening them with dire consequences if they dare to take part in what have generally been regarded quite properly as their legitimate industrial

and democratic rights; that is, to attend industrial meetings, to attend stop-work meetings? The course of industrial relations never runs smoothly. There are always difficulties for any government, Labor or Liberal. The trade union movement, quite properly, very jealously guards rights and privileges of workers and will be reluctant to give anything up unless it gets something in return. That is the proper role. As a result, you will have stop-work meetings and tensions from time to time.

This is the first time in Australia that a government has been threatening a lockout of its own workers. How that must have sent some shivers around at Robert Menzies House on Saturday morning. As Mr Berry pointed out, industrial relations is the big issue that the Liberals want to be very quiet on going into a Federal election campaign. Nobody can tell us the Liberals' industrial relations policy. Mr Kaine interjected earlier today that he had read the Liberals' policy and that there was nothing in it about something. He has not read their Federal industrial relations policy, because it does not exist. I had hoped that he would tell us what it was, because nobody knows. We have on the front page of the *Canberra Times* not just the headline "Showdown: Govt lockout looms" but the commentary:

> Just when logic should have dictated that one side or the other should have proffered an olive branch, the Government has issued notices which virtually commit it to lock-outs in the event of industrial action ...
>
> The ACT unions are fully entitled to take "protected" industrial action ...

Then it says:

> However, if the Government does impose a lock-out it will set a precedent. No other employer has used the controversial lock-out provisions of the Industrial Relations Act ...
>
> When we examine the attitude of the ACT Government in this dispute it is hard not to be reminded of the industrial-relations policies of the Kennett Government in Victoria. It seems the Government is determined to be macho rather than conciliatory.

It goes on:

> The ACT TLC -

in the view of Mike Taylor -

> is also being stubborn.

This Government, driven by these crazy macho policies, has brought the ACT to the verge of a situation where, for the first time, a government is locking out its work force. Fortunately, we have seen a bit of commonsense, and the Government has withdrawn from the absurd macho posturing that we saw on Friday. There is no doubt in our minds

that a reason for that withdrawal has been the realisation that to disclose the Liberals' true approach to industrial relations, which is that the workers will take what they are offered or they will lock them out, would cause considerable distress to the Liberals' Federal industrial relations strategy.

We were at the situation - it was very clear from the statements of the Trades and Labour Council, from Mr Pyner's statements on Friday - where the ACTU would have had to be brought into this dispute were the lockout provisions invoked. There is no doubt that, if this Government invoked lockouts on its public sector work force, this dispute would have been elevated to the level of an ACTU matter. It would have clearly received the national limelight. The ACT Liberal Government would have been held up to ridicule and contempt around Australia as the first employer to impose lockouts on its workers, and certainly the first government to impose a lockout on its workers.

I can understand why the Federal Liberal Party strategists would have realised that they could not possibly allow this to happen and would have said, "We have to get them to see a bit of sense and pull back". It is a good thing for the Territory that a bit of sense has been seen and that the Government has pulled back from this absurd posturing. Nonetheless, the situation that Mr De Domenico had brought us to on Saturday morning is fully worthy of this Opposition matter of public importance. We have been sparing in our use of MPIs this year, but this is a matter that quite properly must be debated by this chamber.

The other point that must be reinforced is Mr De Domenico's scant regard for the facts. He came in here and made big statements during question time, when he was trying to present the case, hamming it up in response to a dorothy dixer from Mr Kaine. "Up front; no strings attached; we are offering you one per cent, $7 a week; no strings attached", he said on 5 December. But it is very clear, in the letter from Mr Walker to Mr Pyner of 5 December - the day that Mr De Domenico was saying in here, "No strings attached" - that there are significant strings attached; that in order to get this $7, one per cent, no strings attached, the unions must agree to a package; and that package involved a productivity trade-off.

However, the Government has consistently put this position:

> In our particular financial and budgetary circumstances -

I am obviously quoting -

> wage increases should not be fully budget funded. Accordingly, pay increases must also be funded from productivity gains.

Not the $7, the one per cent, but to get the $7, the one per cent, you have to sign up to this other package; you have to sign up to the reform agenda; and you have to agree to future productivity wage increases. Productivity wage increases may be a very legitimate thing to want to negotiate over. The fact is that we are not debating the merits of that, but we are pointing out that Mr De Domenico can get up here and glibly say, "We are offering you $7 a week, one per cent, no strings attached", when he knows,

or should know, that considerable strings were attached. When Mr Berry was making this point, Mr De Domenico interjected, "Of course everybody knows that. Don't be naive. Of course we have to get them to sign up to a whole package". We know that, Mr De Domenico; you know that; but you were no doubt hoping that the general public, particularly ACT government workers, did not know that.

Enterprise bargaining is a complex area; it has been a feature of the Australian industrial relations landscape only in recent years. There is still not a lot of expertise out there in the way that enterprise bargaining is carried out. That is obviously one reason why, when, for the first time ever, we had an ACT government enterprise bargain, it took some time to negotiate. This is the second or third time round. It is obviously going to take less time. But the fact is that you said in this place, "Workers will get a wage increase; up front, no strings attached".

