DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

6 November 1997

Thursday, 6 November 1997

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Thursday, 6 November 1997

The Assembly met at 10.30 am.

(Quorum formed)

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

ABSENCE OF CLERK

MR SPEAKER: I wish to inform the Assembly that, due to the unavoidable absence of the Clerk during today's sitting, the Deputy Clerk will act as Clerk.

HEALTH PROFESSIONS BOARDS (PROCEDURES) (AMENDMENT) BILL 1997

MR HUMPHRIES (Attorney-General) (10.32): Mr Speaker, I might also inform the Assembly that the Chief Minister is absent today attending the ministerial meeting of Health Ministers and the Council of Australian Governments. In her absence I present the Health Professions Boards (Procedures) (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Acting Clerk.

MR HUMPHRIES: Mr Speaker, I move:

> That this Bill be agreed to in principle.

I seek leave to have the presentation speech incorporated in *Hansard*.

MR SPEAKER: Is leave granted?

MR BERRY (Leader of the Opposition): Mr Speaker, before granting leave, I seek leave to make a short statement.

Leave granted.

MR BERRY: Mr Speaker, we agree to a pair for the Chief Minister to attend the COAG meeting and we therefore will be giving leave for the incorporation in *Hansard* of speeches on these pieces of legislation. They were brought to my attention yesterday after the house rose. But I have to say to the Manager of Government Business that I would appreciate it if in future he could arrange for the business of a Minister who is to be absent to be held over until they are back, or that it is arranged that the Ministers are here in place to read the relevant speeches which are appropriate in some cases in relation to these pieces of legislation. I think it is poorly managed Government business.

MR HUMPHRIES (Attorney-General): Mr Speaker, I also seek leave to make a short statement on this subject.

Leave granted.

MR HUMPHRIES: I might inform the house, Mr Speaker, that one of the reasons why the Chief Minister was not able to be present this morning is very largely the quite uncertain nature of the meeting that she is attending this morning. The meeting at one point was off, then it was on, then it was off again, and only as recently as yesterday afternoon it was on again. The Chief Minister yesterday morning expected to be here to present her own Bills, and only because of the - - -

Mr Berry: It was always going to be on for part of the day.

MR HUMPHRIES: No, that is not so. It was going to be on for the morning only at various stages during the period between now and about two weeks ago. The meeting has been virtually on and off several times.

Mr Berry: Pay closer attention to your business in future, Gary.

MR HUMPHRIES: I am sorry that Mr Berry must make a point about this, but the reality is that nobody could have planned to have avoided that problem any better than that.

MR SPEAKER: Mr Humphries has asked that the speech in relation to the Health Professions Boards (Procedures) (Amendment) Bill 1997 be incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 4.

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

HEALTH PROFESSIONS BOARDS (ELECTIONS) (AMENDMENT) BILL 1997

MR HUMPHRIES (Attorney-General) (10.36): Mr Speaker, on behalf of the Minister for Health and Community Care, I present the Health Professions Boards (Elections) (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Acting Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

I seek leave to have the presentation speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 5.

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

DENTAL TECHNICIANS AND DENTAL PROSTHETISTS REGISTRATION (AMENDMENT) BILL 1997

MR HUMPHRIES (Attorney-General) (10.37): On behalf of the Minister for Health and Community Care, I present the Dental Technicians and Dental Prosthetists Registration (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Acting Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

I ask for leave to have the presentation speech incorporated in *Hansard.*

Leave granted.

Speech incorporated at Appendix 6.

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

POISONS AND DRUGS (AMENDMENT) BILL 1997

MR HUMPHRIES (Attorney-General) (10.38): On behalf of the Minister for Health and Community Care, I present the Poisons and Drugs (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Acting Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

I ask for leave to have the presentation speech incorporated in *Hansard.*

Leave granted.

Speech incorporated at Appendix 7.

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

DRUGS OF DEPENDENCE (AMENDMENT) BILL (NO. 2) 1997

MR HUMPHRIES (Attorney-General) (10.38): On behalf of the Minister for Health and Community Care, I present the Drugs of Dependence (Amendment) Bill (No. 2) 1997, together with its explanatory memorandum.

Title read by Acting Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

I ask for leave to have the presentation speech incorporated in *Hansard.*

Leave granted.

Speech incorporated at Appendix 8.

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

MENTAL HEALTH (TREATMENT AND CARE) (AMENDMENT) BILL 1997

MR HUMPHRIES (Attorney-General) (10.39): On behalf of the Minister for Health and Community Care, I present the Mental Health (Treatment and Care) (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Acting Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

I ask for leave to have the presentation speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 9.

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

ESTIMATES 1997-98 - SELECT COMMITTEE
Annual and Financial Reports for 1996-97

MS McRAE (10.40): Mr Speaker, I move:

> That paragraph (3) of the resolution of the Assembly of 8 April 1997, as amended on 28 August 1997, which appointed the Select Committee on Estimates 1997-98, be amended by omitting "11 November 1997" and substituting "2 December 1997".

This motion seeks to alter the reporting date on consideration by the Select Committee on Estimates 1997-98 of the annual reports and financial statements. The motion has agreement all around the house and has been necessitated because not all the annual reporting requirements fall under the same reporting date requirement. As a consequence, both Totalcare and the TAB have only just reported. The committee felt it was important to examine those annual reports. It is one of the responsibilities of the committee. As a consequence, we are seeking to delay the reporting date. I commend members for their support of the motion.

Question resolved in the affirmative.

LEGAL AFFAIRS - STANDING COMMITTEE
Report on Inquiry into the Efficacy of Surveillance Cameras

Debate resumed from 25 September 1997, on motion by **Mr Osborne**:

> That the report be noted.

MR WOOD (10.41): Mr Speaker, when the debate was interrupted I was indicating that the Government seemed to be relishing the prospect of running a law and order campaign. Certainly, the Minister, Mr Humphries, was, if not the Government as a whole. I would find it surprising that they would seek to run such a campaign at a time when armed hold-ups appear to be occurring in the ACT without any control. People who work in banks, shops or service stations can no longer feel safe. Even customers who visit those places cannot feel safe. The community at large is highly anxious about this increasing number of armed hold-ups. I would be surprised if the Minister thought he could sustain any notion that here is a government that is on top of the issues.

I might indicate that the Labor Party will run a law and order campaign. Certainly, we will focus on crime, but we will focus on those more serious issues in the background that may lead people to crime. We will focus on the social conditions that many people face in Canberra, such as a lack of employment, inadequate housing and a whole range of issues that might tend to lead people to crime - a path on which they would not be if circumstances for them were better. That is one of the steps that the ALP will take, as well, of course, as focusing on the prevention of crime.

I come back to this debate on the position of surveillance cameras. This Assembly, I repeat, has made its views well known, and the Minister should attend to the views of this Assembly if he wants to do anything further about surveillance cameras.

MR MOORE (10.43): Mr Speaker, the issue of surveillance cameras has been with us for quite some time. I think there is a series of issues that apply to surveillance cameras and how we use them. Nowhere have they been dealt with better or more thoroughly than in the report of the Standing Committee on Legal Affairs. Prior to that report coming down I had been strongly opposed to surveillance cameras. I was concerned about the matters that the standing committee dealt with. Many of the concerns that I had have been taken into account by the committee.

Before the committee reported it had always been my view that I would not have any room to move, that I would simply say, "No, there will be no surveillance cameras, because of the potential for misuse". Mr Speaker, you may recall the resolution of the Assembly when the report was tabled. It included an amendment that I had put forward. It read:

> That the Assembly takes note of the paper and, in noting the paper, this Assembly requires the Government to refrain from any implementation of surveillance cameras that is not in accordance with all the recommendations of the Standing Committee on Legal Affairs report "The Electronic Eye".

That was the report that we were talking about at the time. Since that time Mr Humphries has written to me. He wrote to me on 16 October and pointed out that he had been made aware of possibly unintended consequences of the passage of that motion which required urgent consideration, and I think this is a sensible time to resolve the issue as I see it. He said this:

> From time to time, the Australian Federal Police use video or still photographic equipment to assist in evidence-gathering for offences, which may range from covert surveillance of places which intelligence indicates are prominent for drug deals or other crimes, to overt surveillance in the case of demonstrating the effects of substantial breaches of occupancy loadings.

Mr Speaker, I must say that I have a view about how those cameras ought to be used under those circumstances. My view is that, when the police wish to use cameras that can record sound as well, there ought to be a warrant involved, unless it is a case where a royal commission is investigating major crime. The Wood royal commission used these sorts of cameras very successfully, but it effectively was given a warrant by the New South Wales Parliament. I will continue with what Mr Humphries said. I quote:

> I am concerned that the motion passed by the Assembly may actually require the Government to direct the Australian Federal Police to cease this practice and this would compromise the gathering of evidence in some criminal investigations ... The debate of the motion did not specifically canvass this issue and I am therefore keen to clarify members' intent before issuing any directions to the Australian Federal Police.

Mr Speaker, I think it is important to clarify this issue. In putting the motion and supporting it, I certainly had no intention that it should have wider ramifications. We were talking specifically about the notion of some public surveillance cameras, the sort that were referred to in the Assembly. From my perspective I would say to Mr Humphries that he should go ahead and issue his direction. We should have another debate, however, about whether or not there should be warrants required for this sort of use of video cameras; but that is a debate for another time. It was never my intention to interfere with that sort of use of cameras. It was my intention, and I would interpret that it was the Assembly's intention, to deal with the issues that have been raised in terms of electronic surveillance cameras placed in public areas.

I hope that clarifies what Mr Humphries has said and gives him the appropriate wherewithal to be able to issue his directive on that issue. Perhaps other members might comment in the same way. However, I still think the motion we passed with reference to surveillance cameras used in public ought be followed very carefully. I think the Standing Committee on Legal Affairs came up with a very sensible way of dealing with something that to me was unacceptable. They said, "If you have these safeguards in place, then this could be an acceptable method".

I think a lot of people put weight behind electronic surveillance cameras and say they will solve all sorts of problems. I am still of the view that generally they will tend to move problems from one place to another. However, that may be a useful device, provided the appropriate safeguards are in place. It may be useful to ensure that problems which interfere with other people's freedom to move around do not occur in a specific very public area. Therefore, I think that, whilst the motion should remain, there is that clarification I made. Secondly, the report should be considered as a whole. I think it is very important. I think that clarifies the issues that need to be clarified from my perspective.

MR HUMPHRIES (Attorney-General) (10.49): Mr Speaker, I seek leave to speak again on this matter. I have spoken once, but I want to make a few remarks.

Leave granted.

Mr Wood: I might be up, too.

MR HUMPHRIES: Do you want to speak as well? Okay.

MR SPEAKER: You will be allowed to speak, if you wish.

MR HUMPHRIES: Mr Speaker, I hoped Mr Wood would speak because I have written to him about this question of the unintended consequences of the motion. I have heard Mr Moore refer to his interpretation of what the Assembly resolved, and I would appreciate Mr Wood also indicating his view about the matter.

There is a very serious issue here. We have the intention by the Federal Police to use material obtained by surveillance cameras as an ongoing tool in dealing with policing in the ACT, particularly in places like Civic where we all know there is a serious problem with drugs, and also in places like the courts where it is proposed to tender evidence which has been obtained by the use of those cameras or electronic surveillance of various sorts. I think it is most important that it be clear to the Federal Police that in doing so they are operating within the parameters of the framework set by the Legislative Assembly. I am going to take it as read, on what Mr Moore has said, that that is the will of the Assembly, although it would be nice to have other members confirm that that is their interpretation as well.

I want to make one small comment about the debate. Mr Wood has suggested that I am keen to have a law and order debate, a law and order auction. The fact is that I am not keen to do that. The Liberal Party has, I think, sensibly tried to strike a balance on this matter and has not run that kind of line throughout the last three years. There have been occasions when we have said that we need to better resource the police, and, indeed, we have done that. We have better resourced the police and we have increased the numbers of police on the streets of Canberra. We have restructured the way they do their work, and we have before the house at the moment legislation dealing with sentencing policy pursuant to recommendations made by the Chief Justice and the Director of Public Prosecutions.

If you call that a law and order auction, I suppose we are engaging in an auction; but I would suggest to you that the response we have had to those issues has been fairly mild. We have not run around saying, as almost every other police Minister or police opposition spokesperson in this country has been saying, "The Government has to crack down in these areas. It has to put more resources into these things".

Mr Wood: As you used to do. That is what you used to do.

MR HUMPHRIES: I beg to differ.

Mr Wood: And I have avoided that.

MR HUMPHRIES: I beg to differ. You produce the evidence, when you speak again, Mr Wood, on what I have said that is inconsistent with that approach.

What I say to you is that we need to strike a sensible balance. The balance that I am proposing we strike here is that we acknowledge the concerns of people like Michael Moore and we have a trial of the surveillance cameras. That is all that I am asking for. I am not saying I want to put the cameras up left, right and centre, although they are all over our town at the moment. Some of them were erected by - - -

Mr Osborne: If you wanted a trial, why did it take you 10 months to respond to the report?

MR HUMPHRIES: I will come to that, Mr Osborne. There are cameras all over the city at the moment. They have been there and have been operating for some time. Some of the cameras were installed by the Labor Party, outside here, and who built this place? Who erected those in the Belconnen bus interchange? They have been there. Again we have this double standard applied; if the Labor Party does it, it is okay, but if we do it, it is not. All I am saying is, "Let us have a trial".

Mr Osborne asks why we have not responded positively to the trial.

Mr Osborne: No. Why did it take you 10 months to respond to our report?

MR HUMPHRIES: I repeat, Mr Speaker, that the cost of enacting special legislation merely for a trial - - -

Mr Osborne: Why did it take you 10 months to respond to our report? That is all we want to hear.

MR HUMPHRIES: I heard your interjection, Mr Osborne, and I do not intend to respond to it.

Mr Osborne: Because you are embarrassed; that is why.

MR HUMPHRIES: Because we have been trying to find a solution to your problem and we cannot. The solution to the problem proposed by the Legal Affairs Committee is to spend over $100,000 on developing legislation and creating a special camera ombudsman. Mr Speaker, those provisions, those protections, are already in place. It is just not warranted to spend $100,000 on a trial.

Mr Osborne: Why did you not come to the Legal Affairs Committee eight months ago, or why did you not come six months after the report?

MR SPEAKER: Order! Mr Osborne, you will have the chance to stand up and speak in due course. Stop interjecting.

Mr Osborne: It is pathetic. He stands there and he has had 10 months to respond to the report and he did not, and he says, "We do not have time".

MR SPEAKER: Order, Mr Osborne!

MR HUMPHRIES: We have responded to the report and we have indicated what our concern is. Our response said that we tried to find a way of doing this cheaply, and we could not. We said, "We have the offer here of free cameras. Let us use the cameras. Let us use the Ombudsman we now have as the Ombudsman to protect the privacy of those caught on those cameras, and let us use the legislation that the AFP already have in place to protect those who might also be caught in those circumstances". So we have everything the committee has asked for, every single thing. All I ask for is the capacity to proceed with the trial in those circumstances. That is the issue.

If the Assembly does not want to give us the capacity to do that, that is fine. Then there will be a debate about this in the coming election. There will be an issue about that. You have it within your power to prevent that from happening by simply allowing a trial. I say to the Assembly: What does it have to lose by conducting the trial on the terms proposed by the Government? Absolutely nothing. That is why, unfortunately, it is going to have to be an issue put before the people of the ACT. We will say to them that we want to have the use of a device which every other major city in Australia already uses, and which even the Labor Party has put in place. When the Labor Party put it in place they did not have any protections like a special camera ombudsman to deal with it, and they did not have special legislation to protect the privacy of those caught in those cameras; but when they are in opposition they want the Government, the Liberal Government, to make sure that it happens.

Mr Speaker, if there has to be an issue before the election, so be it. I would appeal to the Assembly not to make it an issue. I do not want to have that kind of debate. I would prefer it if we did not have a debate about these things in that context, because it does inflame people. I would prefer to be able to go forward without that kind of debate, and I invite the Assembly to accept that that is the sensible way of proceeding.

MR WOOD (10.56): I seek leave to speak again.

Leave granted.

MR WOOD: Mr Humphries has just raised the question of a letter he wrote to me and, I think, to Mr Moore about the use of cameras in gathering evidence. It was probably fair enough of Mr Humphries to write to me. I certainly have received and am considering that letter. I would have thought that he might have sent it to the Legal Affairs Committee, because they were the group - - -

Mr Osborne: It would not have taken us 10 months to respond to it.

MR WOOD: What was that, Mr Osborne?

Mr Osborne: It would not have taken us 10 months to respond to his letter.

MR SPEAKER: Would you stop encouraging interjections, Mr Wood.

MR WOOD: I would have thought that an appropriate step to take would be to send that letter to the committee that made the report. That would seem to me to be the first thing that Mr Humphries should have done.

MR OSBORNE (10.57), in reply: Thank you, Mr Humphries, for finally answering that one question that has been bugging me about this report from the day we tabled it, in September last year - why it took you so long to respond to it. I think you just answered it, because you said you do not want to make an election issue out of it; but the reality is that you really do.

Mr Speaker, I think I am at one with the Government on the issue of surveillance cameras, but the reality has been, in the life of this Assembly, that we are outnumbered. We do not have enough numbers. That is why the Legal Affairs Committee went to the trouble of having a lengthy and very detailed inquiry, which your colleague Mr Kaine sat on and Ms Follett sat on. I think we all moved a lot. I have said a number of times in here that I think we all moved ground on the issue of surveillance cameras. I still see a lot of benefits from them, especially in Civic, and I would love to be able to put them up tomorrow; but, as you know, Minister, we do not have the numbers to do that. What we managed to achieve in the Legal Affairs Committee was a way for surveillance cameras to be put up, whether you like it or not.

Mr Humphries: It would cost $100,000 to do it, and I do not have $100,000.

MR OSBORNE: I think someone quoted me a figure of over 200 surveillance cameras in operation in Canberra already. The privacy legislation would have been worth considering. You complain, Minister, about the recommendations; but if you had come to the Legal Affairs Committee, even five months after we had tabled the report, and said to us, "These are the problems", we could have considered it again and perhaps changed

and made it a little bit easier. But you came to us 10 months after and said, "It is too hard; you have made it too hard". Really, the crocodile tears, Mr Humphries are not working. I am just disappointed that you waited so long to respond when, if you had come to us on the Legal Affairs Committee and - - -

Mr Berry: You are going to let him off, though, Ozzie, are you not?

MR OSBORNE: I am not letting him off. You could have come to us and said, "We are having trouble with this". Instead, you come into the Assembly and say, "It is all too hard, blah, blah, blah". Mr Humphries, you really disappointed me on this one. As I said, I think I am at one with you on the issue of surveillance cameras; but you needed to convince more than me, and you have not done that. If you want to make an election issue out of it, fine; but I will be reminding people that you had an opportunity to do it during the life of this Assembly, but you did not. You chose not to.

Question resolved in the affirmative.

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Report on Draft Variation to the Territory Plan - Residential Land Use Policies

Debate resumed from 3 December 1996, on motion by **Mr Moore**:

That the report be noted.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (11.01): Mr Speaker, I think the Government response has already been tabled.

Mr Moore: Yes, I think it has.

MR HUMPHRIES: It has. I want to make just a few comments about it. Mr Speaker, I think this is a quite important variation to the Territory Plan. It will affect only a very small number of people. Nonetheless, the number it will affect will be affected quite significantly. In the last few weeks we have had a very intense debate about the nursing home accommodation bond which the Federal Government introduced and which, as recently as last night, it announced that it has decided it is not going to proceed with. I have to say that I think that is a good idea. I think if I were them I would have given up on the idea some while ago as well.

The problem of finding suitable accommodation for elderly members of our community will not go away. This variation to the Territory Plan is an attempt to be able to deal with that problem in, I think, a balanced way. It creates the capacity for people to place what is entitled in the plan "a habitable suite or a relocatable unit" into part of an existing ACT leasehold to accommodate a person who is elderly and in need of care or a member of a family who has disabilities of one sort or another that require special accommodation.

This variation has been released for public comment. It received a small amount of public comment. It may receive more in the future when approval is given, in particular cases, to locate transportable units in the backyards of some Canberra homes. I think the principle is a sound principle and I hope that the members of the Assembly will endorse and support the concept, because it is one which does provide a number of Canberrans with a means of providing care for their aged relatives or their disabled relatives in a way which is not presently possible. I hope that, as a compassionate community, we will embrace that opportunity.

I want to emphasise the Government's very clear intention that, if this device is used by residents of the ACT, the continuing use of transportable units in Canberra backyards is not to extend beyond the end of the particular need for which it was established. Mr Moore was asking me yesterday about enforcement of the Territory Plan. I want to make it very clear to members here and, particularly, to my department that enforcement of the requirements to remove those units when the person for whom they were established or a person with similar requirements is no longer there is quite explicit and that there will have to be a very prompt enforcement of any requirements where people decide they are going to leave them as an additional feature of their present housing arrangements. That is not to be permitted. We do not want to see these units appearing in every second backyard. They are there for special purposes and they should be there only for the duration of those special purposes. I believe that would be the spirit in which this would be a successful amendment to the Territory Plan.

MR MOORE (11.05), in reply: Mr Speaker, this report is yet another report that the Assembly committee had quite a deal of difficulty with. In fact, it seems a long time ago now. It is about halfway through the number of reports we have tabled in the Assembly - Report No. 21. Once again, there was a compromise approach. We tested and checked that the appropriate action could be taken by the department, and it was not until we were sure that that was the case that we approved it. I think it was one of the longest times we took over variations to the Territory Plan, because there were still outstanding issues as far as we were concerned. Mr Speaker, I am pleased with the Government's response and, of course, pleased that the committee was able to come to a sensible compromise position on the issue.

Question resolved in the affirmative.

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Further Report on the Acton-Kingston Land Swap

Debate resumed from 10 December 1996, on motion by **Mr Moore**:

That the report be noted.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (11.06): Mr Speaker, it has been some time now since the land swap was completed and, of course, we have seen in recent days the design chosen for the National Museum of Australia. The debate which has preceded this point has been acrimonious; but we would all have been pleased, enthused and even inspired

by the announcement of the design and the feeling I think we all have that the project, after many false starts, is now finally coming through the tunnel, as it were. I look forward very much to seeing it emerge from that tunnel as an important contribution to the celebrations in 2001 of the Centenary of Federation.

Members will be aware that Ashton Raggatt McDougall, the winning architects, submitted an exciting design. It will bring tremendous vitality to both the Lake Burley Griffin foreshore and the Parliamentary Triangle. The architects will work in association with Robert Peck Von Hartel Trethowan to design the National Museum, the Australian Institute of Aboriginal and Torres Strait Islander Studies and the ACT Aboriginal and Torres Strait Islander Cultural Centre, all on the peninsula. I hope the ACT Aboriginal and Torres Strait Islander Cultural Centre will be a tangible symbol of reconciliation in the heart of our city, our national capital, and that it will focus on contemporary Aboriginal and Torres Strait Islander culture in the ACT and this region.
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Obviously, during construction, the architects will be required to have a significant Canberra presence. The $130m project will provide a major stimulus to the ACT economy, creating up to 700 on-site construction jobs through to the opening of the museum in 2001. The ACT has been invited to sit, and will sit, on the Museum Construction Coordination Committee, along with the chairs of the National Museum, the Australian Institute of Aboriginal and Torres Strait Islander Studies and the National Capital Authority.

I have to say that, when the ACT had planning control of the peninsula, Acton was worth, in effect, very little to the ACT. Now, it will become home to a significant national cultural centre, which will not only benefit the local community but also encourage even more tourists from Australia and overseas to visit the national capital. At the same time, we will have a consolidated site of 37 hectares close to the Parliamentary Triangle, Manuka and Kingston. The Kingston foreshore development has the potential to revitalise Canberra’s inner south and turn the lake foreshore into a venue for cultural activities, not just Canberra’s largest ornamental garden feature. Mr Speaker, I think we have to say that the land swap is an excellent opportunity for the ACT on both sides. We guarantee the construction of a national museum and we can now move ahead with a vibrant, mixed use, waterfront precinct in Kingston. With the construction of the museum, I think Acton Peninsula will once again become a place to be shared by the whole community.

I might also make one comment on the design of the National Museum. It is interesting that it represents, I think, the first major national institution to actually interface fully and properly with the lake. It has always astonished me that we have a number of national buildings which almost seem to stand at some distance from the lake, to be aloof from the lake, to ignore the lake to some extent. I was excited very much by the fact that this particular design interfaced very directly with the lake. You can virtually walk out of the building and be on the shore of the lake. That is a quite exciting thing. This will be an important project and both sites will provide a stimulus to the ACT economy and add to the ACT’s sense of place.

MR MOORE (11.11), in reply: Mr Speaker, in some ways this draws a section of the Acton Peninsula saga to a close. Since self-government, the Assembly has wrestled with issues around the Acton Peninsula. It seems to me that the first and largest mistake was the decision to close the Royal Canberra Hospital. I still feel that was a mistake. The decision was taken by Mr Humphries. But the fact is that when Mr Berry became Health Minister he did a very quick swap of view from the one he had in opposition when he argued very strongly that we ought not to close the Royal Canberra Hospital. When he became Minister it was quite clear that he could have kept it open as a community hospital. He chose, instead, to go with the advice given by his bureaucrats and continue the process of closing the Royal Canberra Hospital. We then went through a whole series of concerns.

One thing on which I believe I have been consistent - and I must say that on this aspect Mr Berry has always been consistent - is that we have put forward the view that there should always be a health facility on the Acton Peninsula. It depends upon what you consider to be a health facility as to whether the nominated buildings - the National Museum and the ACT Aboriginal and Torres Strait Islander Cultural Centre - fit into that category. In my definition of health - - -

Mr Berry: Your creative definition of health.

MR MOORE: Mr Berry would be aware that my definition of health is the same as the definition put up by the World Health Organisation, which is probably not a bad definition. I accept that Mr Berry's definition of health may well be different from that of the World Health Organisation. Of course, the word "health" includes a museum. The reason it would include a museum is that it is about ensuring a healthier society and the National Museum is part of what a healthier society is about. Health is not just about sickness care or even about simply preventing specific sicknesses. It is about ensuring a healthier society. Mr Berry can sit here and interject on these sorts of things, but the reality is that he has actually taken the same approach himself. He has put a huge amount of effort into having an active Canberra, which is about a healthier Canberra; so I would expect that he does indeed understand what I am saying but cannot help himself from enjoying the kick when he gets a chance.

I looked at the series of proposals for the Acton Peninsula. I accept the one that was chosen, but I have to say that it certainly was not my favourite. My personal view is that there was a significantly better one that would have fitted in with the landscape far better than the proposal finally adopted. However, the process was appropriate and I accept the final decision that was taken. Both the Chief Minister and Senator Alston announced the other day the proposal that had been accepted for Acton Peninsula. It seems to me that from the Acton Peninsula side we have now taken a sensible step and can actually go forward.

In lots of ways, I would like to have changed the way things were done in the past. I would much prefer to have Royal Canberra Hospital still there. I remind Mr Berry that it was within his power when he became Minister to retain Royal Canberra Hospital as a community hospital. There is no doubt at all about that, but that did not happen.

That is in the past; it did not happen. There were reasons why he chose to go that way, be that as it may. But it is now time to go forward with the National Museum and the ACT Aboriginal and Torres Strait Islander Cultural Centre and proceed down that path. Even more interesting, I think, will be how we see the proposals for the Kingston foreshore develop. I am very pleased that we are going past the acrimonious side of the debate on Acton Peninsula and the Kingston foreshore.
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MR BERRY (Leader of the Opposition) (11.16): I seek leave to speak on the same subject.

Leave granted.

MR BERRY: As I have been drawn into the debate, I might as well put history in its proper context. Yes, the door of the Royal Canberra Hospital, as it was then known, was shut by me, but not until after Mr Humphries had made the decision that it was going to close and not until something like $100m had been committed to the Woden site. Immediately before the Liberals lost office, Mr Humphries signed a $40m agreement for the diagnostic and treatment block, and only a few beds were being occupied in the old hospital. Obstetrics was all but gone. In fact, I think obstetrics had been moved out at the time, or was on its way. The next obstetrics block was almost complete at Woden Valley Hospital.

Mr Moore: You talk about other people twisting and thrashing about, Wayne. You had the ability to keep it open as a community hospital.

MR BERRY: Mr Moore is right: I could have kept the hospital open. But it would have made the funding situation in the ACT, so far as the hospital is concerned, absolutely ludicrous. It was the Liberals that made the decision to close it; it was the Liberals that locked themselves into that. I was lumbered with it. Nobody wanted to keep it open more than I did, Mr Moore, and you know it.

So far as the Acton-Kingston land swap is concerned, it has been a debacle from go to whoa and it has cost the ACT taxpayers millions. Leaving aside what has happened since the land swap, the land swap itself resulted in the ACT taxpayers paying for the clearance of that site and then handing it over to the Commonwealth in exchange for a piece of land, a large portion of which was ours anyway. Subsequently, we have been left with the responsibility of looking after that as well.

We are told that at some time in the future we will reap the benefit of it. Who knows? We have already paid out millions upon millions of dollars to clear the Acton site for handing over to the Commonwealth. That was a waste of the taxpayers’ money; there is no doubt about that. I will support the National Museum, though disappointed that it has ended up where it has.

Mr Humphries: Who chose where it was going to be? Who chose that site, Wayne? Paul Keating chose it.

MR BERRY: He was wrong.

Mr Whitecross: He did not choose it for a museum at all.

MR BERRY: And he did not choose it for a museum. John Howard made the decision in relation to that. The museum decision was made by the Howard Government.

Mr Whitecross: But John Howard hates Aboriginals. He would not want an Aboriginal museum.

MR SPEAKER: Order!

MR BERRY: I do not care who made the decision; it was wrong. But we will have a museum there and we will have to make the most of it. There is no way that we can reverse it. I do not know what will happen to all the exotic trees that are on the site and how we will deal with them in the context of having a new national museum. I suppose that is a debate that will occur at some time in the future. I think the lead-up to the establishment of the museum there will leave something of a long-remembered scar on the ACT community, but there will be positives flowing from it in the context of the museum and all the other buildings that will be placed on the site.

We are yet to see the Government's decision in relation to what they intend to do with the hospice. I think they will probably say, "Oh, well; an agreement was signed under the former Labor Government. It is not our problem that it runs out at some time in the future. What happens to the hospice will be somebody else's worry, not ours". I think that will be another difficult issue for the community to deal with, because it is well known that the hospice has been one of the successes of self-government in the ACT, one of the big success stories, and I am happy to have been associated with it. What happens to the hospice in future is another question, I suppose. Where does it go from there? Nobody from the ACT Government seems to be saying anything, because they do not want to be associated with its closure; but it seems that, as far as the ACT Government is concerned, they do not want to be part of it and they do not want to make any decisions on it. They want to pretend it is somebody else's fault, not theirs. It is their fault; all of it.

Mr Speaker, those are my comments on it. I think the National Museum will, in the end, make a major contribution to the ACT economy, but in many ways the ACT community have paid dearly for the pleasure.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (11.22): Mr Speaker, I seek leave to make a short statement as well on this subject.

Leave granted.

MR HUMPHRIES: Mr Berry pushes this line every time and every time the facts, unfortunately, come back to haunt him. If we are going to debate the hospital, let us put the facts on the table. At the time that the Alliance Government left office in June 1991 the hospital at Acton was fully functional. There were almost no - - -

Mr Berry: That is untrue.

MR HUMPHRIES: It is not untrue. Mr Speaker, virtually every aspect of the hospital continued to operate and a decision to continue the - - -

Mr Whitecross: "Virtually".

MR HUMPHRIES: That is right; virtually every aspect of the hospital continued to operate and would have operated had the Labor Government decided to honour their own promises, made only a few weeks before, by introducing a Bill to save the hospital and keeping it open. It is true that contracts were signed to commit work on the Woden site; it is true that that happened. They were not signed by me; they were signed by people under me, but they were certainly signed. Mr Speaker, let me say, in respect of that, that getting out of those contracts would have cost the ACT several hundred thousand dollars; there is no doubt about that.

Mr Berry: Sixteen million dollars.

MR HUMPHRIES: That is not the case, and you know it is not the case, Mr Berry. My advice was several hundred thousand dollars. That is a lot of money. It is a lot of money indeed. Of course, if you were going to keep the hospital open, there is a much more significant cost to consider, and that is the $5m to $10m in recurrent expenditure each year that it would have cost to keep the hospital open. That is not my figure; that is Mr Berry's figure, produced by the Kearney inquiry in 1989. Mr Speaker, let us put to bed once and for all this pathetic little myth. I do not back away - - -

MR SPEAKER: Order! It being 45 minutes after the commencement of Assembly business, the debate is interrupted in accordance with standing order 77.

Motion (by **Mr Moore**, by leave) agreed to:

> That the time allotted to Assembly business be extended to allow the conclusion of the debate on Assembly business, order of the day No. 3.

MR HUMPHRIES:: I just want to say, very briefly, that the difference between Mr Berry and me is that we both had a hand in closing the hospital; but I do not shy away from that, whereas Mr Berry does.

Question resolved in the affirmative.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 10 of 1996

MR WHITECROSS (11.26): Mr Speaker, I present Report No. 30 of the Standing Committee on Public Accounts, entitled "Review of Auditor-General's Report No. 10, 1996 - Implementation of 1994 Housing Review", together with extracts of the minutes of proceedings. This report was provided to the Speaker for circulation on Wednesday, 22 October 1997, pursuant to the resolution of the Assembly of 25 September 1997. I move:

That the report be noted.

The committee's report was circulated on 22 October by the authority of the Speaker in accordance with the resolution of the Assembly. The audit assessed the extent to which the recommendations of the 1994 housing review were accepted and implemented and, if implemented, whether they had achieved expected outcomes. The audit also reviewed the methods used to manage and monitor implementation of review recommendations. The audit found that the review recommendations were accepted by ACT Housing but that implementation had been mixed, there had been little or no progress in some areas and, given the importance of the review and its cost - more than $200,000 - greater progress should have been achieved. Following approaches to the Minister, the committee was advised that the Government had initiated a further review of housing in 1996-97 in the context of changes to the delivery of housing assistance. This review covered issues such as purchaser-provider arrangements between the Department of Urban Services and ACT Housing, with public housing services divided into separate property and tenancy businesses, contracting with community organisations for special needs housing, and the future of loans functions.

The committee's report comments on the later review findings in some detail and notes that delays have at least allowed remedial work to be undertaken within ACT Housing to address shortcomings identified in implementing key strategies of the 1994 review. The Government has yet to indicate the outcomes achieved from the 1994 review or its response to the 1996-97 review. Accordingly, the committee has recommended that the Government inform the Assembly by 9 December 1997 on the 1994 review outcomes and the reasons for non-implementation of recommendations by the 1994 review and the 1996-97 review, and has further recommended that the Assembly be informed on several subsidiary matters, including the outcome of the Commonwealth-State Housing Agreement negotiations, the implications for the ACT's future housing assistance responsibilities, and ACT Housing guidelines for strategic and business planning frameworks.

Mr Speaker, the committee's handling of this matter has been greatly impeded by the extensive delays by the Minister in responding to the Auditor's report while he conducted the further review. The committee is disappointed that we have not as yet had any report in relation to outcomes of the 1994 review, or even whether the Government plans to adopt and implement the recommendations of the 1996-97 review, which is the reason for that recommendation. I commend the report to the Assembly and look forward to the Government's response.

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

INDEPENDENT PRICING AND REGULATORY COMMISSION BILL 1997

[COGNATE BILL:

INDEPENDENT PRICING AND REGULATORY COMMISSION (CONSEQUENTIAL PROVISIONS) BILL 1997]

Debate resumed from 25 September 1997, on motion by **Mrs Carnell**:

That this Bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Independent Pricing and Regulatory Commission (Consequential Provisions) Bill 1997? There being no objection, that course will be followed. I remind members that in debating order of the day No. 1 they may also address their remarks to order of the day No. 2.

MR WHITECROSS (11.30): Mr Speaker, the Independent Pricing and Regulatory Commission Bill, as a starting point, replaces the existing energy and water pricing arrangements that were put in place when ACTEW was corporatised, after amendment by Mr Osborne. But this Bill actually goes substantially further in its powers to regulate and to report on industries within the ACT in relation to electricity, water, sewerage and other industries declared by the Minister to be regulated industries for the purposes of the Act.

The Labor Party certainly agrees that, where you have a regulated industry, where you have an industry exercising a monopoly position in the marketplace, it is appropriate that there be some public institution overseeing its actions and, in particular, the pricing of its services, to ensure that consumer rights are protected in relation to price and service. Whether those services are provided by government-owned corporations, such as electricity, water and sewerage utilities, or by other organisations, it seems to me - and it seems to the Labor Party - that it is appropriate that there be some oversight to ensure that the rights of consumers are protected. Similarly, where we have a regulated industry which has perhaps more than one player, but in a regulated environment, as is proposed for electricity, gas and other industries, there needs to be some authority in place to ensure that the rights of the players and, ultimately, the rights of the consumers are protected.

The Bill provides for the Independent Pricing and Regulatory Commission to fix prices for access to networks and to ensure, in some circumstances, access to networks so that people competing in the retail end of markets where competition is allowed are able to compete in those markets with appropriate access to the infrastructure. I think that is appropriate. The Bill also contains provisions for arbitration by the commission where disputes arise in relation to access, and some other matters. On the face of it,

the legislation is appropriate and necessary. The legislation also provides for Ministers to make references to the commission for reports on regulated industries in relation to the conduct of those industries and confidentiality arrangements in relation to those recommendations.

Mr Speaker, I want particularly to highlight a couple of concerns I have in relation to the Bill. The first is that this legislation has been before the Assembly only since September - not, in the scheme of the debate about competition policy, a particularly long period of time. Whilst we are all aware of how long the debate about competition policy in Australia has been going on, I do not think that excuses the Government for presenting legislation of this complexity so close to their own deadlines and providing so little opportunity for a clear understanding of the implications of the legislation.

I want particularly to draw attention to one matter about which I am not entirely satisfied, that is, the issues relating to the interaction between the Independent Pricing and Regulatory Commission's role and the role of other watchdogs in the industry, such as the ACCC. According to this Bill, disputes about access can be resolved by arbitration determinations by the commission. These arbitration determinations can include a requirement on the access provider to give access to specified services to a third party, the third party being a retailer; a requirement that the third party accept and pay for access to services, which is quite reasonable; a determination of the terms and conditions of access; a requirement that the access provider extend infrastructure facilities; and a determination of the extent to which the determination is to override any earlier determination. The Bill goes on to say that the determination shall not require the access provider - that is, the infrastructure owner - to bear any of the costs of extending infrastructure facilities or of maintaining such extensions.

Mr Speaker, that goes to the nub of what I think is a very important issue in relation to competition in these industries, because here we have a situation where infrastructure owners can, effectively, decline to extend infrastructure to allow retailers to sell their product to customers. For example, someone who owns a gas pipeline infrastructure or electricity transmission infrastructure is not obliged to extend that infrastructure to allow a third party - that is, a retailer - to sell their services. This raises community service obligations - that is, obligations to supply. It also raises issues about how the service provider may conduct themselves in the marketplace, particularly if the infrastructure owner also has an interest in the retail business. To a certain extent, those things may be able to be regulated by the ACCC acting against anti-competitive behaviour, but that raises the spectre of two commissions - the Independent Pricing and Regulatory Commission and the Australian Competition and Consumer Commission - having an interest in the matter to do with the extension of infrastructure.

On the face of the briefings that I have seen so far, I am not completely satisfied that those conflicts are adequately resolved. The pace with which the Government is determined to go on with this matter means that we may need to come back to this legislation and have another look at it. I am particularly concerned about a situation in which a retailer might be asked to pay for extending infrastructure facilities which would then be owned by somebody else, which would then be owned by the infrastructure owner - the access provider. That, to me, is a rather bizarre state of affairs.

