DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

13 November 1997

Thursday, 13 November 1997

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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.

PETITION

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

By **Mr Hird,** from 56 residents, requesting that the Assembly provide additional safe car parking close to the Weetangera Preschool premises.

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

Weetangera Preschool - Car Parking

The petition read as follows:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Parliament: that the undersigned parents and citizens affiliated with the Weetangera Preschool are concerned about the lack of safe parking facilities available for parents and their young children while attending the preschool.
>
> Your petitioners therefore request the Parliament to provide additional, safe car parking close to the Weetangera Preschool premises.

Petition received.

LEGISLATIVE ASSEMBLY (PRIVILEGES) BILL 1997

MRS CARNELL (Chief Minister) (10.34): I present the Legislative Assembly (Privileges) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MRS CARNELL: I move:

> That this Bill be agreed to in principle.

Mr Speaker, I ask for leave of the Assembly to incorporate my presentation speech in *Hansard*.

Leave not granted.

MRS CARNELL: Mr Speaker, the reason I asked for it to be incorporated in *Hansard* is that this is a Bill that has been through the Administration and Procedure Committee. It has been seen by lots of people. I understood that that would be all right. But that is fine; it is not a problem.

Mr Whitecross: Not if you do not ask in advance.

MRS CARNELL: We did, this morning.

Mr Whitecross: At 10.29 am. That is not in advance.

MRS CARNELL: It does not make any difference to us. It is not a problem.

Mr Whitecross: Just read it and stop making excuses.

MR SPEAKER: Would you stop interrupting, Mr Whitecross.

MRS CARNELL: Mr Speaker, this Bill deals with the non-legislative powers, privileges and immunities for the ACT Legislative Assembly. The Bill was triggered by the concern of members about the need to define the Assembly precincts. The Assembly referred this issue to the Standing Committee on Administration and Procedure in 1996. This followed disturbances earlier in the year and the resulting concern about the application of standing order 207 to disruptions in the gallery. The committee recommended legislation defining the precincts. The Government agreed. This would clarify the role of the Speaker in managing the precincts. It would also ensure legal protection for staff acting under direction of the Speaker to clear the gallery or the building. The Government has also considered wider privileges legislation. I know that members have been interested in this particular issue for some time. This Bill will provide a sound base to the Assembly's discussion of this question.

"Parliamentary privilege" is a term that describes the powers, privileges and immunities of a parliament. These privileges ensure the proper operation of the parliament. In some ways parliamentary privilege places the parliament above the general law. But we should not forget that the focus is the public interest. It is in the public interest that Assembly members should be able to speak their minds. It is also in the public interest that Assembly proceedings should be free of outside interference or obstruction.

Mr Speaker, this is not intended as stand-alone legislation. This Bill sits within a wider framework of law dealing with parliamentary privilege. Section 24 of the Australian Capital Territory (Self-Government) Act applies the privileges of the House of Representatives to this Assembly. We also have our own ACT laws, such as the broadcasting legislation passed earlier this year. The Bill acknowledges the wider context. It clearly states this law still applies, unless the Bill provides otherwise. The self-government Act limits the power of the Assembly to punish a person for contempt of the parliament. It provides that, unlike other parliaments, the Assembly cannot fine or imprison a person. The courts are the appropriate place for that kind of action. Therefore, the Bill provides that certain contempts can be punished by a court as an additional enforcement mechanism. The Assembly will retain its current power to punish contempts.

The laws that ensure absolute privilege of parliamentary proceedings will still apply. They will be subject to two necessary exceptions. One is, of course, that courts may need to refer to documents such as the *Hansard* to interpret ACT laws. The second exception relates to the fact that courts will administer the offences created by the Bill. The offences are structured to reduce the need for detailed examination of proceedings. The use of certificate evidence will reduce the need for a court to examine Assembly proceedings to decide whether an offence was committed. This strikes a balance between the importance of the immunity of the parliament and the need for courts to administer the statutory offences.

The Bill clarifies an area of doubt in the existing law by ensuring that staff are not subject to legal action because they have published authorised documents. This would include *Hansard*s and other reports and papers. Other immunities are stated in Part II of the Bill. Members and some staff cannot be arrested or required to attend court during sitting times and shortly before and after sittings. Exemption from jury duty is covered in the Juries (Amendment) Bill 1997, passed by the Assembly last week.