Letters from your department make it very clear that getting that pay increase is conditional on unions signing up to a process in a package which will involve very considerable strings. It involves acceptance of your reform agenda. It involves future productivity-linked pay increases. We can debate the merits of that process, but there can be no doubt that what you said in this Assembly in answer to that question and the facts, as disclosed by Mr Walker's letter, do not match. Mr Speaker, I seek leave to table the letter from Mr Walker, dated 5 December, which shows the truth of the matter.

Leave granted.

MRS CARNELL (Chief Minister) (5.09): Very briefly, as the time is late, I would like to run over a couple of very important issues. They are all, I suppose, at the crux of what Mr Berry and Mr Connolly were talking about with regard to Federal Liberal intervention. If the Federal Liberal Party put pressure on anyone over the weekend, it must have been the TLC, because it was the TLC which approached the Government over the weekend, as Mr Pyner has been quite public in saying. If you follow Mr Berry's and Mr Connolly's logic, then it was the TLC which buckled under to pressure from the Federal Liberal Party; and they cowered, to use Mr Berry's word, quickly got on the phone to us and said, "Quickly; we have to have a meeting, because the Federal Liberals have just got in touch with me". I am a bit inclined to believe that Jeremy Pyner would not behave in that way if the Federal Liberal Party got in touch with him. It seems to me that the whole basis of Mr Berry's very unusual line of attack is totally spurious. The reality is that the Federal Liberal Party, as we have said before, has not got in touch with us at all; and, again, it was Mr Pyner who believed that the time had come to have another round of meetings, which we were always very happy to have. I am very happy that the situation has improved.

One of the other things that are important is that Mr Pyner, I understand, went to see Mr Berry on Monday morning, yesterday morning, before he came to see us. That is fine. There is nothing wrong with that; except that I understand that Mr Berry probably went out, still spoiling for a fight - even after understanding all that had happened over the weekend - and held a press conference at which he said, "Shock, horror! We will all be damned; we will all be doomed". That seems to me to indicate that maybe the motivation was nothing to do with reaching an enterprise agreement but was everything to do with trying to score some political points or getting his face on television.

The actual wording of the MPI is that the Government should change its approach to enterprise bargaining. I will finish by quoting from a couple of letters. One is from the TWU to Mr Berry, interestingly, as the Minister involved at the time. It was dated 1 November 1993. The TWU wrote to Mr Berry:

> The Transport Workers Union of Australia has long been concerned about the bureaucratic nature of enterprise bargaining within the Australian Capital Territory Government Service. The processes set in place for the achievement of productivity, efficiency and resultant wage outcomes are cumbersome, time consuming and relegate the pace of reform to that of the slowest participant.

So much for a really good approach from the previous Government! Mr Schulz, not a well-known Liberal, by the way, went on:

> It is understandable then that our membership are feeling frustrated at being tied to the current processes -

which he thinks are not any good -

> which are limiting both their wage outcomes and the ACT Government's pursuit of an efficient public sector.

Not exactly a ringing endorsement of the industrial relations approach that we inherited! Then we have a letter of 3 December 1993 from the AMEU, this time to the Chief Minister at the time, Rosemary Follett. This one says:

> The inability at your office and your department to deal with "Productivity Bargaining" as opposed to making the Trade Union Movement responsible and accountable for "Budget outcomes" displays a degree of incompetence rarely seen in any other area the AMEU operates in.

Again, not exactly a ringing endorsement of the industrial relations situation that we inherited! Yes, we have changed it; yes, we are more proactive; yes, we are trying to get an enterprise agreement here. I am proud of that, because that does not sound like the unions thought much of the old deal.

Mr Berry: Mr Speaker, I seek leave to table an article from the *Canberra Times* which goes to the appointment of Mr Houlihan as a consultant. It says that he had been retained by the office of the Chief Minister, Kate Carnell.

Leave granted.

MR SPEAKER: The discussion is concluded.

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

MR OSBORNE: I present Report No. 17 of 1995 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. I ask for leave to make a brief statement on the report.

Leave granted.

MR OSBORNE: Report No. 17 of 1995 contains the committee's comments on three Bills and nine pieces of subordinate legislation. I commend the report to the Assembly.

ECONOMIC DEVELOPMENT AND TOURISM - STANDING COMMITTEE
Report on Inquiry into Nature Based Tourism

MR KAINE (5.15): I present the report of the Standing Committee on Economic Development and Tourism entitled "Expansion of Nature Based Tourism in the ACT", together with extracts from the minutes of proceedings. I move:

That the report be noted.

I think that I would have to say that in my years in this Assembly this was one of the most pleasurable and interesting inquiries that I have been involved in. At the back of the report there is a list of the written submissions received and the witnesses who attended. Those people presented a broad spectrum of opinion on the issues that the committee was examining. I found them interesting. I thank the people who made submissions and appeared as witnesses for the amount of work that they put into their presentations to the committee. A quick look through the index to the report will show that these people dealt with many different aspects of the proposition that we should perhaps open up Namadgi National Park, the nature parks and the Murrumbidgee Corridor to greater use by tourists.

Mr Speaker, I will not dwell on the report. It was put together by Margaret Jones and Chris Papadopoulos. It is an excellent report and I thank them for the work that they did in putting it together. We did acquire a great deal of information and it was a matter of sifting it and deciding which should go in the report and which could be left out.