I am also concerned that there are unresolved issues which we will have to return to in relation to infrastructure ownership, namely, the issue of duplication of infrastructure. Because there is no monopoly provider of gas infrastructure, it is theoretically possible for there to be multiple providers of infrastructure for gas. That seems to go against the spirit of the planning regime we have in the ACT whereby we do not duplicate infrastructure needlessly just because retailers cannot agree on infrastructure arrangements. I am rather concerned at the possibility of having multiple retailers digging up the streets to lay down gas pipelines in competition with each other, which is possible. That is not a matter which relates directly to this Bill, but it is a matter which we will have to return to if we are to ensure that we maintain a sensible planning system and that competition in industries such as gas does not lead to the absurd results that we have in the States whereby we have multiple telecommunications providers running cables around suburbs.

Mr Speaker, there is one other issue about which I am concerned, that is, that in clause 3 of the Bill we have a definition of "regulated industry" as electricity, water or sewerage services or "any other industry declared to be a regulated industry under section 4". However, Mrs Carnell, in tabling this legislation, has accorded to herself the right to declare an industry a regulated industry without any scrutiny by parliament. I think it is completely inappropriate for the Minister to accord to herself the right to declare an industry a regulated industry without there being any opportunity for parliamentary scrutiny to consider what the implications of that declaration might be for the conduct of affairs in the ACT.

Having said that, I note that the terms of reference under clause 16 for any inquiry ordered by a referring authority, which is basically a Minister, are disallowable. That provides an opportunity for the Assembly to have a say about inquiries that might be ordered under clause 16. However, I think that, to a certain extent, that is jumping in after the game has already started. A more appropriate time for a debate about the declaration of a regulated industry is when the original declaration is made under section 4, not when the Minister subsequently decides to order a review under clause 15 or clause 16. When we come to the detail stage of the Bill, I will be proposing an amendment to ensure that that matter is properly dealt with. I note, too, that Ms Tucker has circulated a number of amendments which I will seek to understand. Some of those amendments seem to throw up some worrying things and to have some worrying implications. I look forward to hearing Ms Tucker's arguments in support of her amendments at the appropriate time.

MS TUCKER (11.42): The Greens will be supporting this Bill, but with some important qualifications which I will talk about later. I understand that this Bill establishes a single commission to investigate prices and access agreements in industries which supply monopoly or near monopoly infrastructure services in the ACT. At present, these are primarily the electricity and gas supply sectors. The new commission will also take over the role of the existing Energy and Water Charges Commission and the existing commissioner will become the Independent Pricing and Regulatory Commissioner until the expiry of his current term.

The Greens support the need for effective competition in the marketplace, particularly to avoid one or two companies dominating a particular market sector. In the case of the electricity, water and gas monopolies - ACTEW and AGL - there is definitely a need for price regulation to prevent these companies from exploiting their market domination to the detriment of consumers. For example, the work of the Energy and Water Charges Commissioner in investigating the price structure of ACTEW provided a good opportunity for ACTEW to be made publicly accountable for its pricing policy. While we support the Bill in principle, we do have some particular concerns with some aspects of the Bill and will be putting forward amendments at the detail stage of the debate. At this stage I will just flag the areas.

A concern we have in the whole competition policy debate is that we do not want the primary focus on the price of services to overtake the need for pricing policy to take into account environmental and social factors and to be structured in a way that ensures the achievement of environmental improvements and social justice. We also want more public involvement in the investigations undertaken by the commission, to give the public a greater opportunity to put to the commission their views on what they believe are appropriate pricing policies. Finally, we are concerned with the provisions in the Bill relating to the restrictions on public access to so-called confidential information provided to the commission. We are particularly concerned about the restrictions on access to information obtained from government agencies or corporations regarding their regulated services. Such restrictions make it very difficult for this Assembly to effectively scrutinise the actions of Territory-owned corporations, which it is our job to do. I will be moving an amendment which will at least ensure that in any commission report we will be aware of what information we are not getting access to. Recently, I was not able to get access to the contract between ACTEW and Yallourn Energy. That is a very good example of how there could be greater accountability if we had access to that information.

I will talk in more detail later about my amendments, but I do want to qualify this by saying that the amendment I will be putting regarding access to so-called commercial-in-confidence information is only the beginning of the work that needs to be done in this area. One of the first things I intend to do in the next Assembly is to ensure that a committee is set up to look at this issue, because we really do have to have a much clearer idea of exactly what sort of information can be legitimately called commercial-in-confidence and which information we could access quite easily without causing any real danger. At the moment, it is like a sacred symbol that means nothing is available, and that is not necessarily the case. The inquiries that have been undertaken and are currently being undertaken around Australia have shown and are showing quite clearly that it is possible to develop criteria by which to judge which information can be legitimately called commercial-in-confidence.

MR MOORE (11.46): I support this legislation because I think that, as we move to competition policy and it becomes more and more a part of the way we operate around Australia, it is important that we have an appropriate and independent pricing and regulatory commission. Setting up a broad general commission is, to me, an acceptable way of dealing with the issue. Currently, it would apply, clearly, to electricity and gas. There is a proposal that water fall into this category. It seems to me that there are other possibilities of monopolies operating. Telecommunications is another possibility, taxis are yet another possibility and there could be a series of others.

Mr Speaker, I would like to thank the Minister for making available to me and my office public servants who have given us a thorough briefing and who were able to answer each of our questions on the issues. One small example of that is the concern raised by my office about what is meant by "reasonable excuse" in clause 40 of the Bill. A response came back to us quite rapidly. It was a very thorough response. At the conclusion of the response it was said, "I hope this response answers all of your questions and your concerns regarding the clause. If you have any other questions, please do not hesitate to contact the appropriate person". That is the sort of positive response that we got. I have to say that it is great to see ACT public servants so enthusiastic about what they are doing. Their enthusiasm certainly came through in this series of briefings.

I had concerns over a couple of other issues. Mr Whitecross covered a number of the issues that were of concern to me. Others were raised by the Scrutiny of Bills Committee. A number of amendments are to be moved in order to deal with the issues that I had some concerns about. They have been put on the table and circulated in either Mr Kaine's name or Mr Whitecross's name. I think it is appropriate for us to deal with those amendments at the detail stage.

Ms Tucker also has raised a number of issues. I have looked at her amendments, many of which seem very sensible to me; but I will listen to the debate on those because I have had them for only a relatively short time. She did raise a very important point about the issue of commercial-in-confidence. Since I have been in the Assembly - since 1989 - I have felt particularly uncomfortable about that. I have spoken about it on quite a number of occasions, but it has not taken the highest priority for me in terms of the work that I wanted to achieve. I think Ms Tucker is quite right in noting that it seems to be coming up more and more often. I think it is appropriate for us to establish what sorts of criteria should apply to commercial-in-confidence, because it is becoming the great hidy-hole of anything that a government does not want to have out in a public forum.

I remember an Independent member of the Federal Parliament, Ted Mack, saying to me that when he was mayor of North Sydney they had no such thing as commercial-in-confidence once something went past the tender stage. Obviously, commercial-in-confidence applies to tendering, but if somebody put something in to council once the tender process had gone through it was open for anybody to see. That was at a time, by the way, when North Sydney had the most rapid development of any part of Australia. Commercial-in-confidence is something that really does need to be looked at. I think it would be very interesting to talk to Mr Mack about how that operated in North Sydney from his perspective and to talk to the bureaucrats who were there about what the system was, how they handled it and whether it still exists. It would be very interesting to see whether it still exists in North Sydney. Mr Speaker, I think there are some issues there. I am very happy to support the establishment of the Independent Pricing and Regulatory Commission and will be looking at the individual issues on a case-by-case basis.

MR OSBORNE (11.51): I will save most of what I have to say about the series of national competition policy Bills for the debate on the Water Resources Bill. However, I do want to make one observation about this Bill which I believe speaks volumes about the Government's deceptive approach to this whole debate. In 1995 this Government introduced a Bill to corporatise ACTEW. It was the second time in the brief history of self-government that a government tried to corporatise the Electricity and Water Authority. Yet there was a significant difference between the first and second Bills. The first Bill established an independent pricing commissioner, but the crucial role of the commissioner was a notable omission from the second Bill.

The Government - just to refresh their memory - sought my support for the Bill, and I said I would support it as long as the Bill was amended and an independent pricing commissioner was introduced under the legislation to act as a pricing brake on ACTEW. The Government was, initially, openly hostile to the move, from memory, and the previous Minister, who, unfortunately, is not here today, told me that it was completely unnecessary. In fact, the former Minister told my office that the move would wreck the Bill. My office was bullied to drop the issue. In the end, under the threat that I would oppose the corporatisation legislation, the role of commissioner was introduced. Since then the commissioner has turned down some outrageous demands for electricity and water price increases made by ACTEW. It is funny how the Government now loves the commissioner. I do not make this point simply to bang my own drum; but I will. I do it for another reason, that is, to demonstrate the gap between what the Government says is necessary and what is not.

The outstanding thing about the absence of a pricing commissioner from the second ACTEW Bill was that it was actually a requirement of competition policy. The Government was seeking to breach the national competition policy agreements it now holds up as holy writ. They want me to believe now that the fate of the Territory rests on passing these Bills today. I do not believe the Government or its Ministers. I will be supporting this Bill, but I will also be supporting the amendments.

MR KAINE (Minister for Urban Services) (11.54): Mr Speaker, I presume that all members wishing to speak have done so. It is interesting that members generally support the concept of an independent pricing and regulatory commission as outlined in this Bill. It has become necessary, of course, because of the move towards national infrastructure in the areas for which this commission is specifically designated as being the price regulator, that is, in such things as electricity, water and gas. It relates specifically to that kind of utility where there is a significant, predominant or sole government ownership of the activity.

It is necessary that we move in this direction because we will, in future, be part of the national infrastructure. We will no longer be able to operate independently as though the ACT is somehow not connected to New South Wales, Victoria, Queensland and the rest in terms of the supply of these commodities. There will be an open market. Competitors can come into the ACT and, conversely, the ACT can, if it wishes, go beyond the boundaries of the Australian Capital Territory. That imposes upon government the

responsibility to ensure that prices to the consumer are reasonable. The mechanism to make that so is required. That is the principal reason why the Government has brought forward this Bill. It is consistent with our moves to become part of the national grid system for, for example, gas and electricity.

Members have questioned some particular clauses of the Bill. Mr Whitecross spoke about the ability of a Minister to include an industry other than the electricity, gas and water industries in the field of responsibility of the Independent Pricing and Regulatory Commission. I do not know that we have any others in mind at the moment; but it does provide the ability for the Government, should the need arise, to provide that any other industry which falls within this general category should become subject to this Independent Pricing and Regulatory Commission.

Members have submitted various amendments. They will be dealt with in detail at the detail stage. The Government itself will move three amendments. One of them has to do with the question that Mr Whitecross raised about a Minister making a declaration that a new industry has become subject to and regulated by this legislation and whether that instrument should be disallowable. That is consistent with the view adopted by the Assembly in other areas where ministerial instruments are made; so we are providing that such an instrument should be disallowable and therefore is subject to debate and consideration by the Assembly. The others are more of a minor machinery nature. We will deal with them when we come to them.

But a couple of points need to be made before we conclude the debate in principle. I would like to stress, first of all, that this Bill does not impact upon or override such other legislation as the Freedom of Information Act. The commission will require businesses to provide commercial-in-confidence information in making its pricing determinations and the provisions of this Bill are to safeguard the legitimate interests of those businesses. It is provided on a commercial-in-confidence basis and it would be unreasonable to expect, through instruments such as the Freedom of Information Act, the commission to be obliged to make commercial-in-confidence information from one corporation available to another. It is consistent with the ACT's freedom of information legislation and it is consistent with similar legislation throughout Australia, but it does not override it.

Another matter which members may like me to explain is the reason why there is not a specific mechanism for appeals against a pricing decision made by the regulator. Firstly, the Bill allows a right of appeal, in the first instance, through the Administrative Decisions (Judicial Review) Act of 1989. A further right of appeal exists through the Federal courts. There are several good reasons why the Bill emphasises a procedural appeal and not a merits appeal. Appeals are very costly and can be of a frivolous nature just to prolong a decision to the financial advantage of the appellant and to the detriment of the consumer. It is also unlikely that a third-party appeals body would have personnel with the same level of technical expertise or more qualified to undertake a review than the regulator itself. To review the regulator's decision would mean undertaking the review again, repeating the whole costly procedure, and perhaps using less qualified and less experienced people to do so. One would have to question the merit of that.

In conclusion, I have to say that the Government believes that the passage of this Bill is essential to ensure that customers are fully protected from possible monopoly pricing strategies of monopoly or near monopoly service providers in the future. The nature of the commission and the environment in which it operates are such that it will have a future beneficial impact on the economic development and wellbeing of the Territory. For those reasons, I commend the Bill and the Government's amendments when they come before the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 and 2, by leave, taken together, and agreed to.

Clause 3

MR KAINE (Minister for Urban Services) (12.01): Mr Speaker, I move:

> Page 2, line 10, subclause (1), definition of "access regime", after "facilities", insert "wholly or partly located within the Territory that are".

I present a supplementary explanatory memorandum to the Bill. Mr Speaker, this amendment is a simple one. Its purpose is to restrict the powers of the regulatory commission to the assets of corporations that actually exist in the Australian Capital Territory. That applies not only to the assets of ACT corporations but also to the assets of any other corporation that comes and operates in the Territory from elsewhere. It does not apply to assets that exist outside the Territory. Those will be controlled under the laws of the State in which they exist. So we are merely establishing a mechanism to control what actually happens within the boundaries of the Australian Capital Territory.

MR WHITECROSS (12.03): The Labor Party will be supporting this amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 4

MR WHITECROSS (12.03): Mr Speaker, my circulated amendment is in similar terms to Mr Kaine's amendment No. 2. I seek leave to amend the amendment to use the form of words that Mr Kaine circulated.

Leave granted.

MR WHITECROSS: I move:

> Page 4, line 27, add the following subclause:
>
> > **"(3)** An instrument made by the Minister under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989."*.

Mr Speaker, I noticed that there was a slight difference in the wording and it seems, as Mr Kaine's amendment has been through the Parliamentary Counsel, that it would be safer. The Government have, obviously, considered their position and decided to pursue the same line. The purpose of this amendment is to ensure that a declaration of a regulated industry by the Minister is reviewable by the Assembly, that is, that the Assembly can have some say in what industries will come within the purview of the Independent Pricing and Regulatory Commission over and beyond the ones that are specified in the Act, namely, electricity, water and sewerage. I think the Bill, in its original form, represented an unnecessary and untoward delegation of legislative power to the Executive, which I do not think was appropriate. Obviously, the Scrutiny of Bills Committee did not think it was appropriate, either, because they reported on it in the report tabled on Tuesday. I do not think there is much more to say about it. I think the merits of it are self-evident.

The only other thing I would say is that, whilst I welcome Mr Kaine's support for an amendment of this type now, members of this place are entitled to be starting to get a bit weary of having to keep on moving amendments to correct inappropriate delegations of legislative power to the Executive without any review by parliament of this type. We have seen one here. I have another one in the Electricity Supply Bill which I think is of concern.

Mr Moore: We did a couple last sitting.

MR WHITECROSS: As Mr Moore says, there have been other examples as well. As I said, I welcome the fact that the Government now accept that making such orders disallowable is appropriate, but I think I would feel a lot more confident in the Government if they did not keep trying to slip these things past us and waiting for us to catch them out and put the clause back in. I hope that the Government will take that on board and perhaps be a little more diligent in their drafting, to ensure that these kinds of disallowance clauses are included where they believe that subordinate legislation is an appropriate mechanism for dealing with things under the Act. I believe that subordinate legislation is appropriate in this case, but I also believe that it is appropriate that the Assembly have the opportunity to debate any order made under this provision.

MR MOORE (12.07): Mr Speaker, in rising to support the amendment moved by Mr Whitecross, I would just like to take time to suggest to the Attorney-General that perhaps what he could do is instruct Parliamentary Counsel, which deals with these things all the time, that it is Government policy that disallowable instruments should, as a matter of course, be drafted when these sorts of delegated powers come up, so that as a matter of course these things would be disallowable instruments, unless somebody deliberately intends otherwise. My guess is that public servants would not deliberately say,

"No, we are not going to put it in"; they just do not think about it. It is very clear that this is part and parcel of the way we handle legislation in the ACT. That might be one way of dealing with it. Probably, there ought also to be an instruction from each Minister to their own department that disallowable instruments are an appropriate way to go and that they should be part and parcel of legislation that is put to the Assembly.

MR KAINE (Minister for Urban Services) (12.08): It is obvious that the Government supports Mr Whitecross's amendment, as we ourselves circulated one to achieve the same objective. That is in recognition of the fact that the Assembly has made it clear that they want to be able to review disallowable instruments. I have, in the past, argued against making everything disallowable, because I think it can potentially lead to a workload on this Assembly that we do not envisage until it all starts to happen and we spend more time reviewing instruments of that kind than enacting legislation and doing the things that, essentially, we are here to do. But this amendment is in recognition of the fact that that has been the express wish of the Assembly and we have acceded to that wish in this case. I do not expect that there are going to be too many of them.

MR WHITECROSS (12.09): I welcome the Government's support, as I said before. I just want to comment on my view of the policy in relation to disallowable instruments, as Mr Kaine made a general comment on it. I make two comments. The first is that the fact that an instrument is disallowable does not necessarily mean that the Assembly is going to waste a huge amount of their time dealing with each of these things, but it provides a reminder to the Government and departments that in preparing these instruments they have to contemplate the view of the Assembly. Perhaps the existence of a clause like this will create a situation where there is less work for this Assembly because the Government and the departments will anticipate some of the views of the Assembly in constructing these things and be a little more cautious than they would be if they knew that it was not reviewable and we would have to go through the routine of moving amendments in the Assembly, ordering the Minister to have another think about it and all sorts of other things. If people just think about the will of the Assembly in the first place, perhaps these things will not arise. That is the first point I want to make.

The second point is that, whilst I accept the Minister's argument that some things which are the subject of subordinate legislation are more important than others, on this occasion we are talking about the declaration of an industry as a regulated industry. I would think that that would be a fairly major policy decision. The industries which are declared by this Bill to be regulated industries are electricity, water and sewerage - major industries which go to the lives of each and every citizen of Canberra. If other industries are to be declared regulated industries, I think it is appropriate that there be some mechanism whereby this Assembly can buy into the argument. I think that in those terms we are talking about a major policy issue, not a trivial matter.

Amendment agreed to.

Clause, as amended, agreed to.

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

Clause 7

MS TUCKER (12.11): I move:

> Page 5, line 17, paragraph (b), omit the paragraph, substitute the following paragraph:
>
> "(b) to facilitate an appropriate balance between efficiency and environmental and social considerations;".

This amendment modifies the objectives of the commission to ensure that efficiency is not the sole criterion in assessing regulated industries. The amendment makes clear that questions of efficiency have to be balanced against environmental and social considerations. This amendment is consistent with the criteria by which the commissioner is required to make price directions under clause 19, where the ecologically sustainable development principles and the social impacts of decisions are included as criteria for the commissioner to consider.

MR KAINE (Minister for Urban Services) (12.12): Mr Speaker, the Government has no objection to this amendment.

MR MOORE (12.12): Mr Speaker, I take this opportunity to congratulate Ms Tucker. There have been quite a number of pieces of legislation where Ms Tucker has drawn to our attention this particular consideration about our environmental and social conscience. I think credit goes to her for drawing these issues to our attention. When we are dealing with these sorts of issues, it is often very easy to get caught up in the economics of the situation. Certainly, the general push from the media these days is to put the economic considerations first and foremost. We all know about the financial indicators that are mentioned on the radio every second hour; but I think that, in the long term, we probably ought to be establishing some social and environmental indicators so that the community can get an interest in things beyond whether we have had a look at the increase in the stock market today, a drop in the value of the dollar or, in this case, the efficiency of a particular organisation. Of course, it cannot be done in isolation from efficiency. That is very important. Ms Tucker has worded it in a way that still does take that into account. I think it is an appropriate time to give credit where it is due.

Mr Humphries: He must want your vote for something this afternoon.

MR WHITECROSS (12.14): Mr Humphries clearly does not understand that the crossbenches do not do that sort of thing. The Labor Party will be supporting this amendment. I concur with the remarks of Mr Moore and Ms Tucker that environmental and social considerations ought to be an important part of our consideration of public institutions and our regulation of public affairs in all its aspects. Whilst we are more than happy to support this amendment, I also have a view that efficiency is perhaps much more a term of art than environmental and social considerations, and that this will provide some challenges for the commission. Whilst I believe that all organisations should take account of environmental sustainability and social justice, I believe that sometimes the best results in advancing environmental and social justice causes are achieved by having people who are specialists in those things consider those matters

rather than by having people whose primary skills are in regulation, which is the first and foremost consideration of this organisation. Having said that, obviously things like pricing cannot be taken account of without considering environmental and social considerations; so it is appropriate that this commission be encouraged to take account of environmental and social considerations in the conduct of its affairs.

MS TUCKER (12.16): I thank members for their support. I would just respond to Mr Whitecross's comments. At the moment, people are not employed because of their expertise in assessing the other impacts or the so-called external matters, such as the environment and social justice; but this is obviously part of reassessing whether we believe that someone is, in fact, well qualified to take on that particular task. It is, of course, also part of the discussion about developing quality of life indicators so that we can integrate these concerns into our accounting systems, into our auditing and into our regulations. That is a fundamental challenge that we have to address now because we can see what the result is of actually focusing only on the bottom line.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 8 to 15, by leave, taken together, and agreed to.

Clause 16

MS TUCKER (12.17): I move:

> Page 8, line 30, paragraph 2(b), omit the paragraph.

I will actually talk to my amendments Nos 2, 3 and 4 because they are bound together. These three amendments go together, with the amendments to clauses 16 and 20 consequential on proposed new clause 17A. In the Bill as it stands, a requirement for the commission to make a draft report available for public comment is discretionary, depending on the terms of reference given to the commission by the Minister.

We are not happy with that. We do not believe that this is sufficient public consultation. The proposed new clause 17A makes it mandatory for the commission to prepare a draft report of any investigation and to make it available for public comment. Under the amendment to clause 20 the commissioner, in his final report, must also comment on any submissions received from the public, so that the public can be satisfied that the commissioner has at least read and considered these submissions. This is a very important aspect of successful consultation and process as you have the closed loop, including that feedback element, of consultation. I believe it is a best practice consultation measure. Also, I believe the matters that the commission will be looking at would be of interest to the community.

MR KAINE (Minister for Urban Services) (12.19): Mr Speaker, the Government has no problem with this amendment.

MR WHITECROSS (12.19): Mr Speaker, the Labor Party will be supporting the amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 17 agreed to.

Proposed new clause 17A

Amendment (by **Ms Tucker**) agreed to:

Page 9, line 19, after clause 17, insert the following clause:

"Draft reports

17A. (1) Before giving the referring authority a final report into an investigation, the Commission shall cause to be published in the *Gazette*, and in a daily newspaper circulating in the Territory, a notice -

(a) stating that copies of a draft report into the investigation are available for public inspection and purchase during a specified period of not less than 20 working days at specified places; and

(b) inviting interested persons to submit written comments about the draft report to the Commission at a specified address and within a specified period of not less than 20 working days.

(2) The Commission shall make copies of a draft report into an investigation, including any draft price direction, available for public inspection and purchase during office hours during the period, and at the places, specified in the notice.

(3) In preparing its final report of an investigation, the Commission shall take into consideration any written comments submitted pursuant to the invitation in subsection (1) in relation to the draft report of the investigation.

(4) In this section -

'working day' means a day other than a Saturday, a Sunday or a public holiday.".

Clauses 18 and 19, by leave, taken together, and agreed to.

Clause 20

Amendment (by **Ms Tucker**) agreed to:

Page 11, line 26, after paragraph (a), insert the following paragraph:

"(aa) particulars of any comments submitted in relation to the draft report of the investigation pursuant to the invitation in subsection 17A(1), and of the Commission's response to those comments;".

Clause, as amended, agreed to.

Clause 21 agreed to.

Clause 22

MS TUCKER (12.20): I move:

Page 12, line 7, add the following subclause:

"(2) If a final report or a special report is divided under subsection (1), the Commission shall include in the document not containing the confidential or commercially sensitive material -

(a) a statement to the effect that such material is included in another document; and

(b) a description in general terms of the material in the other document.".

This amendment is aimed at ensuring that anyone who reads a commission report in which confidential or commercially sensitive information has been excluded is alerted to this exclusion. Under the Bill as it stands, a member of the public would never know whether information had been held back because it was assessed as being confidential, as the nature of such information would never be disclosed. At least by alerting the public to the existence of confidential material, there is the opportunity to try to get that information, should it be deemed necessary, through, first of all, the FOI Act and then through the AAT, if necessary.

I think it is a very important amendment that we are making here because it is, in a way, a start at addressing the issue of commercial-in-confidence. If we know what we are not getting, we have some idea of how scrutiny of particular activities is being affected by this qualification of commercial-in-confidence.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 23 to 41, by leave, taken together, and agreed to.

Clause 42 agreed to.

Clause 43

MR KAINE (Minister for Urban Services) (12.23): Mr Speaker, I move:

> Page 19, line 21, after "information", insert "obtained in carrying out the person's functions in relation to this Act".

This is merely to clarify the intention. If read without this amendment, it is quite open. The purpose is to make it clear that such information must be information obtained in carrying out the person's functions in relation to the Act, and that is the only constraint.

Amendment agreed to.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill, as amended, agreed to.

INDEPENDENT PRICING AND REGULATORY COMMISSION (CONSEQUENTIAL PROVISIONS) BILL 1997

Debate resumed from 25 September 1997, on motion by **Mrs Carnell**:

> That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Sitting suspended from 12.24 to 2.30 pm

MINISTERIAL ARRANGEMENTS

MR HUMPHRIES (Attorney-General): Mr Speaker, the Chief Minister is not present for question time today. She is attending preliminary meetings for the Council of Australian Governments meeting. In her absence, I will take questions to her in all of her capacities except as Treasurer, where the Minister Assisting the Treasurer will take questions on her behalf.

QUESTIONS WITHOUT NOTICE

School-based Management

MR BERRY: My question is to the Minister for Education and it is in relation to school-based management. What steps have you taken to assist schools which are having trouble managing their budgets under school-based management?

MR STEFANIAK: I thank the member for the question. I think we have had a number of questions similar to that in the past. In terms of school-based management, a number of help desks have been set up within the Department of Education and Training for schools that are having any difficulties. In relation to schools that may be having some difficulties, I have also invited other members to tell me of any specific schools that may have had any problems with it, so that I could pass that information on to the department if the schools themselves have not done so. I think that has worked pretty well over the time we have introduced enhanced school-based management, because that is basically what it is.

The ACT has had a very strong system of school-based management for a number of years now. The department has been fairly busy in terms of its help desks assisting anyone who might have had problems with school-based management. Where there have been problems which members have brought to my attention, I have endeavoured to pass those on. I think a couple of members of your party, including Ms McRae, have raised a couple of points over the last six months or so, Mr Berry, in relation to that matter.

MR SPEAKER: Do you have a supplementary question, Mr Berry?

MR BERRY: Yes, Mr Speaker. That was not a very informative reaction. How many schools are having trouble, and when are you to review the entire situation?

MR STEFANIAK: Mr Berry, I would have to find out for you how many schools have approached the department. In terms of reviewing the situation, the school-based management unit operated until the end of September. Central office is continuing to provide a high level of support to schools on these matters. The role of the school-based manager-coordinator will continue, as will the position of the resource analyst who is responsible for the allocation mechanisms.

In future, program areas within the department will take on prime responsibility for policy development and the implementation of the remaining functions to be devolved to schools. This will be coordinated through the school-based manager-coordinator for consideration by the school resources group, a forum of principals and central office staff established to monitor school-based management. The principals, registrars and bursars have also been provided with formal training in the contract tendering process.

Mr Berry: I do not think I asked that question.

MR SPEAKER: No, but an answer is being given.

MR STEFANIAK: I think you did, Mr Berry. Schools have been provided with a number of other forms of assistance, such as written guidelines for certain things. As I have already indicated, assistance in the form of the help desks and school visits is still readily available.

Mr Berry: When will you review the situation is the real point of the question. When will you review it, or are you just going to let it go?

MR STEFANIAK: Mr Berry, enhanced school-based management started this year. It is still in its infancy and is something which we are monitoring. Obviously, it will be reviewed from time to time. The initial stage has now been implemented. There is ongoing assistance available to schools.

Schools - Visits by Politicians

MS McRAE: Mr Speaker, my question is to the Minister for Education, Mr Stefaniak. In question time on Tuesday I raised the issue of politicians visiting schools. At that time I referred to a circular that had been written by Fran Hinton to principals and sent out in September this year, which I believe was one of the first times that that sort of instruction has been given, but that is yet to be confirmed. Minister, are you going to write to MLAs and spell out their rights to visit schools, or will you leave it up to principals to tell your office? Is it really the case that you would prefer that politicians not visit?

MR STEFANIAK: In answer to the last part of your question, Ms McRae, not at all. I think you wrote to me in either April or May 1995 - I will have to dig it out - indicating that you would want to visit schools and requesting assistance in relation to that - - -

Ms McRae: And I have been stopped since.

MR STEFANIAK: That was something, I might say, that was eminently proper. I have asked you, Ms McRae, to give me details of how you have been stopped, and whether, in fact, it has been by the school itself, or by the system or the department. The department, as a result of your question, currently is looking at exactly what the procedures were when you people were in and what would be appropriate. As you indicated to me when we were discussing the matter, I think you have been there on a number of occasions. You go to P and C meetings and you go to school board meetings. I would think that is eminently proper.

In terms of visiting schools when there are students there and what role that takes, I think there has been a convention not only in this Assembly but throughout the Commonwealth. There was a protocol, I think, that the department or the Minister of the day advised that a school wants a certain member to go there. That is just common practice, certainly, in the Federal Parliament. Local members write and indicate that they

would like to go to a school, or that they have been invited. As I think I said on Tuesday, Senator Lundy on a number of occasions has visited a number of schools and advised that she has been invited to do so, and during school times I think that is quite appropriate. In terms of an actual protocol, the department is looking into that just to see what has occurred in the past, so that that can be taken into account.

MS McRAE: Mr Speaker, my question was: Why does not the Minister write to us, to MLAs, rather than us finding out from bureaucrats what the rules may or may not be? Do you really think that schools need to be protected from politicians? In that case, what are you doing about candidates?

MR STEFANIAK: Ms McRae, it is probably timely, now that we are coming up to an election, to revise what exactly should occur in relation to that, and the department is doing that. Ms McRae, as far as I am concerned, if people - members or candidates - have a reasonable cause, and it is reasonable for them to visit a school, I personally do not have a real problem with that; but there are protocols which need to be observed. I think it is important that they are observed.

Chief Minister - Attendance at Ministerial Meetings

MRS LITTLEWOOD: Mr Speaker, my question is to the Minister representing the Chief Minister. Has the Minister seen a media release issued by the Leader of the Opposition, whingeing Wayne, that the ACT is being disadvantaged by Mrs Carnell's attendance at both the - - -

Mr Whitecross: I raise a point of order, Mr Speaker. You have previously ruled on numerous occasions in the past that members in this place should be referred to by their title.

MR SPEAKER: Correct. I uphold the point of order.

MRS LITTLEWOOD: I shall start again, Mr Speaker. My question is to the Minister representing the Chief Minister. Has the Minister seen a media release issued by the Leader of the Opposition, Mr Berry, saying that the ACT is being disadvantaged by Mrs Carnell's attendance at both the Health Ministers Conference and the Council of Australian Governments meeting today? Minister, is it true that the ACT is being disadvantaged?

MR HUMPHRIES: I thank Mrs Littlewood for her question. Unfortunately, the answer is yes, I have seen Mr Berry's press release. I have tried to square them off. I made a new year's resolution not to read any more of Mr Berry's press releases, but unfortunately they have a strange compulsion about them which makes them impossible to stay away from. This particular press release headed "ACT Disadvantaged by Carnell's Absence at Health Ministers Conference" has to be put into the rather large category of bizarre press releases that have come from the typewriter of Mr Berry.

Mr Speaker, the fact of the matter is, as just about everybody in this place except Mr Berry knows, that there are no clashing meetings of Health Ministers and Ministers attending the COAG meeting. If you had bothered to check, Mr Berry, before you issued your press release, making another stupid and groundless allegation, you would have discovered that the meeting of Health Ministers was on this morning and the preliminary meetings of COAG are on this afternoon. So, as a result, there was no clash and the Chief Minister was able to represent the ACT very adequately at both meetings.

In fact, one of the significant issues being discussed at COAG tomorrow is the Medicare agreement. The fact that the Chief Minister is also the Minister for Health and Community Care means that she goes to that meeting better armed than just about anybody else at that meeting. I would have thought that that is a very good reason for our Chief Minister also to be Minister for Health. Mr Berry says in this press release:

> No other State or Territory Leader also holds other heavy portfolios. Mrs Carnell's demand to be Chief Minister and Treasurer as well as Health Minister has been disastrous for the ACT with health costs being left uncontrolled.

No other State or Territory has just four Ministers. This coming weekend alone I was originally scheduled to be at six different ministerial meetings at three different locations - two in Queenstown in New Zealand, two in Adelaide and two in Canberra. As it happens, they have all fallen over and I am not supposed to be anywhere. I am going to have a weekend off.

Mr Berry: You will do us a lot less harm.

MR HUMPHRIES: If you issue a few less press releases like this, Mr Berry, we will all be better off, will we not?

Mr Berry: That gives me an idea - "Gary Humphries not going; you are in luck".

MR HUMPHRIES: I suppose it would be almost impossible to expect Mr Berry to abstain in these circumstances. The thing about this press release that really gets me, though, is this final paragraph. It says this:

> I have already signalled Labor's intention to separate the responsibilities of health and treasury under a Labor Government.

The question remains, Mr Speaker: Who would be health spokesperson under a Labor government? It would not be Mr Berry, of course, because he has had that poisoned chalice before. No, no, no, thank you very much; he would stay well away from that one. So whom would he give it to? Mr Whitecross perhaps - Minister for Health, Mr Whitecross? That would be great revenge for taking $27,000 out of the overtime budget, Mr Berry. Would you not agree? I do not know, frankly, that a budget blow-out like that in the health portfolio would be very helpful for the ACT. We know what kind of trouble the health budgets have been in in the past. We would not want to have that revisited because of someone like Mr Whitecross. Mr Stanhope perhaps? I think he would make a very good Health Minister. Do you not agree, Ms McRae? He would make a very good Health Minister.

Ms McRae: Who?

MR HUMPHRIES: Mr Stanhope?

Ms McRae: Never heard of him.

MR HUMPHRIES: Jon Stanhope. If I were you, I would never have heard of him either, actually. I would be pushing him behind me if I were you. What about Mr Quinlan? He would make a good Minister for Health. Yes, I think he would make a great Minister for Health. He would have so much talent.

Ms Reilly: What the hell has this to do with it? What on earth is this?

MR HUMPHRIES I see that Ms Reilly has stirred to life. Actually, that solves the problem. Ms Reilly would make a great Minister for Health. I can see her there in the middle of the Health Ministers negotiating a new Medicare agreement. She would be fantastic for the ACT, Mr Speaker - absolutely fantastic.

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

MR SPEAKER: Mr Corbell, are you feeling offended or are you taking a point of order?

Mr Corbell: No, Mr Speaker, I am not feeling offended. I am extremely bored by Mr Humphries's comments. My point of order is on relevance. This has nothing to do with the question that Mrs Littlewood asked Mr Humphries and I would invite you to direct the Minister to keep to the subject matter of the question.

MR HUMPHRIES: Mr Speaker, I was asked by Mrs Littlewood to comment on this press release from Mr Berry which specifically talks about splitting responsibilities for health and the Treasury.

MR SPEAKER: Indeed.

Mr Whitecross: Further to the point of order, Mr Speaker, I would have thought that in commenting on the press release he might constrain himself to his responsibilities as Minister, or the Minister's responsibilities as Minister, even though she is not here, rather than trying to solve the Labor Party's problems as to who is going to do what, because that is not really a matter for his portfolio. I suggest that he leave that to the Labor Party.

MR SPEAKER: I just think of the Augean Stables; that is all. I make no further comment.

MR HUMPHRIES: Mr Speaker, I will be brief and finish the answer. I simply say that our Chief Minister and Minister for Health has shown a fantastic capacity to hold down both of those jobs with great aplomb. I think Mrs Carnell is the most experienced Health Minister in Australia at present. In those circumstances, and with her capacity to bring in health budgets without blowing them out, Mr Berry, I think we have very good representation of the ACT at both of those meetings.

Southside Youth Refuge

MR OSBORNE: My question is to the Deputy Chief Minister, Mr Humphries. Minister, over the last two days I have been asking the Minister for Family Services and Minister for Youth Services, Mr Stefaniak, about when he became aware that the Southside Youth Refuge was subject to a police investigation over an alleged misappropriation of funds. Yesterday in this place he said that he was given verbal advice on either 22 September or 23 September. I have here a transcript of an interview between Mr Stefaniak and WIN Television which took place on 9 October and, if members will allow me, I will quickly go through it. The transcript reads:

> Reporter: Are you aware that a Canberra youth refuge is being investigated for fraud?
>
> Stefaniak: No.
>
> Reporter: You're not aware at all?
>
> Stefaniak: No.
>
> Reporter: You haven't been told by the police? The police have confirmed that they are investigating the Southside Youth Refuge. Are you in any way aware of that?
>
> Stefaniak: No, I don't think so. I don't think anyone's told me about that one.
>
> Reporter: Will you be talking to the police about it?
>
> Stefaniak: Well, I think if anyone has concerns that are of a criminal nature they should take them to the appropriate authorities and the police are the appropriate authority. I'm not aware of what's occurring there.
>
> Reporter: Will you be making a couple of phone calls now that you are aware?
>
> Stefaniak: Well, now that you've told me I'll ask what's going on. No, I think obviously whenever there is an allegation of fraud the police are the people who need to investigate that. They're the experts and I would encourage anyone who has any concerns of a criminal nature to go to the police.

There were a couple more questions and answers like that. The interview then continued:

> Reporter: Are you concerned that your department hasn't told you about this?
>
> Stefaniak: Ahhh, look, I think ...
>
> Reporter: ... surely just to tell you ...

Then there was some silence. The reporter then said:

> ... as opposed to not having to make any comment, just so as you are aware.

Then there was some more silence and Mr Stefaniak said:

> Just what did occur, actually?

The reporter said:

> Early last week a raid was done on the Southside Youth Refuge ...

It then went on. There was then a break between that interview and the next interview, during which, I am told, the Minister took advice. The transcript reads:

> Reporter: What do you know about the Southside Youth Refuge.
>
> Stefaniak: I'm advised that the board had concerns and it quite appropriately called in the police to investigate the matter and the matter is now under police investigation ...

Blah, blah, blah! Minister, it would appear that Mr Stefaniak has repeatedly misled this house and, although he has had every opportunity to do so, he has not sought to correct the record. I ask what you intend to do about this matter.

MR HUMPHRIES: Mr Speaker, Mr Osborne has raised a fairly serious allegation. On the information available to me that he has presented to the house today, it is very difficult to form any view about whether or not anything might have occurred which is inappropriate or in breach of parliamentary practice. Indeed, on what Mr Osborne has said to the house today, if what he says is the complete picture, there seems to be some indication that Mr Stefaniak might have misled WIN Television but not that he has misled the house. However, Mr Speaker, because this is a serious matter and a matter which needs to be investigated appropriately, and since I am only acting for the course of this afternoon in the job the Chief Minister normally performs, when the Chief Minister returns, I will raise with her - - -

Mr Berry: I will prepare the flick pass.

MR HUMPHRIES: I am not in a position to go and conduct an investigation in the next couple of hours before the Chief Minister comes back. I will raise the matter with the Chief Minister, in the form that Mr Osborne has presented it to the house, and I have no doubt that the Chief Minister will discuss it with Mr Stefaniak.