Part III of the Bill deals with the Assembly precinct. This area includes the Assembly building, the canopies and the members car park. A statutory offence may apply where a person does not comply with a direction to leave the precinct. It is likely that this would be rarely used. A defence of reasonable excuse ensures that the offence is not imposed harshly. For example, a person may not hear a direction or may be unable to comply. The Bill identifies an area within the precinct which is occupied by the Executive. The power of the Speaker to manage the area will be subject to any agreement between the Chief Minister and the Speaker.

The Bill creates other statutory offences. One offence relates to the publication of confidential documents or evidence. Other offences relate to giving evidence before the Assembly or committees of the Assembly. The maximum penalty for all the offences is $5,000 or six months' imprisonment or both. The offences relating to giving evidence and false evidence apply only where a person has been summonsed. The current practice, where committees do not generally issue a formal summons, does not necessarily have to change. However, committees may consider using a summons if the nature of the inquiry justifies more formal measures. Mr Speaker, the involvement of the public in Assembly committees should not become overly formal. These powers are intended to provide the tools to make appropriate procedural decisions. The Assembly may want to consider developing more detailed procedures dealing with the rights of witnesses. The procedures developed by the Senate, for example, may provide a suitable model.

Three of the offences potentially apply to members. They are breaching publication prohibitions; unauthorised disclosure of in-camera evidence; and improperly influencing witnesses. The conduct of members will generally continue to be dealt with by the Assembly through the standing orders. It may be necessary to make some changes to the standing orders. The Bill provides for a delayed commencement and consultation with the Speaker prior to commencement. There will be sufficient time to look at the standing orders and ensure that they are consistent with the Bill.

Mr Speaker, I commend the Bill to members. The Government meets a commitment in introducing this legislation. The Bill provides a focus for wider discussion on the privileges of this parliament. This affects all members in an immediate way. It also sets a clearer framework for the future operation of this parliament. I am sure all members will have their own views to contribute to debate on this Bill, and I thank all of those members who have already had some input.

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

HEALTH RECORDS (PRIVACY AND ACCESS) BILL 1997

MRS CARNELL (Chief Minister and Minister for Health and Community Care) (10.43): I present the Health Records (Privacy and Access) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MRS CARNELL: I move:

> That this Bill be agreed to in principle.

Mr Speaker, I have pleasure today in presenting the Health Records (Access and Privacy) Bill 1997, which is the first legislation of its kind in Australia. The Government considers that the protection of the privacy of information in health records is an important priority and that it is vital that health service consumers have a right of access to health records relating to them. In this Bill a broad definition of "health service" applies.

The Bill covers not only doctors and more conventional health service providers, but also alternative health service providers and a range of other holders of personal health information such as insurance providers. Services for people with disabilities and health-related community services that collect health information are also covered by this legislation.

The major provisions in the Bill have been canvassed during the extensive consultation that occurred following the release of the Government position paper entitled "Health records - Privacy and Access" in May 1997. Over 500 copies of the position paper were sent to government departments, provider representative bodies, community and health service organisations, consumer representative agencies and individuals. The Consumer Health Forum, the Commonwealth Privacy Commission and a number of health providers and consumer bodies have indicated support for the legislation. The AMA and the ACT Division of General Practitioners expressed opposition.

The purpose of the Bill is also to provide a set of privacy principles for consumers in relation to their personal health information. It will provide consumers with access to their personal information which is contained on any records held by health, disability or aged care service providers in the ACT, and to their personal health information, wherever it is held. Currently, the rights of health care consumers to both privacy and access to their health records vary, depending on where the records are held.

Mr Speaker, I would like to highlight some of the major features of the Bill. In the ACT, as in most States and Territories, all patients, with some exceptions, of public health care facilities have access to their own medical records held by that facility through the Freedom of Information Act 1989. The policies of most public facilities encourage clients to see their records, obtain copies of them and have corrections inserted in their records. This is a system that has worked well, with no significant ill effects.

However, common law provisions apply to the records of private medical practitioners, private hospitals and public hospitals other than the Canberra Hospital and to health professionals working outside government agencies. This means that the health records created are owned by the person, or agency, who created them. Patients have a right of access only if they subpoena records. The High Court recently upheld this view in the Breen v. Williams case and confirmed that no common law right of access exists and that any change in this position is up to the legislature, and that is why we are here today.

There is a further anomaly in the ACT, in that patients of Calvary Hospital - a public hospital - do not have a guarantee of access, since the Freedom of Information Act covers only government agencies. Non-government hospitals providing services to public patients are covered by freedom of information in other States. This Bill will provide for a consistent regime for both the public and private sectors. In the interests of consistency, the Bill requires a consequential amendment to the ACT's freedom of information legislation to remove its coverage of personal health information held by health, disability and aged care agencies. Existing freedom of information and privacy legislation will continue to apply to any other records held by those public agencies. The legislation also ensures that information obtained about all users of health services is collected, maintained and used in accordance with established privacy principles.