The bottom line is that the committee is agreed that there is a potential in these areas for attracting additional tourists to the Territory. While our report recommends certain actions that would, we hope, increase the number of tourists who come to Canberra specifically to get into these areas and have a look at our natural attractions, we were, and remain, cognisant of the fact that Namadgi National Park in particular is an area that

has been set aside for conservation for Australians of the future. To the extent that tourists begin to go in there in large numbers, we need to have in place beforehand the management strategies and the management plans that will ensure that those people go where we think they should go, that their activities are controlled, and that the asset inherent in these tracts of land is maintained, as the intention is, for the future.

We have made a number of recommendations subsidiary to the major ones. We had considerable input from representatives from the local Aboriginal community. They wish to be involved in developing the potential for tourism in this area. They see it as land of particular value to them. They sought to be involved in its development for tourism purposes, and to have local Aboriginals involved, specifically, for example, to explain the significance of some of the sites in the ACT to the rest of Australia in terms of the cultural significance to the local Aboriginal people. The committee has accepted that it is reasonable that they should be so involved.

As I said, Mr Speaker, time is short. We are running late and we have a lot of business before the Assembly. I believe that the report is self-explanatory. I believe that, if the Government examines it carefully and picks up the recommendations that we have made, it will be beneficial for the Territory and it will be beneficial for other Australians who will have an opportunity to come and see the natural attractions here, which in many ways are quite unique. They are not quite like similar attractions elsewhere in Australia. I, for one, would like to see people using this enormous area of the Australian Capital Territory that has been set aside as essentially parkland and a wilderness area. I commend the report to the Assembly, and I hope that the community derives a great deal of benefit from it.

MR WOOD (5.20): Mr Speaker, we all know how beautiful the ACT is, not least the Namadgi National Park and the Canberra Nature Park, and we all know that we want to keep it that way. The committee believes it is appropriate that people beyond our borders also know that and have the opportunity to enjoy that fine area. I want to refer to a paragraph on page 34 which I believe is of considerable importance. It says:

> The Committee also acknowledges that while this report focuses on identifying the potential for appropriate tourism opportunities, the overriding concern is the need to maintain the environmental integrity of Namadgi National Park and Canberra Nature Park. The Committee strongly asserts that nothing should be done that is not in the interests of the natural environment.

That is the first priority. Anything else comes after that. Recommendation 15 provides a response to what would be the most controversial views, and it says this:

> The Committee recommends that as a general rule the ACT Government restrict the development of formal accommodation venues to the periphery of the Territory's national parks -

that is beyond the border -

> however, that it consider developments which may be appropriate under specific circumstances. Any such proposal for development must be considered through an extensive community and government consultation process.

I think that is consistent with the point I raised a moment ago.

Finally, I want to indicate that one of the strongest messages we got was that we must keep ahead of tourism moves - of what may happen and where people may want to go. We saw evidence that it is very difficult to catch up with the tourism throngs. I believe we are ahead at this stage but we need to develop management plans for Namadgi, for the Canberra Nature Park and for tourism management, so that we stay ahead of such tourists who may come.

MR OSBORNE (5.23): Mr Speaker, I will be very brief. I would like to reiterate what my fellow committee members have said here today. I would like to say how much I enjoyed working with two veterans, Mr Wood and Mr Kaine, the way that I did on the committee. From a young person's perspective, it was quite an experience to work with the two elder statesmen of this Assembly.

Mr Speaker, I would like to reinforce what Mr Wood said. I was fortunate enough whilst on the committee to see a number of places that I had never dreamt existed here in the ACT. Prior to taking these trips there were many times when I had been at home with my wife on a weekend and we could think of nothing to do. I am pleased to say that, after the work we did on this report, I do not think that will ever be a problem.

I would like to stress that I think it is important that we allow Namadgi to be opened up. When I say “opened up”, I mean that people across the community should be made aware of the beauty out there, but it is important that we take care of what we have. The last thing I want to see is for it to become too commercialised; to see what we treasure slowly destroyed.

We were fortunate enough to have input from many people. The Ngunnawal people were very interesting. They questioned my blood lines. They questioned my origins, claiming I was one of the brothers. I disputed that, but they seem to have some inside knowledge on that. I think it is very important, Mr Speaker, that we appreciate these people's concerns and that we allow them to have a greater impact on some issues when it comes to tourism in the ACT. One thing they spoke about was that they would like to see some Aboriginal people conduct tours of Aboriginal sites around the ACT. I think that would be a great boost for them. As I said, Mr Speaker, I did enjoy working on this committee. I was disappointed that I missed out on some of the trips, but I believe that our next reference is on the Olympics and tourism for the ACT, so I am looking forward to making a trip to Atlanta next year.

MR BERRY (5.26): Mr Speaker, I am pleased to rise to speak briefly about this report. It is obviously a very important issue for the people of the ACT. I note, Mr Speaker, that the committee looked very carefully at the future of Namadgi and I see that they have called for an update of the management plan for Namadgi. I think that is a welcome direction for the committee to take. I think it is a good thing that this happens after a period of some gloom in the ACT when people were concerned that this Government, the Liberal Government opposite, might unload Namadgi for somebody else to look after.

Mr De Domenico: Wait until you read the thing.

MR BERRY: Recommendation 1, which I have read, makes the point, I think, that Namadgi is in ACT hands and that is where it ought to stay.

Mrs Carnell: Hear, hear!