MR OSBORNE: I have a supplementary question. Minister, will you, at the very least, instruct Mr Stefaniak to come into this place today and explain himself, so that we have the chance to hear for ourselves whether he was misleading this house or misleading the public via WIN Television?

MR HUMPHRIES: If you ask Mr Stefaniak a question, Mr Osborne, I am sure he will answer it as truthfully and as capably as he is able to.

School Attire

MR WOOD: Mr Speaker, my question is to the Minister for Education. Minister, there have been complaints about students being forced to wear agreed school attire as part of the code determined by the board of the school and that some have been excused from class because they were not in the correct attire. Minister, what are the rules that apply to schools enforcing school code requirements?

MR STEFANIAK: Mr Wood, I think I am aware of a couple of pieces of correspondence in relation to one particular school where there were some concerns about parents not wanting the kids to wear the colour code. I believe I took that up with the school principal. That was several months ago. I am unaware of whether there has been any problem since then. Certainly, the parents concerned have not got back to me. Where school boards want a colour code - I think you, as Minister, initiated one at Wanniassa High School, with the consent of the school board there - that is obviously very desirable, but there are some people who do not wish to abide by that. My understanding is that in those instances their wishes are to be respected. As I said, I had a couple of pieces of correspondence earlier this year in relation to that which I think were resolved. If there are any outstanding issues in relation to that, or if any person still has a problem, I would be interested to hear about it.

MR WOOD: I have a supplementary question. Can you ensure that students do not miss a class because of these circumstances and that things can be negotiated in other ways?

MR STEFANIAK: My understanding of these instances that were drawn to my attention is that things were negotiated, Mr Wood. I would be interested to hear if anyone has been forced to miss a class.

Surveillance Cameras

MR MOORE: My question is to Mr Osborne as chair of the Legal Affairs Committee. I gave Mr Osborne short notice, about 20 minutes' notice, that I would be asking this question. Mr Osborne, you would be aware, I presume, of the Deputy Chief Minister's comments in public today about surveillance cameras and there being hypocrisy on the part of some people in terms of believing there ought not be surveillance cameras in public areas while the surveillance cameras in the ACT Assembly were used for identifying some people involved in criminal activities. Do you think, Mr Osborne, that the report that your committee brought down dealt appropriately with this issue? Was the committee hypocritical in its approach as far as the report goes, or is the hypocrisy on the part of somebody else in this chamber?

MR OSBORNE: I thank you, Mr Moore, for the opportunity to answer this question. I think the saddest thing for me about this whole issue of surveillance cameras, Mr Moore, is not the fact that we do not have them. I think the saddest thing for me is the fact that members of this Assembly - Mr Kaine, Ms Follett and I - undertook a very long process. We investigated thoroughly the issue of surveillance cameras and put together a report, a unanimous report, back in September 1996. As you are well aware, Mr Moore, prior to the commissioning of the report the numbers were well and truly against any surveillance camera trial. It is fair to say that all members of the committee moved a certain amount in regard to surveillance cameras and we put together a report which gave the Government the steps to take to have a surveillance camera trial. All members of the committee, as I said, endorsed the report. What it basically did, as I said, was allow the Government to have a surveillance camera trial.

Mr Moore: No doubt they did that quickly.

MR OSBORNE: The saddest thing for me, Mr Moore, as chair of the committee, is that it took this Minister from the open and consultative Government, this Minister the members of whose party stood up yesterday, I think, and said how well the committee system is working, 10 months to respond to our report. It took not one month, not two months, not even six months; it took him 10 months to respond to our report. He then had the hide today to go on television and point the finger at the rest of us. The reality is that we should be pointing the finger at him, quite obviously. I will say once again that I do support surveillance cameras, but I think the reality here is that Mr Humphries has used the surveillance camera issue as nothing more than a cheap election stunt.

MR SPEAKER: Mr Moore, in what capacity did you - - -

MR MOORE: Mr Speaker, you want me to ask my supplementary question, do you?

MR SPEAKER: No. I want you to tell me in what capacity you asked Mr Osborne that question.

MR MOORE: He is chair of the Legal Affairs Committee.

MR SPEAKER: Yes, but the committee has reported.

MR MOORE: He is chair of the Legal Affairs Committee, Mr Speaker, and it is entirely appropriate for a committee chair to defend a report that they have tabled. It is entirely appropriate, and so it must be.

MR SPEAKER: I remind you of standing order 116, which states:

> Questions may be put to a Member, not being a Minister, relating to any bill, motion, or other public matter connected with the business of the Assembly, of which the Member has charge.

It is that tail that I have a problem with because, effectively, the member no longer has charge of that particular report.

MR MOORE: No; that is a total misinterpretation.

MR SPEAKER: My understanding is that it was presented to the Assembly on 25 September 1996.

MR MOORE: No, Mr Speaker, that is not the capacity in which I asked the question of Mr Osborne. I did not ask him in his capacity as the chair of a report; I asked him in his capacity as chair of the Legal Affairs Committee. He is still the chair. It is that Legal Affairs Committee that brought down a report, and a series of reports, and I can ask him a question about any of those reports at any time, quite clearly, because he has charge of the committee. It is a very strange interpretation of standing orders that you have given, Mr Speaker.

MR SPEAKER: No; you are drawing far too long a bow, I think, Mr Moore. I will have a look at the matter for you, nevertheless.

MR MOORE: Thank you, Mr Speaker. I think it is a serious issue and I would be happy to discuss it with you in private as well. My supplementary question, Mr Speaker, to Mr Osborne is this: Did your report, in fact, distinguish between surveillance cameras that were held in private hands and those used in broad public areas?

MR OSBORNE: Thank you, Mr Moore. Yes, we did. I would like to finish on one point. Mr Speaker, the committee worked very well on this issue of surveillance cameras, I thought. Mr Kaine is still here, but Ms Follett is not. We worked very well on it and if the Minister had any problems with our recommendations he had ample time to come back to our committee and say, "Look, we cannot do it". But he has chosen now, this late in the term of this Assembly, to stick his little hand up, carry on like a big sook, and say, "We cannot get our surveillance camera trial up". Look at you squirming there in your seat; you are pathetic. Mr Speaker, if he had come to our committee we would have looked at the issue. I am sure that Mr Wood would have been happy to look at it, and I am sure that Mr Hird would have been happy to look at it.

Mr Humphries: So you want to back down. That is fine.

MR OSBORNE: If you want to make it an election issue, Mr Humphries, fine; but I will be exposing you for what you are.

New South Wales/ACT Rams

MR WHITECROSS: Mr Speaker, my question without notice is to the Minister for Sport, Mr Stefaniak. Minister, in the last sittings Ms McRae asked you a question about what you intended to do to ensure that the Australian rules football team, the Rams, could continue to be based in Canberra, in much the same way as your Government has previously assisted the Canberra Cosmos soccer team and the Canberra Cannons men's basketball team. Minister, what steps have you taken in the last month to help the Rams stay in the ACT, given that they provide a valuable service to the region for Australian rules football?

MR STEFANIAK: Mr Whitecross, I refer you to my answer on the last occasion. I may or may not have indicated in that answer that it was specifically to assist the Rams that the general manager of the Bureau of Sport, Recreation and Racing, Mr Owens, had been tasked to assist them in whatever way he could in terms of obtaining money. There are two other points, though, Mr Whitecross. First, I do not think the ACT Government can be expected to bankroll every conceivable team. It is simply not feasible. Secondly, in the case of the Rams, they are under the auspices of the ACT Australian Football League, ACTAFL. Indeed, I think there was some concern in ACTAFL that they had not gone through them with that request. Because they are under the auspices of ACTAFL, it being their peak body, it should be the body which should be chasing up those types of requests. It is my understanding that ACTAFL has not done that.

That being said, Mr Whitecross, I indicated on the last occasion a number of avenues that could be pursued. I have offered the services of Mr Mark Owens to assist the Rams in relation to that.

Ms McRae: But he is overseas all the time. What chance has he got?

MR STEFANIAK: I think you might find he is here now, Ms McRae. I am not too sure whether they have taken that up in the last month or so, Mr Whitecross. As far as I am aware, they are aware that he is there to assist them. I could not think of a better person to assist them in terms of obtaining further finance. We would love to see them stay here.

MR WHITECROSS: I have a supplementary question. Minister, am I to take it from your answer that you are happy to sit on your hands and not do anything actively to assist the Rams to stay in the ACT? You do not really value their contribution to ACT sport seriously, otherwise you might do something active rather than sitting on your hands. Finally, what is the point of spending $8m upgrading a football field for Australian rules football if you are not going to do something to ensure that the Rams stay in the ACT?

MR STEFANIAK: Mr Speaker, in answer to Mr Whitecross's question, I hardly think making the services of the general manager of the Bureau of Sport, Recreation and Racing - a very experienced person - available to assist, and assist also across other government agencies, is sitting on my hands and doing nothing. I think that is a considerable assistance.

Electricity Supply - Green Power Option

MS TUCKER: My question is to Mr Kaine in his capacity as Minister for Urban Services. Mr Kaine, the other day I asked you a question about the new green choice scheme that was announced by ACTEW last week. I think there was some misunderstanding when I asked that question, so I would like to ask you some further questions. While I obviously support a green choice scheme, I do have concerns that the Government has possibly set green choice up to fail. For a start, the price is significantly higher than the price of green power schemes in New South Wales. It is going to cost the average consumer $600 more to join. A second major problem is that there is no flexibility in the scheme. In New South Wales consumers can choose to pay 25 per cent or 50 per cent of their bill to the green power scheme. A third major problem is that it is offered only to households for whom it is not tax deductible, whereas in New South Wales businesses can join with tax deductibility. A number of large businesses, including Westfield and The Body Shop, have already joined in New South Wales. The final problem is the lack of an independent accreditation system. All of the New South Wales schemes are accredited and audited by the New South Wales Sustainable Energy Development Authority. Mr Kaine, as a shareholder in ACTEW, can you inform this Assembly whether the Government will guarantee that ACTEW will introduce more flexible options? Will you assure the Assembly that the scheme will be extended to businesses? Also, will the Government provide a guarantee that ACTEW will work with the New South Wales Sustainable Energy Development Authority to ensure that the scheme is accredited and to ensure accountability for the money and give consumers confidence in the scheme?

MR KAINE: Mr Speaker, Ms Tucker asked me a question along these general lines a couple of days ago. I spoke to her later and indicated that I would get the details of what ACTEW is developing in this matter and let her have them. I still do not have them, but my understanding is that ACTEW is developing the concept of a green tariff further. The initial announcement was that residential users would be able to have access to a tariff, the product of which would go into a fund to provide for research and development of green energy sources in Canberra in the future. There is no immediate pay-off from that. It might be some years before we actually are able to generate green power in the ACT.

My understanding is that they are looking at a graduated scale so that not everybody has to go on the top end of the scale. They have a choice as to how far they go. I am still waiting on the details of that. I believe that ACTEW has already been talking to New South Wales. I indicated that the green tariff, in fact, was based on the tariff which applies in New South Wales. We just did not do it in isolation from what is being done there. In order to answer Ms Tucker's question in detail, I should in general take it on notice and give her a comprehensive answer, rather than trying to answer partially. If Ms Tucker is happy with that, I will take the question on notice and provide full details of what ACTEW is working on to expand the concept of a green tariff.

MS TUCKER: I have a supplementary question. Yes, thank you, I would like the information. As one of the major shareholders, are you personally committed to offering this greater flexibility and the right for businesses to be part of the scheme?

MR KAINE: Yes, I am. In fact, I thought I had already indicated that when I announced the green tariff a week or so ago.

Ms Tucker: But the flexibility and businesses, particularly.

MR KAINE: The Government will be working with ACTEW on this. It is a government instrumentality. It will not sit out there in glorious isolation and come up with some scheme which the Government then may or may not find acceptable, depending on what its cost to the community is. In short, yes.

Sportsgrounds - Fees

MR CORBELL: Mr Speaker, my question is to the Minister for Sport, Mr Stefaniak. Minister, can you explain why fees have increased for people using ACT government sportsgrounds, and in particular sportsgrounds which have pavilions?

MR STEFANIAK: Mr Corbell, it is common practice, I think, around Australia for most councils to try to recoup through fees about 10 per cent of what it costs them to run their sportsgrounds. We are now, effectively, as a result of our fee increases, around about that level. About two years ago we were at about 8.5 per cent. Running sportsgrounds is a very costly business. It has to be tempered, however, by the fact that we want as many members of the community as possible to utilise them. There is always a balancing act there, Mr Corbell. It is something I certainly would prefer not to do. I would like to keep them absolutely dirt cheap, but you do have to look at whole-of-government considerations. You have to look at the increased costs in terms of things like watering and maintenance. You also have to look at the increased costs in the area in which you live, Mr Corbell, for example. We have produced a few new sportsgrounds. The Nicholls playing ground is one of the prime examples there. With growing areas in Canberra there is a demand for new sportsgrounds, so the bill always keeps going up. There is a need to ensure that the contribution made by the community is reasonable and, accordingly, we have made these increases.

I am advised now that our increases bring us to about 10 per cent of running costs of sportsgrounds. That is the optimum. I certainly would not be proposing to go above that. I think that is a rate that is pretty well accepted amongst local councils throughout Australia. I think it is reasonable. It balances all the competing necessities and needs in relation to sportsgrounds. I think we are now at that rate. I appreciate that with some groups there are always some difficulties. I think most are handling it very well. I see occasionally a few groups who do have some special needs. If it is at all possible, I try to take those into account; but I think you have to appreciate the very great cost of running sportsgrounds. Basically, that 10 per cent rule is a common one throughout Australia, and a quite reasonable one, I think.

MR CORBELL: I have a supplementary question, Mr Speaker. Minister, given that you have acknowledged that your Government has increased fees for grounds and also given your purported support for young people, particularly, to be involved in sport in the Territory, have you taken any steps to protect youth and junior sporting groups, in particular, who are affected by this increase in fees? If so, what exemptions are there, for whom, and how have they been determined? If you have not, why not?

MR STEFANIAK: I am currently considering several requests, Mr Corbell, one in particular which I think is probably very reasonable which I am awaiting some further details on. In all instances, I think, where people indicate that there is a problem, they ask for some transitory arrangement, and that is something I would consider on a case-by-case basis. There have been some instances where, regrettably, we have been unable to accommodate that. There are a couple of requests which I have indicated I will consider. There is one for which, on the face of it, although I am waiting for more material, there seems to be a very reasonable case for at least some transitory arrangement. You refer to the need, especially with younger participants, to encourage participation. That is an essential plank in Active Australia, and I am very mindful of that.

Surveillance Cameras

MR HIRD: Mr Speaker, my question is to the Minister for Police and Emergency Services. I ask the Minister whether he could cite any recent examples of where a safety camera has been effective in the prevention or detection of crime. Minister, how close to home is this issue of the use of safety cameras to detect crime?

MR HUMPHRIES: Mr Speaker, it is certainly a hot issue today. I understand that there are some government buildings around Canberra which do use safety cameras from time to time. One of those was apparently the subject of a burglary over the weekend just passed. It appears that safety cameras were used to identify the alleged offender, who was arrested yesterday by city police. The burglary, thankfully, did not involve any significant damage to property or, more importantly, place any person at risk. Nonetheless, burglary is a property crime and should be treated seriously, and a small amount of equipment was stolen. Mr Speaker, the question that needs to be asked is: What building was it? The answer is that it was this building, the ACT Legislative Assembly building. The cameras in question were the cameras installed in, I think, 1994 by the Australian Labor Party.

Mr Hird: The Labor Party?

MR HUMPHRIES: The Labor Party, yes, the party that opposes the use of cameras. Apparently, these cameras installed by the Labor Party were used to detect this particular alleged offender. This is the same Labor Party that now bleats about the use of those safety cameras for other parts of the city. Mr Speaker, I have to say that in these circumstances I think any ordinary citizen of the Territory would ask a serious question: Why is it good enough for the property and fabric of the ACT Legislative Assembly to be protected by - - -

Mr Moore: I take a point of order, Mr Speaker. I believe there is quite some danger that the Minister is reflecting on a vote of the Assembly at this point. There is a very clear instruction from this Assembly about what he can do and what he cannot do as far as surveillance cameras go.

MR HUMPHRIES: Mr Speaker, I will certainly not reflect on a vote of the Assembly. I pass no judgment on the vote of the Assembly. I simply pass a comment about the views of citizens of the Territory. People in the ACT may well wonder why it is possible for the property and fabric of this building to be protected by safety cameras and for the property and persons of other individuals out in the public, out in Civic in Civic Square and so on, not to be protected by the same cameras, not to be protected by the same security devices. Mr Speaker, there is a real question there about the hypocrisy of those who are in that position. I think it would behove us to make the rules consistent for both sets of people.

Nursing Home Accommodation Bonds

MS REILLY: Mr Speaker, my question is to the Minister for Housing. Minister, as you are responsible for ACT Housing, which is the ACT's single largest landlord, with over 12,000 properties, which include almost 1,200 aged persons rental accommodation units, what research or inquiry has ACT Housing undertaken to evaluate the impact of the introduction of the Federal Government's nursing home bonds and your Government's announcement yesterday of a bond help scheme?

MR STEFANIAK: When you say "your Government's announcement", I take it you mean the Federal Government's announcement of a bond - - -

Ms McRae: No. The bond help scheme was yours.

Ms Reilly: No, no.

MR STEFANIAK: I am sorry; that is the - - -

Mr Humphries: Bill, I will take the question.

MR STEFANIAK: In terms of ACT Housing, given that - - -

Mr Humphries: Mr Speaker - - -

Mr Corbell: I take a point of order, Mr Speaker. The question was specifically about the impact of that measure on ACT Housing. It is the responsibility of the Minister for ACT Housing to answer that question, not the Minister representing the Chief Minister. He is not the Treasurer. He is not speaking on Treasury issues anyway.

Mr Humphries: Mr Speaker, with great respect, it is up to the Government to decide who is best able to answer the question.

Mr Berry: No, no.

MR SPEAKER: It is not in the province of the Speaker to make that decision.

Mr Humphries: Indeed, Mr Speaker. Since the question was about bond help, a matter for the Chief Minister - - -

Mr Berry: I take a point of order, Mr Speaker. The standing orders make it clear that members of this Assembly can direct questions to the relevant Minister, that is, the Minister who is responsible. If the Minister refuses to answer, that is up to him. No question was directed to Mr Humphries. He is not entitled to answer unless the question is asked of him.

MR SPEAKER: No. It is not up to the Speaker to decide who shall answer questions. If the Minister concerned wishes one of his colleagues to answer, that is perfectly in order, and this happens repeatedly.

Mr Berry: With the greatest respect, Mr Speaker, my understanding is that it is within your authority to ensure that the standing orders are upheld. The standing orders make it clear that members can ask questions of Ministers responsible for particular issues.

MR SPEAKER: Where?

Mr Berry: The Minister can either answer or refuse to answer. He rose to his feet and was attempting to answer it and was pushed off the territory. Let him answer the question.

MR SPEAKER: I will now rule on this. I refer to *House of Representatives Practice* at page 505, which reads.

> A Minister may refuse to answer a question. He or she may also transfer a question to another Minister and it is not in order to question the reason for doing so.

Mr Berry: Mr Speaker, that is my very point. The Minister did not refer it to another Minister. It was taken off him by a Minister - that was the point - because the Minister who did the taking was not satisfied with the answer that was being given. Let the Minister answer the question.

MR STEFANIAK: I can resolve this very quickly. I refer that question, Ms Reilly, to Mr Humphries.

MR HUMPHRIES: Thank you very much, Mr Speaker. If I could be allowed to answer the question - - -

Mr Berry: Mr Speaker, I am glad there is not a standing order requiring Ministers to have the courage of their convictions.

MR HUMPHRIES: Mr Speaker, I would not be the first Minister to have a question referred to him. Mr Berry did the same thing when he was in government, so we know this is further Labor grandstanding on these sorts of issues. The fact of the matter is that the bond help scheme - - -

Ms Reilly: I am shocked that the Minister for Housing is not interested in what happened to his aged care - - -

MR SPEAKER: Order! You wanted an answer to the question. You are getting it. Please listen to it in silence.

MR HUMPHRIES: They really have no interest, Mr Speaker, in getting the information they seek, do they? They really have no interest whatsoever.

Ms Reilly: You answer the question, then.

MR HUMPHRIES: When I have a chance over the points of order being raised I will try to, Ms Reilly. Mr Speaker, a question has been asked about the impact of the announcements of the Commonwealth Government and of the ACT's proposal for a bond help scheme on residential accommodation in the ACT. The Commonwealth obviously has had to reconsider the issue of accommodation bonds for people entering residential aged care facilities in Australia and, as I have said already today, I think that is hardly surprising, given the reception that the proposal has had. Until we have clear knowledge of how the Commonwealth intends to proceed, an ACT approach cannot be finalised. However, we certainly stand ready to consider an ACT specific scheme if a revised Commonwealth scheme has flaws like the last one obviously had.

What we regard as important in the ACT context is that we have a clear objective to safeguard family homes. The Council on the Ageing in the ACT is keen to help in this complex matter. The circumstances of every individual obviously are different, and that is why the services of COTA will be important if the ACT needs to take particular steps to help elderly citizens. COTA will advise people on their options and the implications for them, depending on their individual circumstances. There may be tax implications, implications for pensions, and issues for the families of the elderly, and COTA will be well placed to assist with advice on these issues. I must put on record the Government's appreciation of the role that COTA has offered to play in this matter. It will be very important to provide easy-to-understand information so that individuals and families will be able to understand their options.

The Government is responding to the stress of older people in the ACT who have paid their way and have been solid contributing citizens all their lives. We do not intend to make it harder and more complicated for them. Rather, we want to make it easier and less frightening. Support will be aimed at pensioners who have their homes as their major asset. We do not intend to make support available to people who can afford to pay their way; but this is not the case with the majority of elderly people, unfortunately. COTA will be able to advise everyone on what is best for them and will not be recommending anyone they might think might be trying to rort the system. I have had a couple of inquiries.

MR SPEAKER: Ms Reilly, are you listening to this answer?

Ms Reilly: Yes.

MR SPEAKER: Thank you.

Ms McRae: She can walk and listen at the same time.

Ms Reilly: I am able to walk and listen at the same time, Mr Speaker.

MR HUMPHRIES: She is getting some exercise, Mr Speaker, while she is hearing my answer.

Mr Kaine: She is just practising to be Health Minister.

Ms McRae: No; you have to play rugby to do that.

MR SPEAKER: Ms Reilly, you asked the question. The least you can do is listen to the answer.

Ms Reilly: And I cannot sing.

MR HUMPHRIES: I will take your word for that, Ms Reilly. I will not put that to the test.

Mr Berry: On a point of order: One good thing about the standing orders is that you are not required to listen. You can say what you like, apparently, when you answer questions; but you do not have to listen to it.

MR HUMPHRIES: If it would assist Ms Reilly, Mr Speaker, I am quite happy to arrange to put my answer on a tape of some kind. While she is at home exercising, perhaps, she can hear the answer. No? Well, it is up to you.

The Chief Minister has had a couple of queries about the detailed application of the scheme. I cannot see why people such as those who have cash rather than a house would be eligible for our financial scheme; but, to reduce their anxiety, I understand that the Chief Minister would encourage them to use the COTA service to explore their options. The other question, Mr Speaker, is the cost to government. While we intend to charge interest so that the scheme is not a major cost to government, it is not intended to be a profit-making venture either.

MR SPEAKER: Do you have a supplementary question, Ms Reilly?

MS REILLY: That was a quite amazing answer, Mr Speaker. It did not answer my question at all.

MR SPEAKER: You can ask a supplementary question; but you must ask it immediately and without preamble, as you would be aware.

MS REILLY: I think it would have been better if you had ruled the other way. I think Mr Stefaniak knows a lot more about ACT Housing tenants.

MR SPEAKER: I will rule you out of order in a minute if you do not get on with asking the supplementary question.

MS REILLY: I ask for clarification, Mr Speaker. Am I asking this of Mr Humphries or Mr Stefaniak?

MR SPEAKER: You are asking it, presumably, of Mr Humphries. He answered the first question. You can hardly ask a supplementary question of somebody else.

MS REILLY: In his answer Mr Humphries seemed to talk about the ACT Council on the Ageing helping with this. Of course they are. They are being funded, Mr Humphries. You failed to mention that. You talked about considering an ACT specific scheme. It sounds like there is already a scheme in place; that you are not considering it. You talked about safeguarding the family home. Are you aware, Minister, that both schemes - the one that was announced yesterday by your Chief Minister and the one that Mr Howard, who also takes on other ministerial responsibilities, announced last night - exclude non-property owners? That is why I was asking about the impact of these schemes on ACT Housing tenants. You cannot answer for the Federal Government; but why is it that your Government, which announced this scheme yesterday, considers that the fees to be paid for nursing home entry are a bigger impost on home owners than what will be an impost on those who do not own their own homes? What are you doing for those people?

MR HUMPHRIES: Mr Speaker, I think Ms Reilly needs to chill out a bit, to relax a bit, over these sorts of issues.

Mr Corbell: Answer the question.

MR HUMPHRIES: Yes, certainly, Mr Speaker Corbell.

Ms McRae: Mr Speaker, under what standing order is the Minister allowed to provide gratuitous advice?

MR HUMPHRIES: Oh, dear!

MR SPEAKER: Proceed, Mr Humphries.

MR HUMPHRIES: The same one that allows those sorts of interjections, Ms McRae. Mr Speaker, to reassure Ms Reilly that these issues have been addressed by the ACT Government, I can indicate that nursing home issues should not affect public housing tenants differently from any other ACT residents. They should be in the same position as they would be if they were, for example, for argument's sake, a private housing tenant.

Ms Reilly: They cannot borrow against a family home. They do not have one.

MR HUMPHRIES: I might point out that the measures that have been announced, certainly by the ACT Government and possibly also by the Prime Minister, although I do not speak for the Prime Minister, have been directed to those people who have been disadvantaged by the operation of the early scheme, in that they would have had to sell their family home in order to be able to get access to nursing homes. Those are the people about whom the greatest concern was being expressed in the course of the debate. I am sure Ms Reilly followed the debate, although she is not now following my answer to her question and is having a chat with Ms McRae. The fact of the matter is that the concern has been about people losing the right to own their own homes. As far as those in government aged accommodation are concerned, the issue of having to sell a family home obviously does not arise. For those who might enter a nursing home and then perhaps leave it to return to accommodation outside a nursing home, there may be some issue.

Ms Reilly: How often is that?

MR HUMPHRIES: Not very often. But the Government system stands ready to accommodate people to the extent that it can in those circumstances. Since Ms Reilly has lost interest in my answer, Mr Speaker, I will leave it at that.

Radioactive Waste - Disposal

MS HORODNY: Mr Speaker, my question is directed to Mr Humphries in his capacity as Minister for the Environment. Minister, you would be aware of the requirement under the Radiation Act that persons who use radioactive materials in the ACT for various medical and research purposes are required to be licensed, and that a permit is required for the disposal of this radioactive material. According to the *Gazette*, most of this low-level radioactive waste is being buried at the West Belconnen landfill, some of it is being allowed to be put down the sewer, and some of it is also being allowed to be incinerated at the Totalcare incinerator at Mitchell. The last two disposal methods are of particular concern to me as it means that radioactive waste is being dispersed into the environment rather than being contained. I am aware that they are small amounts of waste; but, with radioactive material, even small amounts can be quite harmful. Minister, can you tell us what environmental impact assessment and health risk assessment has ever been done on these various disposal methods?

MR HUMPHRIES: Mr Speaker, I thank Ms Horodny for that question. It comes to me as something of a shock to hear that radioactive material is being buried in the landfill site or put down our stormwater drains. I have not seen that particular *Gazette*. I will examine the *Gazette* with care, now that Ms Horodny has raised the question. I do not have enough background about the circumstances of this allegation to be able to make detailed comment, but I will certainly take it on notice and report to Ms Horodny and the Assembly as soon as possible.

MS HORODNY: Okay. If you are taking that on notice, could you also provide details of the total amount of radioactive waste generated in the ACT each year, and by what disposal methods it is dealt with?

MR HUMPHRIES: If the information is available I will make it available to the Assembly.

Mr Speaker, I ask that further questions be placed on the notice paper.

STUDY TRIP
Paper

MR SPEAKER: I present, for the information of members, a report of a trip undertaken by Ms Reilly, MLA, to Maroochydore and Brisbane between 29 August and 1 September 1997.

PAPERS

MR HUMPHRIES (Attorney-General): Mr Speaker, on behalf of the Chief Minister, and for the information of members, I present the following papers:

Annual Reports

Territory Owned Corporations Act 1990, pursuant to section 22 -

ACTEW Corporation - report and financial statements, including the Auditor-General's report for 1996-97.

Totalcare Industries Ltd - report and financial statements, including the Auditor-General's report for 1996-97.

ACTEW Energy Ltd - report and financial statements, including the Auditor-General's report for 1996-97.

Ecowise Environmental Ltd - report and financial statements, including the Auditor-General's report for 1996-97.

Ecowise Services Ltd - report and financial statements, including the Auditor-General's report for 1996-97.

I also present, pursuant to standing order 83A, an out-of-order petition lodged by Ms Reilly, from 187 citizens, relating to late-night and weekend bus services.

PUBLIC SECTOR MANAGEMENT ACT - CONTRACTS
Papers and Ministerial Statement

MR HUMPHRIES (Attorney-General): Pursuant to sections 31A and 79 of the Public Sector Management Act 1994, on behalf of the Chief Minister, and for the information of members, I present copies of contracts made with Nicholas van den Berg (long-term contract), dated 28 October 1997; Tim Tench (short-term contract), dated 23 September 1997; Sandra Lambert (long-term contract), dated 29 October 1997; Trevor Wheeler (performance agreement extension and new performance agreement); Fran Hinton (new performance agreement); Michael White (new performance agreement); Peter Gordon (new performance agreement); Anne Thomas (new performance agreement); Allan Hird (new performance agreement); Christine Healy (new performance agreement); Jill Farrelly (new performance agreement); Gerry Cullen (new performance agreement); Narelle Hargreaves (new performance agreement); Paul Rayner (performance agreement renewal); Robyn Sheen (cessation of short-term contract); George Tomlins (performance agreement); and Nic Manikis (short-term contract), dated 28 October 1997.

I seek leave to make a statement in relation to the contracts. Mr Speaker, this statement is fairly mechanical. It is the usual sort of statement made in these circumstances. I seek leave to have it incorporated in *Hansard*.

MR SPEAKER: Is leave granted?

Mr Berry: I would like to hear it.

Leave not granted.

MR HUMPHRIES: Mr Speaker, I present another set of executive contracts and contract variations. These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. You will recall that the Chief Minister previously tabled contracts on 25 September 1997. Today I present two short-term contracts, two Schedule D variations, two long-term contracts and 12 executive performance agreements.

The short-term contracts relate to executive arrangements for the offices of Director, Housing Services, in the Department of Urban Services and Director, Office of International and Multicultural Affairs, in the Chief Minister's Department. The Schedule D variations relate, firstly, to the cessation of a short-term contract for the office of Director, Economics, in the Office of Financial Management and, secondly, to the extension of an existing performance agreement for the office of Executive Director, Resource Planning and Development, in the Department of Education and Training. The long-term contracts relate to the office of General Manager, InTACT, in the Department of Urban Services and the office of Executive Director, Education and Training, in the Department of Education and Training.

Ten performance agreements relate to the remaining executive offices within the Department of Education and Training and the Children's, Youth and Family Services Bureau. These new agreements are a result of a recent performance review in that agency. The final two performance agreements apply to offices within the Chief Minister's Department; namely, the office of Director, Employment and Remuneration, and the office of Senior Director, Strategic Development Management.

Finally, I would like to alert members to the issue of privacy of personal information that may be contained in the contracts and performance agreements. I ask members to deal sensitively with the information and respect the privacy of individual executives. I am sure that Mr Berry is much edified by that statement.

COMMUNITY LAW REFORM COMMITTEE
Report on Artificial Conception (Amendment) Bill 1996

MR HUMPHRIES (Attorney-General): For the information of members, I present Report No. 17 of the Community Law Reform Committee, entitled "Artificial Conception (Amendment) Bill 1996". Given what Mr Berry is likely to say, I decline the opportunity to make any statement about it.

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Report on Draft Plan of Management for the Murrumbidgee River Corridor - Government Response

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (3.33): For the information of members, I present the Government's response to Report No. 29 of the Standing Committee on Planning and Environment, entitled "Draft Plan of Management for the Murrumbidgee River Corridor", which was presented to the Assembly on 27 August 1997. I move:

That the Assembly takes note of the paper.

Mr Speaker, rather than read my remarks into *Hansard*, I simply leave it as it stands.

Question resolved in the affirmative.

LAND (PLANNING AND ENVIRONMENT) ACT - FORREST PROPERTY
Paper

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (3.34): Mr Speaker, for the information of members, and pursuant to the Land (Planning and Environment) Act 1991, I present the order made under section 256 of that Act in relation to a dwelling on block 10, section 21, Forrest. I move:

That the Assembly takes note of the paper.

Mr Speaker, I want to speak briefly to the Executive order that I am tabling in the Assembly today. The Land (Planning and Environment) Act 1991 provides for the Minister or the Executive to issue orders requiring lessees to restore any land, building or structure that has been altered without approval or permission required by an Act or regulations. Where the Minister or his delegate makes an order, any person who is affected by that order may apply to the Administrative Appeals Tribunal for a review of that decision. If the Executive makes the order, the AAT has no jurisdiction to review the decision. The Act, however, requires the Executive to table the order in the Assembly within three sitting days.

Members will be aware that the house in Forrest that the Heritage Council is currently considering placing on the interim Heritages Places Register was damaged when the lessees and/or the developers started to remove a 30-metre-high gum tree growing next to it. Concerned neighbours contacted the council and the Compliance Section of the Planning and Land Management Group when the first branch crashed down onto the roof. Officers from the Compliance Section went onto the site and found that several more branches had been cut down and had also landed on the roof or had crashed into the front wall of the building. A considerable amount of damage had been done to both the roof and the front wall of the building. The officers also found that several of the roof trusses and supporting frames had been cut through and others had been cut part of the way through. From this it appears that there had been a deliberate attempt to either demolish the house or damage it beyond economic repair.

At the time, the Planning and Land Management Group - PALM - was considering approving the building of units on this lease and two adjoining leases, subject to the retention of the house. The Heritage Council, in the draft citation for the house, said:

> Demolition shall not be permitted, other than in exceptional circumstances including: where the structures are structurally unsound and beyond economic repair; or where there are significant public health and safety reasons to warrant demolition. All prudent and feasible alternatives will need to have been explored before demolition is considered.

I am not prepared to let lessees or developers pre-empt the decisions of either the Heritage Council or PALM by altering or demolishing structures without the requisite approvals. I must also emphasise that this Government will use its Executive orders powers if there are any future similar attempts to pre-empt decisions.

In this particular instance, I am very pleased to inform members that the owners of the house, the Cusack family, have responded quickly and responsibly to the requirements of the order. They have employed a consultant engineer to oversight the repair and restoration work. The consultant has submitted and had approved plans to restore the building in accordance with its heritage citation. The restoration work has already commenced, under the supervision of the consultant and the watchful eye of the Building, Electrical and Plumbing Control Section.

I might also say, Mr Speaker - in response to a suggestion made yesterday, I think, by Mr Berry, that perhaps protection of the tree itself might have assisted in relation to this problem - that I have been advised today by the Heritage Unit that the tree concerned, the branches of which were lopped to cause this damage, was inspected by a tree expert to assess its value. His opinion was that the tree was not of great value and, indeed, was in some danger of falling down anyway, and was probably of a condition that ought to have led to its being destroyed. So, even an order for its protection probably would not have made any difference in this case.

Question resolved in the affirmative.

ELECTRICITY SUPPLY BILL 1997

[COGNATE BILL:

ELECTRICITY SUPPLY (CONSEQUENTIAL
AND TRANSITIONAL PROVISIONS) BILL 1997]

Debate resumed from 25 September 1997, on motion by **Mr Kaine**:

That this Bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Electricity Supply (Consequential and Transitional Provisions) Bill 1997? There being no objection, that course will be followed. I remind members that in debating order of the day No. 3 they may also address their remarks to order of the day No. 4.

Mr Whitecross: Mr Speaker, I wish to raise a procedural matter. I have an amendment to the Electricity Supply Bill which is the subject of deliberations out in the foyer which have not yet come to a conclusion. So, Mr Speaker, I move:

That the debate be adjourned to a later hour this day.

Question resolved in the affirmative.

ELECTRICITY (NATIONAL SCHEME) BILL 1997

[COGNATE BILL:

ELECTRICITY (NATIONAL SCHEME)
(CONSEQUENTIAL AMENDMENTS) BILL 1997]

Debate resumed from 4 September 1997, on motion by **Mr Kaine**:

That this Bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Electricity (National Scheme) (Consequential Amendments) Bill 1997? There being no objection, that course will be followed. I remind members that in debating order of the day No. 5 they may also debate order of the day No. 6.

MR WHITECROSS (3.39): Mr Speaker, the Electricity (National Scheme) Bill and the Electricity (National Scheme) (Consequential Amendments) Bill deal with the ACT's participation in the national electricity market, which was one of the agreements in the national competition agreement, the goal for which is 29 March next year. Mr Speaker, the ACT already participates in a competitive market for electricity within New South Wales, and Victoria operates a competitive market for electricity within Victoria. This is at the wholesale level. This would allow for the joining together of these markets into a national market which, I understand, will also include Queensland and South Australia.

Mr Speaker, the benefit to ACT customers of competition at the wholesale level is that it enables us to choose our suppliers, to buy electricity off the grid at the best price and to manage our electricity demands more effectively. In particular, Mr Speaker, competition amongst suppliers will help to ensure that the price paid is a fair price and not a price set by monopoly suppliers in other States. As a jurisdiction that does not generate our own electricity, we, perhaps more than most, are able to benefit from this kind of competition at the wholesale market level. This legislation, once again, adopts legislation already passed in the South Australian Parliament - the National Electricity Law. I understand that there is also a National Electricity Code being developed by the ACCC; but that is not yet finalised, particularly sections to do with Part 6 of that code.

Mr Speaker, the Labor Party will be supporting this legislation. We believe that, as part of the agreement on the national electricity scheme, there are benefits to ACT consumers at all levels. I believe that it is perhaps accidental, but nevertheless fortuitous, that these Bills are being debated before the electricity supply Bills, because logically competition at the wholesale level, I think, should be preceding competition at the retail level, and that competition at the wholesale level probably has more to offer the majority of consumers in the ACT than competition at the retail level. But that is a matter that we can debate later.

When it comes to the detail stage, I will be moving amendments, in relation to the consequential amendments Bill, dealing with the coverage by the FOI Act and the Public Interest Disclosure Act of ACT entities in their participation in the national electricity market as agents of NEMMCO or NECA. I will discuss this further in the detail stage; but, in short, the Labor Party does not agree that, in relation to non-commercial matters, ACTEW or anyone else should be exempt from FOI legislation just because they are acting at that particular moment as an agent of NEMMCO or NECA. Nor do I believe that the provisions of the Public Interest Disclosure Act should not apply to ACTEW or any other entity simply because they are acting as an agent of NEMMCO or NECA. I think the public interest is better served by ACTEW continuing to be subject to those two bits of legislation.

MS TUCKER (3.43): The Greens are very concerned about the impacts of competition in electricity. We live at a time when there is increasing preoccupation with commercial objectives and market principles. I believe that we need to be very careful in assessing where this obsession will take us. Where will we be in 20 years' time in terms of social and environmental outcomes? Who will benefit? Who will be the losers? Who is driving the reform process?