Although the ACT has greater privacy protection under the Commonwealth Privacy Act than other States, there is a need for national consistency with the rights of health consumers. To facilitate this consistency, the ACT's legislation establishes a set of privacy principles that are consistent with those principles already enacted in the Commonwealth's Privacy Act. These principles cover collection, storage and security of personal information, individual access and correction, as well as use of and disclosure of information. I hope that this legislation will become a model for similar legislation throughout the country.

The legislation is also intended to improve the health care partnership and to assist patients to become more active in their own health care. Access to records will increase patients' understanding of their health care conditions and treatments. Health care providers will be encouraged to explain a client's health record to them. Doctors have expressed concern that greater access by patients to the information held in their files would lead to an increase in litigation by their patients. Experience with FOI in Australia and with legislation in other countries has had no such consequence. Access by patients to accurate records can actually avoid unnecessary litigation.

MR SPEAKER: Order! There is too much audible conversation.

MRS CARNELL: This is very interesting, Mr Speaker. Everybody wanted me to read these presentation speeches. They are now not even slightly interested in them.

MR SPEAKER: Yes, and nobody is paying any attention at all.

MRS CARNELL: That is all right, Mr Speaker.

There will be cases where, in the case of possible harm to a patient or another person, records may be exempt and access not provided, or access may be provided through another service provider nominated by the consumer to explain the record to them. Where access is refused or limited, a written reason will be provided to the health care consumer. If the consumer is not satisfied, he or she can have the decision of the health care provider reviewed by the Community and Health Services Complaints Commissioner. A decision made by the commissioner may be appealed to the Magistrates Court.

There are a number of other access issues dealt with by the Bill, including the rights of access for people with a legal disability and for children. The general principle incorporated in the legislation is that the person with the power for consent to treatment is the person who has the right of access. The law covering all health services will now provide similar rights and responsibilities for health care consumers in relation to personal health information held on their health records, whatever the service is and wherever it is provided in the ACT.

A high-quality relationship between a health care provider and a consumer is based on good communication. Good communication, in turn, relies on openness and trust between the parties. Information held on health records is characterised by its intensely personal nature. It is the kind of information that most people are very concerned to maintain control over. People also want to be sure that what is recorded on their health care record is accurate and relevant and will be kept confidential. A great many

health care providers already share relevant information with consumers and operate within a careful confidential framework. This legislation is intended to assist all health service providers and health consumer relationships to be characterised by openness and confidentiality.

In the consultations on the Government's position paper a number of other issues were brought to our attention which are not dealt with in this legislation. These include the standard of health care records; the retention and disposal of health records; and the availability of health status reports prepared about a person's health or disability on both sides in litigation. These are all important issues, but they require separate consultation and policy development. I was not willing to delay implementation of the key provisions of this important legislation until these other issues were finalised; but, certainly, Mr Speaker, they are issues that will need to be addressed in the next Assembly. Provision is made in the legislation for regulation-making powers in relation to the first two issues, while the third may require later legislative amendment. This could occur when the operation of the legislation is evaluated to determine whether it is achieving the objectives in an effective and efficient manner.

Mr Speaker, an enormous amount of work has gone into this legislation. I would like to thank all of those people who were involved. They predominantly come from the non-government sector and, of course, the Health Complaints Commissioner and his associates as well. Mr Speaker, I commend the Bill to the Assembly.

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

DISTINGUISHED VISITORS

MR SPEAKER: I would like to inform members of the presence in the gallery of members of the delegation from the Nara City Assembly headed by Mr Yoshiaki Kitao. Welcome.

CRIMES (AMENDMENT) BILL (NO. 6) 1997

MR HUMPHRIES (Attorney-General) (10.54): I present the Crimes (Amendment) Bill (No. 6) 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: Mr Speaker, I move:

> That this Bill be agreed to in principle.

The Crimes (Amendment) Bill (No. 6) 1997 addresses the widespread public concern which followed a recent decision of the ACT Magistrates Court to acquit a defendant of assault on the ground that the defendant was too intoxicated to form an intent to commit the offence. It must be stressed, Mr Speaker, that in introducing this legislation the Government makes no comment upon the application of the law by the Magistrates Court

in that case. To do so would be quite inappropriate. However, it is entirely appropriate for the Government, and this Assembly, to consider whether, as a matter of policy, the law in the ACT on the issue of intoxication is in keeping with community standards and expectations. There can be little doubt, having regard to the understandable public outcry over the law on this matter, that a change to the law is required.