Mr De Domenico: Hear, hear!

MR BERRY: I hear the Liberals opposite chorusing, "Hear, hear!". It was not like that a few months ago - until you got caught out for working behind closed doors on attempts to privatise the management of Namadgi. So, Mr Speaker, I think this first recommendation in this committee's report is a very important move. It reinforces the need to ensure that Namadgi is retained in ACT hands. After all, the Government opposite were elected - as future governments will be - to look after the interests of the ACT, not give them to somebody else to look after, and that is what was planned by those people, obviously. I am glad that that one has been put in the bin at last.

Mr Speaker, turning to other issues, I can see that the general thrust of the committee's recommendations is that we enhance our tourist attention to our natural delights, but I did hear Mr Wood express some concern about how we can cope with that without damaging our environment. I will be interested, when the Government responds to this report, to see how it will provide the sort of infrastructure that would prevent damage to our natural resources. I guess many of us have seen cases where, for example, in a rainforest which has been the subject of a lot of tourist attention there has been a whole range of root damage to trees and plant species because of the amount of traffic which has been allowed into those places without much thought being given to protecting the base of trees and plants in those places. In other more advanced areas where protection has been provided some of us will have seen, I am sure, walkways to ensure that the pitter-patter of little feet does not damage the trees and native species that grow in those wonderful places.

In this part of the world I think we have to be particularly careful because, once damaged, for us in the Territory it means a lot in terms of the attractiveness that that might provide for any future tourists. The same could be said of some natural grassland. The other day I was out on a cycle path and noticed nearby a patch of natural grassland and it has been offered as something attractive for people to look at. The problem is, of course, that if hundreds of people go to that site and invade it it could be wrecked. So we have to be very careful how we protect those.

Turning to another issue, recently I received a genuine complaint about future attention to Hall cemetery, about how it ought to be looked after, mowed, and all those sorts of things. I took the trouble to go out and have a look and I found what I suspected to be a lovely covering of native grass with an undercover of beautiful native flowers, none of which I was able to identify, I have to say. Other people are better at that than I am. Those who would claim they are greener than I am might be able to recognise them, but I could not. After I had noticed that there was some tape around the headstones and the area was mowed only within the tape, I made some inquiries. I discovered that the reason for that was that a rare species of orchid had been discovered in the cemetery. Last year 20 of these rare species had been discovered there. This year there are 80. That was something to be quite happy about. They are at Hall and in the ACT.

Those little things, which we sometimes take for granted, have to be treasured, and I am sure that that is the emphasis of this report. I congratulate those members of the Assembly who were involved in it. I trust, if it is taken note of, that the future of this Territory's grand environment not only will be protected but also will be enhanced for future generations of Territorians along with the rest of Australia.

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

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Inquiry into Voluntary Parent Contribution Scheme

MS FOLLETT (Leader of the Opposition) (5.32): Mr Speaker, I present report No. 11 of the Standing Committee on Public Accounts, entitled "The Voluntary Parent Contribution Scheme in the Australian Capital Territory School System", together with extracts from the minutes, and I move:

> That the report be noted.

This report is the product of an inquiry which has engaged the attention of the committee over the past seven months. I would like to thank my colleagues Mr Kaine and Ms Horodny for their support on this inquiry during the course of a year which has put significant pressures on the committee. Members will be aware that this is the eleventh report of the Public Accounts Committee for this year, and all of those reports have been fairly substantial pieces of work, so this has been a very busy committee. We have met just about every week and we have been, as always, vastly assisted in our work by our committee secretariat, particularly Mr Bill Symington, the committee secretary.

Mr Speaker, this issue was a contentious one before and during the 1995 ACT election. It had been raised originally by the schools community itself - I think it was by the P and C association - and it was the subject of one of the many public meetings called by various community interests during the last election campaign. I think it is fair to say that out of that debate no clear direction emerged for an incoming government on the issue of voluntary fees.

Mr Speaker, the ACT is not alone in encountering problems with voluntary parental contributions in the school system. Like their State counterparts, ACT schools face increasing funding pressures. Schools are forced to rely more and more on parental monetary contributions to fund the provision of basic educational equipment, texts and materials. However, voluntary contributions and school fees have become a contentious issue, with schools and parents divided on many of the key questions, including whether the contributions should be payable at all.

The Australian Council of State School Organisations earlier this year noted that parents throughout Australia are being pressured to pay more in voluntary contributions, that contributions are being misrepresented as quasi-compulsory, and that students are being discriminated against for not paying their school fees. But schools are facing a considerable dilemma. On the one hand they are being squeezed through budget constraints, and on the other hand they are required to keep pace with developing educational programs and to embrace new departmental education initiatives in areas such as information technology.

I think it is important at an early stage, Mr Speaker, to acknowledge that some 98 per cent of the funding needed to run schools and their programs is provided by government, so it is the overwhelming bulk of funding for schools. The remaining 2 per cent includes voluntary parental fees as well as other transitory forms of parental payments like excursion fees. The committee was advised by the Department of Education that to replace the voluntary fee component would cost government between $4m and $6m if allowance were made for equity between schools and for the money collected by P and C associations on behalf of schools. We accepted that figure, Mr Speaker, after some debate upon it.