The main goal of the restructuring is an attempt to create a more competitive market for electricity, with the overall aim of reducing electricity prices. The environmental arguments that are used in favour of the national electricity market are that competition will provide greater opportunities for alternative energy suppliers. Unfortunately, the rhetoric does not match the reality to date. Cogeneration was meant to be one of the big winners; but, according to them, they are not able to get into the market the way the reforms have been proceeding to date. The main problem is that price is still driving the supply of energy and there are no inbuilt mechanisms to promote energy efficiency rather than consumption of energy.

A major problem with this focus on the bottom line price is that the external costs of electricity supply - all the social and environmental costs that cannot be quantified in our traditional accounting systems - are not factored into the prices. So, we see the situation where electricity from brown coal - the most greenhouse gas emitting electricity technology - has one of the lowest prices and subsequently gets priority for feeding into the national grid. Clean technologies, like solar power, which have lower environmental costs, will not get priority in the grid, because they have a higher dollar price. The whole market is thus distorted away from the use of non-polluting energy sources.

This is why such economic measures as a carbon tax have been called for by various bodies, as such a tax would internalise these environmental costs into the price of electricity and thus remove some of the distortions in electricity pricing. If governments were really serious about setting up an open market for electricity, they should really make sure that the market works as effectively as possible by including environmental costs in this market. But, of course, the Federal Government does not want to do anything about the greenhouse issue, apart from defending the dinosaur coal industry in Australia.

Without tough environmental regulations in place, the competitive market for electricity contains barriers to the wider implementation of efficient energy use and renewable energy which are additional to those in a highly regulated market. The hedging contract entered into between Yallourn Energy and ACTEW is a case in point. That arrangement was entered into precisely because both Yallourn Energy and ACTEW benefit from the arrangement. Long-term price stability is the key. Greater certainty for the prices of energy going into the pool is ensuring that old technology has an ongoing market.

The other consequence we are seeing from these reforms is utility break-ups and privatisation all over the country. This is all happening with virtually no regulatory framework in place to oversee the delivery of essential services and the monitoring of social and environmental outcomes. Utility break-ups and privatisation result in considerable losses in the integration, quality and range of environmental services. There are also serious social justice concerns.

What this drive for efficiency is also going to result in is cutbacks on maintenance and service. Despite all the rhetoric, consumers certainly will not benefit from this approach. The "public benefit" in terms of environmental and social outcomes is very difficult to define. As we have seen with ACTEW, since it was corporatised no-one has taken responsibility for developing thorough community service obligation frameworks for this new, corporatised body. The consumers who tend to benefit are big businesses, who can enter into individual deals at lower prices than the current approach allows.

I do not doubt that some innovations may come about under the new arrangements; but the question you have to ask is: Do we need the national electricity market? Do we need stock-market-like arrangements for electricity supply and demand in this country to bring about social and environmental innovations? I do not believe that we do. Mr Speaker, saving energy creates more jobs and saves more money than producing energy does. The electricity market reforms do not recognise this. What we need is not electricity distributors but energy service companies who have a mandate to sell renewable energy and energy conservation services. We need to be focusing on total bills for energy services, including the long-term costs and the environmental costs, not just electricity prices.

There are real concerns in terms of accountability in this package, also. The Bills we have before us today contain a number of very worrying clauses in terms of commercial confidentiality and access to information. As I have spoken about before, there is a very worrying trend in this country towards covering things up in the mantra of "commercial-in-confidence". Electricity retailers and utilities should be subject to the provisions of FOI, annual reporting, trade practices and ombudsman legislation.

In regard to the particular national scheme Bills, which we are looking at first this afternoon, these are the Bills which facilitate the establishment of the national electricity market in the ACT. The Government claims that this is not deregulation because a new, complex scheme of regulation will be put into place. That may be true to some extent; but we are very concerned that there are not adequate consumer, environmental or social safeguards. We are also very concerned that, despite this so-called regulation, many things will be able to be kept behind closed doors.

MR BERRY (Leader of the Opposition) (3.50): I want to put on record some details of processes being followed with this legislation. This legislation was introduced in the September sittings of the Assembly, and no effort has been made to explain to the community what is occurring as a result of it. We are told that what gave rise to this legislation was a signature by the former Chief Minister of the Australian Capital Territory some time ago. I think 1991 was the timeframe referred to. We were also told that Mrs Carnell signed an agreement with the Commonwealth and the other States on 11 April 1995 and that that set out the conditions in relation to the competition payments.

I have with me a copy of the attachment to the agreement, which says that the first payment would be made on the condition that the ACT entered into a range of conditions, that the second payment would set out another range of conditions, and that those payments would commence in 1999-2000. Mrs Carnell mentioned the other day that the second tranche, or second group of payments, was due shortly, which suggests to me that the program has been hurried up after the agreement was signed with the

Commonwealth, then represented by Prime Minister Keating. Mr Speaker, there is no explanation for why we are facing the second group of payments in relation to that agreement now instead of in 1999-2000, as was set out in the attachment to the agreement signed by our own Chief Minister and all of the other States.

This morning, a briefing was arranged between officers and members of the Assembly to explain some of the problems which are concerning members in relation to this matter. This morning, we learnt for the first time that an important date was 29 March 1998. It did not take much effort to work out that, if that was the deadline, it would be impossible for a new government to properly consider the issue and properly consult with the community about the issue before the deadline date which has been set. Mr Speaker, it is clear that the Government timed the introduction of this legislation to limit the availability of consultation and consideration of the very important issues that will affect the community in the Australian Capital Territory. Bear in mind, Mr Speaker, that most members have been occupied with the Estimates Committee process and that there has clearly been insufficient time to consider this issue adequately and to provide adequate consultation with the community. The Government stands condemned for what is, clearly, a contrived arrangement to avoid scrutiny of the legislation. It is legislation that would concern many people out there in the community.

Another matter I want to refer to, Mr Speaker, can be found in the National Electricity Code Administrator's report of 1996-97. In the chairman's report, under the heading "Conclusion", it says:

> As we move from a government-owned State-based system to a privately-owned competitive national market, it is clear that market signals must be given time to work.

We see some of the conservative rhetoric also in the chairman's report, where "a full national market competing on a level playing field" is a term which is used. These are the terms used by the rationalists, which concern me but which do not surprise me, in the context of the hasty moves which have been made by the Carnell Liberal Government - and secret moves in many ways. Labor feels trapped by this approach and unable to ensure that the Government opposite does what it promised to do; that is, to be open and consultative. It clearly has not been open and consultative in relation to the development of this legislation. It has not provided time for the community to consider the matter adequately. Indeed, up until this point, it has been quite secretive about much of the information which surrounds the legislation.

Mr Speaker, the approach that has been taken in relation to these matters has been entirely unsatisfactory. The Government has not mentioned this deadline up until this point. I must say that I was quite surprised this morning to find that the end of March was going to be the deadline, because, in all conscience, I would have required that further debate in the community should occur in relation to this matter, if for no other reason than to inform the community of what their Government was about to let them in for.

Mr Speaker, Mr Osborne has raised the issue of matters being signed and agreed to in other places and the Assembly being dragged along on the tail of those decisions. It is not a bad point in the context of the arrangements that have been put in place here. One of the most interesting things about the whole approach is that it seems that, while much of the timetable has been set, obviously, with the approval of Ministers, a letter from the chairperson - unless chairmen are called "Elizabeth" these days - of the COAG senior officials electricity working group refers to this cut-off point in early 1998. Of course, we now seem to be dancing to the tune of the senior officials electricity working group as well.

There seems to be a lot of enthusiasm amongst the bureaucracy to make this thing happen. I can tell you that there is not much enthusiasm on this side of the house to see it happen without consultation; but we do recognise that the Government has put this legislation before the chamber at a time when it has been impossible to properly air all of the issues surrounding it. Had the time been available to us, we would have preferred the matter to be considered by a committee in the next Assembly and any recommendations arising from that committee to be available for whoever forms the next government to approach the national grid with a view to implementing those recommendations in some way, in the best interests of the ACT community.

I am not satisfied with the approach the Government has taken on this so far. I will be a constant critic of it. It is clearly by design that the committee process - the much applauded committee process of this Assembly - will not be able to get its hands on this legislation in a satisfactory way.

Mr Humphries: It is a plot, is it not, Wayne? We are out to get you. You have seen through us.

MR BERRY: He is impossible to stop. He carries his role of Minister for Silly Remarks a little bit too far.

So, this legislation, by the look of it, will pass through this Assembly and it will not have been exposed to the appropriate public debate, as was promised by Mrs Carnell when she came to office. The Government has not been open and consultative in respect of this legislation. In fact, it has been quite the contrary.

MR KAINE (Minister for Urban Services) (4.00), in reply: Mr Speaker, I must say that I am absolutely astonished at the position on this matter taken by the Leader of the Opposition. As I said the other day, one would believe that some of these things just come out of the sky like a bolt of lightning and nobody has ever heard about them before. Nothing is further from the truth. We have been working now for nearly six years towards a national framework in the supply of electricity, water and gas, amongst other things. There has been a program that has been set in place for all of that time. As the Chief Minister has pointed out in this place in the last 48 hours, most of the agreements that the Government has entered into on the matters were signed by the former Chief Minister when Labor was in office.

It was those early agreements which established the pattern and the timetable for national reform in these matters. The Electricity (National Scheme) Bill did not just drop out of the sky, like a bolt of lightning, yesterday or today. The program has been well known. In fact, Mr Berry has been briefed on this matter on several occasions, even in the last week, because he did not seem to be able to comprehend the nature of what was going on. He simply either does not want to understand or will not understand. No matter how much briefing we have given him, his comment has always been, "I have not been sufficiently briefed".

The material that he quoted from earlier, which mentioned the date of 29 March next year as the next target date by which things in connection with electricity supply have to be determined, was published not in one annual report but in the annual reports of two different bodies last year. Those documents are on the public record. If Mr Berry is so concerned about the matter, why does he not take the trouble to read the annual reports of the two major controlling bodies that are controlling this move towards a national electricity market? To put it bluntly, Mr Speaker, he simply cannot be bothered. Then he comes in here and complains. He asserts that the Government somehow has been working in some kind of underhanded fashion to put in place these arrangements. The Government has not been working in such a fashion. The Government has been working perfectly openly on this matter.

Where there has been reason to suspect that members have not been fully informed, we have undertaken a comprehensive program of briefing. Officers of my department have been available to them, not only by arrangement, but at any time at their request. After all of that, they say that somehow we are trying to slip something past them. Mr Speaker, I totally reject that. There is nothing hidden in what is proposed in the Electricity (National Scheme) Bill. It is putting into place a program that was agreed to years ago and for which a program of implementation was agreed.

Mr Berry also seems to be confusing two different issues. One is the question of the reaching of agreements nationally and the implementation of legislation to put a national electricity market into place. That is what this legislation is about. It establishes the wholesale market, if you like, for arrangements for the electricity supply. On the other hand, there is the overriding legislation that deals with competition policy. Under that policy, there are certain financial payments due to the Territory from the Commonwealth, provided that we achieve certain milestones. Not only are those milestones related to electricity supply; they are related to a range of other things - gas, water and road construction. We have to meet all the deadlines with all of those in order to qualify for the next payment to come from the Commonwealth. If we miss any one of the deadlines in any one of those areas, it places that second payment, which is substantial, in jeopardy.

They are two different things, and they are two different timescales. We went through this comprehensively with Mr Berry only this morning, so that he understood the difference between the legislative program and the program of coming to agreement with the other State, Territory and Commonwealth governments on the one hand and our qualifications, our eligibility and our entitlement to receive payments under the competition policy on the other. There is nothing secret. It is on the table. It has been

discussed in full. Yet Mr Berry still seems to think that there is something that he does not understand. If there is something that he still does not understand, all he has to do is ask for a briefing, and it will be provided to him. But he has not done so. These Bills have been on the table for some time. His interest has been sparked only in the last three days, when suddenly he was confronted with the necessity to debate them - when, presumably, he suddenly realised that he did not know what they were about; he was working from a position of total ignorance, because he had not bothered to inform himself. Mr Temporary Deputy Speaker, I do not accept responsibility for Mr Berry's ignorance. He has had plenty of opportunity to inform himself and he has had plenty of opportunity to obtain briefings and information from the Government, had he sought them.

Mr Temporary Deputy Speaker, when I tabled this Bill, I went to some lengths to explain what its purpose was, what we were achieving and how it fitted into the national scheme. I do not think that I need to reiterate that. It was all there in the tabling statement. It would have explained many of the questions that I think Mr Berry has had in his mind, had he chosen to read it or had he even chosen to listen to it when I tabled the Bill in the first place. Obviously, he was off with other more interesting things in mind at the time and did not bother listening. That seems to be part of his program of failure to inform himself on matters of not only national interest but significant interest to the Australian Capital Territory.

Mr Temporary Deputy Speaker, this is important legislation. It places the Australian Capital Territory in the national scheme. Without it, we are outside the national scheme. I submit that an analysis of the consequences of that would mean that the Territory would be in a rather invidious position. If the Bill is not passed, we will find out what that means. We will find out that it works considerably to our disadvantage. In fact, how we would guarantee a continuing supply of electrical energy to people living in Canberra at a reasonable price without our being part of a national scheme is beyond me. I do not know that we could guarantee it at all.

So, there is no way that this legislation can be set aside; there is no way that it can be deferred; there is no way that it can be delayed in the interests of this community. I reiterate: It was the responsibility of members of this place to inform themselves and to seek advice and assistance if they did not understand it. Seemingly, some people failed to do that. I wonder what they think their job in this place is. Is it to sit here and gaze at the ceiling while matters as important as this go by them and at the end of the debate they still do not know what it is all about? Mr Temporary Deputy Speaker, frankly, I am appalled. I urge members to support this Bill to put us in the national scheme, rather than seeing us outside it, which would be an intolerable position.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ELECTRICITY (NATIONAL SCHEME) (CONSEQUENTIAL AMENDMENTS) BILL 1997

Debate resumed from 4 September 1997, on motion by **Mr Kaine**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR WHITECROSS (4.11): Mr Speaker, I seek leave to move together the two amendments circulated in my name. They relate to the Schedule to the Bill.

Leave granted.

MR WHITECROSS: I move:

Schedule -

Page 3, lines 3 to 21, proposed amendments to the Freedom of Information Act 1989, omit the proposed amendments.

Page 4, lines 8 to 18, proposed amendments to the Public Interest Disclosure Act 1994, omit the proposed amendments.

The amendments relate to the exemptions specified in the Schedule in relation to the FOI Act and the Public Interest Disclosure Act. The argument that has been advanced in relation to the FOI Act seems to go as follows: In the first place, everybody else has exempted their instrumentalities from their FOI Acts; so, we should too. The second argument is: We think it is all covered by the commercial-in-confidence provisions of the FOI Act; but, just to be safe, let us exempt it anyway.

It seems to me that, while the FOI Act makes generous provision for exemptions from the provisions of the Act for instrumentalities engaged in competitive markets, the need for a blanket exemption is not really justified. The retention of coverage from the FOI Act, as would occur if my amendment were passed, means that, if there are non-commercial issues in relation to ACTEW's participation as a agent of NEMMCO or NECA, then those non-commercial matters could be the subject of FOI. Given that ACTEW is publicly owned, owned by the people of the ACT, I think it is appropriate that, where possible, the FOI Act should apply. I reiterate that there is no sense in which

I am arguing that commercial-in-confidence matters, matters in relation to their competitive commercial activities, should be subject to the FOI Act; but there may be other matters. They may relate to accommodation sought by an instrumentality acting as an agent of NEMMCO or NECA; they may relate to employment matters; they may relate to other matters of a non-commercial nature. It is appropriate that the FOI Act should apply in those cases.

Similarly, Mr Speaker, I see no reason why the Public Interest Disclosure Act should not apply in relation to the activities of ACTEW, which is owned by the people of Canberra, simply because, on the particular occasion in question, they happened to be acting as an agent of NEMMCO or NECA. The Public Interest Disclosure Act is there to protect the interests of the community in relation to things that they own. I believe that, provided all the provisions of the Public Interest Disclosure Act are complied with, there is no reason why it should not apply to ACTEW in relation to these matters. We all like to find reasons why we should exempt ourselves from the FOI Act or exempt ourselves from the Public Interest Disclosure Act. Who can forget, Mr Speaker, that when ACTEW was corporatised by this Government they tried to exempt the whole corporation from the FOI Act and the Public Interest Disclosure Act? In relation to those matters, I believe that the case has not been made out; that we ought to keep our safeguard legislation in place.

Mr Speaker, the other matter related to the Ombudsman Act. I am less concerned about that because, in relation to customers of ACTEW, as related to this current matter, we are going to be talking about people who operate in the commercial market. There are other watchdogs, such as the ACCC, available for those people, and I think perhaps that is a more appropriate direction for people to take in respect of any disputes they have with ACTEW in relation to those matters. That is the justification for the amendments that I have put forward in the detail stage.

Mr Speaker, in conclusion: As we are considering the final piece of the package of legislation regarding the adoption of the ACT's participation in the national scheme, I thought I should just return briefly to a claim which was made by the Minister in his speech in support of the national scheme. I thought there were some rather heroic statements made, and I just thought I should put on the record my scepticism about them. The Minister, in preaching about the benefits of the national scheme - and there are many benefits, as I have already said - said, "There will be a commercial environment that is far better suited to the introduction of more environmentally friendly technologies and practices than we have seen in the past". He went on to discuss how, in the bad old days, giant supply monopolies in New South Wales and Victoria built generation plants that were in excess of demand, meaning that higher costs were passed on to consumers. He said that, in the brave new world of competition, this sort of irrational behaviour of building generation capacity in excess of demand would no longer happen. He then went on to say that there would be all these wonderful market signals which would ensure that these organisations who owned coal-fired power stations would all be falling over themselves to produce generators using environmentally friendly power.

Mr Speaker, as I have already said, we support a national electricity market. If we believe this nonsense from the Government that somehow the national electricity market is going to make all the generators in Australia suddenly environmentally friendly, which is going to lead to a flourishing of environmentally friendly technology,

and, in particular, if we believe that having a number of generators competing with each other is not going to lead to a situation where there is more generation capacity in Australia than we actually need, then I think people are not very good students of how competitive markets work. Of course there will be a tendency in a competitive market for people to build generation capacity, with a view to competing with other people, the other generators. If they no longer have a commercial interest in the other generators, of course they have more reason to want to build surplus capacity to try to take market share off other generators. It is just not sustainable that, as the Government says, there will be no more excess generation capacity in the marketplace as a result of this legislation.

Similarly, Mr Speaker, I do not think the Government will have their fond hopes realised if they believe that a commercial market for wholesale electricity will lead to a flourishing of environmentally friendly technologies for the generation of electricity. It will continue to be a matter for governments to pursue as a matter of policy if we are to ensure that environmentally friendly technologies for the generation of power come up and take their place in the supply of electricity in the national electricity market, because it simply cannot be presumed, as the Minister does, that environmental technologies, which as Ms Tucker has pointed out cost 6c a kilowatt-hour more than other sources of electricity at the moment, will suddenly become commercially viable because we have a national electricity market. Governments need to play an active role in securing a more environmentally sustainable future. They cannot, as Mr Kaine would have it, simply leave that to the market.

MR KAINE (Minister for Urban Services) (4.19): Just referring briefly to the general comments that Mr Whitecross made about the increase in capacity to generate electricity, before I come to the question of his specific amendments: I think we could have an interesting debate about that. The fact is that the power-generating companies cannot incrementally increase their capacity. If they are going to increase their capacity, they have to make a big infrastructure investment. Power stations do not come in one-fifths, one-tenths or one-halves; power stations come as complete power stations. Any power generator who is in competition with a number of others and who is contemplating increasing his capacity to generate additional energy so that he can get his bigger share of the market is going to do it only after consideration of a massive investment of money to secure a very large increment in his capacity because he cannot increase his capacity in small doses. I think my assessment of a future market is probably closer than Mr Whitecross's; although, as I say, we could have an interesting debate about the nature of supply and demand in the electrical energy business over the next 10 to 20 years if we chose to.

To deal specifically with the amendments that Mr Whitecross has put forward: The Government does not support these amendments because, in our view, they are meaningless and, in fact, quite irrational. These amendments that we were seeking to make exclude bodies which, as Mr Whitecross rightly pointed out, are not subject to FOI legislation anywhere else in Australia. We are going to be unique if we try to make them subject to our FOI Act. But the more interesting fact is that they are not ACT corporations; they are national bodies and will not be subject to ACT FOI legislation or any other FOI legislation, no matter what sort of Bill we put through. I do not quite

know how Mr Whitecross imagines that the provisions of the ACT Freedom of Information Act are going to be applied to a national organisation like NEMMCO. What we are doing here is simply providing that, because they are not ACT bodies but are national bodies, they will not be subject to ACT FOI law. By removing them, you are asserting that they shall be. I do not know how you are going to make that work.

Furthermore, bringing these bodies under the ambit of the FOI Act but excluding them from the Ombudsman Act is totally pointless.

Mr Moore: No; the Ombudsman Act stays.

MR KAINE: It is inconsistent.

Mr Moore: That is what he is saying; yes.

MR KAINE: He is not excising the provisions in connection with the Ombudsman Act from my Bill. Presumably, these bodies will not be subject to the ACT Ombudsman Act. By excising the bits about the FOI Act, they nominally become subject to ACT FOI law. I submit that you cannot make it stick. I do not know how he is going to do it. We do not support the amendments, because we think they are illogical, irrational and cannot be made to work anyway.

MR MOORE (4.23): I rise to support the illogical, irrational and "will not be able to be made to work" amendments moved by Mr Whitecross. If I can pull my tongue out of my cheek, I will explain the way I see it. It is not that Mr Whitecross is seeking to apply freedom of information legislation and the Public Interest Disclosure Act to NECO or NEMMCO; rather, it is the agent of NECO or NEMMCO we are talking about. That is what is referred to. This applies to the agent, and the agent in this case is likely to be ACTEW. Why would we exempt ACTEW from freedom of information legislation or from the Public Interest Disclosure Act in so far as this applies? That is my reading of the legislation, and it seems to me that is why it is actually quite logical, quite rational and quite meaningful for us to apply the Freedom of Information Act as well as the Public Interest Disclosure Act to ACTEW in its role as an agent or, for that matter, anyone else who is fulfilling this kind of role. It is for those reasons that I think they are quite appropriate amendments, and I shall support them.

MS TUCKER (4.25): The Greens will also be supporting these amendments. I think it is quite right of Mr Whitecross to point out that there is already in the FOI Act the ability for these issues to be addressed.

Amendments agreed to.

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

Bill, as amended, agreed to.

ELECTRICITY SUPPLY BILL 1997

[COGNATE BILL:

ELECTRICITY SUPPLY
(CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 1997]

Debate resumed.

MR WHITECROSS (4.25): The Labor Party will be supporting this legislation, which provides a framework for the introduction of retail competition into the ACT in the electricity market. The introduction of competition at the retail level in the electricity market is something which has been the subject of national competition agreements. An agreement signed by the current Chief Minister, Kate Carnell, back in April 1995 provides for completion of the transition to a fully competitive national electricity market by 1 July 1999, which is about 20 months away. The emphasis there is on transition. The Government is seeking, as part of that transition, to pass this legislation now to allow for the ACT to participate in retail competition in relation to at least some of the customers by the first half of 1998.

The first thing that should be said about this legislation is that, notwithstanding, as the Minister will no doubt say in his reply, that we knew about the competition agreement and that we have seen in the past timetables for moving towards a competitive market, the Government have introduced this legislation very much at the last minute. In fact, they have introduced it so late that problems have already arisen as to how they intend to get the legislation into a form for passage which will allow them to meet their own timetable. Members of the Opposition and the crossbenches have been begged and pleaded with to be careful in the amendments we move, so that we do not disturb the Government's timetable. I think we will find when we get to the detail stage that the Opposition and members of the crossbenches have been terribly accommodating of the Government's meeting their own timetable. But it has to be said that it should not fall to the Opposition and it should not fall to the crossbenches to have to bend over backwards to allow the Government to meet their own timetables because the Minister is too incompetent to get his legislation before the parliament in a timely way to allow for proper deliberation on the legislation and proper consideration of any amendments.

That deliberation does not go to the question of whether we support the introduction of retail competition; it goes to the detail of the Bill. The point about debating legislation is not just the principle of whether we support the introduction of retail competition as agreed to in national competition agreements, but whether the implementation as encompassed in the Bills is appropriate. This Minister and this Government have again and again shown their contempt for the Assembly by repeatedly leaving legislation to the last minute and then running out sob stories to the crossbenches and to the Opposition about how legislation really has to be passed now, even though we have only just got it, otherwise we would stuff up their timetables. That is simply not an acceptable course. I think the Government ought to reconsider their approach, because I think the time will come when they will find themselves inconvenienced by the Assembly because of their propensity to leave things until it is too late.

The other thing I should say in relation to the approach of the Government to legislating in these matters follows the comments I made in the context of the Independent Pricing and Regulatory Commission Bill that we passed earlier today. In that Bill we had occasion to introduce a clause making provision for disallowance of orders issued by the Minister which the Minister had decided he should be able to make without any review by parliament. In that case it related to regulated industries. Once again, we find the same problem arising in this Bill. The Government in this Bill have accorded to themselves the power to legislate without the Assembly having the power to disallow that exercise of subordinate legislation. Once again, as in the case of the Independent Pricing and Regulatory Commission, we are not talking about a trivial matter and we are not talking about a frivolous question; we are talking about the imposition of a competitive market for electricity down to the household level being able to be done by Mr Kaine without anybody else getting a say.

I think that is totally unacceptable. It is even more unacceptable when you consider the state of the national debate about the timing of the introduction of competition into the electricity market. If you listened to the Government, you would think it was all signed, sealed and delivered; but, of course, it is not. We are not locked into a commitment to introduce competition down to the retail level till 1 July 1999. If we were, you would have to ask the question: Why is not Queensland, why is not South Australia and why is not Victoria? In fact, Victoria's current arrangements do not provide for competition below 160 megawatt-hours per annum until 2001. Neither does Queensland. In fact, even South Australia does not allow competition down to 160 megawatt-hours until the year 2001.

When the Government says that there is a timetable, that we have to keep to the timetable, that the timetable is immutable and that hundreds of millions of dollars will go out the window if we do not comply with the timetable, the Government has to explain why this timetable does not apply to Victoria, why this timetable does not apply to Queensland, and why this timetable does not apply to South Australia, but it really does apply to us. For that reason, it is all the more important that the Assembly retain some control over the timing of the implementation of competitive electricity markets.

The other thing in this regard to which I should draw people's attention is the Government's own consultation. The open and consultative Liberal Government conducted a consultation on the introduction of competition into ACT electricity retailing. They issued a paper in December 1996 and asked for comments by 7 February 1997. Guess what everyone was doing over those six or seven weeks in December-January. They were all on Christmas holidays.

Mr Moore: I was working hard on legislation. I do not know about you, Mr Whitecross.

MR WHITECROSS: I am sure you were, Mr Moore, but everyone else was on Christmas holidays. What a coincidence! As usual, the open and consultative Government does its consultation over the Christmas holidays, hoping that nobody will notice that they are being consulted. This consultation document has some interesting things to say about small customers. These are 99 per cent of the customers of ACTEW, but they consume 60 per cent of the power. The document says about these customers:

> The benefits of retail competition are less obvious -

"less obvious" -

> for small customers than for larger customers. For one thing, retail margins for small customers are low, as are overall electricity bills. The costs of contestability, for example, the need for adequate metering, may appear higher in relation to possible savings. In addition, it must be remembered that customers in this group, particularly domestic customers, have been the beneficiaries of cross-subsidies from other power customers. The Energy and Water Commission's current inquiry is considering the phased removal of these subsidies.

As we know, ACTEW did not entirely get their way from the commission in relation to that matter. The document goes on to say:

> It is clear that further work, in consultation with the other states, needs to be done closer to the possible date of contestability. One crucial question from the ACT's perspective is whether there would be unnecessary burdens on consumers in choosing their own energy supplier that would not be outweighed by benefits. Until this work is undertaken, the date shown in the ACT timetable -

for customers below 160 megawatt-hours -

> is indicative only.

That is the Government's own consultation paper. We have heard, as I said, quoting from the NECA annual report for 1996-97, that customers in Queensland, South Australia and Victoria are not going to be contestable until well after the July 1999 date that the Government is currently talking about.

I can also quote from the Government's timetable as of September 1997, which says that the introduction of competition for customers below 160 megawatt hours is a possible timetable only, with a need for consultation with other jurisdictions. I, and I think others in this Assembly, believe that there needs to be consultation not only with other jurisdictions but also with the Canberra community and also with members of this place, who are representatives of the Canberra community, as to when, whether, and in what form, competition should be introduced for customers below 160 megawatt-hours. For that reason, I believe that we have to have provision in the Bill to ensure that the introduction of competition for customers below 160 megawatt-hours can be the subject of further deliberation by this place.

Originally, I circulated an amendment that made disallowable all determinations under clause 39, which is where the Minister purported to give himself the legislative power to make these determinations. After discussions with officials and in a spirit of generosity, allowing the Government to keep to their own timetable, I will not be proceeding with that amendment, but will be proceeding with another amendment I have circulated which makes those orders disallowable only where they relate to customers with consumption

below 160 megawatt-hours of electricity. I think that is pretty generous when you consider what some States are doing in relation to this matter. I hope and trust that other members of the Assembly will support the right of this Assembly to review any decision to extend retail competition to below 160 megawatt-hours. In relation to competition for customers over 160 megawatt-hours - the ones who will benefit most from retail competition - the Government has indicated a timetable, and I trust that the Government will stick to that timetable in implementing competition. I am sure that I and other members of this place would be interested in how the introduction of a competitive market for those customers works out, and what the costs and benefits are.

Clearly, there are benefits in efficiency in competition at the retail level. The main benefit, of course, is the end to cross-subsidies, which will allow business customers to operate at more commercial rates. We, as a community, will pay a price for that in lower profitability of our own electricity company, ACTEW, who will suffer some reduction in profitability as a result of that. We can only hope that ACTEW will find ways of maintaining their profitability, perhaps by expanding their market share. But we need to acknowledge that, while there are benefits to the community in fairer pricing of electricity for large consumers, there is also a cost, and that cost is in lower profits by ACTEW Corporation as a result of the end of cross-subsidies. With those comments in mind, I reiterate that the Labor Party will be supporting the Electricity Supply Bill and we will be moving amendments to the Bill when we get to the detail stage.

MR MOORE (4.41): I rise very briefly to support the legislation and to express my appreciation for some advice that was provided to me in diagrammatic form by the public servants who are briefing us. It was particularly helpful for me in understanding what was going on. As it may well be that somebody who is reading *Hansard* in some years' time may be trying to understand what the heck this is all about, I seek leave to table the advice in diagrammatic form so that they will be able to go and get it and research it at will. I think that would make life much easier for them, as it did for me.

Leave granted.

MR MOORE: I thank members. I shall be supporting this legislation.

MR KAINE (Minister for Urban Services) (4.42), in reply: I must say that debates in this place sometimes take some bizarre turns. One of these days I will write my memoirs about some of the debates that we have had here. Everybody will have a nom de plume, too. Before winding up the debate on the Government's Bill, I would like to address a couple of the issues that Mr Whitecross raised in debate. First of all, he said that the Government was worried that somehow or other they were going to stuff up our program. I presume he meant "my program". Obviously, he has not been listening, because it is not our program; it is a national program. It is a national program that the Labor Party that he belongs to supported for all the years they were in government, signed off agreements on and gave the tick to various steps down through the process until a couple of years ago when they lost the ball and we had to pick it up for them.

If there had been a strange turn of events 2½ years ago and Mr Whitecross were sitting over here in my seat today, would he still be arguing in the same way, saying that somebody was trying to stuff up his program, or would he be grasping this with both hands, running with it and demanding that we, in opposition, keep up? I suspect that he would be. It is very interesting that, because he sits over there, he seems to take the view that, somehow or other, this is not a national program; this is an ACT program - specifically, it is a Liberal Government program and we are worried that he or somebody else might stuff it up. That simply is not the fact.

Mr Whitecross was the Leader of the Opposition for a little while. Obviously, he did not acquaint himself with the facts about this program any better than his successor has. They both seem to be, somehow or other, back there five years ago and not up to the mark on it. It is a pretty poor performance for somebody that pretends to be part of an alternative government. Mr Whitecross dealt at some length with the ACT Government's timetable for moving to competition in the retail sector. Somehow or other, he seems to confuse that with the program of getting legislation into place to allow this program then to be developed. He draws comparisons with what Queensland and Victoria are doing. Our legislation will be in place after today. Mr Whitecross spoke about the benefits of competition. Surely, we would want to get this competition in place as quickly as we can, rather than waiting to fall in behind the big States, which are going to take years to get there because of the cumbersome processes that they have to go through. If we are capable of moving more quickly and of moving into open competition much more quickly than they can, given his recognition of the economic benefit of it, why would he not want us to do so? I simply do not understand the logic. I suspect that it is more Whitecross economics, which are a bit obscure to everybody but Mr Whitecross. I think we should move as quickly as we can, and we have set an earlier timetable than the larger States.

Mr Whitecross talked about the fact that a discussion paper went out and people had to respond while they were on holidays. I am with Mr Moore on that. I was around working hard, too, and I think a lot of other people were as well. But the simple fact is that the time for comment was extended into March in recognition of the fact that certain people were away on holidays and may have wanted to make some comment. We gave them additional time to do so. I do not see that that is reflective of a government that tried to choke off consultation, tried to prevent people from making inputs if they had any input to make. The facts simply do not stack up with Mr Whitecross's interpretation of them. Finally, Mr Whitecross talks about his amendment being put forward in a spirit of generosity. I accept Mr Whitecross's amendment in the same spirit, and we will get to that when we get to the detail stage.

I have some general comments on the Bill before the debate concludes and we vote on the matter in principle. I think I need to reiterate a few points. First of all, wholesale trading through the national electricity market will deliver community and industrial benefits to Canberra. There is no doubt about that. We have set in place today the legislation that allows that to happen. But the story does not end there. We have then to move into the retail market, where the benefit really accrues to the individual consumer.

That is what this legislation allows us to do. It extends the benefits of competition right down to the end user. That will be done through a staged and managed opening up of the retail market to competition; hopefully, with a target for completion of that process of 1999, a couple of years ahead of Victoria. I think I would be proud of saying that.

I do not know that we ought to be too nostalgic about the past. The monopolies that we had to deal with in the past did not deliver too much to this Territory, except higher prices and poor service. Hopefully, under the new arrangements we will secure more benefits than that. The benefits that we can expect to look forward to at the grassroots level, at the customer level, include keener pricing, especially to those ACT business customers who paid far too much in the past. I think we can expect much better customer service because if these organisations do not provide customer service their customers will go elsewhere; they simply will not stay to be treated poorly.

I would have to say that there has been extensive consultation on the framework that we are putting into place. There was an issues paper. We did send it to all members of the Assembly; but I note, as has been the case in more recent days in terms of providing information to members of the Assembly, that certain members did not bother to react to it, which may explain why they are a bit lacking on information now - they did not even read the discussion paper that they got less than a year ago. We sent it to industry groups and we sent it to community groups and, by extending the time for input, we did get some very valuable input.

There is real pressure from large customers in the ACT to move forward quickly. They are not prepared to sit on their thumbs, like Mr Whitecross seems to think we should, and let everything happen of its own volition at some time in the future. They are seeking to have things happen rather more quickly than that. They seek that movement because they are being disadvantaged at the moment compared to their counterparts in Queanbeyan, let alone in Sydney and Melbourne. All of this is about the bottom line, the economic growth of Canberra.

It represents, I believe, a major advance in environmental protection. I know the Greens will be interested in that. Clause 26 of the Bill states, for the first time, that discrimination by a retailer against customers who use an alternative form of energy is unlawful. That is not the case at the present time. We are setting up a whole new structure. Licensed retailers also will have to develop strategies and report on environmental matters, just as in New South Wales. That, of course, is a system that the Greens, in particular, have praised in the past. I hope they will do the same thing here and tell us how well it is working or, presumably, how well it is not working.

I believe that this Bill delivers real consumer benefits, superior to what we could expect under the old regime. One of the most important benefits is that customers will have the option - they will be able to exercise their choice - as to where they buy their electrical energy. The monopoly system is being replaced. I think that is for the better and I think it is in the interests of everybody in the ACT. I welcome the indications of support for the Bill. In the future, we will be able to look back and see this as one of the better achievements of this Assembly that is now coming towards a close.

MR WHITECROSS: Mr Speaker, I seek leave to explain words under standing order 47.

MR SPEAKER: Proceed.

MR WHITECROSS: Thank you, Mr Speaker. Mr Kaine, in his reply, appeared to think that I had misinterpreted words when I referred to the Government's timetable, believing that I was actually referring to the timetable set down in the national competition agreement. In fact, I was referring to the timetable that the Government has repeatedly circulated, and it was that timetable that I was saying the officials were complaining was in trouble, not any timetable set down under the national competition agreement. If Mr Kaine wants to produce evidence that he is obliged by the national competition agreement to comply with the department's timetable, he is welcome to do so. Finally, I seek leave to table the extract from the NECA annual report for 1996-97 which shows that other jurisdictions are not complying with the same timetable that Mr Kaine said was imposed by the national competition agreement.

Leave granted.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR SPEAKER: Mr Whitecross, I think you have to clarify something, do you not, in terms of your amendment?

MR WHITECROSS (4.51): Yes, Mr Speaker. I actually referred to this in the in-principle stage, Mr Speaker. I have circulated an amendment which affects subclause (2) of clause 39. I am not proceeding with that. I am proceeding with an amendment that I have circulated which proposes new subclauses 39(3) and 39(4). I move:

> Page 17, line 15, clause 39, add the following subclauses:
>
> "**(3)** An order under this section that declares -
>
> (a) a specified person who uses less than 160 megawatt hours of electricity at one site during a year to be a non-franchise customer; or

(b) a specified class of persons, some or all of whom use less than 160 megawatt hours of electricity at one site during a year, to be non-franchise customers;

is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989.*

(4) Section 6 of the *Subordinate Laws Act 1989* applies to an order referred to in subsection (3) as if paragraph (1)(b) were omitted.".

I think I have explained the benefit of this amendment. I believe that this reserves to the Assembly the capacity to review any decision by the Minister to extend competition in the retail electricity market to a person or persons who use less than 160 megawatt-hours of electricity by making it disallowable. I think, as I have already argued, that is an appropriate thing. The Labor Party accepts that there are benefits in competition at the higher end. As even the Government acknowledges in its issues paper, these benefits are more arguable at the lower end, the small customer end, of the market. For that reason, we are interested in seeing further debate about that matter before the Government proceeds to that final stage of competition, if that is what the Assembly and the community wish.

As I indicated earlier, other jurisdictions have indicated some hesitation about the timing of the move to extend retail competition to customers below 160 megawatt-hours. Victoria, who are meant to be a part of the same national electricity market as the ACT, have put it off until the year 2001. South Australia have not yet set a time, according to NECA, and Queensland have also set 2001. Even in our own documentation for the ACT, the department has indicated that it is only a possible timetable. Clearly, there needs to be a lot more debate about how this is going to work and what the benefits are going to be. It may be that, as a result of that, there will be some further subdivision of that group of customers consuming less than 160 megawatt-hours per year. That is something we will have to consider as the debate progresses.

Mr Speaker, I am interested in Mr Kaine's statement that he got lots of benefits from this consultation process he conducted on competition in ACT electricity retailing. I would invite him to table the report on that consultation process so that we can all share in the very helpful information he says he got from it. In the meantime, I believe that this amendment reserves to the Assembly what is rightly a major policy decision which ought to be a matter for the Assembly.

Amendment agreed to.

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

Bill, as amended, agreed to.

ELECTRICITY SUPPLY (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 1997

Debate resumed from 25 September 1997, on motion by **Mr Kaine**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR KAINE (Minister for Urban Services) (4.58): I move:

Page 3, line 19, clause 7, omit "Section 39", substitute "Section 40".

Clause 7 inadvertently refers to section 39 of the Electricity Supply Act rather than section 40. This amendment is to correct that minor error. I present an explanatory memorandum on the Government amendment to the Bill.