Briefly, the law in the ACT, as a result of the High Court four to three decision in the O'Connor case in 1980, permits a defendant to rely on intoxication, whether or not self-induced, to deny that his or her actions were voluntary. It is because the ACT is a common law jurisdiction that the O'Connor defence applies in the Territory. It also applies in Victoria and South Australia. In New South Wales - another common law jurisdiction - legislation was enacted last year to remove the availability of the defence. In those Australian jurisdictions which have a criminal code - Queensland, the Northern Territory, Western Australia and Tasmania - the defence of self-induced intoxication can be raised only in relation to offences of "specific intent", that is, where, as well as committing a physical act, the defendant must have intended a particular result such as intending death in the case of murder.

Other common law jurisdictions, including the US and Canada, have legislated so that defendants cannot rely on self-induced intoxication to avoid responsibility for their criminal acts. In England, broadly speaking, the common law position is the same as in the Australian code jurisdictions - that is, the defendant cannot rely on self-induced intoxication to avoid criminal responsibility for his or her acts, other than in relation to offences of specific intent. This position was decided by the House of Lords in Majewski's case in 1977.

Attorneys-General considered the intoxication defence when presented with the final draft of the first chapter of a model criminal code which is being prepared for the Standing Committee of Attorneys-General. In 1994 Attorneys rejected the inclusion of the O'Connor defence in the code. The code provisions dealing with intoxication now implement the Majewski position by not allowing a defendant to use voluntary intoxication to deny intent to act or omit to do something, but to allow a defendant to use voluntary intoxication to deny intent with respect to the circumstances in which the act is done or the consequences of the act or omission.

However, there has been no rush by common law jurisdictions to legislate the chapter of the code dealing with general principles of criminal responsibility because Attorneys have proposed to await the completion of the code, due next year, so that comprehensive implementation of the code can be considered. There has not been a perception that the O'Connor defence required immediate attention, as the defence has rarely been raised and has been even more rarely successful. The recent ACT decision is a reminder that it nonetheless is part of our law and it can be successfully raised in limited circumstances.

It is worth noting that the Commonwealth has enacted the principles of the criminal responsibility chapter of the code; but, significantly, it will not commence to operate in relation to the vast majority of Commonwealth offences until five years after receiving royal assent. It will, therefore, commence in the year 2000. In those circumstances,

the criticism of the ACT, South Australia and Victoria by a number of Commonwealth Ministers and politicians is particularly hypocritical. In all the statements I have seen by the Commonwealth lauding its enactment of the model criminal code it has conveniently neglected to mention the fact that the provisions will not commence until the next millennium, or close to that.

Consistent with the position taken by Attorneys on the issue, the law in the majority of Australian jurisdictions and other common law jurisdictions, I am proposing that the Crimes Act be amended to prevent evidence of self-induced intoxication from being considered in determining whether a defendant intended to do an act which is an element of an offence or whether an act was voluntary. The Crimes (Amendment) Bill (No. 6) effects that policy position. I commend the Bill to the Assembly.

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

PRISONERS' INTERSTATE LEAVE BILL 1997

MR HUMPHRIES (Attorney-General) (10.59): Mr Speaker, I present the Prisoners' Interstate Leave Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

Mr Speaker, the Prisoners' Interstate Leave Bill 1997 is part of a national scheme to provide for prisoners to travel to other jurisdictions for short periods on compassionate grounds, whilst remaining in the lawful custody of their home jurisdiction. The introduction of this scheme will provide a clear legal basis for prisoners in New South Wales to return to the ACT, and for prisoners held at the Belconnen Remand Centre to travel interstate, whilst remaining in lawful custody, for a range of compassionate reasons.

Grounds on which interstate leave may be granted to ACT prisoners are: For medical treatment; to visit a person with whom an inmate has had a longstanding personal relationship if that person is seriously ill or in acute personal need; to attend the funeral of a person with whom a prisoner had a longstanding personal relationship; and for any other compassionate purpose. There will be two additional grounds for Aboriginal and Torres Strait Islander prisoners. These are: To attend a funeral service or burial of any member of an inmate's immediate or extended family, and to attend any occasion of special significance to an inmate's immediate or extended family. The inclusion of these grounds for indigenous prisoners gives effect to recommendation 171 of the Royal Commission into Aboriginal Deaths in Custody report.