I think it is a matter of record that the two major parties differed markedly in their election time responses on the question of voluntary fees. Whilst the Liberals canvassed the idea of making fees compulsory, Labor proposed abolishing them altogether and replacing these funds with an addition to the education budget. As we have heard, that addition would have had to be of the order of $4m to $6m.

Mr Speaker, following the committee's inquiry, neither of those courses of action is recommended in our report. The clear majority view put to the committee, including views put by the P and C association, the Australian Education Union and the schools themselves, was that the parental contribution scheme should be retained and its voluntary nature re-emphasised. However, there were considerable concerns about the scheme as it operates. In light of the concerns expressed before and during the committee's inquiry, I believe that the inquiry was indeed timely.

Some 82 submissions were received from schools, school boards, P and C associations, and individuals and organisations within the ACT community. There was a clear plea from most of the 70 or so schools which made submissions to the committee that government per capita funding, in their view, is not enough to allow schools to offer viable, educationally sound courses in optional areas. At the same time, Mr Speaker, there was an overriding concern that the voluntary contribution scheme is not fully meeting the needs of schools which have come to rely on these contributions and that the rate of parental contributions has fallen significantly in recent years.

The committee found that the voluntary contribution system is creating tensions within and between schools, and there is uncertainty about the roles of both parents and schools in the system. Given those sorts of concerns, Mr Speaker, it was something of a surprise, at least to me in my work on this committee, that so many of the schools and the organisations representing their interests were adamant about the need to continue with the voluntary contribution scheme. It seems to me that, having raised the issue in the first place, they might have wanted to come up with some alternatives to this scheme. At the back of the report the committee deals with some alternative propositions; but, as I have said, Mr Speaker, given the clear support for the scheme, it has concentrated its efforts predominantly on improving its operation.

Schools also charge subject levies. While the committee acknowledges that some parents may have a philosophical opposition to the payment of voluntary contributions, they may not fully appreciate that subject levies are specifically focused upon providing students with materials necessary to ensure that they are exposed to a well-rounded and interesting education. Mr Speaker, I think we are reluctantly forced to conclude that it has become essential for schools, mainly high schools and colleges, to charge subject levies and course fees for elective subjects, mainly those subjects which use consumable materials. It was made clear to the committee during the inquiry that current per capita funding does not allow schools to provide sufficient funds to offer viable, educationally sound courses in optional areas where students use materials to produce goods which they subsequently retain.

Within a continuing system of voluntary contributions and subject levies, however, there is a good deal of scope for ensuring that students are not disadvantaged either through the inability of parents to contribute or where parents choose not to contribute. The committee is firm in its view that the distinctions between voluntary contributions for general school funding needs and subject levies to ensure that schools can provide and maintain hands-on subject tuition are emphasised by the Department of Education and Training. At the same time, the committee is totally opposed to any forms of discrimination whereby students whose parents do not pay subject levies or voluntary fees are singled out, including being singled out and not allowed to join classes or not allowed to retain the goods produced in class.

It was a subject of some regret within the committee that we did hear evidence of students being singled out in this way. That evidence was put forward by schools who, in many cases, defended that action. It remains my view and the committee's view that this is indeed discrimination. I would ask everybody to bear in mind that it is not the students who are liable for these fees; it is, in fact, their parents. It would be very wrong, in principle and in practice, to make the student, the child, suffer, even where it is clearly the ethical and social responsibility of parents to pay those fees. I do not believe it is appropriate that any child should be disadvantaged because of a decision taken by their parents, and that has been the line that the committee has taken.

Mr Speaker, the committee has made, in all, 17 recommendations, and they are quite diverse. They range from, first of all, the need to review per capita grants to schools. The main problem with the per capita grants is the relative sums between primary schools, high schools and colleges. I believe that there is a clear view from some schools that those relativities ought to be re-examined and that the per capita grants ought to be reviewed in general.

We have also made a recommendation to develop a policy of consistency between schools in identifying the basis upon which voluntary contributions are sought. There was a huge variation in the evidence from schools about how and why they sought voluntary contributions. One school, in fact, does not seek them. As far as I know it, is the only one. The remainder of the schools do not appear to have any great consistency or, indeed, in some cases, any great logic in how they go about the task.

We have also recommended the establishment of a fund to assist participation in defined excursions and extracurricular activities. Mr Speaker, as I said, the committee was very much of the view that students should not suffer because of any perceived shortcomings, whether financial or ethical, on the part of their parents. For that reason, we felt that excursions very often are an essential part of a modern education for our students and that no student should be disadvantaged by not being able to take part in an excursion. So we have recommended that consideration be given to establishing a fund to ensure that there is that social equity amongst our students.

We have recommended also the establishment of an entitlement for all schools to operational equipment which is essential to education, such as photocopiers. Evidence that we had from one particular school, Mr Speaker, was that they were quite desperate as to how to replace a completely non-operational photocopier. It seemed to the committee that in this day and age a photocopier was crucial; that it was an essential piece of educational equipment; that it was not a luxury or an item that could be provided if and when the funds became available. We believe that there is a hierarchy of needs in schools. Items like fridges, stoves and so on ought not to have as high a priority as essential educational equipment like photocopiers. The schools need to know what they are entitled to, and we must bear in mind that that implies making proper budgetary provision for it.