MR WHITECROSS (4.58): I have read the Minister's explanatory memorandum on this amendment; but, for the edification of the house, could the Minister explain the nature of the arrangements between ACTEW, ACTEW Energy Ltd and Great Southern Energy which this provision seeks to protect?

Mr Kaine: I am sorry; I was not listening. Do you expect a response from me?

MR WHITECROSS: Yes. You are moving the amendment.

MR SPEAKER: What was your question again, Mr Whitecross, or were you being facetious?

MR WHITECROSS: No, I was not being facetious at all, Mr Speaker. The provision relates, apparently, to unauthorised electricity supply arrangements being unenforceable by any person other than a retail customer under a customer supply contract unless, at the time the arrangement was made, the supplier was authorised by licence to enter into it. The explanatory memorandum says that clause 7 is intended to apply to existing arrangements entered into by ACTEW, ACTEW Energy Ltd or Great Southern Energy. I am particularly interested in the arrangements entered into by Great Southern Energy that this provision might relate to. I just thought it might be helpful for the Minister to explain that to the house.

MR KAINE (Minister for Urban Services) (5.00): My understanding is that this relates to the people who are current contractors, as opposed to those who might be in the future.

Amendment agreed to.

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

Bill, as amended, agreed to.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

PERSONAL EXPLANATION

MR STEFANIAK (Minister for Education and Training): Mr Speaker, I seek leave to make a personal explanation following on from questions asked by Mr Osborne of Mr Humphries during question time today.

MR SPEAKER: Yes, proceed.

MR STEFANIAK: Those questions related to an interview by WIN TV on 9 October this year. Mr Speaker, on the morning of 9 October this year I was opening, of all things, an art exhibition by ACT school students in the first floor exhibition room in the Legislative Assembly building, when WIN TV asked me to do an interview.

Mr Osborne's transcript, which he read into *Hansard* today, shows that there were, in fact, two interviews conducted on the issue of the Southside Youth Refuge. The first interview, I understand, was not used by WIN TV for public dissemination, with the exception of one comment by WIN which suggested that I was not aware of this problem until questioned by WIN TV. The questions asked by WIN did not trigger any recollection, Mr Speaker, perhaps because I had a touch of the flu. At the conclusion of the first series of questions my efficient staff reminded me of the matter and the interview then continued. I understand that WIN TV did use sections of my second interview. Mr Speaker, I recalled that around 22 September and 23 September I was given a short oral brief that there were problems at the Southside Youth Refuge which resulted in the AFP being called in to investigate. Mr Speaker, I have not misled this Assembly; nor do I believe that I have misled the people of Canberra.

RESIDENTIAL TENANCIES BILL 1997

Debate resumed from 15 May 1997, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MS TUCKER (5.02): Mr Speaker, this Residential Tenancies Bill is very important legislation and has certainly been a long time coming. Tenancy is an important area for government regulation because it is critical to find a fair balance between lessors and tenants. Access to affordable, safe and secure housing is obviously a fundamental human requirement. As far as this applies to residential tenancy, the Community Law Reform Committee, in its comprehensive report which forms the basis of this legislation, said that all residents should have minimum standards of repair and cleanliness of premises, a measure of security of tenure, clearly defined rights of privacy, clear information concerning the rules of the premises and the rights of the residents, and access to appropriate in-house and external dispute resolution processes. In the ACT tenancy legislation is particularly critical, as we have the second highest proportion of public and private renters in Australia. We also have a high proportion of people in public housing. As the ACT Grants Commission submission argues, low-income housing is a problem in the ACT. The ACT has the highest median weekly expenditure on rental payments of any State or Territory in Australia.

Legislation of this sort is obviously never going to please everybody, but I believe that what we have before us today is a significant improvement on the Bill that was tabled earlier in the year. The legislation we now have in the ACT has some fundamental flaws and is very out of date, having been enacted in 1949. There are many gaps; but one, in particular, that we will be aware of is that there is very poor coverage in relation to maintenance and repair issues. Another major problem is that the dispute resolution process is quite inadequate.

This Bill is drawn from an extensive document and exposure draft prepared by the Community Law Reform Committee. I would like to commend the Government for this Bill, and also the previous Government and the Community Law Reform Committee for the extensive work that has brought us to where we are now. This Bill does largely implement the recommendations of the Community Law Reform Committee. One very significant feature of this Bill is that public housing has been brought into the legislative framework. In this Bill the repair and maintenance provisions are greatly improved, and the rights and responsibilities of tenants and lessors are much clearer and better defined.

Mr Speaker, there were a number of concerns with the Bill as it was originally tabled, and I am very pleased that we have been able to resolve the majority of concerns in a consensual way. Ms Reilly, Mr Moore and I wrote to Mr Humphries proposing a number of changes. We also proposed that, given the desire from all sides to have this Bill debated and passed as soon as possible, the Government should, in consultation

with our offices, undertake the necessary drafting work. I think the result is a very good example of how this place can work very effectively if the will is there to do so. I would like to thank the Government officers who have spent considerable time over the past week or so with non-Government members to facilitate the easiest possible passage of this Bill.

To facilitate the easy passage of this Bill, I will be moving most of the amendments which have been worked out by the non-Government parties, but I am actually just representing the work of the whole Assembly when I do so. A major concern of the non-Government parties was the proposal that parties could contract out of the standard terms in the legislation, provided they received independent legal advice. A second concern was the proposed structure of the Residential Tenancies Tribunal, and a third concern was the absence of a standard lease. A fourth issue we have dealt with is legal representation and the capacity of the tribunal to award legal costs. We have also been concerned with the coverage of ACT Housing, coverage of people receiving some form of supported accommodation, the jurisdiction of the tribunal, and the proposed abrogation of the common law privilege against self-incrimination without any necessary safeguards being in place.

I will deal with many of the critical issues now, before we reach the detail stage. In the proposal we put to Mr Humphries we were prepared to accept an exception to the amendments I had drafted which preserved the integrity of the standard terms. We have agreed that knowledgeable parties can agree upon terms inconsistent with the prescribed terms, provided it is approved by the tribunal on a case-by-case basis and it is in the interests of both parties and with no element of exploitation. Without "fraud or undue influence" is how it is worded in the proposed section.

As part of our package we have asked for an improved dispute resolution process. Critical to our position is to ensure that the tribunal is a place of expertise. A recommendation of many reviews of tenancy legislation in Australia, including the ACT CLRC report and the 1995 minimum legislative standards report, is the importance of specialist independent residential tenancy tribunals for dispute resolution. The forum should also have exclusive jurisdiction over all tenancy matters. I think recommendation 113 from the CLRC report sums it up very well when it says:

> The Tribunal should be a low cost, informal forum for the quick resolution of disputes in which people appear in the main without representation. The procedures of the Tribunal should operate with a minimal level of formality and ensure that disputes are resolved in a fair and consistent manner.

The model we have come up with in the past week, which will enable the Minister to appoint members with expertise and experience in this area in addition to the president, is a vast improvement on the original model. It is by no means perfect, but I think it is a significant compromise on the model that was proposed by the Community Law Reform Committee. There are still some issues of concern, particularly in relation to the resourcing of the tribunal; but at least we now have gone some small way to having a stand-alone tribunal. The tribunal in the model before us may be constituted of the president, a magistrate, the president and two other members, or another member sitting alone. Members will be appointed under the Statutory Appointments Act.

The efficiency and effectiveness of the tribunal will certainly need to be monitored closely to ensure that there are not undue delays. I am also interested to know whether the Government is intending to follow the Community Law Reform Committee's recommendation for application forms and other information to be tailored to specific needs of lessors and tenants, adequate signposting, information in other languages with interpreters available, child-care facilities and ongoing dialogue between the tribunal and the community. I would appreciate hearing from Mr Humphries during the debate on this matter.

As far as the jurisdiction of the tribunal is concerned, I was certainly keen to ensure that the vast majority of tenancy disputes are heard by the tribunal. The Government said they were prepared to ensure that we are in line with New South Wales. The maximum amount of compensation that can be awarded by the New South Wales tribunal has recently been increased to $10,000. The Government is, therefore, prepared to support an amendment to increase the jurisdiction of the tribunal from $5,000 to $10,000.

Another issue of concern for non-Government members was the departure from the recommendation that the legislation contain a standard tenancy agreement. The Government has chosen instead to include a Schedule to the Bill containing prescribed terms. The concerns about the absence of a standard lease were heightened because of the contracting out provision. We have received an informal commitment from the Government to provide free of charge copies of a standard form lease. I would like to hear the Minister confirm this again for the record. I would also like to hear an assurance from the Government that it will make available the necessary resources for government, landlord and tenant groups and other stakeholders to develop information packages and public education campaigns in relation to this new legislation. Measures to increase awareness about rights and responsibilities will certainly not eliminate disputes, but they will assist in reducing the number of disputes.

On the issue of legal representation, I do not think anyone wants this to become an overly legal area. Non-Government members believe that all parties should have the opportunity of representation, however. The Community Law Reform Committee report discussed this matter and concluded that restrictions on representation could result in a situation where the lessor is represented by an experienced advocate, that is, a real estate agent, when the tenant will have little or no experience with no representation. A similar concern obviously arises in the case of ACT Housing. That is why we have taken this approach. Obviously, adequate funding of tenants' representatives such as the Tenants Advice Service and the Welfare Rights and Legal Service, who represent low-income earners, is essential to ensure equity. As the Community Law Reform Committee report says, a prohibition on legal costs will help prevent the process from becoming a place for complex law and lawyers. If one party appears with a lawyer and the other is not represented, the tribunal can ensure that the unrepresented party is not disadvantaged.

Mr Speaker, there are also some unresolved issues still in this Bill - for example, coverage of the community housing sector, boarders and lodgers. There has also been a lot of concern about ensuring that people who are in any kind of supported accommodation are brought under the coverage of this Act. Obviously, we do have to treat crisis accommodation differently, but I think the basic principle that this Assembly

should recognise is that any tenancy agreement should come under the coverage of this legislation when the occupant of the premises regards the premises as their home. The Social Policy Committee examined the issue of supported accommodation for people with disabilities in its recently completed inquiry into the Commonwealth-State Disability Agreement. What is becoming clear is that there is growing concern about an agency being responsible for both support and housing. It is important that, despite the fact that someone is in need of assistance of some kind, they still receive adequate safeguards as tenants.

Mr Speaker, finally, I would like to foreshadow amendments which I will be moving, which members have had for some time, and which are aimed at improving energy and water efficiency of rental housing in the ACT. It is an issue of general concern that, in general, there are no minimum standards in the private rental market. The reality, particularly for many low- and middle-income earners, is that the market does not offer very much choice. For many people there is no such thing as voting with your feet. The lack of regulation means that many tenants are forced to trade off affordability against the standard of the accommodation. As we all know, and as I have talked about already today, Canberra's housing stock is ill-equipped for our climate. The energy inefficiency of rental housing means that tenants who have no control over the appliances or general efficiency of the dwelling are forced to pay higher bills. Obviously, this is an equity issue as much as an environmental issue. A similar situation applies in relation to water appliances and fittings.

I will be moving amendments that will help provide more information to tenants about the energy efficiency of dwellings by requiring lessors, as a pre-contractual obligation, to provide a copy of an energy efficiency rating statement, more commonly known as the home energy star rating. Over time, I believe that this will provide a more informed market about energy efficiency in the rental market, and will provide some incentive to lessors to upgrade the energy efficiency of dwellings. I am also seeking to include provisions requiring lessors, when they have to replace an appliance, fitting or fixture that uses or supplies water, to ensure that that appliance is of a AA water efficiency standard.

MS REILLY (5.14): In the first instance in relation to this Bill I want to thank everyone who has been involved with its development. It has been a very interesting process, as Ms Tucker said, to watch the cooperation that has gone on in trying to get the amendments agreed upon. I am thankful for the assistance from the Attorney-General and the members of his department for the drafting that has been done in the last few days.

This Bill has an extremely long history. The reference to the Community Law Reform Committee was back in 1990. We need to thank the various members who were involved through the Community Law Reform Committee for the very extensive work they did and the reports that they put up. Considering when they started, I am sure some of them are quite amazed that we have finally reached the stage of having this Bill before us in November 1997. The delay has meant that we have been able to pick up a number of issues that are important for the broad range of renters in the ACT.

One of the other things that I need to mention in relation to this Bill since it was presented in May is the level of community consultation. Because of the fact that we all did it individually, there was some duplication. When a Bill impacts on such a broad range of people and has the interest of many members of the house, I think we need to work out a better method of consultation. I am sure that some of the major stakeholders were a bit tired of seeing us individually. When we reached the stage of doing some of the amendments there would have been an opportunity to involve them more closely in a more integrated way, and I think that would have helped with all our considerations.

Overall, it has been an interesting experience and we are now going to get, at the end of the twentieth century, probably twentieth century residential tenancy legislation. There are many important parts of it that are going to be beneficial for everybody in the ACT. For the first time in the ACT, private and public tenants will be under the same legal framework. This is going to be important, particularly, for public tenants. I think that in the past they have been disadvantaged because many aspects of their tenancies were administered through internal guidelines and processes. That has not always been helpful for them or for the people administering the Acts, or for other people who are affected by the results of public tenancies. Public tenants, once this Bill is passed and comes into effect, will have the opportunity to operate under the same terms and conditions as private tenants. They will have the same terms of residential tenancy agreements as all other tenants in the ACT and, of course, they will also have the same opportunities to go before the Residential Tenancies Tribunal for variations of the terms.

They also will have the opportunity to go before the tribunal in relation to matters dealing with repairs and maintenance. This is an area of grave concern for a lot of public tenants. Complaints about maintenance not being done expeditiously continue to dominate the calls that I receive in my office. At times, for those that are on the receiving end of this, this can be dangerous. It sets up situations where people are not living in safe conditions and it is also frustrating for the tenants concerned. I think it is going to lead to a better outcome for all concerned if the tenants have the opportunity to go to the Residential Tenancies Tribunal when all avenues through ACT Housing fail to get a good result. I think this is positive for both the tenants and the landlord in this situation because we will have a much better public housing system in the ACT through this.

It is also important for all tenants in the ACT to have an up-to-date Residential Tenancies Act because 30 per cent of the ACT community are renters. They contribute a considerable amount to the ACT economy. ACT Housing tenants alone contribute $43m to the ACT revenue base and economy every year. This does not take into account the money that is spent when repairs and maintenance are done, the goods that are purchased, and workmen's payments. So renters are an important part of our economy. At times, with the supremacy of home ownership in Australia, I think the role in the community of renters is sometimes overlooked. Many people choose to rent because of the economy. They are being forced, in some cases, to rent longer. In order to be more flexible and to be able to respond to the job market, a number of people are choosing to rent so that they can move more quickly into other areas where there may be jobs.

So it is important that we have legislation that protects tenants who move out quickly, because the ACT is a small jurisdiction, and that lessors also have some protection from tenants who might take off. I think it is important to recognise that this legislation is looking after both the landlord and the tenant. It is not one-sided and this brings some balance to the whole process.

It is also important that we end up with modern, up-to-date residential tenancy legislation, particularly in relation to some of the changes that are being mooted through the national housing reforms. There is pressure to encourage or force, depending on your point of view, a number of public tenants to move into private rental accommodation. Rather than public tenancies being provided, there is talk that people will be in private rental arrangements and receiving income support. It is important that we have residential tenancy legislation that protects those people who may be on lower incomes, so as to ensure that they are getting housing that is adequately repaired and maintained. If anything goes wrong either way, they should have some protection, through a mechanism such as the Residential Tenancies Tribunal, to ensure that they are not done out of what is rightfully theirs through a tenancy agreement.

There was great discussion in recent times on working out what we need to do to get agreement about how we should run the residential tenancy agreements, what the prescribed terms should be, and whether you can have any amendments to those terms. After much discussion it was agreed amongst us all that, if there was going to be any change to the agreed terms, the prescribed terms, it was better that each party should have the opportunity to go before the tribunal. This should work out to be a more equitable system because each party appears before the tribunal as an individual.

We must make sure that when this happens it is done on an individual basis. It must not work out to be an excuse for an organisation, say ACT Housing, to take a class action and decide that ACT Housing will have a different and separate tenancy agreement from the other tenancy agreements in the system. Any amendments to the tenancy agreements must be done on an individual basis. No organisation - ACT Housing, of course, being the largest one - should be allowed, as a group, to change the tenancy agreement as set out in this Act. It was definitely agreed by all that the tenancy agreements should be done in this way. There should be the opportunity, if you want to make any amendments, to go before the tribunal; but it was recognised that this was to be on an individual basis, and it should not be seen as a class or group action. This applies to others, of course, not just ACT Housing.

The other important area that was looked at in relation to this legislation was the specialist tribunals. Having specialist tribunals is seen in a number of areas as being the way to go. The report entitled "Minimum Legislative Standards for Residential Tenancies in Australia" stated that specialist residential tenancy tribunals offer the best prospects for considered and fair resolution of residential tenancy disputes. That report was prepared by Kennedy, See and Sutherland in 1995. Obviously, there have to be some conditions to ensure that they work properly.

These are some of the issues that were of concern for a number of us when we considered this legislation. It was important to work out who was going to be part of the tribunal. If it was not going to be a separate independent body it had to have a broad range of people, and that is why the addition of other members to the tribunal is important.

This will ensure that you should be able to get a broader scope of people, not just magistrates. You may be able to get some people with community and broad residential tenancy experience, and I think this would be advantageous for all concerned. This will particularly help when the tribunal is sitting as more than one member at a time.

The other important aspect of this is to ensure that any tribunal set up is properly resourced. This is something which I have much concern about. The suggestion that this will be budget neutral and will be funded out of budget savings is a concern. When the tribunal is being set up under new legislation there will be some backlog. People will want to put some matters before the tribunal and there could be undue delay in matters being considered. In some cases this could be dangerous, and I am sure that the tribunal will organise some sort of priority. In the day-to-day running of the tribunal, if there are undue delays, if matters take longer and longer to be considered, there will be a number of people affected. Both the tenant and the lessor are disadvantaged if there is undue delay in the consideration of issues. I think it is important that there be considerable examination and review of how the tribunal is going in terms of matters being considered, and I am sure we will all be watching that quite closely.

I have some concern about clause 6 - Ms Tucker mentioned some parts of this - which deals with areas which have been excluded from this legislation at this time. In the case of community housing, there is a broad range of issues that will need to be considered and that could not be considered under this legislation. I hope those issues are going to be looked at quickly. There are some issues in relation to what happens when people are evicted from community housing. People who are resident in community housing, no matter what form it takes, should not be disadvantaged because of the type of tenure they have chosen. People living in the disability houses run by the ACT Government are forced to live in this accommodation. They should have the same tenancy rights as any other tenant in the ACT. It is important that we look at those issues as soon as possible to sort them out.

The other obvious area is boarders and lodgers. Obviously, this is a quite complicated and complex area; but we cannot neglect it, because those people also need to have their tenancy rights spelt out in legislation in the same way as other people do. We must make sure that the exemptions that are in clause 6 are not forgotten in the excitement of passing this legislation. Obviously, these are matters to be considered by the next Assembly; but they must be given some priority early next year, or there will be disadvantage to people living in long-term accommodation, particularly long-term supported accommodation. They need to be included and to be under some sort of tenancy auspices.

The last matter that I wish to raise is in relation to community education and advocacy in this area. Obviously, because there are such major changes coming about through the introduction and passage of this Bill - there is some lead time allowed in the legislation - there will need to be a very strong and very thorough community education program. It is not only tenants, both public and private, who will be affected by this legislation; it is people working in real estate, and lessors and landlords. Everyone in those different groupings will need educating on terms and conditions, and various aspects of this legislation. At this stage there has been no mention of what form this community education will take, or who is going to do it. It is important that the Assembly be informed about what is going to happen. We cannot be silent on this matter, because too

many people would be disadvantaged. Information on the changes that I moved earlier this year to the Landlord and Tenant Act in relation to public housing tenants was not conveyed to the public tenants. This area is even broader and more important at this time, and we must ensure that there is a properly set up community education program.

Apart from the need to have some education program ongoing, in the long term we have to have a proper and well-resourced advocacy service set up to assist tenants and to ensure that they are aware of their rights and responsibilities under this Act. If we do not give proper resources to organisations like the Tenants Union and, on the other side, the REI, it will not help the people who are working in and living under this system. We cannot just introduce the legislation, have a bit of education and forget about it. It is important that everybody who is concerned in this continues to be informed of their rights and responsibilities across the board. *(Extension of time granted)* I want to emphasise the importance of continuing community education and advocacy in this area. It is an ongoing need for all of the different players in this, not just public and private tenants. All the other people who are working in this industry should be informed about what is going on.

Generally, the Labor Party is going to support the legislation, although we will look at several clauses. I think it is important that we recognise the work that has been done to get this legislation to this phase, and I thank all those concerned.

MR MOORE (5.30): Mr Speaker, I could make a very long speech repeating many of the things that Ms Tucker and Ms Reilly have said, but I would prefer that they be taken as said. Generally, I agree with what they are doing. There will be a couple of differences that will become apparent in the detail stage. It seems to me, Mr Speaker, that it has taken too long to get this Bill here. The original reference to the Community Law Reform Committee was in September 1990, and here we are, seven years later, finally considering legislation that deals with some of the most critical balances of power between landlords and tenants - a critical part of people's everyday lives in terms of where and how they can live.

I would like to draw attention to the assistance that I have had in the work here, not only from Ms Reilly, Ms Tucker and her staff, and my own staff, but also from Mr Peter Sutherland, who has been particularly helpful to me in understanding some of the issues associated with the legislation that we have before us. Mr Sutherland is in the gallery today and I would like to acknowledge his work. I know that other members are also very appreciative of the work and effort that he has put in, and I seek acknowledgment from other members to that effect.

Ms Reilly went through a number of areas on which we still need to do work. One area that I believe she did not mention but that needs to be included is caravans and mobile homes that are located in caravan parks. That is another area that we need to look at in the future. I shall deal with other issues in the detail stage of the Bill. I would like to congratulate the Minister for finally getting the legislation on the table, and all members for working together to try to get the best possible outcomes for all the residents of the ACT. That is what this place is about.

MR HUMPHRIES (Attorney-General) (5.33), in reply: Mr Speaker, in closing the debate on this Bill, let me first of all thank members for their support for this legislation. It is, I think, legislation which is extremely significant - not merely because of the time it has taken to work its way up through the system, but also because of the extensive overhaul that it represents of the law relating to residential tenancies. The Landlord and Tenant Act is a piece of legislation which was enacted, I think, just after the Second World War. It was enacted in a totally different environment from the one which Canberra finds itself in today. A comprehensive re-evaluation of the legislation, the protections it provides, how it regulates appropriately the relationship between landlord and tenant without being intrusive in that process but reinforcing the rights of people who might be disadvantaged in that process, has been a very complex and difficult task.

I think it is appropriate to make reference to some of the people who have been involved in that process and whose efforts have contributed to the legislation before the house today. The Community Law Reform Committee played a very important role in that process. Some of the recommendations they have made are not reflected in the decisions that we will make today; nonetheless, the basis of what we are putting before the chamber today and which will pass is the reflection of the work of the CLRC. From that body, particularly, I understand that Graeme Lunney and Peter Sutherland deserve to be commended for their very significant contribution. I also want to make reference to Robin Gibson from the Law Society, Simon Hearder from the Real Estate Institute and Mr Peter Jansen of the Landlords Association.

Mr Speaker, I do not want to comment in detail on the amendments, because we will have a chance to do that during the detail stage of the debate on the Bill; but I will comment on a few issues that have been raised in the course of the debate. Ms Tucker asked me to affirm that a standard tenancy agreement would be available to members of the public free of charge. I am aware, in making that commitment, that we are putting out of business a small cottage industry in the ACT based around the production of those agreements, principally from the Law Society. I know that tenancy agreements are also available in newsagents, where presumably someone makes a small profit on them.

Notwithstanding that, I appreciate that there is a view that this information should be available, since it is essentially drawn from a public document developed with public money, namely, the Residential Tenancies Act. The Government will publish an agreement on the Internet and that agreement will be available through any public library and can be produced from any of those outlets. Of course, people will also be able to take it off their own computer at home if they have access to the Internet in that way. Ms Reilly raised some issues about the resourcing of the tribunal. Obviously, we need to ensure that the tribunal is well resourced and, obviously, a variety of things will come before the tribunal which may or may not be within its capacity to deal with properly.

At this point I might make a comment about the amendments which propose to expand the size of the tribunal. Those proposals, I understand, will fairly significantly add to the cost of operating the tribunal, in that in each case where a full bench, so to speak, of the tribunal is convened the cost of those members' pay will be something in the order of $1,000 for an individual matter that might proceed before the tribunal. If there are 50 or 100, or whatever, matters for which a full bench of the tribunal is required,

then obviously that is an additional cost which we will have to bear. If the Assembly decides to pass those amendments today we will have to find those resources to make that happen. I am not sure that it contributes greatly to the operation of the tribunal, but I will obviously bow to the will of the Assembly. As far as community education is concerned, I can confirm that the Consumer Affairs Bureau is presently working on an education campaign surrounding the introduction of the Residential Tenancies Act. That work will move into the implementation phase when the legislation passes through the house today, as I am confident it will.

Mr Speaker, I think it is quite important that we have reached this stage. I thank members for their support for this Bill. It will make a major difference to the way tenancies operate in this Territory. It is, in a sense, the second major reform to the tenancy area in the ACT. It follows, almost three years ago exactly, the legislation putting in place protection for retail and commercial tenancies. Now we are matching it, if you like, complementing it, with protection for residential tenancies. Overall, the package, although obviously it will be subject to some refinement, is a very big advance in both its phases on the position of those who are in those relationships, particularly tenants. I hope it will be of great value to those people as they seek to enforce legitimate rights that are theirs in the course of their dealings with it in the ACT.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MS TUCKER (5.39): I move:

> Page 7, line 25, clause 10, subclause (3), add the following paragraph:
>
> "(c) in relation to the premises that are the subject of the proposed residential tenancy agreement - an energy efficiency rating statement in accordance with the Energy Ratings System for Residential Buildings prescribed by the Australian Capital Territory Planning Authority for the purposes of the Territory Plan as in effect from time to time under the *Land (Planning and Environment) Act 1991*.".

I have already outlined my reasons for moving this amendment. As indicated, this amendment requires a lessor to provide a copy of an energy rating statement as a precontractual agreement to any potential tenant. On advice, we believe this is a sensible place to include such a requirement because the essence of the amendment is about consumer information and creating an informed market for energy efficient housing in the ACT. The Liberal Party should certainly support this. After all, all we are

doing is making the marketplace operate more effectively by providing consumers with information. I would also like to add that I have consulted both landlord and tenant groups about the proposal and both are happy with both this amendment and the amendment in relation to water efficient appliances.

Members will be familiar with the home energy rating scheme which applies to new houses in the ACT. The problem is that this information is never passed on when houses are rented or sold. A second problem is that, while new houses are required to meet a minimum standard of energy efficiency, there are no incentives in place for existing housing stock to become more energy efficient. Anyone who has lived in Canberra for any time will be aware that our housing stock is very poorly equipped to deal with our climate. The ACT Government's submission to the Grants Commission makes quite a big deal about the need for the ACT to have special consideration because of the high rental cost. One of the major points that were made was the high heating and cooling costs for low-income renters in a harsh climate. About 60 per cent of the ACT's non-transport energy is used in space heating, and 20 per cent is used in water heating. This gives some indication of just how important improving the energy efficiency of our buildings is to reduce greenhouse gas emissions.

I think everyone recognises the problem, so what we need is a few solutions. What we need to do is build in systems that will, over time, encourage more energy efficient housing. The enhanced greenhouse effect is potentially the most devastating environmental problem facing the human community. While I hear Mrs Carnell say - I think she said it yesterday - that we are responsible for a very small amount of Australia's overall greenhouse gas emissions, I do not believe that that is a reason for us to think that we do not have to integrate best practice into our city. In fact, I believe that if we did do that - we could, in the ACT, turn Canberra into best practice in this way - it would be to our economic advantage as well as to the environmental and social advantage, because I think this is obviously the way of the future. If we see ourselves as a best practice city we will gets lots of tourists in and lots of businesses in. I will not go on, Mr Speaker. I can see you are groaning over there. This is very important stuff. Australia is one of the largest per capita emitters of energy-related carbon dioxide in the world.

Mr Speaker, this amendment will, as a precontractual agreement, be only prospective; that is, it will apply only to tenancy agreements entered into after the commencement of the Act. ACT Housing, obviously, will not have to go out and get energy ratings for all its properties all at once. I think it will be very interesting to see, and I hope this amendment will encourage ACT Housing to improve the energy efficiency of its housing stock.

Mr Speaker, I am expecting the Government to raise the issue of costs. Currently a freestanding house costs, at the most, $100 to be energy rated. We have been informed that with increased demand the cost should come down, and for bulk ratings and ratings of blocks of flats the price could come down to below $50. There should be lots of jobs in this amendment also, obviously in conducting the audits, but also over time in installing energy-saving equipment as we create a more informed market for energy efficient housing in the ACT. We have been arguing for some time that saving energy creates a lot more jobs than producing energy does. I commend this amendment to the Assembly.

MS REILLY (5.44): I rise to speak in support of Ms Tucker's amendment because I think we need to encourage better energy efficiency measures in the ACT. One of the issues that Ms Tucker did not mention in relation to greenhouse emissions is that the ACT also has one of the highest rates of sunshine. We could use solar energy in a much better way than we do.

Looking at the matters that are before us in this amendment in relation to water savings, it is interesting to note that one of the issues that were discussed was the problem for ACT Housing tenants of excess water bills. Anything that we can do to reduce our use of water in the ACT is to be commended and to be supported, particularly if it assists people on low incomes not to get caught for using excess water without realising that they are going to have additional bills.

A second thing is that, for many people on low incomes in the ACT, one of the biggest costs after rent is the cost of heating. We have quite long, cold winters, and we have an amount of housing stock that does not fully reflect the needs of such a cold climate. This is particularly true of some of ACT Housing stock because, as the Minister has told us on a number of occasions, an amount of it is quite old. One of the things that may fall out from this is that ACT tenants, when they are taking on individual properties, will know what the likely heating costs are going to be through this energy rating. This may, of course, cause some reluctance to take up individual properties, but it may encourage ACT Housing to improve its stock more quickly. Obviously, this will also improve the value of these important community assets, which of course will assist the ACT economy. We support this amendment.

MR MOORE (5.46): Mr Speaker, in her speech in moving this amendment, Ms Tucker put all the arguments - it is going to improve jobs, it is going to improve greenhouse, and it is going to bring tourism. I must say that tourism is the one that took me most. I understand how it is going to improve tourism. The reason is this: Just like Goulburn has the Big Merino, and there is the Big Banana and the Big Prawn somewhere, we are going to have the world's biggest longbow, because what Ms Tucker has drawn is the longest bow of them all, I think, in going for tourism on this one.

The sentiment behind this amendment - I will apply this to the next amendment that Ms Tucker is to move as well, so I can give my position on both - is admirable, Mr Speaker. The costs are a concern. To inflict what at this stage would appear to be a $100 cost, and probably a $30 or $40 cost at least for the other one, although it depends on the appliance in that case, would be quite an imposition for some people, and I think we have to take that into account.

If we are going to use this kind of process, I think we ought to have an appropriate debate in the Assembly about doing this across Canberra rather than selecting one group of people on which we apply an energy rating system and say, "You have to do it". I have not done it myself, and I think for me there would be some hypocrisy. Granted, I am particularly conscious of such issues and, yes, I have put good insulation in my ceilings. When I did an extension I put big windows on the appropriate walls and followed a process because I was conscious of it. I have also improved the energy rating for my house in some other ways. Nevertheless, I think that to put on other people an imposition that I have not put on myself is questionable.

If we are going to do this I think there are two ways to go about it. The first is that we as an Assembly, as a government, say, "Yes, we are going to have energy ratings on all houses in the ACT - the 100,000 or so houses - and we will pay for it". Perhaps we put an environmental levy on the rates for one year in order to do that. That is one possible way of doing it. The second is that we demand, by legislation, that everybody do it, or that everybody do it at point of sale or change of occupancy. It is not that I disagree with the sentiment. I agree with the sentiment. I think this is an inappropriate place to put it and an inappropriate time to do it. That is why I will not be supporting this proposal at this stage.

I should say that Ms Tucker did say to me that one of the problems that she has had is that it was some 18 months ago that she gave drafting instructions for a general way of dealing with this. I can understand her disappointment that it has not come through, and that is one difficulty that we still have not resolved.

MR STEFANIAK (Minister for Education and Training and Minister for Housing and Family Services) (5.49): I have a few brief comments to make, Mr Speaker, in relation to ACT public housing. I think the biggest problem would be with the energy rating system - Ms Tucker's amendment to clause 7. Probably the water efficient appliances would be less of a drama, although there are some problems there. I am advised by ACT Housing that, in terms of some of our existing properties, this amendment could cost about $500,000 per annum without any obvious benefit from doing it. We would have less of a problem if there was a real benefit in doing so and it really enhanced the property, the ambience of the place, the benefits to the tenants and, I suppose, the value of the property as well. I am advised that there really is no great benefit to a lot of our properties if that occurs.

I note with interest, too, one point which Mr Moore raised and which I think is very relevant, and that is the imposition on perhaps a lot of people in the private sector if they had to do that as well. Of course, ACT Housing is the ACT's biggest landlord and it relies on the public purse. It has considerably more resources than other landlords. For the small landlord, and there are quite a lot in Canberra with maybe just one or so properties, it would be a very considerable imposition in the case of a number of houses which might well be 20 or 30 years old. I think it is a very sensible point that Mr Moore raises in relation to that. Accordingly, I will be unable to support this amendment from Ms Tucker.

MR HUMPHRIES (Attorney-General) (5.51): I want to add a couple of comments, Mr Speaker. Assuming a cost of $100 per assessment, my advice is that the cost to the private rental market in the ACT in total would be something like $3m. We have something like 30,000 private rental dwellings in the ACT. It is obviously only $100 per residence, although it may be more, I suppose, if extensive changes occur in premises. If they are renovated or in some way affected such that they need or require an additional rating, I assume that that cost is additional to that $100 for an initial assessment. Assuming that it was only one initial assessment per private rental dwelling in the ACT, the cost would be at least $3m. My advice is that the cost would be higher than $100. It would be at least $150, with other costs that are associated with the paperwork and other things to do with such assessments.

Mr Speaker, I pick up the point made already, namely, that we need to show what benefit there is in those circumstances from having that kind of information. Exactly how many tenants will actually use that information to their benefit? The best illustration of the weakness of the position that is being adopted in this amendment is in respect of public housing tenants. I am advised that a public housing tenant, if they are on the waiting list, is offered two houses. They are offered a house that meets their requirements as they have indicated, presumably, on the form that they fill in. If they do not like that house they are offered a second house. If they do not like that house I understand that they go back to the bottom of the queue.

What is a public housing tenant going to do, or potential tenant going to do, if they are offered a house with a low energy rating on it, particularly if it is their second house? If they do not accept that house they go back to the bottom of the queue. In that circumstance the energy rating is going to be completely irrelevant to them; they are going to want the house. They are going to take it even if there is a low energy efficiency assessment attached to it. It may even be the case with the first house that they are offered; that they are not prepared to knock that back because the second house might be much less desirable for other reasons, even if its rating is better.

Mr Speaker, I appreciate what is being attempted here. The information will certainly be of value to some people, and forcing landlords to confront the energy efficiency of their house is probably, over a period of time, a productive thing to get them to do. But to impose this scheme only on the rental market, public and private, and to ignore all the other people in the ACT who also have houses, whose understanding of the energy efficiency of their house is not being addressed at all in these provisions, I think, is not appropriate. The extra regulatory burden which is imposed - $3m to $6m as far as the private rental market alone is concerned - is likely to be sufficiently great that it would be a disincentive for some private lessors to be in the rental market at all. That would be unfortunate because not being in the rental market means that there are fewer places for tenants to take up, and that would not assist those who are seeking rental accommodation in the ACT marketplace.

MS TUCKER (5.55): I thank members for those comments and I would like to respond to some of them. I think the responses from Mr Moore, Mr Stefaniak and Mr Humphries are a very good indication of why we have a problem in this country with our environmental record, particularly our performance on greenhouse. What I am hearing is that it is going to cost the private sector $3m. What I am hearing Mr Howard say is basically the same kind of argument on the national front for the Kyoto conference.

The issue here is not just about whether or not it is going to cost individual landowners $100, or $3m across the sector, which is going to be an impost on their viability and profit. The issue here is about how we change our behaviour in relation to energy and space heating. The issue here is not about the fact that an ACT Housing tenant has very little choice. We already know that. We know that ACT government housing tenants often find it very difficult if they are on a low income to stay warm in winter. We know that the standard is not very high in government housing in the ACT in terms of energy efficiency.

I agree with Mr Humphries that if one house is better designed than another, and they know the impact that that will have on their costs in living in that house, they may indeed choose the second house if they are made aware in advance that one of them has a better energy rating. The issue is an accountability issue for this Assembly, for this parliament. Why do we continue in ACT Housing to have houses which are below standard, which are ill conceived and which are actually quite primitive in terms of the climate that we live in? It is about raising an awareness and it is about changing the way that we live in this city.

Mr Moore said that he felt it was an imposition because he had not done it himself, and he would not impose it on anyone else. We are not imposing huge costs for actually making houses energy efficient. We are enabling consumers with information which, as I said in my initial speech, I think is pretty fundamental to a consumer society. Consumers like to have full information. All this is is providing information. I do not hear complaints because when you buy a house or you rent a house you get information about how sound the structure is. When you buy a house you have to get a building inspection. You have to know that it is sound. What this is suggesting is that it is just as important, it is a matter of priority, that when you buy that house you know what the energy rating is. That is just as important as whether it is sound or not. Obviously, other members here do not agree with that, but that is what we are saying. We should be at that level of awareness if we are really seriously concerned about bringing our buildings up to scratch in terms of energy efficiency.

I accept that I do not have the support of sufficient members here, although Mr Osborne has not said a word. I might call for a division and see what he says. I would like to conclude by saying that, as Mr Moore said, we have put some other proposed legislation with the drafters, and I am pleased to hear that he may be more supportive when he looks at that legislation. I look forward to further debates on this matter.

Question put:

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

The Assembly voted -

AYES, 7	*NOES, 8*
Mr Berry	Mr Cornwell
Ms Horodny	Mr Hird
Ms McRae	Mr Humphries
Ms Reilly	Mr Kaine
Ms Tucker	Mrs Littlewood
Mr Whitecross	Mr Moore
Mr Wood	Mr Osborne
	Mr Stefaniak

Question so resolved in the negative.

MR HUMPHRIES (Attorney-General) (6.03): I move amendment No. 30 on the list of amendments circulated in Ms Tucker's name, which reads:

> Page 30, line 9, clause 61, subclause (3), omit the subclause.

I also present the supplementary explanatory memorandum, basically for all of those amendments, but particularly for amendment No. 30. Mr Speaker, I do not press this amendment hard. I realise that it is not going to succeed. It removes the limits imposed on the amount of compensation that the tribunal can award against a tenant who abandons their premises before the expiration of a fixed term tenancy agreement.

The reason why we propose to remove the cap is that in the legislation there is an obligation imposed on a landlord to mitigate their losses. If a landlord has premises that are abandoned and simply sits on them for two years, he or she would not be able to recover two years worth of rent from the tenant should he or she find them again, because they have not attempted in any way to mitigate their losses. But, if the landlord does try over a period of two years, say, to rent the premises and cannot, and this was the term of the lease that remained, in theory it ought to be possible for the landlord to recover those costs. Bearing in mind that obligation, that duty, to mitigate their losses, I think a cap could be viewed as being unreasonable.