The scheme will operate via the granting of an interstate leave permit to a prisoner by the Director of Corrective Services. Prisoners who are granted such a permit will be placed in the custody of one or more escorts and, during the leave period, will be in the custody of their escort. Permits will be issued for specific purposes and will be of up to seven days' duration. Extensions of a permit may be granted if required.

New South Wales and Victoria have already introduced similar legislation, and Tasmania, South Australia and the Northern Territory have indicated plans for the introduction of such legislation in the near future. Mutual recognition of each other's legislation is required by participating jurisdictions before the scheme commences. To date, New South Wales and Victoria have not achieved this. Once the Bill becomes legislation in the ACT, officers of my department will initiate discussions to develop necessary protocols with these jurisdictions.

The New South Wales legislation provides for the granting of unescorted leave permits for minimum security prisoners on additional grounds to those in the ACT legislation. The intention behind these additional New South Wales grounds for interstate leave is to permit eligible prisoners to attend prerelease programs, including release for employment or educational purposes, which is of special relevance to the ACT. This means that, once New South Wales and the ACT recognise each other's legislation, eligible ACT prisoners in custody in New South Wales would be eligible to undertake prerelease programs in the ACT whilst remaining in New South Wales custody. For example, it would be possible for a minimum security prisoner housed at Goulburn to be granted leave of absence to undertake work in the ACT. This sort of practice would be likely to facilitate such a prisoner successfully integrating into the ACT after release from custody. It also goes some way towards reducing the additional hardship currently caused to ACT prisoners as a result of their imprisonment interstate.

Mr Speaker, the Prisoners' Interstate Leave Bill 1997 provides for a compassionate response by the state to legitimate needs of prisoners and their families. However, it also provides for protection of the interests of the community by ensuring that prisoners granted leave will remain in lawful custody in all participating jurisdictions, and it acknowledges the special needs of indigenous people. In addition, due to the additional grounds for leave in the New South Wales legislation which the ACT will recognise, it will assist ACT prisoners incarcerated in New South Wales to prepare for their return to the ACT after their release from custody. In summary, this aspect of the legislation is another initiative by this Government to progressively take responsibility for sentenced ACT prisoners. I commend the Bill to the Assembly.

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

REMAND CENTRES (AMENDMENT) BILL 1997

MR HUMPHRIES (Attorney-General) (11.04): Mr Speaker, I present the Remand Centres (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

The Remand Centres (Amendment) Bill 1997 provides for amendments to the Remand Centres Act 1976 that are consequential to the introduction of the Prisoners' Interstate Leave Bill 1997, and some other mainly administrative amendments. The major consequential amendments are: To provide that custody of persons detained in a remand centre be transferred from the superintendent to an escort whilst on an interstate leave permit; to provide that the superintendent may withhold entitlements from a detainee for the failure of the detainee to comply with reasonable directions whilst on an interstate leave permit; to provide that prisoners in the ACT on interstate leave permits may be detained overnight at a remand centre if such accommodation is required, or, if they have escaped or attempted to escape whilst in the ACT on a permit, for up to seven days, pending being handed back to an interstate escort for return to their own jurisdiction; and to provide that detainees may make complaints to the Official Visitor in relation to interstate leave issues. These amendments are required to support the important initiatives being introduced by the Prisoners' Interstate Leave Bill.

In addition, I have taken this opportunity to introduce the following changes to the Remand Centres Act 1976: Firstly, to change the decision-maker from me to the administrator in relation to requests for temporary leave within the ACT. This brings the granting of such leave into line with that proposed for interstate leave in the Prisoners' Interstate Leave Bill 1997. As a result, the granting of temporary leave within the Territory will also become a matter about which detainees may complain to the Official Visitor. Secondly, to provide the administrator with additional powers of delegation to cover matters relating to the granting of interstate and intrastate leave, and a number of administrative matters. The use of delegated powers will be confined to circumstances specified in the regulations, which will be those when the administrator is unavailable and a decision needs to be made urgently. Thirdly, to bring the penalty provisions of the Act into line with current practice. These practices should facilitate better administration of remand centres in the ACT. I commend the Bill to the house.

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

LEGAL AID (AMENDMENT) BILL 1997

MR HUMPHRIES (Attorney-General) (11.07): Mr Speaker, I present the Legal Aid (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: Mr Speaker, I move:

> That this Bill be agreed to in principle.

Members will recall the turmoil which followed the 1996 Commonwealth budget announcement of a $33m legal aid funding cut by the Commonwealth for 1997-98. This announcement effected a unilateral termination of the various legal aid agreements between the Commonwealth and the States and Territories across Australia. From this step ensued major and protracted disputes between the Commonwealth and all States and Territories.