The committee has also recommended developing a fund to finance core high school and college elective subjects. Mr Speaker, it is a fact that, with a broad-ranging education and broad options available to students, the costs for some schools and some students of some subjects mean that they are not equally available to all students in all schools. We believe that that matter ought to be addressed in the interests of equity in our community and have therefore suggested that a fund be created. We have recommended as well, Mr Speaker, that the Government review the professional development arrangements for teachers with a view to providing adequate funding, again on an equitable basis.

Much of the thrust of the committee's report is concerned with equity between students and between schools, and our recommendations are quite broad-ranging. The voluntary contribution scheme has simply not had this level of scrutiny in the past. I think that this report serves an important function in drawing out the factual position underlying the requests by school communities for voluntary contributions and for subject levies.

The report, I hope, will do much to clear the air on many of the concerns that have developed within the general community about calls for voluntary contributions and subject levies and also, I hope, dispel some of the myths about the use of the funds raised. Mr Speaker, I believe that the release of the report is timely as schools now prepare for a new school year. I again thank my colleagues and our committee secretary for the work done in producing this report, and I commend it to the Assembly.

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

PUBLIC SECTOR MANAGEMENT (AMENDMENT) BILL 1995
Detail Stage

Clause 8

Debate resumed.

MR CONNOLLY (5.48): Mr Speaker, the amendment that is before the house is a basic amendment about providing information on the public record about the terms and conditions on which our most senior public servants are employed. We have been waiting in vain for some argument from the Government as to why this information should not be made public. They seem not even to try to mount a defence about salaries and entitlements - that is, dollar sums. They have not even tried to defend keeping that secret, but they have tried to say that, if the objective performance criteria against which these executives are to be judged are made public, somehow that will politicise the public service. That is an absurd argument. Indeed, it is a reversal of the facts. If the performance criteria are not made public, I can assure you that they will be the first thing that most estimates committees will be seeking. It would make absolutely no sense for an estimates committee to go through the process of looking at the performance criteria for the agency without knowing what the criteria are for the agency head. It is an absurdity.

Mr Speaker, this is a Greens amendment, but if the Independents are thinking of not supporting it I ask them to consider this: The greatest harm to the public service could be done if this information is to remain confidential. There is no doubt that in the public service rumour mill and the political rumour mill of this town all sorts of stories are circulating already about special deals and secret deals done for persons who have come to these positions - the head of administration, in particular - or persons who may come, and that is a very damaging thing for public confidence in the wellbeing of administration in this town. There are stories floating around about extraordinarily generous housing assistance deals being done on the side. Those sorts of stories will flourish and do great harm to public administration in this city unless this information is public.

Mr Speaker, as I say, the Government has not even attempted to give a justification as to why financial aspects of the total package should be made secret. I would be interested to hear a justification, if it could be mounted. I want to say very clearly to those Independent members thinking about this - - -

Mrs Carnell: I said that we do not mind the financial aspects being public, but not the performance stuff.

MR CONNOLLY: There is a problem unless the whole thing is on the table. Stories about $100,000 housing assistance packages are doing the rounds. We all know how Canberra works. We all know that $20 can be transferred into $200,000 by the time a story has been retold several times. Secrecy is the environment in which these sorts of things fester.

Mrs Carnell: We have not passed it yet.

MR CONNOLLY: That is the point, Mrs Carnell. In anticipation of these secret packages, all sorts of rumours flourish, and that is very damaging to the confidence of the public in the administration of this town. The only way to resolve that is to ensure that all this material is made public. Mrs Carnell interjected and said, "We do not mind the financial aspects being made public". In that case the only issue here is the performance criteria, and how can that possibly be a state secret when it is the very basis of accountability?

Mrs Carnell: That is exactly what I spoke about before.

MR CONNOLLY: You have said, and the Assembly has accepted, that this is a reform package based on objective accountability. The Assembly has clearly accepted that because it has knocked back your subjective element, your ability to sack for incompatibility, and has supported the Leader of the Opposition's amendment, which limits this whole thing to objective accountability. Now you are seeking to maintain secrecy on that provision.

I say to Independent members that in supporting secrecy they could potentially create an environment where an awful lot of damage is done as all these stories circulate. We are not suggesting that there is anything to hide and I cannot possibly imagine why performance criteria could be sinister or secret. One can almost imagine what they will be, and they probably will be quite sensible. Why are you trying to hide something when there is absolutely no reason to hide it?

MR OSBORNE (5.52): I rise to support Ms Tucker's amendment. You will be pleased to know, Mr Speaker, that I have managed finally, after being in this place for nine months, to talk some sense into Mr Moore, and I believe that he is going to support the amendment as well. As I have stated a number of times in this Assembly, I believe in the principle of contracts. I think that public servants who are paid that amount of money should be made accountable. However, there were a couple of issues that were of concern to me, and this is one of them. I think that we need to be made aware of their contracts. I was speaking to someone from the Government during the lunchbreak. They said to me that if this amendment went through they would have trouble attracting people for the jobs. I said, "Well, I am happy to apply, for that sort of money". If they have a problem getting people for the jobs, I will take a five-year deal; I will be happy to.

Mr Speaker, I think the key to this is freedom of information. It is very hard for me not to support this sensible amendment from Ms Tucker, given my intention to completely overhaul the somewhat curiously named Freedom of Information Act. Having spent a great deal of time trying to talk some sense into my colleague Mr Moore, I am pleased to say that I have been able to do that. I have supported Mrs Carnell on this Bill in principle. However, this is one area that needs to be addressed, and I think this amendment has done that.