MS TUCKER (6.04): We will not be supporting this amendment. The Government is attempting to remove the cap on the amount of compensation the tribunal may award where the tenant has abandoned the premises during a fixed term lease. Currently, this matter is dealt with through the common law and, as the Community Law Reform Committee report states, there is considerable uncertainty. I think it is important to remember that the lessor can claim compensation for damages also, so all we are talking about is compensation for lost rent. We believe that any financial loss to the lessor must be balanced against the lack of any incentive to find a new tenant.

At a practical level, the Government's desire to remove this cap contradicts clause 36, which sets the general onus on anyone who is receiving compensation to seek to avoid being paid that compensation. It is unfair, we believe, if a tenant abandons the premises, either with or without notice, early on in a fixed term lease, say a 12 months lease, for example, for them to face the threat of having to pay for up to 11 months' rent.

MS REILLY (6.05): Mr Speaker, I rise to speak against this amendment. The Labor Party considered this matter. The Community Law Reform Committee suggested a cap because it could leave a tenant liable for an unknown amount of money. In fact, they suggested a 16-week cap, but we are happy to go along with a 25-week cap.

Amendment negatived.

MR HUMPHRIES (Attorney-General) (6.06): Mr Speaker, I move:

Page 44, line 23, after clause 106, insert the following new clause:

"**Notice of intention to vacate - award of compensation**

106A. (1) Where a lessor receives a notice of intention to vacate before the expiration of a fixed term agreement, and the date nominated in the notice as the date on which the tenant intends to vacate is a date before the expiration of the agreement, the lessor may -

(a) accept the notice; or

(b) apply to the Tribunal for compensation for -

(i) the loss of the rent which the lessor would have received had the agreement continued to the end of its term; and

(ii) the reasonable costs of advertising the premises for lease and of giving a right to occupy the premises to another person.

(2) On application, the Tribunal may award compensation of the kind referred to in paragraph (1)(b).

(3) The amount of compensation the Tribunal may award -

(a) under subparagraph (1)(b)(i) shall not exceed an amount equal to -

(i) 25 weeks rent; or

(ii) rent in respect of the unexpired portion of the agreement;

whichever is the lesser; and

(b) under subparagraph (1)(b)(ii) shall not exceed an amount equal to 1 week's rent.

(4) In determining the amount of compensation that may be awarded in relation to the reasonable costs of advertising, the Tribunal shall have regard to when, but for the vacation of the premises -

(a) the agreement would have expired; and

(b) the lessor would have incurred those costs.".

Mr Speaker, this is now necessary because of the retention of the cap in the provisions dealing with abandonment of a lease. Proposed section 106A deals with a situation where a tenant gives notice to quit a lease without any justification that might be described as hardship, which is dealt with elsewhere in the legislation. We are inserting here, in effect, mirror provisions to those which appear in clause 61. That means that there is no incentive for a tenant to abandon the lease as opposed to giving the landlord notice. If it were not for this provision it would be in the tenant's interest to abandon the lease because in that situation there would be a cap for 25 weeks' rent that could be collected from him, whereas if he gave notice there would be no limit on the amount that he might have to pay. That, obviously, would be inequitable; so this puts in place a cap in respect of giving notice of termination of a tenancy.

MS TUCKER (6.07): The Greens will be supporting this amendment moved by Mr Humphries. It is basically consequential on the result of amendment No. 30.

Amendment agreed to.

MS TUCKER (6.07): I move:

Page 50, line 33, after clause 123, insert the following new clause:

"Water efficient appliances

123A. (1) This section applies to an appliance, a fitting or a fixture that uses or supplies water and is provided by a lessor at premises that are the subject of a residential tenancy agreement.

(2) A lessor shall ensure that where an appliance, a fitting or a fixture to which this section applies is replaced, the replacement has at least an AA rating.

(3) Where -

(a) a lessor breaches subsection (2); and

(b) but for this subsection, the tenant would be liable to pay the cost of water supplied to the relevant premises;

the lessor is liable to pay the cost of water supplied to the relevant premises from the date of the breach until such time as the relevant appliance, fitting or fixture is replaced by an appliance, a fitting or a fixture that does have at least an AA rating.

(4) For the purposes of the definition of 'tenancy dispute' in subsection 3(1), an application by a tenant to the Tribunal for payment by the lessor of an amount which the lessor is liable to pay under subsection (3) is an application for compensation under this Act.

(5) In this section -

'AA rating' has the same meaning as in SAA MP64, entitled 'Manual of Assessment Procedure for Water Efficient Appliances', published by or on behalf of the Standards Association of Australia, as amended from time to time.".

Mr Speaker, this amendment is modelled on a similar provision in the Victorian residential tenancy legislation. We have spoken to tenants and landlords about this proposal also and they are comfortable about it. We have also spoken to the department in Victoria which administers this legislation and they report that there have been no difficulties with implementing it.

What we are asking is that, when an appliance, fitting or fixture that uses or supplies water has to be replaced in a rental property, it must be replaced with an appliance or fitting of at least an AA standard. This is an Australian Standards Association standard, which obviously makes it very enforceable. The water efficient appliances standard applies to showerheads, dishwashers, clothes washers, urinals, water tap outlets and toilet suites. These appliances, fittings and fixtures are stocked around Canberra. BBC Hardware, for example, stocks only the most water efficient shower roses.

As with energy, tenants have little or no control over the efficiency of water or energy in rental properties. As legislators, I believe we have a responsibility to come up with practical ways in which we can help alleviate this problem, as well as obviously help protect the environment. As all members are aware, we live on a very dry continent and water conservation is an extremely important issue. I commend this amendment to the Assembly.

MS REILLY (6.09): Mr Speaker, listening to Ms Tucker speak now, I realise that I spoke on issues relating to water earlier, which shows the great efficiency of this process. The arguments I put forward earlier still apply, and we will be supporting this amendment.

MR HUMPHRIES (Attorney-General) (6.09): I will be opposing the amendment, for much the same reason as before. It is often the case, Mr Speaker, that a landlord might have more than one property, or might have a home that he lives in elsewhere in the city, and may wish to replace an appliance which has broken down with a secondhand appliance. It is often difficult to find a secondhand appliance which carries that AA rating. So we are requiring, in effect, that the landlord go off and buy new goods to replace the ones that might have to be replaced, and that might be inequitable in some cases.

I might correct Ms Tucker on one thing. She says this scheme operates in Victoria. That is not quite true. The scheme in Victoria requires replacement of fixtures and appliances with an A rated appliance, not with an AA rated appliance. So there is a slightly higher order of costs associated with this scheme. I think the principle is still one that, again, ought not to be applied just to the rental market but ought to be applied across the board to the rest of the community if we believe this is important.

MS TUCKER (6.11): I will wrap up if no-one else wants to speak. I think that is a disappointing response. I acknowledge that there may be a different energy rating in Victoria, but this is not a huge impost and this is really a fundamental issue of community education, recognising the realities of where we live and the situation with water shortages in this country.

Amendment negatived.

MS TUCKER (6.11): I ask for leave to move amendments Nos 1 to 29 and 31 to 85 circulated in my name, and to move them together.

Leave granted.

MS TUCKER: I move:

Page 2, line 9, clause 3, subclause (1), definition of "Chairperson", omit the definition.

Page 2, line 24, clause 3, subclause (1), definition of "member of the Tribunal", omit the definition, substitute the following definition:

" 'member of the Tribunal' means -

(a) the President;

(b) when acting as the President under subsection 109C(2), the Acting President; and

(c) a person in respect of whom an appointment is in force under subsection 109B(3) or (4);".

Page 2, line 26, clause 3, subclause (1), after the definition of "member of the Tribunal", insert the following definitions:

" 'mobile home' means a dwelling (whether on wheels or not) capable of being transferred from place to place and re-erected;

'mobile home park' means land lawfully used for the purpose of accommodating mobile homes or caravans, and includes a caravan park or camping ground;".

Page 3, line 3, clause 3, subclause (1), after the definition of "prescribed terms", insert the following definition:

" 'President' means the President of the Tribunal;".

Page 3, line 6, clause 3, subclause (1), definition of "Registrar", omit "109", substitute "109D".

Page 4, line 10, clause 3, subclause (1), definition of "Tribunal", omit the definition, substitute the following definition:

" 'Tribunal' means the Residential Tenancies Tribunal established by section 109;".

Page 4, line 27, clause 4, subclause (1), after "Part II", insert ", sections 41, 45 and 46 and subparagraph 70(1)(a)(ii)".

Page 4, line 29, clause 4, subclause (2), omit "of this Act applies", substitute ", sections 41, 45 and 46 and subparagraph 70(1)(a)(ii) apply".

Page 5, line 1, clause 4, subclause (3), after "Part II", insert ", sections 41, 45 and 46 and subparagraph 70(1)(a)(ii)".

Page 5, line 3, clause 4, subclause (3), omit "so applies", substitute ", sections and subparagraph apply".

Page 6, line 4, clause 6, paragraph (1)(a), omit the paragraph, substitute the following paragraph:

"(a) a caravan or mobile home situated in a mobile home park;".

Page 6, line 13, clause 6, omit the paragraphs.

Page 6, line 28, clause 7, subparagraph (b)(ii), omit the subparagraph, substitute the following subparagraph:

"(ii) that is inconsistent with a prescribed term if the term has been endorsed by the Tribunal under section 8B.".

Page 7, line 2, clause 8, paragraph (b), omit the paragraph, substitute the following paragraph:

"(b) that has not been endorsed by the Tribunal under section 8B;".

Page 7, line 4, Division 1 of Part II, after clause 8, insert the following new clauses:

"**Terms inconsistent with prescribed terms**

8A. The parties to a residential tenancy agreement may apply in writing to the Tribunal for the endorsement of a term of the agreement that is inconsistent with a prescribed term.

Endorsement - Tribunal

8B. The Tribunal shall, after having regard to the determined criteria and whether the inclusion of the term of the residential tenancy agreement that is inconsistent with a prescribed term was obtained by fraud or undue influence, make an order -

(a) endorsing the term;

(b) where there is no equivalent prescribed term, setting aside the term; or

(c) where there is an equivalent prescribed term, substituting the term with the equivalent prescribed term.".

Page 7, line 19, clause 10, subclause (2), omit "contrary to" (twice occurring), substitute "inconsistent with".

Page 10, line 19, clause 20, omit "released", substitute "the subject of an application for release under section 30".

Page 13, line 14, clause 27, subclause (5), omit "Director", substitute "Territory".

Page 14, line 9, clause 29, paragraph (e), omit the paragraph, substitute the following paragraph:

"(e) any amount expressed in a term of the agreement to be deductible by the lessor from the bond, being a term endorsed by the Tribunal under section 8B.".

Page 14, line 27, clause 30, subclause (3), omit "Director", substitute "Minister".

Page 19, line 6, clause 41, paragraph (1)(b), omit the paragraph, substitute the following paragraph:

"(b) the breach of the prescribed terms was not in accordance with a term of the residential tenancy agreement endorsed by the Tribunal; and".

Page 21, line 34, clause 46, paragraph (1)(d), omit the paragraph, substitute the following paragraph:

"(d) the breach of the prescribed terms was not in accordance with a term of the residential tenancy agreement endorsed by the Tribunal; and".

Page 23, line 24, clause 48, omit the clause.

Page 25, line 28, clause 50, paragraph (a), omit "danger", substitute "damage".

Page 26, line 5, clause 52, after subclause (1), insert the following subclause:

"**(1A)** Where a residential tenancy agreement is entered into between a university and -

(a) a visiting academic;

(b) a staff member;

(c) a contract employee;

(d) a post-graduate student;

(e) an undergraduate student; or

(f) a person undertaking an approved course of study;

and a person of the kind referred to in paragraphs (a) to (f) (inclusive) ceases to be a person of that kind, on application by the university, the Tribunal may make a termination and possession order.".

Page 26, line 6, clause 52, subclause (2), after "subsection (1)", insert "or (1A)".

Page 26, line 9, clause 52, subclause (3), omit the subclause.

Page 26, line 24, clause 53, paragraph (1)(b), omit the paragraph, substitute the following paragraph:

"(b) the purported assignment or subletting was not in accordance with a term of the residential tenancy agreement endorsed by the Tribunal;".

Page 29, line 22, clause 59, subclause (2), omit "such".

Page 30, line 33, clause 63, paragraph (1)(b), omit "2 months" (twice occurring), substitute "8 weeks".

Page 30, line 35, clause 63, subclause (2), omit "a form approved by the Director", substitute "the prescribed form".

Page 31, line 3, clause 63, subclause (3), omit "2 months", substitute "8 weeks".

Page 33, line 33, clause 70, subparagraph (1)(a)(ii), after "repair", insert ", having regard to their condition at the commencement of the residential tenancy agreement".

Page 38, line 2, clause 81, omit ", with the consent of the Registrar or relevant referee,".

Page 40, line 7, clause 94, omit ", with the consent of the Tribunal,".

Page 40, line 18, clause 95, subclause (2), omit "Chairperson", substitute "Tribunal".

Page 41, line 11, clause 97, omit the clause.

Page 41, line 28, clause 100, add "in accordance with a requirement of the Tribunal under paragraph 102(b)".

Page 43, line 28, clause 104, paragraph (e), add "be paid to the lessor from the trust account".

Page 44, line 10, clause 105, omit "14", substitute "7".

Page 45, line 34, clause 109, omit the clause, substitute the following clauses:

"**Establishment**

109. The Residential Tenancies Tribunal is established.

Constitution

109A. The Tribunal shall consist of -

(a) a President appointed under subsection 109B(1);

(b) the President and 2 persons appointed by the President under subsection 109B(3); or

(c) a person appointed by the President under subsection 109B(4).

Membership

109B. (1) The President shall be a Magistrate appointed by the Minister by instrument.

(2) The President holds office for the period (not exceeding 5 years) specified in the instrument of appointment but is eligible for reappointment.

(3) If the President considers it desirable, having regard to the nature and complexity of a particular matter to be determined by the Tribunal, he or she shall, by instrument, appoint 2 further members of the Tribunal for the hearing from the persons selected under subsection (5).

(4) If the President considers it desirable, having regard to the nature of a particular matter to be determined by the Tribunal, he or she shall, by instrument, appoint a member of the Tribunal for the hearing from the persons selected under subsection (5).

(5) The Minister shall, by instrument, select persons who, in his or her opinion, are qualified, by reason of experience and expertise, to be members of the Tribunal.

(6) The *Statutory Appointments Act 1994* applies to a selection by the Minister under subsection (5) as if -

(a) a reference to the appointment of a person to a statutory office were a reference to a selection by the Minister; and

(b) a reference to an appointment were a reference to a selection.

Acting President

109C. (1) The Minister may appoint a Magistrate to be the Acting President.

(2) The Acting President shall act as President -

(a) during a vacancy in the office of President, whether or not an appointment has previously been made to that office; or

(b) during any period or during all periods when the President is, for any reason, unable to perform the functions of the office.

(3) Where the Acting President is acting in the circumstances referred to in paragraph (2)(a), he or she shall not act continuously as President for more than 12 months.

(4) Anything done in good faith by or in relation to a person purporting to act under subsection (2) is not invalid on the ground that -

(a) the appointment was ineffective or had ceased to have effect; or

(b) the occasion to act had not arisen or had ceased.

Registrar

109D. (1) The Registrar of the Magistrates Court shall be the Registrar of the Tribunal.

(2) The Registrar may, by instrument, delegate to a public servant any or all of his or her powers under this Act.".

Page 46, line 15, clause 110, subclause (2), omit "$5,000", substitute "$10,000".

Page 46, line 17, clause 110, subclause (3), omit "$5,000", substitute "$10,000".

Page 46, line 26, clause 111, subclause (1), omit "Chairperson", substitute "President".

Page 46, line 28, clause 111, subclause (2), omit "Chairperson", substitute "President".

Page 46, line 33, clause 111, subclause (3), omit "Chairperson", substitute "President".

Page 46, line 35, clause 111, subclause (4), omit "Chairperson", substitute "President".

Page 47, line 26, clause 112, paragraph (1)(e), omit "Chairperson", substitute "President".

Page 47, line 34, clause 113, omit the clause, substitute the following clause:

"**President's involvement**

113. The Registrar shall perform his or her functions in consultation with, and subject to any direction of, the President.".

Page 50, line 20, clause 122, omit the clause, substitute the following clause:

"**Death of 1 of more than 2 tenants**

122. Where 1 of 2 or more tenants who are parties to a residential tenancy agreement dies, the tenancy and the tenancy agreement continue to operate -

(a) with the remaining tenant as the sole tenant; or

(b) where there are 2 or more remaining tenants - with those tenants as joint tenants or tenants in common;

as the case requires.".

Page 50, line 27, clause 123, subclause (1), omit "void", substitute "unenforceable".

Page 50, line 30, clause 123, subclause (2), omit the subclause, substitute the following subclause:

"**(2)** Subsection (1) does not apply to the assignment or subletting of premises in accordance with a term of the residential tenancy agreement endorsed by the Tribunal.".

Page 52, line 4, after clause 128, insert the following new clause:

"**Determined criteria**

128A. (1) For the purposes of section 8B, the Minister shall determine the criteria to be considered by the Tribunal.

(2) A determination under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.".

Page 52, line 24, clause 129, add the following subclause:

"**(5)** A determination is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.".

Schedule -

Page 54, line 4, clause 13, omit "should" (wherever occurring), substitute "shall".

Page 56, line 32, clause 31, omit "21", substitute "28".

Page 57, line 12, clause 35, omit "of" (first occurring), substitute "from".

Page 57, line 12, after clause 35, insert the following new clause:

"35A. Notwithstanding clause 35, if the Commissioner for Housing is the lessor under this Tenancy Agreement and he or she -

(a) undertakes a review of rent in accordance with subsection 15(3) of the *Housing Assistance Act 1987*; and

(b) as a result of the review, decides to increase the rent;

then -

(c) if a previous review of rent has been undertaken — the increase shall not take effect less than 1 year after the date of the last increase of rent in respect of the premises; or

(d) if no previous review of rent has been undertaken — the Commissioner may increase the rent.".

Page 57, line 32, clause 41, paragraph (b), omit the paragraph, substitute the following paragraph:

"(b) services for which he or she agrees to be responsible;".

Page 58, line 18, clause 46, omit "may", substitute "shall".

Page 59, line 19, clause 53, omit "their", substitute "his or her own".

Page 59, line 28, clause 54, omit "is to", substitute "shall".

Page 59, line 28, clause 54, add the following subclause:

"(2) Subclause (1) does not apply to premises -

(a) in respect of which the Commissioner for Housing is the lessor; and

(b) to which a periodic agreement of the kind referred to in subsection 4(5) of the Residential Tenancies Act relates;

until 1 July 2000.".

Page 60, line 10, clause 58, after "shall", insert ", subject to clause 81,".

Page 61, line 2, clause 60, after "lessor", insert "(or for the lessor's nominee)".

Page 61, line 2, clause 60, before "repairs" (twice occurring), insert "urgent".

Page 63, line 2, clause 72, heading, omit "**agreement**", substitute "**Tenancy Agreement**".

Page 63, line 29, clause 75, paragraph (d), after "reasons", insert "in relation to the premises".

Page 64, line 23, clause 80, paragraph (a), omit "or", substitute "and".

Page 64, line 26, clause 81, heading, before "***repairs***", insert "***making or inspecting***".

Page 64, line 29, clause 81, before "repairs", insert "or inspecting".

Page 65, line 2, clauses 82 and 83, omit the clauses.

Page 66, line 25, clause 89, omit "terminate", substitute "give notice to terminate".

Page 66, line 28, clause 90, omit "terminate", substitute "give notice to terminate".

Page 66, line 36, clause 91, paragraph (b), add ", in accordance with clause 92".

Page 67, line 18, clause 93, omit the clause.

Page 67, line 26, clause 94, paragraph (a), omit "clear".

Page 67, line 29, clause 94, omit the paragraph, substitute the following paragraph:

"(b) the lessor has served a notice to remedy on the tenant for the failure to pay the rent, being a notice -

(i) served not earlier than 8 days after the day on which the rent was due; and

(ii) containing a statement that if the tenant pays the rent outstanding to the date of payment within 7 days of the date of service of the notice to remedy, no further action shall be taken and the tenancy shall continue;".

Page 69, line 4, clause 97, omit "this clause", substitute "clause 96".

Page 69, line 6, clause 97, omit "vacation", substitute "intention to vacate".

Page 69, line 23, clause 98, add the following subclause:

"(2) In this clause -

'immediate relative' means a son, daughter, son-in-law, daughter-in-law, mother, father, mother-in-law, father-in-law, brother, sister, brother-in-law or sister-in-law".

Page 69, line 25, clause 99, omit "this clause", substitute "clause 98".

Page 69, line 27, clause 99, omit "vacation", substitute "intention to vacate".

Page 69, line 29, clause 100, omit the clause.

I want to say once again that I am presenting these amendments, but basically they are the result of a lot of cooperation and give and take that has occurred between all members of the Assembly. I am the one who is privileged to represent that work here today, but I want to acknowledge that it has been a very admirable effort from everybody. I am pleased to see that we can do that here, and I hope we do it more often.

The major issues covered by these amendments are the changes to the tribunal and the arrangements for parties to contract out of the terms included in this legislation. Regarding the tribunal, while we still do not have a stand-alone tribunal, at least the model that is before us now ensures that members with expertise in energy matters will be appointed. This is an essential part of effective tenancy dispute resolution. Other tribunals, like the commercial tenancy tribunal, have had major problems because they have been too caught up in the Magistrates Court, so I hope that this model will go some way to improving that.

The Government will go on, perhaps, about the additional costs. They have already, actually, as I recall. Mr Humphries has mentioned that. But the fact is that by coming up with a better structure in the beginning we are going to have a more effective and efficient process. Although we now have members with expertise, it is still not a perfect model because the tribunal does not have its own registrar or resources. So I think from that point of view there are compromises on all sides. At this stage this is a cost neutral proposal, but I would stress that if this is to work most effectively it will not be cost neutral. The tribunal is, obviously, going to be more accessible to all members in the community, and it is a very important aspect of the tribunal that it is. It must be accessible to people who do not speak good English, people with children, and so on.

A second major principle in the amendments is contracting out. As I said in my in-principle speech, it is completely unacceptable to the Greens to have a general principle that parties can obtain independent legal advice and contract out of the terms contained in this legislation. I had originally drafted amendments to knock this possibility out altogether; but, as I indicated in the in-principle speech, we are prepared to compromise to some extent on this point, provided there is no possibility for exploitation of parties with less power. I do not see the point in going to so much trouble to come up with a piece of legislation that sets out the rights and responsibilities of tenants and lessors if anyone can go along willy-nilly and contract out of the terms. For a start, there are potential health and safety issues because the repairs provisions are included in the Schedule. There is also real concern about the abuse of the unequal bargaining position of the two parties.

I think the Greens' opposition to this concept underlines the major ideological difference between us and the Liberal Party. The Liberal Party does not accept that different people have different power and resources at their disposal. Having said that, there may well be cases where knowledgeable parties may both benefit, and that is why we are prepared to support the revised proposal where, on joint application before the tribunal, parties may seek a variation to the terms in this legislation as long as they complied with the prescribed criteria and there is no element of fraud or undue influence.

A third issue raised in this group of amendments is whether people in need should be covered by the legislation. I am very pleased that the Government is removing those clauses, and I look forward to being involved with ongoing debate to ensure that people who receive support in a setting they consider to be their home do receive the protection of this legislation.

These amendments also cover the issue of enabling legal representation in all cases and also remove the ability for the tribunal to award costs, except in the case where the tribunal considers that a party to an application caused unreasonable delay or obstruction before or during a hearing of the application. Another smaller matter, but potentially an important one, is the issue of increasing the amount of compensation the tribunal can award from $5,000 to $10,000, as I have already discussed in the in-principle speech. One other point in this set of amendments is changing the maximum amount of time that the registrar has in which to send out notice of orders of the tribunal from 14 days to seven days. We believe it is very important that parties to a hearing receive early notice of the actual terms of the orders. Although we proposed four days, we are happy with seven. We will live with seven days.

The only other major issue dealt with in these amendments is about how we bring ACT Housing tenants into the coverage of the Act. As with private tenancy agreements, there will be a staggered introduction. We are happy with the proposal that any new agreement signed after the commencement of the legislation will be covered immediately, and all ACT Housing and private tenants will be covered by all sections of the legislation by the year 2000. Obviously, there needs to be some flexibility when the Act first comes into force, particularly for ACT Housing. This must be balanced with the need to ensure that tenants are protected as soon as possible. I think a good balance has been struck - one that is in line with the recommendations of the Community Law Reform Committee. ACT Housing tenants will, in fact, be covered earlier than private tenants in relation to urgent repairs, as it will come into force at the time of the first price review in October 1998. I commend these amendments to the Assembly.

MR HUMPHRIES (Attorney-General) (6.18): Mr Speaker, the Government has a number of concerns about some of the provisions in these amendments. I realise that they are supported by a majority in the Assembly, so I do not propose to call for divisions on them; but I want to put on record the Government's concerns about those provisions. I suspect that in some cases we will come back to revisit these issues because in practice, when they are applied out in the community, there will be a problem and people will petition the Assembly to change them. That is why I am relatively relaxed about these provisions at the moment.

The first and perhaps most serious issue that the Government has concerns about is the provisions about contracting out. The provisions in the legislation were intended to provide that parties in certain circumstances could contract out of the standard agreement - that is, the provisions contained in the Schedule to the Bill - where they wanted to do so and where they obtained independent legal advice to explain to them the consequences of doing so. I make it clear that the essential provisions in the Bill cannot be contracted out of; but provisions in the Schedule, which are arguably second order issues, can be contracted out of if parties want to and they have advice to that effect. The effect of the amendments that have been put forward is to remove the capacity to contract out unless the parties go to the tribunal itself and seek an order from the tribunal that they may contract in a different way.

My view, Mr Speaker, is that it is most unlikely that many people are going to go to the trouble of approaching a court - that is what it amounts to - to seek the approval of a court for them to cross out a paragraph or write in some extra words in a tenancy agreement. In the vast majority of cases that is going to be seen as simply too much trouble. What will happen is that people will walk away from that agreement and say, "I am sorry; I do not want to do this. I will go and find someone else to rent me some premises", or, "I will have to find another tenant for these premises". That, Mr Speaker, I think, is unfortunate.

The assumption behind the restriction here, the very high threshold, is that people somehow will be prevailed upon by avaricious landlords and that the inequity in the power relationship, which I fully acknowledge, Ms Tucker - I do not pretend it is anything other than that - will be such that the tenant will be forced to accept conditions that he or she does not want. I think that we are, in that arrangement, lumping together those who are prevailed upon by those sorts of landlords, and who need to be protected,

and those people who are quite capable of making an independent decision about what they want for themselves in a tenancy arrangement and who want to contract out of a particular arrangement but cannot do so except by going down the path of going to the tribunal.

I will give you some examples of the sorts of arrangements where you might want to contract out of a standard agreement. A person wants to rent premises which are extremely dilapidated. The trade-off is that they get the rent at a very low rate and they say to the landlord, "Look, you give this place to me at a low rent and I will do it up over a period of time. At the end of the tenancy I will have had a cheap place to live and you will have an improved house". That is a very good arrangement. Most people think it is a great idea. But that means contracting out of the prescribed term in respect of the condition of the premises and the repair obligation which falls on the landlord in the standard agreement. Okay; the landlord and the tenant can trot along to the Residential Tenancies Tribunal and make an application which could cost, depending on whether they feel they need representation or not, anything between $50 and $500. But clearly, Mr Speaker, the tenant in these circumstances is going to be the sort of person who does not have much money. He would not be going into that kind of tenancy if he had much money. He does not want to have to incur those sorts of costs in that forum and will be likely to be dissuaded from entering into such an agreement in those circumstances.

The provision that the Liberal Party actually tendered as its preferred position in these circumstances was that the parties should be able to apply to the registrar of the Residential Tenancies Tribunal to get approval of those conditions. It has not yet been explained to me, and I look forward to some explanation of this, why the registrar is not capable, in a low cost and informal way, of agreeing to inconsistent provisions where they appear to be appropriate. You could even provide for a cut-in provision where the registrar says, "I am not sure about this; this had better go to the full tribunal". That kind of provision would be reasonable. To say that every application has to go before the tribunal is, I think, to be excessively onerous and will result in many people simply walking away from a tenancy arrangement which they do not believe they can afford to pursue because of that very high burden placed on them to get the agreement varied.

The other danger, Madam Deputy Speaker, is that we are going to find many situations, I suspect, where people will contract out of the arrangements in ignorance of the way that the law is drafted. People do it every day of the week. They vary tenancy agreements. They cross out a clause there or they add a bit there. They will do that unwittingly, not realising that they are in fact in breach of the legislation. They will do that and then at some point down the track one of the parties will discover that the agreement is potentially void because they have contracted out of an essential provision. It might not be the party who is at fault in that situation who is, in fact, going to come off worst. It might be the party who is not at fault who does it in those circumstances.

Madam Deputy Speaker, I think that provision is unwise. I think we will find, over a period of time, people coming to the Government and the Assembly and saying, "I lost three tenants because I could not get them to come to the court with me". I think we should reconsider that provision, and I look forward to being able to do that at some point in the future.

MS TUCKER (6.25): Does someone else want to speak? Very well. I will reply to Mr Humphries, about the registrar. We were concerned about that power being left with the registrar because it is quite possible for power to be delegated down from that position. The danger is that there is a rubber-stamping process. That is why we believe that this tribunal was a better option for that.

MR HUMPHRIES (Attorney-General) (6.25): Before we leave that point, my understanding is that it cannot be delegated down in that way. That is not the case. The tribunal means the tribunal. It has to be done by the tribunal.

MS TUCKER (6.26), by leave: Yes, but my point was that, while we said the registrar was not adequate, we wanted it to go to the tribunal because the registrar can delegate down.

MR HUMPHRIES (Attorney-General) (6.26): I do not want to press the point. I know I have not persuaded people. But, if we provide in the legislation that the thing cannot be delegated, it cannot be delegated. It is as simple as that. I think it should go before the registrar in all cases. It should be before the registrar.

Mr Whitecross: I think Ms Tucker was saying that that was what she intended.

MR HUMPHRIES: She was not proposing it. I was proposing it. My proposal was that it be done by the registrar.

Ms Tucker: We said no.

MR HUMPHRIES: I appreciate that. You are saying it could be delegated down from the registrar. I am saying no, it could not be delegated down from the registrar. It would be, under our proposal, a decision for the registrar, and not for somebody else in the court structure.

Madam Deputy Speaker, I am also concerned about the cost of the Residential Tenancies Tribunal. I think I mentioned before the cost of the tribunal. The cost of running a tribunal with three persons, in those cases where three persons sit on the tribunal, obviously will significantly increase the cost of the tribunal. The Government will have to find that money - I appreciate that - but I do not believe it is necessarily adding anything to the quality of the tribunal by effectively making it a different entity from the ACT Magistrates Court. The court has been involved in the development of this jurisdiction for some time. It is confident that this model, as proposed originally in the Bill, will be successfully implemented, and it has developed a body of staff with some expertise and experience in tenancy matters which it believes would be well able to buttress the role played by a magistrate sitting as the tribunal. Certainly, the model used in this legislation is a model which comes from other States, but those are States with much larger jurisdictions and larger court systems than we have. A tribunal of this structure will obviously impose a cost on us which I think is hard to justify.

I have spoken about the energy efficiency rating already, Madam Deputy Speaker. That issue was covered. The other concern the Government has is about the obligation of parties to bear their own costs. The amendments propose to limit the capacity of the tribunal to impose costs on other parties. This proposal does not limit the capacity for

a tribunal to impose costs for blameworthy conduct such as delay. It would prevent costs in ordinary matters. If the current obligation for parties to bear their own costs of proceedings before the tribunal is removed from the Bill, the scheme, I think, could be open to some abuse. Parties might initiate proceedings with little or no fear of repercussions, and injustices might occur where one party, usually the lessor, incurs costs arising from temporary absence from work and legal costs. I have come to the view that the no-cost arrangements are often quite open to abuse, and in fact certainly are abused on occasions; but, again, I accept, as with all these amendments, Mr Speaker, that the Assembly takes a different view.

MS REILLY (6.30): Mr Speaker, I want to raise a few issues in response to some of the comments by Mr Humphries. I mentioned earlier some of the support for having a tribunal, but I think we need to look at what the tribunal can mean, apart from the aspect of ensuring that the ACT stays in line with the other States that have a tribunal. I think it is going to be quite disappointing for some people when they realise that the tribunal is not going to be totally independent; that it is part of the Magistrates Court system. That aside, I am sure it can work successfully in that way. I think the agreed amendments that gave more members to it will, in fact, improve its efficiency and may, in the long term, prove a cost-saving measure. I think Mr Humphries's concern about his purse may not be realised in this way.

What needs to be recognised is the amount of work that this tribunal is likely to have. Mr Humphries suggested that some of the tribunals set up in other States have larger numbers of people that come under their jurisdiction, but it must be remembered that in the ACT 30 per cent of people are in residential rental properties. This gives you a quite big group of people who potentially may want to appear before this tribunal. I think this needs to be recognised, and it needs to be recognised that the tribunal needs proper resourcing. Why do we want to set up a new tenancy tribunal and do it on the cheap? Are we setting it up to fail before we get started?

I think it is important that we ensure that the tribunal has the opportunity to operate effectively. There will be opportunities taken, probably by lawyers, particularly, to test some parts of this new law. And I think it would be a pity if we have people waiting for weeks and weeks to have the opportunity to appear before the tribunal. In the Magistrates Court and the Small Claims Court there is a backlog of work because they cannot keep up with requests to deal with matters under the current Landlord and Tenant Act. We do not want to replicate this through setting up a tribunal that is not properly resourced.

I think there are efficiencies to be gained by dealing with matters quickly. There are then no further costs associated with people living in unsafe and insecure conditions in their rental properties. Surely the savings that could come through from the Family Court, the health system, the education system and family services could be recognised in dealing with rental tenancy matters expeditiously. For this reason, I do not agree with some of the comments made by Mr Humphries in terms of costs in not setting up the tribunal well in the first place.

One of the other advantages that will come with the Residential Tenancies Tribunal will be the gaining of some expertise in tenancy matters. Hopefully, we will get a magistrate who is particularly interested in tenancy matters. This will increase the expertise in dealing with these cases and also assist with getting consistency in application. This will be beneficial for all parties who are involved with this legislation. I think this could lead to efficiencies, Mr Humphries, and your costs may not go up to the extent that you are obviously quite gravely, but I think unnecessarily, concerned about.

I think we need to support the amendments as they are put forward here. I think it is an opportunity for the ACT to move, in line with most of the other States, to set up an independent Residential Tenancies Tribunal and ensure that tenants in the ACT have the opportunity to get fair and equitable treatment.

Amendments agreed to.

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

Bill, as amended, agreed to.

JURIES (AMENDMENT) BILL 1997

Debate resumed from 15 May 1997, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR WOOD (6.34): Mr Speaker, I will not keep the Assembly for long, although there are some important aspects of this Bill. The Opposition will be supporting it, and I will be proposing one amendment which I believe has been agreed to. I apologise that I did not contact the people concerned earlier, but this Bill was brought forward from next week to this week because it was thought there might be a gap in proceedings as things fell through. Perhaps the main aspect of this legislation is the provision for expanded juries in Eastman-type trials so that, if people get sick, die or otherwise fall out, a long and expensive trial would not be aborted. The Government has chosen the option of having expanded juries rather than reserve jurors, and that seems to be six of one and half-a-dozen of the other. I do not think it makes much difference which way the Government goes; so we will be supporting it.

There are two important points I want to raise. In the amending Bill there are provisions - quite good and sound provisions - to protect the identity of jurors and to ensure the confidentiality of proceedings. These are sensible proposals, because they seek to put in place what has been the custom and practice in Australia, so that we will not have the situation we have had this week in the United States in respect of the nanny case and we had a little while ago with the Simpson case, where jurors come out after cases, or even during the running of the case in the Simpson instance - and give their comments, talk about things and make comments about things. I think that is a generally undesirable approach and it is one that this legislation seeks to put aside.

The assumption in that is that all trials are properly conducted. I would expect that the overwhelming majority - all but the very occasional one - are so conducted. But I have in mind, coming from where I do and with my background, the case of Joh's jury. It subsequently turned out that a juror on the panel - there is no evidence that he was anything else but empanelled by chance - was quite adamant against all the evidence, against all the persuasive attempts of the other jurors, who had one clear view. Against all odds, he would not convict the Premier of the day, Premier Bjelke-Petersen. There was a quite famous TV production about that. That is a pretty rare circumstance. But I would hope that if something went amiss with a jury there would be avenues whereby that could be publicly known.

The legislation does provide a number of outs whereby protected information can be published. My amendment adds one more occasion where that can happen. I will deal with it now, rather than run through it at the detail stage. The Bill allows the prohibition of the publishing of protected information not to apply in three circumstances, and I am proposing a fourth which says:

> ... a statement made or information provided by the Director of Public Prosecutions about a decision, or the reason for a decision, not to institute or conduct a prosecution or proceedings for an alleged contempt of court or alleged offence relating to jury deliberations or a juror's identity.

I am not quite sure it will cover exactly what I had in mind; but it does provide a further avenue whereby an irregularity, rare as it might be, could be published and the facts made known. I will be moving that in the detail stage. I will not then speak to it. On behalf of the Opposition, I will be supporting this Bill.

MR MOORE (6.39): I support the Bill. I think Mr Wood has adequately covered the issues. I think it is another piece of sensible legislation that does deserve support.

MR HUMPHRIES (Attorney-General) (6.40), in reply: In light of the hour, I will be very brief. I thank members for their support for the legislation. There is one item I want to mention, that is, that I was written to by the editor of the *Canberra Times*, who proposed to me that there should be a further exemption from the requirement to keep confidential jury deliberations, namely, situations where a media organisation seeks to publish protected information when it is in the public interest. He proposed that in such circumstances the onus of proof to demonstrate public interest rest with the media organisation concerned.

I realise that this is a sensitive area and I wanted to be careful about how I proceeded, so I wrote to my fellow Attorneys-General and asked them what they thought about the idea, principally because reform of the jury practice was one that had been partly a process of discussion between Attorneys-General and some of the provisions that appear in this legislation had been agreed as ideal provisions that ought to appear in legislation around the nation.

I have to report that none of my colleagues were prepared to support the provisions suggested by the *Canberra Times*. That does not mean that we cannot or should not return to that issue at some point in the future. It certainly is an issue which I think we need to keep under review. I suppose the issue that Mr Wood has raised about Joh's jury gives rise to a question about the extent to which the media should be able to report in these circumstances. If the media had access to information in the Joh's jury case, perhaps that sort of disclosure is the only disclosure that we would otherwise get of such practices. This is not, perhaps, the context in which to pursue that issue, but I indicate that it is an interesting question which we may need to return to in the future.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

Amendment (by **Mr Wood**) proposed:

> Page 12, line 32, clause 24, proposed new paragraph 42C(7)(b), add the following subparagraph:
>
> "(iv) a statement made or information provided by the Director of Public Prosecutions about a decision, or the reason for a decision, not to institute or conduct a prosecution or proceedings for an alleged contempt of court or alleged offence relating to jury deliberations or a juror's identity.".

MR HUMPHRIES (Attorney-General) (6.42): Mr Speaker, I support the amendment. The circumstance that Mr Wood is talking about is where the DPP considers a prosecution in relation to some malpractice in respect of a jury. Generally speaking, the DPP does not make statements about prosecutions in the sense of announcing that a prosecution is not to go ahead; that is not the general course of action. It will be the case, though, on rare occasions that a particular matter will attract strong public interest. On those rare occasions, an allegation about jury impropriety might be so widely publicised that it would be in the interests of the community to know a bit about the circumstances of the matter. In those circumstances this amendment would operate, and I think operate appropriately. In that circumstance, I think it is fair to have some capacity to disclose. That is why we support the amendment.

Amendment agreed to.

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

Bill, as amended, agreed to.

LEAVE OF ABSENCE TO MEMBER

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

> That leave of absence for today, 6 November 1997, be granted to Mrs Carnell (Chief Minister).