The Commonwealth explained its actions by asserting that a significant part of its contributions to State and Territory legal aid commissions was being used for cases arising under State and Territory laws. The Commonwealth declared it was no longer prepared to pay this "subsidy" and from 1 July 1997 would provide funds only for cases arising under Commonwealth law. However, in the case of this jurisdiction, a detailed analysis of the ACT Legal Aid Commission's operations in 1995-96 revealed that, in fact, the ACT was subsidising the provision of legal aid to Commonwealth applicants. The bottom line was that the funding of the commission was in the ratio of approximately 56 per cent by the ACT to 44 per cent by the Commonwealth. However, Commonwealth cases were costing almost 70 per cent of the commission's budget.

After protracted and very difficult negotiations, in March 1997 I reached in-principle agreement with the Commonwealth Attorney-General that the Commonwealth would provide funding for each of the next three years on the basis of what Commonwealth cases had actually been costing the commission. The result is that for the next three years the Commonwealth will provide funding at the rate of $3.006m per annum, which represents an increase of approximately $600,000 per annum over and above the Commonwealth's payments to the Commission in 1996-97.

The result for the ACT, given the provocative and intractable position initially adopted by the Commonwealth, is highly satisfactory. It means that there will no longer be an ACT subsidy for cases arising under Commonwealth law, there will be more funds available for the provision of legal aid in the ACT than in the past, and the basic structure for delivering legal aid in the ACT will remain intact. However, the Commonwealth insisted that its moneys must be expended on Commonwealth matters according to the priorities and guidelines which it would prescribe.

From this in-principle agreement, which was the first in Australia, there followed negotiations on a detailed agreement to implement the in-principle terms. The Commonwealth conducted its negotiations separately with each jurisdiction and, at its request, in confidence. Agreements the Commonwealth has reached with the various jurisdictions are not identical, but they are based on the same fundamental principle - that the Commonwealth will decide how Commonwealth money will be spent according to prescribed guidelines and priorities.

Particular features of the agreement which has been negotiated by the Commonwealth with the ACT are as follows: The agreement establishes a wide range of Commonwealth priorities, but it allows the commission to establish narrower priorities from within those wider parameters and to submit those more limited priorities in a work plan and budget for approval by the Commonwealth. Specified financial liabilities are to be met by the Commonwealth in the event of termination of the agreement by the Commonwealth. The former agreement had no effective provision for the sharing of administrative liabilities in the event of termination of the agreement. Cost ceilings are established for expensive Commonwealth cases. The limits are $15,000 for separate representation of children, $10,000 for other family law matters, and $40,000 for criminal matters. The agreement does allow for the commission to exceed those caps in exceptional circumstances.

The agreement does not prescribe a revised structure for the Legal Aid Commission but does require the Territory and the Commonwealth governments to consult with a view to restructuring the board of management of the commission. It has been made clear to the Commonwealth Attorney-General and his officials that any restructuring proposal must be acceptable to the ACT Legislative Assembly before it can be agreed and implemented.

A number of provisions in the agreement provide for the Territory to direct or arrange with the commission in respect of providing financial and management accountability information to the Commonwealth. Other provisions of the agreement require the commission to deal with classes of matters in particular ways, or to act in accordance with Commonwealth priorities and guidelines for providing aid. This means that the commission will no longer have the power, as it previously did, to set priorities and guidelines for the provision of aid in Commonwealth matters, except in the limited way I have already described. The agreement binds the Territory; but, as the commission is not a party to it, in theory the commission is not bound by it. Hence the need for this legislation currently before the Assembly.

The primary features of the legislation I have introduced to implement the new legal aid agreement with the Commonwealth are as follows: The Bill makes it clear, in clause 5, that the commission will continue to provide legal assistance in Territory matters in accordance with the Legal Aid Act. The Bill also provides for legal aid to be provided pursuant to "funding agreements". A funding agreement is defined to mean an agreement between the Territory and the Commonwealth or another jurisdiction for the provision of legal assistance by the commission in matters arising under the laws of the other jurisdiction, but only where that agreement provides for the full funding, including administrative overheads, of such assistance. Where a funding agreement is in existence, the Bill provides for the Minister to direct the commission to apply the agreement.