MS TUCKER (5.55): The Greens are very surprised at the Government's opposition to this amendment, and also at the arguments put forward in defence of their position. The Greens could not agree more with the Chief Minister that Ministers are responsible for the performance of all government actions. Indeed, it was heartening to hear Mrs Carnell reiterate this point.

The nature of agreements between chief executive officers and Ministers, or Senior Executive Service people if they are on contracts, is the key to being able to scrutinise a Minister's performance. The argument that because Ministers are ultimately responsible it follows that contracts should be secret does not make sense. Should this Assembly also expect that, if we ask a consultant to perform a job, then the nature of that agreement can be a secret because the Minister is ultimately responsible; or, if we call for tenders to run a service, the outputs or outcomes that they are being asked to deliver are secret because the Minister is ultimately responsible?

Mr Speaker, Mrs Carnell says she is more concerned about the performance agreements than the financial disclosure. We are concerned about both. We have spoken already about how important performance agreements are and how they must be public. We would also like Mrs Carnell to make a full disclosure about the financial details of agreements reached between the Government and the CEO of the Chief Minister's Department, and any promises that may have been made to the new director of Woden Valley Hospital. The Greens would be more than happy for our most senior bureaucrats to face the same kind of pecuniary interest disclosure as members of this place, but I have yet to see amendments to this Bill that would ensure this. All we have so far is promises.

Events of the past few months have shown us that promises are open to interpretation. All shades of meanings can be found. A word here or a word there can totally change the meaning, depending on who is looking at it - the promiser or the one promised to.

Mr Moore: It is the same with legislation.

MS TUCKER: Mr Moore has shown that he is concerned about this issue and he will be supporting this amendment, which is great. I am pleased to see that. I also thank you, Mr Osborne. This will enshrine in legislation this basic right to know requirement, and that is what this is. We need to have it enshrined in the legislation. I was surprised that Mr Moore was swayed by the argument put at one point by Mr John Walker - that if contracts were made public they would be significantly watered down. This type of cynical approach is quite extraordinary from the chief executive officer of the Chief Minister's Department, who is apparently saying that if this amendment gets up the Government will get around it by doing something else. That is not good enough.

Mr Moore: I think that misrepresents the way he presented it.

MS TUCKER: It is how it sounded, though, Mr Moore. It is time that some of the bureaucrats that this Government employs had a lesson in democratic, open and consultative government. The suggestion that contracts would be less prescriptive if they were open to public scrutiny, thereby reducing the possibility of a meaningful analysis or critique, is extremely worrying. The contents of these contracts are critical to how this Government intends to manage the ACT.

Mr Kaine suggested that contracts are not meant to be open. Some people might suggest contracts are not appropriate for the public service; but, if we are going to have them, we have to look at them with a fresh view. If they are going to be used in the area of the public service we must be prepared to be more flexible when we decide whether or not such documents are public. I will not go on any more because it is nearly 6 o'clock. I say thanks to members who are supporting this amendment, because I think it is extremely significant.

MRS CARNELL (Chief Minister) (5.59): Very briefly, I understand that the Assembly will pass this amendment. The Government, the chief executive of the Chief Minister's Department and all the other chief executives and SES officers will do everything in our power to make sure that this works. We believe that this is a very important piece of legislation. I would like to thank Mr Osborne and Mr Moore for their support for the core of the legislation.

MR MOORE (5.59): Mr Speaker, I think it is worth clarifying a point. I think that the way Ms Tucker put a spin on what was said really takes out of context the way Mr Walker spoke to me. Mr Walker made it quite clear to me that it was not his intention to try to do that, but he was taking a long-term view and said that there is a possibility that public servants will attempt to get around it in that way. I think it is fair to say that the way I presented it when I was putting my arguments may well have led to a misunderstanding and I think it is important that that be clarified. It was quite clear that it was not Mr Walker's intention to try to misuse this. I apologise if I have given that impression.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 9 agreed to.

Clause 10

MRS CARNELL (Chief Minister) (6.01): I move:

> Page 8, line 8, proposed new section 54A, add the following subsection:
>
> "(4) In the application of this section to the Office of the Director of Public Prosecutions, a reference to the administering Chief Executive shall be read as a reference to the Director of Public Prosecutions.".

Mr Speaker, clause 10 makes sure that the Director of Public Prosecutions can create or abolish executive offices within the Office of the Director of Public Prosecutions. This simply maintains the existing independence of the DPP.

MS FOLLETT (Leader of the Opposition) (6.01): Mr Speaker, whilst I am not opposed to the amendment that the Chief Minister has moved, I do think it is worth noting that the Government has been most insistent throughout the debate on this legislation that the Assembly meet its timetable. We have seen any number of little dummy spits occur over that very issue. Therefore, I think it is very disappointing that we are seeing, now, amendments coming forward from the Government on their own legislation. These amendments, it seems to me, indicate that the legislation was a very hasty effort in the first place.

It is the case that there was a change in the position put forward by the Government between the time of its initial briefing and the presentation of the legislation, a change which, clearly, was because of an error that had been made initially. Now we have further changes, including one where, I believe, they are trying to cover up for another error. Mr Speaker, had this legislation had the proper time that it needed to be considered, we might have done a great deal better.