ADJOURNMENT

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

> That the Assembly do now adjourn.

Student's Note

MR MOORE (6.43): I wish to make a short point, Mr Speaker. Regularly this chamber is used for debates by students and others. I had the pleasure today of finding a little note in my desk. Politicians so rarely get positives that I thought it would be worth putting its contents into *Hansard.* The note reads:

> Hi Michael!
>
> I used your desk during the debate. You have a great view.

This is very interesting. Obviously, the person who wrote this note had a different view from the one I have. She did not look at Wayne Berry, Andrew Whitecross and so forth.

MR SPEAKER: They were referring to me, Mr Moore.

MR MOORE: I am being very careful not to refer to you, Mr Speaker, because it may well have been one of the ones for which you actually did remain in the chair. I am being very careful not to refer to you in this particular case. You would never find me referring to you in a negative way as far as the view goes, Mr Speaker - not very often, anyway. She goes on to say:

> I think I'll have to run for local government: great seats!

Indeed, they are great seats. It may be that somebody is going to knock me out of my seat. She goes on:

> You're a great local rep. I'm proud to be seated here in splendour.
>
> Sincerely, Lyn.

It is very rare that we get these sorts of positives, and I just thought I would share this one with members. But it does reflect how important it is to have young people thinking about parliamentary processes, local government and so on. The work you do, Mr Speaker, in that area and, of course, the work of our education officer, Mardie Troth, is fantastic. I appreciate it. Let me say on the record: Thanks, Lyn. That really gave me a boost at the end of a sitting week.

Mental Health Crisis Hotline

MR HUMPHRIES (Attorney-General) (6.45), in reply: Mr Speaker, a bouquet for Mr Moore but a brickbat for me, I am afraid. During the adjournment debate yesterday, Mr Berry indicated that he had been made aware of someone trying to contact the Mental Health Crisis Service's crisis and assessment team and they were unable to get through because the phone had rung out twice. From the information Mr Berry provided, it is not possible to determine the telephone number that this person was calling, but I can provide the following general information: The two telephone numbers for the CAT team, the crisis and assessment team, of 1800 629 354 and 6205 1065 are monitored in relation to all incoming calls. Between 11.00 am and 3.00 pm on 5 November 1997 there were 40 calls recorded as being received by these numbers. Included in this number were three calls where the caller hung up before the operator had a chance to answer. These three callers rang for, respectively, 14 seconds, 58 seconds and 15 seconds. Telephones ring out at 90 seconds; so it is clear that none of those three calls had rung out. Only one of those three calls was between 12 noon and 2.00 pm. I think Mr Berry said that the caller had rung at lunchtime.

I would appreciate any further information Mr Berry has to offer about such matters. But, in the absence of any evidence that these calls were in fact made, I have to say that I would reaffirm my defence of the staff of the Mental Health Crisis Service. I think the 58-second call was probably a bit on the excessive side, but I do not think a call not answered after 15 seconds or 14 seconds is any matter to be critical about. Certainly, there is no evidence that any call has rung out. I hope that Mr Berry will choose his criticisms of staff of the ACT carefully in future, before he makes these allegations under parliamentary privilege.

Question resolved in the affirmative.

Assembly adjourned at 6.47 pm until Tuesday, 11 November 1997, at 10.30 am

ANSWERS TO QUESTIONS

MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION

Question No 444

High School Students - Suspensions, Transfers and Expulsions

MR WOOD - asked the Minister for Education and Training on notice on 27 August 1997:

For each of the high schools in the ACT for the year to date -

(1) How many students have been suspended.
(2) How many students have been transferred to other schools.
(3) How many students have been expelled.

MR STEFANIAK - The answer to the Mr Wood's question is:

(1) High School Suspension Data - Number of Students Suspended to 5 September 1997.

School	Number of students suspended	Male	Female
Alfred Deakin	12	11	1
Calwell	63	49	14
Caroline Chisholm	41	32	9
Kambah	35	31	4
Melrose	45	38	7
Lanyon	19	15	4
Telopea	19	13	6
Stromlo	56	43	13
Wanniassa	34	30	4
Woden	6	6	0
Belconnen	34	28	6
Campbell	18	15	3
Canberra	29	22	7
Ginninderra	88	67	21
Kaleen	27	19	8
Lyneham	35	31	4
Melba	24	19	5
Koomarri	2	2	0
Total	**587**	**471**	**116**

(2) This information is not collected by Central Office.

(3) None.

MINISTER FOR CHILDREN'S AND YOUTH SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 447

Drug Use Prevention Programs

MS REILLY - asked the Minister for Children's and Youth Services on notice on 28 August 1997:

For each of the financial years 1995/96, 1996/97 and 1997/98

(1) Can you provide details of any drug use prevention programs (a) administered by your department; or (b) funded by your department.

(2) Could you provide details of the nature of these programs.

(3) What is (a) the cost of these programs; and (b) the source of the funds.

(4) What is the number of participants that are or were in the program.

(5) What is the length of the program.

(6) Has there been any assessment made of their effectiveness.

MR STEFANIAK - The answer to Ms Reilly's question is:

Drug education in ACT Schools follows the approach endorsed by the National Drug Strategy. The National Drug Strategy uses a Harm Minimisation approach which aims to reduce the adverse health, social and economic consequences of alcohol and other drugs. Drug Prevention is certainly a goal of this approach though it recognises that some people will use drugs.

I will answer questions one to six within the context of each of the five programs conducted that are consistent with the National Drug Strategy.

Program: **National initiatives in Drug Education (NIDE).**

Funding Source: Commonwealth Department of Human Services and Health

01 July 1995 to 30 June 1996	$5,500
01 July 1996 to 30 June 1997	$36,000
01 July 1997 - current	$50,400
Total funding for this project is	**$91,900**

Funding for this project will no longer continue.

Administration: Department of Education and Training.

Workshop duration: Workshops ran for one day after which action plans were devised and implemented.

Description: Teachers were informed of recently developed drug education teaching resources which were provided to each school and are in line with the Harm Minimisation approach now adopted nationally.

Number of participants: Eighty three government schools teachers were inserviced during 1996. Twenty three government schools teachers have been inserviced to this point in 1997.

Grants: In 1997 grants were provided directly to 11 government secondary schools and five Catholic secondary schools with money shared co-operatively between independent schools to develop sustainable and relevant drug education programs .

The goals of the National Initiatives in Drug Education are:

- to promote the importance of drug education in schools through an integrated information strategy targeted at principals, administrators, teachers, the school community and the wider community;
- to increase teachers' knowledge and skill level in teaching drug education;
- to increase knowledge of parents and the community about young peoples' use of alcohol, tobacco, and other drugs and to suggest strategies for action;
- to assist schools in the development and implementation of a drug education program which is manageable and sustainable;
- to encourage whole schools and school community support for drug education in schools.

Evaluation was carried out by the National Centre for Research into the Prevention of Drug Abuse (NCRPDA) for which a final report was completed at the end of September. The Department provided staff support toward the evaluation of the NIDE project.

6 November 1997

Program:	**Drugs in Sport.**
Funding Source:	Australian Sports Drug Agency Project (ASDA) **Total $10,000**
Administration	Department of Education and Training.
Workshop duration	The workshop was of one day's duration.
Description	Teachers were inserviced on the Drugs in Sport curriculum support resources which are available from the Australian Sports Drug Agency.
Number of participants	Seventeen teachers were inserviced during 1996. Sixteen teachers have been inserviced to this point in 1997.

Evaluation of the course was carried out after the workshops. The evaluation feedback was positive, teachers appreciated up to date materials that could be used in the classroom.

Program:	**School Development In Health Education (SDHE)**
Funding Source:	ACT Department of Health and Community Care. in the financial year of 1994-1995 $20,000 in the financial year of 1995-1996 $16,000 in the financial year of 1996-1997 $24,109 **Total $60,109**
Administration	Department of Education and Training.
Workshop duration	The workshop was of one day's duration.
Description	This program is for primary school teachers and aims to assist teachers in developing appropriate knowledge and skills in drug related issues and to assist teachers in updating school curricula within the current national approach of harm minimisation.
Number of participants	Eighty three teachers were inserviced during 1996. Twenty three teachers have been inserviced to this point in 1997.
Grants	A grant of a 1/2 day relief was provided for participants to begin implementing an action plan which is being carried out this year.

Evaluations were carried out after training sessions and were very positive about the direction of drug education and appreciated having time to look at their own school curriculum materials.

Program:	**Alcohol awareness/Anti-binge**
Funding Source:	ACT Department of Health and Community Care in the financial year of 1995-1996: $16,000 in the financial year of 1996-1997: $5,000 **Total $21,000**
Administration	Department of Education and Training.
Workshop duration	The workshop was of one day's duration.
Description	This program is for secondary teachers and provided teachers with up to date skills and knowledge to assist in providing quality drug education in the area of alcohol within the current national approach of harm minimisation.
Number of participants	Eighty five teachers were inserviced during 1996. Twenty two teachers have been inserviced to this point in 1997.

Evaluations were carried out after training sessions and indicated the need for teachers to keep current in drug education practices.

Program: **Life Education**

Funding Source: ACT Department of Education and Training

Free accommodation is provided at old Holder Primary Site.
in the financial year of 1995-1996: $40,000
in the financial year of 1996-1997: $40,000
in the financial year of 1997 -to this time: $20,000
Total $100,000

Administration: ACT Life Education Centre.

Description: Life Education send out a teacher resource kit which is used to follow up the presentation by a trainer from the Life Education Centre, teachers also receive a professional development session. The program is designed to build on students knowledge and skills, body requirements, drug information and skill development. There are 10 separate units ranging from pre-school to year six. Life Education have recently started a Secondary School program aimed at year 7 and 8.

Number of participants

In the last 3 years approximately 5200 pre-school students and 4800 primary school students have visited the Life Education Centre.

An evaluation of Life Education presentations are completed by the classroom teacher at the end of a presentation. The most recent evaluation of the Life Education Programme took place in 1991. This evaluation was conducted by the National Centre for Health Program Evaluation (NHMRC).

6 November 1997

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 449

Drug Use Prevention Programs

MS MCRAE - asked the Minister for Education and Training on notice on 28 August 1997:

(1) Can you provide details of any drug use prevention programs (a) administered by your department; or (b) funded by your department.

(2) Could you provide details of the nature of these programs.

(3) What is (a) the cost of these programs; and (b) the source of the funds.

(4) What is the number of participants that are or were in the program.

(5) What is the length of the program.

(6) Has there been any assessment made of their effectiveness.

MR STEFANIAK - The answer to Ms McRae's question is:

Drug education in ACT Schools follows the approach endorsed by the National Drug Strategy. The National Drug Strategy uses a Harm Minimisation approach which aims to reduce the adverse health, social and economic consequences of alcohol and other drugs. Drug Prevention is certainly a goal of this approach though it recognises that some people will use drugs.

I will answer questions one to six within the context of each of the five programs conducted that are consistent with the National Drug Strategy.

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Funding Source: Commonwealth Department of Human Services and Health

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Administration: Department of Education and Training.

Workshop duration: Workshops ran for one day after which action plans were devised and implemented.

Description: Teachers were informed of recently developed drug education teaching resources which were provided to each school and are in line with the Harm Minimisation approach now adopted nationally.

Number of participants: Eighty three government schools teachers were inserviced during 1996. Twenty three government schools teachers have been inserviced to this point in 1997.

Grants: In 1997 grants were provided directly to 11 government secondary schools and five Catholic secondary schools with money shared co-operatively between independent schools to develop sustainable and relevant drug education programs.

The goals of the National Initiatives in Drug Education are:

- to promote the importance of drug education in schools through an integrated information strategy targeted at principals, administrators, teachers, the school community and the wider community;
- to increase teachers' knowledge and skill level in teaching drug education;
- to increase knowledge of parents and the community about young peoples' use of alcohol, tobacco, and other drugs and to suggest strategies for action;
- to assist schools in the development and implementation of a drug education program which is manageable and sustainable;
- to encourage whole schools and school community support for drug education in schools.

Evaluation was carried out by the National Centre for Research into the Prevention of Drug Abuse (NCRPDA) for which a final report was completed at the end of September. The Department provided staff support toward the evaluation of the NIDE project.

6 November 1997

Program:	**Drugs in Sport.**
Funding Source:	Australian Sports Drug Agency Project (ASDA) **Total $10,000**
Administration	Department of Education and Training.
Workshop duration	The workshop was of one day's duration.
Description	Teachers were inserviced on the Drugs in Sport curriculum support resources which are available from the Australian Sports Drug Agency.
Number of participants	Seventeen teachers were inserviced during 1996. Sixteen teachers have been inserviced to this point in 1997.

Evaluation of the course was carried out after the workshops. The evaluation feedback was positive, teachers appreciated up to date materials that could be used in the classroom.

Program:	**School Development In Health Education (SDHE)**
Funding Source:	ACT Department of Health and Community Care. in the financial year of 1994-1995 $20,000 in the financial year of 1995-1996 $16,000 in the financial year of 1996-1997 $24,109 **Total $60,109**
Administration	Department of Education and Training.
Workshop duration	The workshop was of one day's duration.
Description	This program is for primary school teachers and aims to assist teachers in developing appropriate knowledge and skills in drug related issues and to assist teachers in updating school curricula within the current national approach of harm minimisation.
Number of participants	Eighty three teachers were inserviced during 1996. Twenty three teachers have been inserviced to this point in 1997.
Grants	A grant of a 1/2 day relief was provided for participants to begin implementing an action plan which is being carried out this year.

Evaluations were carried out after training sessions and were very positive about the direction of drug education and appreciated having time to look at their own school curriculum materials.

Program:	**Alcohol awareness/Anti-binge**
Funding Source:	ACT Department of Health and Community Care in the financial year of 1995-1996: $16,000 in the financial year of 1996-1997: $5,000 **Total $21,000**
Administration	Department of Education and Training.
Workshop duration	The workshop was of one day's duration.
Description	This program is for secondary teachers and provided teachers with up to date skills and knowledge to assist in providing quality drug education in the area of alcohol within the current national approach of harm minimisation.
Number of participants	Eighty five teachers were inserviced during 1996. Twenty two teachers have been inserviced to this point in 1997.

Evaluations were carried out after training sessions and indicated the need for teachers to keep current in drug education practices.

Program: **Life Education**

Funding Source: ACT Department of Education and Training

Free accommodation is provided at old Holder Primary Site.
in the financial year of 1995-1996: $40,000
in the financial year of 1996-1997: $40,000
in the financial year of 1997 -to this time: $20,000
Total $100,000

Administration: ACT Life Education Centre.

Description: Life Education send out a teacher resource kit which is used to follow up the presentation by a trainer from the Life Education Centre, teachers also receive a professional development session. The program is designed to build on students knowledge and skills, body requirements, drug information and skill development. There are 10 separate units ranging from pre-school to year six. Life Education have recently started a Secondary School program aimed at year 7 and 8.

Number of participants: In the last 3 years approximately 5200 pre-school students and 4800 primary school students have visited the Life Education Centre.

An evaluation of Life Education presentations are completed by the classroom teacher at the end of a presentation. The most recent evaluation of the Life Education Programme took place in 1991. This evaluation was conducted by the National Centre for Health Program Evaluation (NHMRC).

6 November 1997

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 451

Voluntary Parent Contributions

MS TUCKER - asked the Minister for Education and Training on notice on 2 September 1997:

In relation to parent voluntary contributions to schools -

(1) Noting that in some schools, the parent voluntary contributions are collected by the P&C and may be accounted for in a different way, can you provide a breakdown, on a term/semester basis, of the income received by all schools from these contributions (not including the money from subject levies).

(2) What is the breakdown, in percentages, of parents who have paid full voluntary contributions.

(3) What is the breakdown of the range of charges for subject levies across the different school sectors, including information on how parental/student inability to pay these levies, particularly in High Schools and Colleges, affects student course choices and options.

MR STEFANIAK - the answer to Ms Tucker's question is:

(1) See Attachments A (contributions to 30 June 1997) and B (contributions for 1996).

(2) Some schools do not have voluntary contributions but have special collections such as library funds using P&C trust accounts. Because of this and the various methods and ways in which schools collect contributions and levies, it is not possible to provide a meaningful figure. However indications are that a large majority of parents, including carers, support their government school in some financial way.

(3) Each school manages its own curriculum and subject needs within the department's guidelines. Government policy is that no child has his or her subject choice limited by the non-payment of subject levies. A breakdown of subject levies for each school was provided to Ms McRae in the answer to Question No. 384 and the same information now has been provided to Ms Tucker.

ATTACHMENT A

VOLUNTARY CONTRIBUTION FIGURES FOR SCHOOLS
1 JANUARY 1997 TO 30 JUNE 1997

SCHOOLS	TOTAL	Details
COLLEGES	**$**	
Canberra - Weston	19850	
Canberra - Woden	27860	
Copland	18085	
Dickson	23902	
Erindale	37925	
Hawker	46813	
Lake Ginninderra	62798	
Lake Tuggeranong	17656	
Narrabundah	40590	
TOTAL COLLEGES	**295478**	
HIGH SCHOOLS		
Alfred Deakin	21765	
Belconnen	22641	
Calwell	11512	
Campbell	82	(a)
Canberra	22514	
Caroline Chisholm	33225	
Ginninderra District	5828	(a)
Kaleen	44785	(a)
Kambah	15728	
Lanyon	1404	(a)
Lyneham	22046	
Melba	33730	
Melrose	40430	
Wanniassa	14479	
Stromlo	44007	
TOTAL HIGH SCHOOLS	**334175**	
PRIMARY		
Ainslie	8109	
Aranda	0	(a)
Arawang	7300	
Bonython	6560	
Calwell	9095	
Campbell	0	(a)
Chapman	6220	
Charles Conder	5005	
Charnwood	2630	
Chisholm	0	(b)
Cook	0	(c)
Curtin	7225	
Duffy	7215	
Evatt	2733	
Fadden	15111	
Farrer	16451	

VOLUNTARY CONTRIBUTION FIGURES FOR SCHOOLS
1 JANUARY 1997 TO 30 JUNE 1997

SCHOOLS	TOTAL	Details
Florey	0	(c)
Flynn	0	(a)
Forrest	19163	
Fraser	0	(a)
Garran	12456	
Gilmore	19455	
Giralang	822	(a)
Gordon	0	(a)
Gowrie	3560	
Hall	4540	
Hawker	10464	
Higgins	7110	
Holt	0	(c)
Hughes+ PIEC	8426	
Isabella Plains	8451	
Jervis Bay	1583	
Kaleen	0	(b)
Latham	0	(c)
Lyneham	7425	
Lyons	1481	
Macgregor	4035	
Macquarie	2766	
Majura	630	(a)+
Maribynong	0	(a)
Mawson	4290	
Melrose	0	(c)
Miles Franklin	975	
Monash	0	(b)
Mt Neighbour	3080	
Mt Rogers	3500	
Narrabundah	388	
Nicholls	0	(b)
Ngunnawal	0	(a)
North Ainslie	0	(a)
Palmerston	0	(b)
Red Hill	20	
Richardson	0	(a)+(b)
Rivett	2795	
Southern Cross	2088	
Taylor	2285	
Thawra	675	
Theodore	1645	
Torrens	12713	
Turner	0	(b)
Urambi	3980	
Uriarra	0	
Village Creek+IEC	5566	
Wanniassa	1800	(a)+
Wanniassa Hills	3365	

VOLUNTARY CONTRIBUTION FIGURES FOR SCHOOLS
1 JANUARY 1997 TO 30 JUNE 1997

SCHOOLS	**TOTAL**	**Details**
Weetangera	11462	
Weston	2473	
Yarralumla	5660	
Total Primary Schools	**274779**	
COMBINED SCHOOLS		
Co-Operative	0	(c)
Telopea Park	48984	
TOTAL COMBINED SCHOOL	**48984**	
EDUCATION CENTRES		
Birrigai Outdoor	0	(d)
Dairy Flat	0	(d)
SIEC	955	
TOTAL EDUCATION CENTRE	**955**	
SPECIAL SCHOOLS		
Cranleigh	1890	
Koomarri	391	
Malkara	1182	
The Woden School	2433	
TOTAL SPECIAL SCHOOLS	**5896**	
TOTAL VOLUNATRY CONTRIBUTIONS	**960266**	

NOTES
(a) Schools that have Library Trust Funds in which majority of parent contributions are paid.

(a)+ School has Library Trust Fund plus some Voluntary Contributions

(b) Schools that used a ‘book package’ or ‘class levies’ instead of contributions.

(c) Schools where monies are collected by P&C’s.

(d) These facilities don’t have any permanent students and Vol. Contributions don’t apply.

ATTACHMENT B

VOLUNTARY CONTRIBUTION FIGURES FOR SCHOOLS
1996 SCHOOL YEAR

SCHOOL	TOTAL	DETAILS
COLLEGES	**$**	
Copland	27488	
Dickson	34724	
Erindale	45236	
Hawker	51378	
Lake Ginninderra	64202	
Lake Tuggeranong	55853	
Narrabundah	74506	
The Canberra College (Woden Canpus)	26192	
The Canberra College (Weston Canpus)	24370	
TOTAL COLLEGES	**403949**	
HIGH SCHOOLS		
Alfred Deakin	28218	
Belconnen	30993	
Calwell	0	(a)
Campbell	0	(a)
Canberra	32270	
Caroline Chisholm	20689	
Ginninderra District	310	(a)+
Kaleen	56294	
Kambah	17158	
Lanyon	3860	(a)+
Lyneham	28719	
Melba	46880	
Melrose	58710	
Stromlo	46869	
Wanniassa	14545	
TOTAL HIGH SCHOOLS	**385515**	
PRIMARY SCHOOLS		
Ainslie	10435	
Aranda	0	(a)
Arawang	6332	
Bonython	8873	
Calwell	13261	
Campbell	6045	
Chapman	12595	
Charles Conder	5377	
Charnwood	0	(b)
Chisholm	0	(b)
Cook	0	(a)
Curtin	12680	
Duffy	0	(a)
Evatt	4786	
Fadden	19158	

VOLUNTARY CONTRIBUTION FIGURES FOR SCHOOLS
1996 SCHOOL YEAR

SCHOOL	TOTAL	DETAILS
Farrer	22445	
Florey	0	(a)
Flynn	12241	
Forrest	20768	
Fraser	5200	
Garren	12565	
Gilmore	17000	
Giralang	1135	(a)+
Gordon	0	(a)
Gowrie	9553	
Hall	4621	
Kawker	10115	
Higgins	10230	
Holt	0	(a)
Hughes	4058	
Isabella Plains	9615	
Jervis Bay	2025	
Kaleen	0	(a)
Latham	4700	
Lyneham	8072	
Lyons	2637	
Macgregor	6825	
Macquarie	3780	
Majura	1080	
Maribyrnong	6318	
Mawson	1622	
Melrose	0	(a)
Miles Franklin	3252	
Monash	14188	
Mt Neighbour	3085	
Mt Rogers Community	4787	
Narrabundah	500	
Nichols	0	(b)
North Ainslie	4725	
Palmerston	0	(a)
Red Hill	0	(a)
Richardson	0	(a)
Rivett	3809	
Southern Cross	2762	
Taylor	2240	
Tharwa	745	
Theodore	6469	
Torrens	224	
Turner	0	(c)
Urambie	11000	
Uriarra	133	
Village Creek	20343	
Wanniassa	5696	
Wanniassa Hills	13144	

VOLUNTARY CONTRIBUTION FIGURES FOR SCHOOLS
1996 SCHOOL YEAR

SCHOOL	TOTAL	DETAILS
Weetangerra	9600	
Weston	1792	
Yarralumla	7559	
TOTAL PRIMARY SCHOOLS	**392200**	
COMBINED SCHOOLS		
Co-operative School	0	
School Without Walls	820	
Telopea Park	30364	
TOTAL COMBINED SCHOOLS	**31184**	
EDUCATION CENTRES		
Dairy Flat	0	(d)
SIEC Braddon	2210	
TOTAL EDUCATION CENTRES	**2210**	
SPECIAL SCHOOLS		
Cranleigh Special	2809	
Koomarri Special	3938	
Malkara Special	1331	
Woden Special	2630	
TOTAL SPECIAL SCHOOLS	**10708**	
TOTAL CONTRIBUTIONS	**1225766**	

NOTES
(a) Schools that have Library Trust Funds in which majority of parent contributions are paid.

(a)+ School has Library Trust Fund plus some Voluntary Contributions

(b) Schools that used a ‘book package’ or ‘class levies’ instead of contributions.

(c) Schools where monies are collected by P&C’s.

(d) These facilities don’t have any permanent students and Vol. Contributions don’t apply.

MINISTER FOR SPORT
LEGISLATIVE ASSEMBLY QUESTION
Question No. 453

Motorsport Council - Government Grants

MS HORODNY - Asked the Minister upon notice on 2 September 1997:

In relation to grants given by the Government to the ACT Motorsport Council:

1. When was the ACT Motorsport Council incorporated under the Associations Incorporation Act 1991.

2. Have all annual returns been submitted to the Registrar-General, as required under that Act, to the Registrar-General's satisfaction and if not, what actions has the Registrar-General taken to address this situation.

3. What Government grants have been given to the ACT Motorsport Council in any particular financial year and

   (a) why were these grants provided;

   (b) what were the amounts of these grants;

   (c) what were their purpose;

   (d) what were the conditions placed on the expenditure of these grants;

   (e) what proportion is this grant of the total grants provided by the Minister to similar sporting organisations in that year; and

   (f) what proportion is this grant of the total expenditure of the Council for that year.

4. Were any of these grants, or a component of these grants, used for the payment of salary or related expenses of (a) the Chairman or (b) other officers of the Motor Sports Council and if so,

   (a) what proportion of such grants were used for salary expenses; and

   (b) on what policy basis were grants provided to the Motor Sports Council for the payment of salaries of its officers.

5. have all grants provided to the Motor Sports Council been properly acquitted.

6. Under what policies of the Government were (a) the activities of the ACT Motorsport Council accorded priority for funding, and (b) what tasks were proposed by the Council to justify increases in funding over time.

7. Is it true that the ACT Motorsport Council auditor was prepared to issue only a qualified statement on the Council's financial affairs for the 1995/96 financial year in its return to the Registrar-General, and if so are you aware of the reasons for this.

8. Can the Minister be confident that Government funds flowing to the ACT Motorsport Council have been properly spent and accounted for.

MR STEFANIAK - The answer to Member's question is as follows:

1. The ACT Motorsport Council Incorporated (the association) was incorporated under the *Associations Incorporation Act 1953* on 5 September 1991. The association, being incorporated, is now incorporated under the *Associations Incorporation Act 1991* (the Act).

2. All annual returns required to be lodged by the association under the Act have been lodged with the Registrar-General's office and, in accordance with the intention of the Act, have been placed on the public record for public scrutiny.

3. Since February 1995 grants from the Sport and Recreation Development Grant Program have been paid to the ACT Motorsport Council Inc.

a) The grants were provided for the development of motor sport in the ACT.

b) 1995 Operational Assistance - $10,000
1996 Operational Assistance - $10,500
1996 Capital and Equipment- $10,000
1997 Operational Assistance - $10,500
1997 Capital and Equipment - $4,000

c) The purpose of the grants were for operational assistance and capital and equipment activities.

d) The Sport and Recreation Development Grant Program Grant Conditions and Guidelines applied to all grants received by the ACT Motorsport Council. Under the ACT Motorsport Council's Triennial Assistance Agreement a special condition of no matching funding applied to the grants for 1996 and 1997 and will also apply for 1998 Operational Assistance.

e) For the grant years 1995, 1996 and 1997 grants to the ACT Motorsport Council represented 0.5%, 1.1% and 0.7% respectively of total grants paid under the Sport and Recreation Development Grant Program.

f) Grants are allocated on a calendar year basis whereas the ACT Motorsport Council's audited statements are on a financial year basis. Based on the audited financial returns since 1994-95 grants paid to the ACT Motorsport Council represent 85% of the council's total expenditure.

4. Under the Operational Assistance category of the Sport and Recreation Development Grant Program a single allocation of funding is available to cover the following operational items: employment/administration, development programs, conduct of championships and travel to championships. The actual proportion of these funds spent on each operational item is determined by the organisation. The proportion spent on each operational item reflects the development needs of the sport.

It should be noted that as grants do not reflect 100% of the council's expenditure it is not possible to relate any expenditure specifically with any grant. However, the ACT Motorsport Council's audited financial statements indicated payment of salary and related expenses to the chairman and other officers.

a) The audited statements indicate that the proportion of total council expenditure for 1994-95,1995-96 and 1996-97 used for salary expenses were 68%, 74% and 34% respectively.

b) Sport and Recreation Development Grant Program Conditions and Guidelines.

5. The ACT Motorsport Council has met all financial acquittal requirements of the Sport and Recreation Development Grant Program. However, under their Triennial Assistance Agreement a report on 1996 Key Result activities is still required.

6. a) The Minister for Sport and Recreation determines annual grants following advice from the Sport and Recreation Council. The council's recommendations reflect their comparative assessment of each application against the assessment criteria of the Sport and Recreation Development Grant Program. These criteria are published in the Grant Conditions and Guidelines document.

b) The major tasks for the ACT Motorsport Council were providing advice and information on identification of a possible future motor sport site in the ACT and motor sport noise issues to relevant government agencies.

7. The annual return lodged by the association for its financial year ending 30 June 1996 included a statement by the auditor of the association's accounts in respect to the certification of the accounts. This statement was to the effect that the association records did not contain sufficient information to enable the auditor to form an opinion as to the accuracy of the data continued in the Statement of Receipts and Payments and the Balance Sheet for the year ended 30 June 1996.

The Act requires an incorporated association to lodge with the office, each year, an audited statement of its accounts and a copy of the auditor's report in relation to those accounts. The Act provides that the auditor may include in his or her report, particulars of any deficiency or shortcoming concerning the information and explanations available in respect to which the accounts and report were prepared.

The Act requires the auditor to report to the Registrar-General, the circumstances of any contravention of the Act apparent from the performance of the auditor's duties in auditing an association's accounts. The auditor's report on the accounts of the association did not include any suggestion of contravention of the Act by the association and the Registrar-General saw no reason for any further action to be taken.

8. 1 am advised by my officers, yes.

MINISTER FOR BUSINESS AND EMPLOYMENT
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 454

Australian Optical Fibre Research Ltd

Mr Corbell asked the Minister for Business and Employment:

In relation to the report requested from Australian Optical Fibre Research (AOFR) by the ACT Government -

(1) AOFR was reported to have laid off some staff and sent equipment to the headquarters of ADC in Minneapolis:

(a) how many staff were made redundant;

(b) how much equipment, in dollar value, was shipped to Minneapolis;

(c) was any money, given to the company by your government, used to purchase the equipment shipped to Minneapolis and

(i) if so, how much of ACT taxpayers' money was used to buy this equipment.

(d) were any of the staff, made redundant at the time, being subsidised in any way with ACT taxpayers' money, in the form Payroll Tax exemptions and, if so, how many staff were made redundant.

(2) Did the BASAT Report find, in any way, that AOFR had broken their contractual agreement with the ACT Government.

(a) If so, in what fashion had they broken this agreement.

(b) Were there any penalties outlined in the contract with regards to a breach of contract, and if so

(i) what were the penalties; and

(ii) have they been applied.

(c) Were these breaches of contract pursued by the government and if so how.

(3) Did the report by BASAT into AOFR regarding the Job lay offs and equipment shift suggest any form of disciplinary action, if so

(a) what forms of disciplinary action were suggested by the report; and

(b) were any of these disciplinary actions taken up by the Government, and if so when.

(4) Are AOFR continuing to receive any form of Government Assistance, if so

(a) exactly what form is this assistance taking;

(b) how much money is being spent by the ACT Government to provide this assistance; and

(c) how much money is being foregone by the ACT Government in the form of rates, land taxes and payroll tax.

Mrs Carnell - the answer to the Member's question is as follows:

Before I answer the Member's question I need to make it perfectly clear that the terms of the agreement are commercial-in-confidence. The confidentiality clause of the agreement prohibits release of specific information without the express permission of AOFR. In relation to sections 1(a) and 1(b) of the question AOFR does not wish to make such information available.

l)a) On advice from the Government Solicitor's Office, I provide the following information without the ACT Government breaching the confidentiality provisions of the Agreement.

In relation to the number of staff lost, only a small (but unspecified) number of employees have been made redundant. Generally employment has been lost as a result of natural attrition due to a downturn in both the Australian and international telecommunications markets. However, since provision of the report, AOFR advise that employment is again increasing back towards previous levels.

b) The dollar value of equipment shipped to Minneapolis is unknown. This is not required to be reported to the ACT Government.

During this same period, however, a significant amount of equipment, in dollar terms, has also been transferred into AOFR. Specific details of equipment transfers have not been formally reported to, nor are they required to be reported to, the ACT Government. AOFR is involved in a highly competitive industry and it would be absolute industrial naivety to release, or be required to report on, such confidential details. AOFR's internal operations are determined by commercial business decisions that they would not wish to inadvertently convey to their competitors.

c) No assistance money was used to buy equipment shipped to Minneapolis. Assistance provided was used specifically for relocation purposes. That is, to relocate from AOFR's old premises to its new facility in Symonston.

c)i) Not applicable.

d) Yes. The payroll tax waiver may have applied to a small number of employees that were made redundant.

2) Under the terms of the Agreement AOFR agreed to establish a modern integrated technology manufacturing facility and that this establishment:

- supplies products to the telecommunication industry;
- conducts research and development; and
- provides a major regional headquarters for the Asia-Pacific region.

Under the terms of the Agreement AOFR also agreed to:

- employ staff at this facility; and
- report the number of full time employees at six monthly intervals.

AOFR has established a modern integrated facility at Symonston that serves as a regional headquarters to the Asia-Pacific region. They manufacture and supply products to the telecommunications industry. They conduct research and development and they employ staff to perform these functions. AOFR regularly report staffing levels to the ACT Government.

AOFR has complied fully with the terms of the Agreement. AOFR has not broken its Agreement with the ACT Government.

a) Not applicable.

b) Yes. If the company is in default then the Government can require the company to pay certain amounts to the ACT Government.

b)i) The amount payable by the company is a percentage of the value of the Financial Assistance Package provided to them. The percentage varies depending on the date that any default may occur.

b)ii) No. There has been no need to resort to the default provisions because the Agreement has not been broken.

c) Not applicable.

3) No.

a) Not applicable.

b) Not applicable.

4 No. AOFR is no longer receiving any assistance. AOFR now pays land tax, rates and payroll tax to the ACT Government as well as providing significant employment and income to the region.

a) Not applicable.

b) Not applicable.

c) Not applicable.

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 455

Drug Use Prevention Programs

MS MCRAE - asked the Minister for Education and Training on notice on 4 September 1997:

For each of the financial years 1995/96, 1996/97 and 1997/98

(1) Can the Minister detail the amount of money spent by the Department of Education and Training on drug use prevention programs either (a) conducted within the regular school lessons or (b) as additional services to schools.

(2) Can the Minister provide any evaluation that has been made of the effectiveness of the programs.

MR STEFANIAK - the answer to Ms McRae's question is:

(1) The Department of Education and Training actively supports the development of appropriate drug education curriculum materials. The department has a drug and alcohol project officer, provides training facilities and financially supports the Life Education program. The Department of Education and Training has funded inservice training for teachers and has provided teaching resources for schools.

(a)

National Initiative in Drug Education	1995/96/97	$41,500
	1997/98	$50,400
Drugs in Sport	1996/97	$10,000
School Development in Health Education	1995/96	$32,000
and Alcohol Awareness Program	1996/97	$29,109

(b)

Life Education Unit has received free	1995/96	$40,000
accommodation plus funding	1996/97	$40,000
	1997/98	$20,000

(2) Teachers are asked to evaluate workshops in which they participate and overwhelmingly they report appreciating being kept informed of recent developments in drug education. The ACT is currently participating in an evaluation of the national initiative in drug education (NIDE) program which has been running since 1995.

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 456

Drug Use Prevention Programs

Ms McRAE - asked the Minister for Education and Training on notice on 4 September 1997:

For each of the financial years 1995/96, 1996/97 and 1997/98

1. Can the Minister provide details of any drug use prevention programs conducted in schools, including:

   a) the curriculum that is followed; and

   b) whether the programs are run by teaching staff or are taught by others to school age students.
2. If the programs are run by others, can the Minister provide a description of the courses.

MR STEFANIAK - the answer to Ms McRae's question is:

(1) (a) All schools in the ACT base their curriculum development on the ACT Curriculum Frameworks and Profiles. Drug education is addressed in Health of Individuals and Populations, Safety and Human Relation strands of the ACT Health and Physical Education Curriculum Framework. School health curriculum are approved by their school boards and are sensitive to their communities needs.

Schools approach drug education topics in varied ways to suit their students' needs.

Secondary colleges organise activities which include days focused on the effects of drugs including illegal drugs.

Schools run drug education programs individually and in clusters. As an example, the Lake Turreranong College/Lanyon High cluster are working closely together to develop a sustainable, sequenced and consistent drug education program from K to Year 12.

On the north side there is a program involving the four colleges, Copland, Dickson, Lake Ginninderra and Hawker directed at developing communication skills between parents and their children.

The department and individuals in schools provide professional development for teachers in the area of drug education. Specialists in this area may be accessed by teachers to update their skills.

Primary school teachers are offered professional development through the School Development in Health Education (SDHE) Project. This program has been running eight years.

Teachers from every high school and college attended courses about drug education in 1996. Professional development sessions were also held in 1997. The focus for these courses was on the prevention of alcohol abuse using the professional development kit, *Rethinking Drinking.*

(1) (b) School programs are run by school staff. There are also agencies that support teachers in the classroom or with school delivery of drug education. Some agencies include Life Education, Family planning, Drug Referral Information Centre (DRIC).

(2) Programs which are run by outside agencies are designed in conjunction with the schools drug education curriculum in consultation with classroom teachers and where appropriate, students.

One such drug education program is being piloted at the Canberra College Woden Campus. This program involves a seven week trial where a representative from Drug Referal Information Centre (DRIC) will spend one half day a week on the campus offering peer education and advice to students.

Other programs involving outside agencies such as that run by the Erindale Police with Year 9 students from Caroline Chisholm High School include an element of drug education.

Life Education ACT (LEACT) offers drug education for students at the primary school level and in Years 7 and 8. Primary school students visit the centre for a classroom session of approximately 90 minutes while the secondary program involves educators from the Centre conducting lessons of 60 - 90 minutes at the participating school. Their programs offer student activities, professional development for teachers at staff meetings, participation in parent meetings and follow up activities for students.

Officers from the Department of Education and Training are involved in programs offered by outside agencies. They provide support and monitor the progress of the programs on a regular basis.

Programs that are run in the school by teachers and outside agencies are in line with the goals of the ACT Drug Strategy 1995-97 which are to:

- minimise the harm relating to drug use;
- reduce the uptake of tobacco and illicit drugs;
- identify and reduce the incidence of drug-related criminal activity and violence;
- increase public knowledge and skills in relation to:
  - all drug use and its effect on individual and the community,
  - safer use of alcohol and other drugs, and
  - availability of resources and services that assist in reduction/ minimisation of harms;
- enhance drug education programs in schools and colleges and for young people who have left education; and
- provide a range of services which are based on good practice, that aim to reduce drug related harm, ensuring accessibility and appropriateness of service delivery to the key population groups identified in the Nation Drug Strategy.

Curriculum officers have contributed to the focus groups concerned with the evaluation of this strategy.

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 457

Schools and Colleges - Numeracy Improvement Programs

MS McRAE - asked the Minister for Education and Training on notice on 4 September 1997:

How much funding has been allocated to numeracy improvement programs in all schools and colleges in the years (a) 1995, (b) 1996 and (c) 1997.

MR STEFANIAK - the answer to Ms McRae's question is:

Whilst recognising that schools have a range of other educational responsibilities, the core business of our schools is to develop our students' literacy and numeracy competence so that they can be productive members of our community. Therefore, the entire education budget should be considered in this context.