The Bill provides that, where any such direction in respect of a funding agreement is issued by the Minister, that direction will be tabled in the Legislative Assembly within 15 days, with the relevant funding agreement. My intention here is to ensure, in so far as it is open to this Assembly to do so, that the Commonwealth will be accountable, at least to this extent, to the Territory for the terms on which it has insisted legal aid must be provided in the Territory in respect of Commonwealth matters.

There are a number of provisions in the Legal Aid Act which will no longer be applicable, either in full or in part, to the provision of legal aid in Commonwealth matters as a result of the new agreement. For instance, section 12 of the Act currently requires the commission to determine guidelines for the provision of aid. Under the agreement, it is the Commonwealth which will determine guidelines for the provision of aid in Commonwealth matters and those guidelines will need to be applied by the commission pursuant to the direction which I, as the relevant Minister, will make. Section 12 will therefore continue to apply only in respect of Territory matters.

This is true of a number of other sections in the Act. The Bill therefore provides that particular parts or sections of the Act, set out in new section 8A, will only apply in relation to the provision of legal assistance under a funding agreement to the extent to which those provisions are not inconsistent with the funding agreement. Taken at face value, Mr Speaker, this provision may cause some Assembly members some disquiet. It needs to be understood, however, that the provision does not involve any effective subordination of the Legislative Assembly's powers to an intergovernmental agreement. This is because, quite simply, the Assembly does not have legislative power with respect to the provision of Commonwealth legal aid in Commonwealth matters. Territory legislation can apply to Commonwealth matters only to the extent that the Commonwealth agrees it will apply. The Assembly cannot dictate to the Commonwealth how it will spend its money on legal aid. The most it could do is to refuse to permit the Territory Legal Aid Commission to provide services, fully funded by the Commonwealth, to applicants for legal aid in Commonwealth matters.

Thus, while some members may consider this arrangement problematic or unpalatable, in respect of legal aid, the options are stark: Either the Territory proceeds with this new agreement, which provides for a significant increase in legal aid funding for ACT citizens, and with the legislation required to implement it effectively, or, almost certainly, the ACT community will no longer have available to it legal aid funding in Commonwealth matters and the Legal Aid Commission will have to be halved in size. The choice for the Government and the Assembly is plain. I stress that this arrangement is not typical of intergovernmental agreements and national legislative schemes, which do often involve some ceding of legislative power to the Executive. The reason that this legislation and the relevant agreement with the Commonwealth must be distinguished from those schemes is, as I have said, that the ACT Assembly has no legislative power with respect to Commonwealth matters.

I would reiterate that the ACT cannot expect, and nor can any other jurisdiction expect, to dictate to the Commonwealth how it should spend its money. This is something for which the Commonwealth will ultimately be accountable to the electorate. Indeed, I tried very hard to convince the Commonwealth to change its mind on legal aid generally. I opposed the Commonwealth's legal aid changes as strongly as it was possible to do.

I pursued the issue at national meetings of Attorneys-General, I raised it in the strongest terms in the media, and I appeared personally before the Senate Committee on Legal and Constitutional Affairs. While I was successful in protecting the ACT from the horrendous financial cuts the Commonwealth had determined, the Commonwealth could not be swayed from its broad policy position in relation to overall funding, nor from dictating terms on the way in which its money is to be dispensed.

I would stress again that, on balance, the outcome for the Territory as a result of this agreement is very positive. Access to justice for Territory citizens must, on the whole, be enhanced if more funds are available for legal aid in Commonwealth matters. I remind the Assembly that the Territory has not reduced its contribution to legal aid as a result of the increase in Commonwealth funding. The net result is a large increase in the amount available to Territory citizens for Territory matters, at least.

The opportunity has also been taken at this time to make certain other amendments to the Legal Aid Act, most of which are in the nature of housekeeping provisions. Under the Bill, the application of the Legal Aid Act to the Jervis Bay Territory is removed. There are no immediate implications flowing from this, as the commission does not currently provide services in Jervis Bay. However, it removes a possible future drain on the commission's resources should there be a call for legal aid services in the Jervis Bay Territory. If that need arises, it is appropriate that it be accommodated by Commonwealth funds.

The Bill also omits subsections 32(4), (5) and (6), which provide for judicial review of decisions of the commission in relation to maintaining a list of legal practitioners willing to undertake legal aid work. These subsections predate the Administrative Decisions (Judicial Review) Act 1989 which provides for the judicial review of this type of decision. Finally, the Bill omits subsection 56(2), which prohibits the chief executive officer and the assistant executive officer from holding office beyond 65 years of age, thus removing an unnecessary discriminatory feature in the Act.