What we have had from the Chief Minister by way of explanation of her amendment No. 1 really is a sign of contempt for this Assembly. We have had no explanation of it at all. Similarly, the explanatory memorandum on all three of these amendments by the Government is extremely scant. In fact, in relation to paragraph 3, I believe the explanatory memorandum, because it is so ungrammatical, is virtually incapable of being interpreted. Mr Speaker, I think that the Government should have taken the proper time on this. It ought not to have rushed headlong into it. Had it taken the proper time we would see fewer errors and fewer of these kinds of attempts to cover up for what have been, obviously, omissions.

Amendment agreed to.

Clause, as amended, agreed to.

Debate (on motion by **Mrs Carnell**) adjourned.

ADJOURNMENT

Motion (by **Mrs Carnell**) proposed:

That the Assembly do now adjourn.

Sister City Relationship with Nara

MS FOLLETT (Leader of the Opposition) (6.04): Mr Speaker, I would like to take advantage of the adjournment debate to address again, very briefly, the question of our sister city relationship with Nara and the Liberals' track record for a bipartisan approach on this matter. I want to commence by reading from the *Hansard* some comments made by Mr Humphries which, I think, by way of an interjection, he attributed to you, Mr Speaker; but this is, in fact, Mr Humphries talking. I will quote what he said:

> I know that the Japanese Government has made a number of decisions that I personally have great cause to regret. As Minister for the Environment, for example, I am very concerned about the fact that the Japanese Government continues to sanction, indeed to sponsor, wide-scale whaling in this same South Pacific region. That has an enormously detrimental effect on the environment, and I think the members of this place ought to exhibit some of the strength of purpose, some of the resolve and vision which they claim is missing in this Government, by taking a stand on whaling as well.
>
> The Japanese Government, as you, Mr Speaker, have pointed out, has not apologised for its atrocities during the Second World War. The Japanese Government continues to exercise the death penalty against its citizens. These are all decisions that I would have cause to regret. Are we going to be logical and exercise some international sanction against Japan by cancelling our sister city relationship with Nara?

Mr Speaker, that was Mr Humphries's contribution to an earlier debate in this Assembly, but I want also to raise the question of the general attitude towards this sister city relationship which has been displayed by the Liberals. Mr De Domenico, as I said earlier, at one stage actually did admit that he had been opposed to the sister city relationship.

Mr De Domenico: Where? Where did I say that?

MS FOLLETT: It occurred at the Hotel Kurrajong when Mr De Domenico was in the company of the deputy mayor of Nara, apparently on an official visit. One of my staff was also at the Kurrajong Hotel at a private function. Mr De Domenico made the comment that he had been opposed to the sister city relationship with Nara and then turned to the interpreter and said, "Don't translate that".

Mr Speaker, it is also a fact that I have been aware throughout this year of various visits to Canberra by parliamentary representatives from Nara. There was, for instance, that visit by the deputy mayor and his party. There was another visit not some two weeks ago. I would like to put it on the record that not on any of those occasions have members of the Labor team been invited to participate in any function whatsoever or to have any meeting with those visitors. Mr Speaker, when it comes to bipartisanship, I would say the Liberals really have it all ahead of them. They have yet to prove that they even know what the word means.

Mr Speaker, I would also like to mention, just in passing, the question of the relative costs of various delegations. I would like to put it on the record that the cost to the Executive of the parliamentary delegation which I led was in fact $25,387.48. That cost includes the cost for me as Chief Minister, for Mr Lamont, and for Mr Wedgwood, my staffer. Mr Speaker, it is the fact that the amount did not include Mr Lamont's air fares. They were paid for by the conference that he attended in Japan. The total cost that the Government bore in 1993, Mr Speaker, was $114,319. That cost has been greatly exaggerated in the course of the Liberals' cheap, petty and crass point-scoring on this whole exercise.

Sister City Relationship with Nara

MR MOORE (6.08): Mr Speaker, I think it is important that I rise and speak on this occasion. I have heard, not only on this occasion but also on quite a number of other occasions, what some would describe as bickering and point-scoring, and I think with good reason. I listened to what Ms Follett said in this adjournment debate and I think there is some merit in the points that she raised. I hope, Mr Speaker, that we can step beyond that; that when a delegation comes from Nara a member or members, whatever is appropriate, from the Opposition, a member or members from the crossbenches, and a member or members from the Government are included at such functions. I think that Ms Follett has appropriately put the challenge back into the hands of the Government and said, "Let us see a proper bipartisan approach", or, as I would say, a non-partisan approach, "on this issue". Then we can begin to look forward.

The Leader of the Opposition has given evidence today - I have heard it myself over the last few years - of situations which are simply inappropriate. What we need to do is to present to our sister city a unified front in terms of our hospitality and our approach, recognising, of course, that we have differences of opinion on some issues, as indeed they do themselves. At one dinner we sat down with a member of the Communist Party and members of several other parties from the Assembly in Nara. Of course, they had differences of opinion; nevertheless, the hospitality that was shown to us was entirely appropriate. In some ways it led to a much more interesting discussion. That is what we should do in return. I hope, Mr Speaker, that today we have reached a point from which we can move forward on this issue and work as we should on our sister city relationship.

Question resolved in the affirmative.

Assembly adjourned at 6.11 pm