In addition the Learning Assistance Program targets students with special learning needs in the areas of literacy and numeracy. Information for all years since 1990 is attached. Also see Question Number 459.

Decisions about the proportion of Learning Assistance resources allocated to numeracy or literacy improvement programs are made at the school level. The department does not hold information on the breakdown between numeracy and literacy.

The following additional funds have been recently allocated to numeracy improvement programs.

. In 1996, $3000 in the form of relief days was provided for teachers to present and participate in professional development focusing on numeracy.

. During 1996 and 1997 an executive officer with responsibility for the area of numeracy/mathematics has provided professional development for schools and individual teachers.

. In its 1996 budget the ACT Government established the Literacy and Numeracy Fund of $1.2m, which is estimated to generate $45,000 in the current financial year and $90,000 per annum thereafter. A Reference Group, comprising representatives of all stakeholders, recommended that in its first year the money be used to fund a pilot literacy project focusing upon Years 3-6. In its second year the project will include a numeracy component, but the precise nature of the numeracy project to be funded has yet to be determined.

Colleges, within their general staffing component have the facility to allocate resources to students with specific numeracy needs.

LITERACY/NUMERACY IMPROVEMENT PROGRAMS

READING RECOVERY, RESOURCE TEACHER & K-10 LEARNING ASSISTANCE PROGRAMS 1990-1997

For 1990:
(a) The total expenditure[1] on the Resource Teacher & Reading Recovery Programs was $2,238,00. (Primary Schools)
(b) The total expenditure on the Learning Assistance Program was $2,366,000. (High Schools)

For 1991:
(a) The total expenditure on the Resource Teacher & Reading Recovery Programs was $2,249,000. (Primary Schools)
(b) The total expenditure on the Learning Assistance Program was $2,333,000. (High Schools)

For 1992:
(a) The total expenditure on the Resource Teacher & Reading Recovery Programs was $2,590,000. (Primary Schools)
(b) The total expenditure on the Learning Assistance Program was $2,294,000. (High Schools)

For 1993:
(a) The total expenditure on the Learning Advancement & Reading Recovery Programs was $2,590,000. (Primary Schools)
(b) The total expenditure on the Learning Assistance Program was $2,279,000. (High Schools)

For 1994:
(a) The total expenditure on the K-10 Learning Assistance & Reading Recovery Programs was $2,429,000. (Primary Schools)
(b) The total expenditure on the K-10 Learning Assistance Program was $2,231,000. (High Schools)

For 1995:
(a) The total expenditure on the K-10 Learning Assistance & Reading Recovery Programs was $2,911,000.[2] (Primary Schools)
(b) The total expenditure on the K-10 Learning Assistance Program was $2,412,000. (High Schools)

For 1996:
(a) The total expenditure on the K-10 Learning Assistance & Reading Recovery Programs was $2,948,000. (Primary Schools)
(b) The total expenditure on the K-10 Learning Assistance Program was $2,355,000. (High Schools)

For 1997:
(a) The total allocation for the K-10 Learning Assistance & Reading Recovery Programs is $2,929,000. (Primary Schools)
(b) The total allocation for the K-10 Learning Assistance Program is $2,353,000. (High Schools)

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[1] *All Learning Assistance dollars are based on current dollar value.*
[2] *$300,000 budget enhancement by the present government.*

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 458

Schools and Colleges - Information Technology Improvements

MS McRAE- asked the Minister for Education and Training on notice on 4 September 1997:

How much funding has been allocated for IT improvements in all schools and colleges in the years (a) 1995, (b) 1996 and (c) 1997.

MR STEFANIAK- the answer to Ms McRae's question is:

Each year $155,000 is allocated for support to the current schools' administration system. A replacement administration system with enhanced functionality has received funding of $1.7m over 1996-1998. Additional resources are being devoted to the project from within existing budget.

Annual grants are provided for schools to undertake exemplar IT projects. Grants of $60,000, $69,000 and $74,000 were made in 1995, 1996 and 1997 respectively. Approximately 10 grants are provided each year.

School district IT teacher networks receive $16,000 each year, most of which is spent on professional development.

Networked internet installation costs of $150,000 were incurred in 1996 and annual support costs of $50,000 are incurred for eight colleges and two new schools using the ACT public sector internet server. Most schools now use Canberra Schools on the Net (CSN) (a dial up service), which was allocated $10,000 in 1997 for installation. Running costs are met by schools.

Two officers provide educational IT support and CSN teachers and students administrative support at an annual cost of approximately $60,000.

Approximately $65,000 is provided annually for CSN help desk and technical support to schools.

Ten IT trainees are providing direct IT support to primary schools with the ACT subsidising $35,000 of salary costs in 1997.

Two IT trainers provide subsidised training. Subsidy is approximately $50,000 per annum after costs of $130,000 are offset by course fees of $80,000.

In addition, the following support is provided to schools:

- approximately 950 PCs have been/are being made available to schools either free (750) or at cost (200). 435 of these were provided in 1996. The remainder have been/are being distributed during 1997;

- approximately 310 contributions have been made to Education Network Australia (EdNA), many by the O'Connell Centre Library. On a per capita basis, this more than equals the contributions by other states. In the order of $50,000 in salary costs supports this endeavour each year;

- a *Plan for IT in Learning and Teaching* was developed in 1995 to provide a framework for school initiatives at a cost of approximately $52,000; and

- trials are being funded at two colleges of software which enables a variety of PCs to perform as pentium PCs.

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 459

Schools and Colleges - Literacy Improvement Programs

MS McRAE - asked the Minister for Education and Training on notice on 4 September 1997:

For each year since self government, how much funding has been allocated to literacy improvement programs in (a) primary schools, (b) high schools and (c) colleges.

MR STEFANIAK - the answer to Ms McRae's question is:

Whilst recognising that schools have a range of other educational responsibilities, the core business of our schools is to develop our students' literacy and numeracy competence so that they can be productive members of our community. Therefore the entire education budget should be considered in this context.

In addition the Reading Recovery, Learning Assistance and ESL Programs target students with special learning needs in the areas of literacy and numeracy. Funding details for 1990-1997 are attached.

In 1997, $10m is allocated specifically to further focus on literacy and numeracy development:

- Approximately $5m targets, through the Learning Assistance Program, students from K-10 with literacy and numeracy learning difficulties. This includes provision for the Reading Recovery program which specifically assists students in their second year of schooling who are seen to be at risk in the area of literacy development.

- The *First Steps* professional development program is being offered to all ACT primary schools and two high schools over the next four years. It is expected that the program will support and enhance the work already being done to improve literacy for all students. In all there are 35 trained tutors across the 68 primary schools and 2 high school tutors. Over the four years, the program will receive over $300,000, with more than $100,000 being spent in 1997, the first year.

- $4.46m targets ESL students in the ACT. This includes a focus, this year, on high school teaching through the LUAC program *(Language for Understanding Across the Curriculum).*

- In its 1996-97 budget the ACT Government established the Literacy and Numeracy Fund of $1.2m, which is estimated to generate $45,000 in the current financial year and $90,000 per annum thereafter. A Reference Group, comprising representatives of all stakeholders, recommended that in its first year the money be used to fund a pilot literacy project

focusing upon Years 3-6 and the interface between home and school literacies. Tenders for the project are currently being considered.

- In the area of improving *Aboriginal literacy* an amount of $35,500 has been provided for a Level 1 teacher/field officer to work in primary schools and $16,000 has been allocated for the professional development of forty (40) teachers over two days during Term 4, 1997.

Colleges, within their general staffing component have the facility to allocate resources to students with specific literacy needs.

LITERACY/NUMERACY IMPROVEMENT PROGRAMS

READING RECOVERY, RESOURCE TEACHER & K-10 LEARNING ASSISTANCE PROGRAMS 1990-1997

For 1990:
(a) The total expenditure[1] on the Resource Teacher & Reading Recovery Programs was $2,238,00. (Primary Schools)
(b) The total expenditure on the Learning Assistance Program was $2,366,000. (High Schools)

For 1991:
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For 1993:
(a) The total expenditure on the Learning Advancement & Reading Recovery Programs was $2,590,000. (Primary Schools)
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(b) The total expenditure on the K-10 Learning Assistance Program was $2,231,000. (High Schools)

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For 1996:
(a) The total expenditure on the K-10 Learning Assistance & Reading Recovery Programs was $2,948,000. (Primary Schools)
(b) The total expenditure on the K-10 Learning Assistance Program was $2,355,000. (High Schools)

For 1997:
(a) The total allocation for the K-10 Learning Assistance & Reading Recovery Programs is $2,929,000. (Primary Schools)
(b) The total allocation for the K-10 Learning Assistance Program is $2,353,000. (High Schools)

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[1] *All Learning Assistance dollars are based on current dollar value.*
[2] *$300,000 budget enhancement by the present government.*

ENGLISH AS A SECOND LANGUAGE
1990-1997

For 1990: (a) the total expenditure on the teaching of ESL was $4,039,848
(b) of this, the Commonwealth contributed $1,327,484
(c) the ACT Government contributed $2,712,364.

For 1991: (a) the total expenditure was $4,190,968
(b) the Commonwealth contributed $1,327,320
(c) the ACT Government contributed $2,863,648.

For 1992: (a) the total expenditure was $4,304,951
(b) the Commonwealth contributed $1,319,251
(c) the ACT Government contributed $2,985,700.

For 1993: (a) the total expenditure was $4,243,394
(b) the Commonwealth contributed $1,210,690
(c) the ACT Government contributed $3,032,704.

For 1994: (a) the total expenditure was $4,347,693
(b) the Commonwealth contributed $1,182,293
(c) the ACT government contributed $3,165,400.

For 1995: (a) the total expenditure was $4,621,859
(b) the Commonwealth contributed $1,309,931
(c) the ACT government contributed $3,311,928.

For 1996: (a) the total expenditure was $4,548,185
(b) the Commonwealth contributed $1,306,901
(c) the ACT government contributed $3,241,284.

For 1997: (a) the total estimated expenditure is $4.466,209
(b) estimated Commonwealth contribution $1,157,200
(c) the ACT government allocation is $3,309,009.

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 460

Schools and Colleges - Funding

MS McRAE - asked the Minister for Education and Training on notice on 4 September 1997:

For the calender year of 1997, can the Minister provide the full details of funding provided by his department, to every (a) primary school, (b) high school and (c) secondary college.

MR STEFANIAK - the answer to Ms McRae's question is:

The administrative and other expenses funding provided by the Department to each primary school, high school and secondary college is detailed in the attached. This does not include centrally managed school expenses such as employee expenses, major repairs & maintenance, capital works and administrative computing.

Question on Notice Number 460 - Payments to Schools 1997 Calender Year

COLLEGES

Copland	398,833.00
Dickson	558,276.00
Erindale	627,360.30
Hawker	550,363.00
Lake Ginninderra	473,884.00
Lake Tuggeranong	562,008.00
Narrabundah	536,850.00
Canberra (Phillip)	586,037.00
Canberra (Stirling)	348,852.00

HIGH SCHOOLS

Alf Deakin	417,066.50
Belconnen	435,658.00
Calwell	390,362.00
Campbell	387,117.00
Canberra	426,056.00
Chisholm	417,060.00
Ginninderra	367,319.50
Kaleen	400,247.00
Kambah	408,003.00
Lanyon	455,142.00
Lyneham	410,392.00
Melba	356,648.00
Melrose	408,258.00
Nicholls	453,050.00
Stromlo	483,710.00
Wanniassa	429,297.00

PRIMARY SCHOOLS

Ainslie	171,644.00
Aranda	147,066.00
Arawang	165,731.00
Bonython	160,273.76
Calwell	162,790.00
Campbell	138,583.00
Chapman	164,854.00
Charles Conder	216,783.00
Charnwood	154,177.00
Chisholm	178,005.70
Cook	122,262.00
Curtin	145,488.00
Duffy	140,287.00
Evatt	153,593.00
Fadden	192,024.00
Farrer	164,736.33
Florey	162,763.00
Flynn	148,035.00
Forrest	177,815.00
Fraser	149,749.00
Garran	164,164.00
Gilmore	196,627.00
Giralang	170,399.00
Gordon	184,945.00
Gowrie	162,845.00
Griffith/Narrabundah	125,370.25
Hall	100,057.00
Hawker	132,807.00
Higgins	133,323.00
Holt	150,552.00
Hughes	192,421.00
Isabella Plains	166,728.00
Kaleen	190,112.00
Latham	143,533.00
Lyneham	176,810.50
Lyons	118,855.20
Macgregor	165,676.70
Macquarie	114,341.00
Majura	160,045.00
Maribyrnong	129,646.50
Mawson	167,196.00
Melrose	123,280.00
Miles Franklin	151,697.00
Monash	192,138.00
Mt Neighbour	146,037.00
Mt Rogers	276,714.00

Ngunnawal	99,317.00
Nicholls	184,159.00
North Ainslie	208,078.32
Palmerston	201,220.00
Red Hill	196,277.50
Richardson	162,568.20
Rivett	123,690.00
Southern Cross	145,193.32
Taylor	170,650.95
Tharwa	50,907.00
Theodore	144,250.00
Torrens	141,569.32
Turner	302,078.70
Urambi	163,962.00
Uriarra	48,738.00
Village Creek	191,264.00
Wanniassa Hills	186,400.00
Wanniassa	201,175.00
Weetangera	153,340.15
Weston	132,604.00
Yarralumla	136,556.00

SPECIAL SCHOOLS

Cranleigh	175,430.00
Woden Special	192,498.86
Koomarri	193,048.00
Malkara	157,110.00

COMBINED SCHOOLS

SWOW	8,292.00
Telopea Park	492,522.00
Co-Op School	47,214.00
Jervis Bay	88,426.00
Dairy Flat Ed Centre	35,680.00

MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION ON NOTICE 463

Motor Vehicle Testing

Mr Whitecross - asked the Minister for Urban Services

In relation to vehicle testing for each calendar month between 1 January 1996 and 31 August 1997:

(1) How many car park inspections were carried out.

(2) How many inspectors were in each team.

(3) How many vehicles were inspected.

(4) How many vehicles were issued with defect notices.

(5) What were the defects issued eg (for bald tyres, cracked windscreen).

(6) How many vehicles failed to present their vehicle to the Dickson Testing Station after being issued with defect notices as a result of a carpark inspection.

(7) For those vehicles which were presented to the Dickson Testing Station subsequent to a defect notice being issued as a result of a carpark inspection:

    (a) were there any other defects identified other than those for which the original defect notice was issued; if so

    (b) what was the nature of the additional defects.

Mr Kaine - the answer to the member's question is as follows:-

(1) 2, 0, 0, 0, 4, 1, 9, 4, 4, 8, 3, 3, 0, 2, 3, 2, 1, 1, 0, 10.

(2) Two, except on three occasions where, four, three and one inspector were employed respectively.

(3) 680, 0, 0, 0, 1874, 30, 2319, 960, 742, 1149, 365, 496, 0, 301, 586, 301, 300, 520, 0, 1290.

(4) 76, 0, 0, 0, 166, 1, 270, 89, 71, 140, 57, 34, 0, 22, 32, 22, 19, 22, 0, 167.

(5) Defect notices were issued for worn tyres, exhaust leaks or excessive noise, unapproved modifications, cracked and broken windscreens, inoperative lights, incorrectly fitted child restraint devices, dangerous projections, unrepaired accident damage and missing windscreen wipers.

(6) Collation of a response from a variety of manual and computer and control records would take approximately 100 person hours, at a total cost of $2000.00.

(7)
(a) & (b) In view of this needless expense, I am not prepared to authorise such a costly time consuming and labour intensive exercise.

ATTORNEY-GENERAL
LEGISLATIVE ASSEMBLY QUESTION NO. 473

Crime and Sentencing Statistics

Mr Wood - Asked the Attorney-General:

(1) In relation to sentences handed down in the Territory by
  (a) magistrates and
  (b) the supreme court for crimes against the person of
    (i) armed robbery;
    (ii) assault;
    (iii) assault causing bodily harm
    (iv) burglary; and
    (v) rape; what is
      (A) the average sentence given;
      (B) the longest sentence given; and
      (C) the average percentage chance in the ACT for re-offence.

(2) What ten crimes against the person have suffered the highest level of
  (a) growth and
  (b) reduction in occurrences in the period between January 1993 and July 1997
    and for each of these categories
    (i) what has been the
      (A) average and
      (B) longest sentence
      for these crimes, in years handed down as punishment by presiding members of the ACT Supreme Court and;
    (ii) what is the average percentage chance in the ACT for re-offence in these crimes by convicted perpetrators.

Mr Humphries - My answer to Mr Wood's question is as follows:

(1) In sentencing a person for an offence the judicial officer concerned is required to have regard to a wide variety of matters which are set out in Part XII of the Crimes Act 1900. These include, the nature and circumstances of the offence, prior criminal record, any injury, loss or damage resulting from the offence, the deterrent effect of the sentence, the prospects of rehabilitation etc.

In the statistics below, the longest and average sentence has, in respect of each category specified, been determined from the head sentence for the offence without taking into account the non-parole period. Periods of suspended sentence, periodic detention, community service orders or release

on recognizance have not been taken into account. For the reasons outlined above, however, the "average sentence" is a meaningless statistic.

Further, the offences identified in the question are very specific and do not include closely related offences. It has been assumed in providing answers that closely related offences should be included. Where this has occurred, specific reference to those other offences is made.

OFFENCE	SUPREME COURT	MAGISTRATES COURT
Armed robbery		(1)
- average sentence	3.37 years	
- longest sentence	7 years	
Assault	(2)	
- average sentence		3.8 months
- longest sentence		8 months
Assault causing bodily harm	(3)	
- average sentence	2 years	N/A (4)
- longest sentence	5 years	2 years
Burglary	(5)	
- average sentence	4.42 years	N/A (4)
- longest sentence	20 years	2 years
Rape	(6)	(1)
- average sentence	3.5 years	
- longest sentence	10 years	

(1) Committed to Supreme Court for either sentence or trial.
(2) This offence is usually tried in the Magistrates Court and will generally only be dealt with in the Supreme Court when tried in conjunction with an indictable offence.
(3) Also includes the offence of occasioning grievous bodily harm.
(4) Too difficult to calculate as there are multiple non-parole periods and minimum terms.
(5) Includes aggravated burglary.
(6) There is no longer an offence known as rape in the ACT. The offence has been replaced with an offence of sexual intercourse without consent (s92D Crimes Act 1900). The offence of sexual intercourse with a young person (s92E Crimes Act 1900) has also been included in this category.

(1C) Information on the average chance of re-offence is not available..

(2i) Since self-government, the ACT has lacked of a reliable series of crime statistics for the ACT. The ACT Government has now commenced the development of a quarterly series of crimes statistics based on crimes reported to the AFP and court statistics. Data for the first twelve months (1 July 1996 -30 June 1997) was tabled by me in the Legislative Assembly on 25 September 1997.

(2ii) Information on the average chance of re-offence is not available.

APPENDIX 1: Incorporated in Hansard on 4 November 1997 at page 3551

TABLING STATEMENT

GOVERNMENT RESPONSE TO THE ACT COMMUNITY LAW REFORM COMMITTEE REPORT No. 11

DOMESTIC VIOLENCE

CIRCULATED BY THE AUTHORITY OF

GARY HUMPHRIES MLA
ATTORNEY-GENERAL

GOVERNMENT RESPONSE TO THE ACT COMMUNITY LAW REFORM COMMITTEE REPORT NO. 11 ON DOMESTIC VIOLENCE

Mr Speaker

I am pleased to respond to the findings and recommendations of the Community Law Reform Committee contained in Report No. 11 on Domestic Violence. The report arose from a formal reference given to the Committee in September 1991. The Government Response to the Committee's first report, Report No. 9 was tabled in the Legislative Assembly on 23 August 1996. It was aimed at strengthening the criminal justice system response to domestic violence and providing a coordinated inter-agency response to this significant social problem. I am pleased to say that my Department has now progressed all the major reform initiatives and legislative proposals which arose from that Report. Report No. 11 was tabled in the Legislative Assembly on the 26 September 1996. It is the Committee's second report and it encompasses the first review of civil issues relating to domestic violence in the ACT since the Australian Law Reform Commission's Report in 1986.

You would also be aware, Mr Speaker, that since the release of the Report No. 11 on Domestic Violence, a Private Members Bill was introduced into the Legislative Assembly by Ms Tucker which sought to implement a number of the Report's recommendations. The Government supported the passage of the Domestic Violence (Amendment) Bill (No. 3) 1997 through the Legislative Assembly. However, it recognised at the time that the Government Response would necessitate a further revision of some of the amendments that were passed. This revision proposed in the Government Response is, incidentally, also in keeping with the Committee's recommendations.

Two of the major components of the Committee's recommendations are aimed, firstly, at providing greater consistency between the provisions relating to restraining orders and those for protection orders and, secondly, at extending the protective nature of the *Domestic Violence Act* 1986, particularly in situations where there is an ongoing risk to victims.

To this end, the Government accepts amending the existing legislation to replace all the grounds for obtaining an order with one simple ground, that is, that the respondent engaged in conduct, in respect of the aggrieved person, which constituted a domestic violence offence.

A definition of domestic violence will be inserted in the legislation to ensure that the range of conduct covered by the legislation is clear. This will enable an applicant to rely on a broader range of conduct that may not constitute a specific offence, such as, threatening conduct not otherwise included in the definition of 'domestic violence offence'. The amendment will serve to enhance the integrity of the Act by extending the protection of the Act more broadly to cover conduct which is not overt or physical.

The integrity of the Act will also be enhanced by making the protection afforded by the Act more accessible for people who are unlikely to obtain protection without special assistance. The Community Advocate will be able to apply for an order on behalf of those who are unable to represent themselves on the proviso that the consent of the person on whose behalf an application is sought is obtained, in so far as it is able to be obtained. The amendments will also seek to clarify the notification procedure relating to the care and protection of children.

Another major component of the Committee's recommendations is aimed at improving the efficiency of Court procedure and practice relating to consent orders and variations or revocation orders made by a Magistrate.

A significant recommendation made by the Committee is for the Court to be entitled to make an interim variation or an interim protection order, in particular circumstances, where a respondent has not been served with an application. On this issue, the Government has been mindful of the need to ensure an appropriate balance in the processes for both applicants and respondents. The Government accepts the recommendation subject to provision being made for a respondent to make an urgent application on the grounds that the interim variation may be oppressive.

Provision will also be made to enable the Court to order costs against a party where the conduct of the party has been frivolous, vexatious or has not been made in good faith. I believe, Mr Speaker, that the inclusion of this provision may go some way towards reassuring those who see the legislation as enabling an abuse of the process.

In principle support has also been given to the Committee's recommendations aimed at enhancing the clarity and the application of the law. Recommendations aimed at achieving this include: clarifying the scope of restrictions on publication or printing of proceedings; clarifying the application of existing evidentiary procedure; and giving effect to a revision of the Act using plain English and plain legal drafting.

A point of departure has been on the proposal that the Act should contain provisions relating to procedural matters so as to make the Domestic

Violence Act a complete code. The Government does not support that proposed legislative approach. There are risks involved in duplicating provisions from one piece of legislation to another in that any subsequent amendments to the Act, the provisions of which are being duplicated, may not be picked up in the Act where they are reproduced. This may result in legislation being developed inconsistently. It is my view that the Committee's objective in having a single point of reference may be achieved by simply inserting a notation into the Act which refers to the procedural provisions in the Magistrates Court (Civil Jurisdiction) Act, which apply to proceedings under the Domestic Violence Act.

Further, the Government is unable to accept the Committee's proposal for a purposes and principles clause to be inserted in the Act. The Government does not accept that the inclusion of such a clause will necessarily enhance the clarity of the law in this area. Unless carefully drafted, such clauses may, in fact, give rise to internal inconsistencies in the legislation. It is also worth noting, Mr Speaker, that purpose and principle clauses are not a feature of most ACT legislation, and it is my view that, in relation to the Domestic Violence Act, in particular the purposes are reflected in the substantive provisions of the legislation.

I wish to comment now on the proposed extension of the Coroner's jurisdiction to specifically inquire into systemic issues arising from 'domestic homicide'. Mr Speaker, as you are aware, the Coroners Bill 1997 was introduced in the Legislative Assembly in June of this year. Capacity does exist, pursuant to the provisions of that Bill, to give effect to the substance of a number of the recommendations of the Committee. Nonetheless, it is the Government's view that the specific provisions proposed by the recommendations should not be implemented.

A matter of concern is that it is not entirely clear what is intended by recommending that the Coroner's jurisdiction be extended into 'systemic issues surrounding a domestic homicide'. The Coroner currently has an inherent jurisdiction to investigate in the course of an inquest, and report on, the broader issues surrounding a particular death. The proposal would thus appear to be intended to provide some form of additional jurisdiction to the Coroner to investigate "systemic issues" in relation to domestic homicides, beyond the jurisdiction the Coroner has to investigate issues in relation to other types of deaths. It is not clear what the boundaries, if any, of this jurisdiction are intended to be, nor why domestic homicides should be singled out for different treatment to that applicable to other deaths including, for instance, deaths in custody.

It is also relevant that, almost without exception, domestic homicides are the subject of criminal proceedings and an inquest cannot proceed before any charges have been dealt with by a Court. This raises a real question of timing and relevance. There would seem to be a potential implication, by giving the Coroner some additional, although ill defined, jurisdiction in relation to domestic homicides, for the holding of an inquest into all such deaths to be mandatory, notwithstanding that such homicides may have already be dealt with exhaustively in criminal proceedings. This raises the spectre of prolonging or exacerbating the trauma of the victim's family for questionable benefit.

Furthermore, if the purpose of the recommendations is to identify and isolate systemic issues or patterns in domestic homicides this is better achieved by appropriate research which analyses, for example, any systemic shortcomings revealed during criminal trials, comparative statistics and other matters which may be beyond the resources of a

coroner to investigate in depth. It is important to note that the States, Territories and Commonwealth are committing increased resources, through the National Campaign Against Violence And Crime (NCAVAC) and other domestic violence initiatives, to conduct research into domestic violence prevention. Systemic deficiencies are more likely to be identified by systematic, methodical and targeted research efforts than by seeking to have the Coroner take on an investigative role beyond looking at the particular facts of the case before him or her.

The Government proposes to make two additional amendments to domestic violence legislation beyond those recommended by the Committee. The first will enable the registration of New Zealand protection orders. It is important that Australian jurisdictions enable the registration of such orders given the extent of movement of individuals across the Tasman. The second amendment, which is proposed to be made to section 9 of the Act, will broaden the scope of the restrictions and prohibitions that may be made by the Court. The Court will be able to make such orders as it thinks appropriate in the circumstances rather than being restricted to the finite list of prohibitions presently possible under section 9 of the Act. These amendments will not only make improvements to ACT legislation but also ensure that this Territory remains in the vanguard with respect to domestic violence reform initiatives.

Mr Speaker, I believe that the implementation of the measures proposed by the Government, together with the initiatives which have already been implemented (and in particular, I refer to the effect of protective orders on firearm licences and the extension of the search and seizure power), will do much to improve the practice and procedures to protect victims of domestic violence in the ACT. The Reports of the Committee have done

much to emphasize the need for reform in both criminal justice and civil issues. I believe that the Government has been responsive to that need and met the challenge put to it by the Committee and the wider ACT community.

Mr Speaker, I congratulate the Community Law Reform Committee on both its Reports and commend the Government's Response to Report No. 11 to the Assembly.

APPENDIX 2: Incorporated in Hansard on 5 November 1997 at page 3648

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION TAKEN ON NOTICE 25 SEPTEMBER 1997

Literacy Assessment

MR MOORE - asked the Minister for Education and Training:

On 8 May 1997 you stated, in answer to my Question on Notice No. 411, that the data I requested on the results of the Learning Assistance Assessments in Government primary and high schools for 1995 and 1996 would be made available once the results of the new ACT Literacy Assessment Program were made available. These latter results were published a month ago. I now ask you to fulfil your commitment to release the Learning Assistance Assessment and provide answers to parts (2), (3), and (4) of my Question on Notice 411 following.

(2) What was the total number of students at each Year level (1-9) identified by the assessments as requiring learning assistance in (a) literacy; and (b) numeracy.

(3) What was the lowest and highest level of identified need for any school in each Year level in literacy and in numeracy as percentages of the total number of students in each Year level.

(4) For each Year level, what was the number of primary and high schools with identified needs within the following ranges for literacy and for numeracy less than 10%, 10-19%, 20-29%, 30-39% and 40% or over.

MR STEFANIAK - the answer to Mr Moore's question is:

(2) Students were assessed in Years 1, 2, 4, 6 & 8, by class and Learning Assistance teachers, and the results were forwarded to the central office of the Department. The number of students at each of these year levels identified by the assessment as requiring learning assistance in (a) *literacy;* and (b) *numeracy* are as follows.

Year Level	**Literacy**		**Numeracy**	
	1995	1996	1995	1996
Year 1	1017	1077	N/A	
Year 2	1105	1116	626	476
Year 4	803	699	681	502
Year 6	583	658	564	539
Year 8	768	798	633	633

(3) For 1995 - These numbers represent a total of 28.6% (literacy) and 21.4% (numeracy) of students (in the assessment years) across the system.

For 1996 - These numbers represent a total of 27.8% (literacy) and 17.5% (numeracy) of students (in the assessment years) across the system.

These results were derived from non-standardised assessment procedures, unlike the ACT Assessment Program, and with a bias towards the higher end. This bias is partly attributed to the fact that the greater the number of students schools identify, the greater the resources they receive. That is, schools are resourced up to the number of students they identify subject to a cap of 20% of students being resourced system-wide.

(4) The release of this data, as with the ACT Assessment Program data, would have the capacity to identify individual schools and cause unwarranted speculation amongst the teacher and parent community about the apparent performances of particular schools.

Because of this I believe it would not be appropriate to release the requested data. This is the position the government has taken on the ACT Assessment Program data.

It needs to be understood that there are only 68 primary schools and 17 high schools in the ACT Government school system and the release of any data which identifies groups of schools by literacy and numeracy achievement has the real potential to identify individual schools.

APPENDIX 3: Incorporated in Hansard on 5 November 1997 at page 3649

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APPENDIX 4: Incorporated in Hansard on 6 November 1997 at page 3682

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Health Professions Board (Procedures) (Amendment) Bill 1997

PRESENTATION SPEECH

Presented by authority of
Kate Carnell MLA
Minister for Health and Community Care

Mister Speaker

This Bill aims to amend the *Health Professions Boards (Procedures) Act 1981* through the removal of provisions which discriminate against persons based on their age.

At present, this Act prevents people who have attained the age of 65 years from serving as a member of a health profession board.

The Act covers procedures for:

- the Chiropractors and Osteopaths Board
- the Dental Board
- the Medical Board
- the Nurses Board
- the Optometrists Board
- the Pharmacy Board
- the Physiotherapists Board
- the Podiatrists Board
- the Psychologists Board and
- the Veterinary Surgeons Board.

Subsection 8(2) of the Act places an age limit on nominations for membership to these Boards to persons who have reached the age of 65 years or who will attain this age during their term of office.

This is inconsistent with the Discrimination Act and Government policy.

In addition, discrimination based solely on the age of a nominee does not make sense.

The Government accepts that many persons aged over 65 years have the capacity, knowledge, experience, and time to devote towards the workings of health profession boards.

The Health Professions Boards (Procedures) Bill 1997 proposes that Subsection 8(2) of the Act be omitted from the Act. This will remove the age requirement for nominees.

APPENDIX 5: Incorporated in Hansard on 6 November 1997 at page 3683

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Health Professions Board (Elections) (Amendment) Bill 1997

PRESENTATION SPEECH

Presented by authority of
Kate Carnell MLA
Minister for Health and Community Care

Mister Speaker

This Bill aims to amend the *Health Professions Boards (Elections) Act 1980* through the removal of provisions which discriminate against persons based on their age.

At present, this Act prevents people who have attained the age of 65 years from standing for election to a health profession board.

The Act covers the election of members for:

- the Chiropractors and Osteopaths Board
- the Dental Board
- the Medical Board
- the Nurses Board
- the Optometrists Board
- the Pharmacy Board
- the Physiotherapists Board
- the Podiatrists Board and
- the Veterinary Surgeons Board.

Subsection 8(4) of the Act restricts persons who have attained the age of 65 years, by the date of the close of the poll, from nominating for election to serve as a member of these boards.

This is inconsistent with the Discrimination Act and Government policy.

In addition, discrimination based solely on the age of a nominee does not make sense.

The Government accepts that many persons aged over 65 years have the capacity, knowledge, experience, time and support within their respective professions to stand for election to the various health profession boards.

The Health Professions Boards (Elections) Bill 1997 proposes that Subsection 8(4) of the Act be omitted from the Act. This will remove the age requirement for candidates to elections.

APPENDIX 6: Incorporated in Hansard on 6 November 1997 at page 3683

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Dental Technicians and Dental Prosthetists Registration (Amendment) Bill 1997

PRESENTATION SPEECH

Presented by authority of
Kate Carnell MLA
Minister for Health and Community Care

Mister Speaker

This Bill aims to amend the *Dental Technicians and Dental Prosthetists Registration Act 1988* through the removal of provisions which discriminate against persons based on their age.

The Act provides for the registration of persons engaged in the performance of dental work or the provision of dental prosthetic services and related purposes.

The Act is a stand alone piece of health professions legislation, as opposed to the Health Professions Boards Procedures and Elections Acts.

Subsection 7(2) of the Act limits a person from seeking appointment to the Board if that person has attained the age of 65 years, or if they are likely to attain that age during the period of their appointment.

This is inconsistent with the Discrimination Act and Government policy.

In addition, discrimination based solely on the age of a nominee does not make sense.

The Government accepts that persons aged over 65 years may have the capacity, knowledge, experience and time to serve as a member of the Dental Technicians and Dental Prosthetists Registration Board.

The Dental Technicians and Dental Prosthetists Registration (Amendment) Bill 1997 proposes that Subsection 7(2) of the Act be omitted from the Act. This will remove the age requirement for Board nominees.

APPENDIX 7: Incorporated in Hansard on 6 November 1997 at page 3684

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Poisons and Drugs (Amendment) Bill 1997

PRESENTATION SPEECH

Circulated by

Authority of

Kate Carnell MLA
Minister for Health &
Community Care

This Bill amends the *Poisons and Drugs Act 1978.*

The Act adopts by reference schedules 1 to 8 of poisons and drugs from the Standard for the Uniform Scheduling of Drugs and Poisons. The Act also sets out labelling and packaging requirements for all scheduled substances.

The Standard for the Uniform Scheduling of Drugs and Poisons is prepared and published under the auspices of the Australian Health Ministers' Advisory Council. The Standard lists drugs and poisons in schedules according to their use, potential for abuse, safety in use and the need for the substance.

In 1994 AHMAC endorsed the agreement reached between the National Drugs and Poisons Schedule Committee, a committee of AHMAC, and industry about changes to labelling of scheduled drugs and poisons to effect harmonisation with New Zealand.

The latest Standard incorporates the new harmonised labelling requirements as well as the current requirements.
So it is timely to amend the Act to enable adoption by reference of those parts of the Standard that refer to labelling and packaging of drugs and poisons.

This will ensure that the ACT fulfils its commitment to the harmonisation of labelling and packaging requirements for drugs and poisons throughout Australia and New Zealand.

All states have made a commitment to the new harmonised labelling requirements, and all states have amended or are amending their legislation to incorporate these changes.

The Bill also amends the Act to reflect the updated clause numbering system used in the Standard with regard to scheduled substances. This is because the current numbering system is different to that used in 1993 when the schedules of drugs and poisons in the Standard were adopted by reference.

APPENDIX 8: Incorporated in Hansard on 6 November 1997 at page 3684

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Drugs of Dependence (Amendment) Bill (No.2) 1997

PRESENTATION SPEECH

Circulated by Authority of
Kate Carnell MLA
Minister for Health and Community Care

The Bill proposes the removal from the *Drugs of Dependence Act 1989* of the requirement that the person carrying out the functions of the Government Analyst be an analyst under the Act.

The functions of the Government Analyst under the provisions of Division 4 of the Act - "Disposal of seized substances, compensation and recovery", relate specifically to the destruction of excess quantities of drugs of dependence.

This is carried out either on the order of a Magistrate or the Government Analyst.

In the event that a large quantity of Cannabis were to be seized in the Territory during a period when there was no Government Analyst available then the whole plantation would have to be stored by the Government Analytical Laboratory pending successful application to a magistrate for the destruction of the excess quantity.

This could pose serious security, transportation, storage and occupational health and safety risks.

Administrative arrangements under the Act provide for the occupant of, or the person for the time being acting in, the position of Director of the Government Analytical Laboratory to perform the functions of the Government Analyst.

However the Act stipulates that to carry out these functions the person must first be an analyst under Section 183 of the Act.

This causes an administrative problem when the Director is absent as not all senior officers suitable to act as the Director are, or are qualified to be, analysts under Section 183.

The functions of the Government Analyst under Division 4 of the Act are, however, solely administrative and are dependant on the provision to the Government Analyst of a certificate of analysis by an appointed analyst.

It is therefore not necessary that the Government Analyst also be an analyst.

The Bill proposes the removal of the requirement under Section 183 of the Act that the Government Analyst be an analyst as defined under the Act.

APPENDIX 9: Incorporated in Hansard on 6 November 1997 at page 3685

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

Mental Health (Treatment and Care) (Amendment) Bill 1997

PRESENTATION SPEECH

Circulated by Authority of:

Kate Carnell, MLA
Minister for Health and Community Care

Mr Speaker, this Bill introduces amendments which will allow the ACT to make agreements with other States and Territories for the transfer, detention and treatment of mental health patients.

The impetus for the amendments comes partly from the community consultation earlier this year on the *Mental Health (Treatment and Care) Act 1994.*

In addition, the NSW Mental Health Legislation Amendment Act 1997 has recently come into force. It allows transfer of patients across borders, recognition of interstate orders, and apprehension and return of patients who are absent without leave.

The proposed amendments "mirror" the NSW legislation, and will empower me to enter into a cross-border agreement on these matters with the NSW Minister for Health.

The NSW Minister has already written to me requesting that negotiations commence on a cross border agreement, as soon as our legislative framework allows.

Access to NSW facilities will assist us in addressing the need for secure care for some people with mental illness requiring treatment.

Currently, any ACT mental health order for involuntary detention, treatment and care is not enforceable in NSW (or any other State).

The only way in which a mentally ill person can be transferred to a NSW psychiatric facility and remain subject to the jurisdiction of the ACT Mental Health Tribunal is if that person is transferred as a prisoner.

The amendments will ensure that there is the potential to transfer any mentally ill patient who requires the services of a NSW facility, regardless of whether they are referred through the criminal justice system or the health system.

In particular the amendments will:

- enable emergency admission of ACT persons to health facilities in other States or Territories;
- enable transfer of custodial patients from the ACT to health facilities in other States or Territories;
- enable emergency admission of interstate persons to health facilities in the ACT;
- enable transfer of interstate custodial patients to health facilities in this Territory;
- enable non-custodial orders made in the ACT to be made in relation to persons in other States or Territories; and
- enable treatment in the ACT of persons subject to interstate orders, like our mental health orders.

In addition, authorities in the ACT will be able to detain persons who are the subject of warrants, orders or other documents for apprehension issued under the mental health laws of another State or Territory.

This would apply, for example, if a person is absent from an interstate health facility without leave, or breaches the interstate equivalent of a mental health order.

These amendments are a concrete outcome of the legislative reform process, which I announced in the Government's Mental Health Strategy - entitled Moving Ahead - in November 1996.

Given the urgency of these proposals, the Government is keen for the Assembly to consider the Bill before the end of the year. Officers from the Department of Health will contact Members to provide briefings on the details of the Bill if required.

Further reforms to the Mental Health Act arising from the consultations are under consideration, and will be brought forward in due course.

Mr Speaker, I commend the Bill to the house.