Mr Speaker, this Bill is the final step in what has been a very difficult and unsettling period for the Legal Aid Commission and for the ACT community generally. While I would have preferred that the events of the past 18 months had not occurred, unlike other jurisdictions, the outcome for the ACT community, at least in financial terms, has been a positive one. I commend the Bill to the Assembly.

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

LONG SERVICE LEAVE (BUILDING AND CONSTRUCTION INDUSTRY) (AMENDMENT) BILL 1997

MR STEFANIAK (Minister for Education and Training) (11.19): Mr Speaker, on behalf of the Minister for Industrial Relations, I present the Long Service Leave (Building and Construction Industry) (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MR STEFANIAK: I move:

That this Bill be agreed to in principle.

Mr Speaker, I have pleasure in presenting the Long Service Leave (Building and Construction Industry) (Amendment) Bill 1997. The building and construction industry is one of the key elements in the Government's commitment to developing a strong and growing private sector. Already, Mr Speaker, the ACT Government spends over $4m annually on training in the building and construction industry, and we are always interested in other ways of encouraging training in this sector.

The building and construction industry is often characterised by short-term employment by multiple employers. For a number of years the industry and government have discussed options for generating training funds. With the exception of the apprenticeship scheme, ongoing skill development has to date been generally overlooked. This means that erratic changes in the level of construction taking place in the ACT may result in a high demand for skilled labour, labour that is often not available.

Mr Speaker, several measures to improve the training provision in that sector have been implemented in the past. The importance of training in the industry was recognised with the establishment of the Construction Industry Training Fund under the Long Service Leave (Building and Construction Industry) (Amendment) Act 1990. Ten per cent of employer long service leave contributions was directed to the fund. In 1996 the fund was increased to 40 per cent for two years, to conclude on 31 December 1997. At the time it appeared that a consensus on an alternative funding mechanism was emerging. Over the last two years circumstances have changed. The building and construction industry, Mr Speaker, has experienced difficult times. This has raised questions about the most appropriate way to provide training for the industry. Discussions on measures to improve training are continuing with the industry. It would be inappropriate in these circumstances, and without clear proposals for the future, to allow the fund to lapse.

The Bill I am introducing today provides for the fund to continue to operate for a further six months to 30 June 1998. This will allow time for a recently released discussion paper that raises a number of options, including a training levy and a voluntary industry controlled and managed scheme, to be studied thoroughly by the interested parties. This timeframe will also enable consultations on options for training in the industry to be completed and a position developed for consideration. The Government looks forward to the views of industry and the community on these options. Consultations on the discussion paper close on 18 December this year. This will allow the outcomes of the consultations to be considered and a decision taken on future training arrangements for the industry during the first half of 1998. The main benefit derived from maintaining the fund for a further six months will flow from the lack of disruption to this consultation process.

Mr Speaker, the fund will be used for such diverse purposes as formally recognising the skills of construction workers, introducing new training arrangements for trades, and improving training opportunities for apprentices. The Government acknowledges that continuing the fund is an interim measure only and, as I said, is keen to

explore a variety of approaches for increased training. The Long Service Leave (Building and Construction Industry) (Amendment) Bill 1997 will ensure that the Construction Industry Training Fund continues while an approach is developed that is acceptable to the industry and the community. The Government is confident that it can work cooperatively with the building and construction industry to develop a long-term strategy to improve training. I commend the Long Service Leave (Building and Construction Industry) (Amendment) Bill 1997 to the Assembly.

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

MANUKA CAR PARK REDEVELOPMENT
Suspension of Standing Orders

MR HUMPHRIES (Attorney-General) (11.23): Mr Speaker, I move:

> That so much of the standing orders be suspended as would prevent notice No. 1, private members business, relating to retail development and the Manuka car park, being called on forthwith.

Mr Speaker, I am aware that there will be some division of views about this matter; but I indicated to members yesterday, when I discussed with members the question of dealing with the issue of the Manuka car park, that, if it was not to be dealt with yesterday in the course of private members business, if it was the wish of the Assembly not to deal with it at that time, instead, the Government would bring it on after debate on Assembly business this morning.

I understand that it has been agreed that the orders of the day listed under Assembly business not be debated this morning; indeed, most of them are fairly redundant. Therefore, Mr Speaker, this is the next item of business, as I discussed with members yesterday. Some members now have a different view about this; but it is the Government's view that this should come on now, and I would suggest to the Assembly that this is an appropriate juncture at which to be debating an issue which is, after all, of fairly intense interest to the rest of the community.

MR BERRY (Leader of the Opposition) (11.24): It is a great pity, Mr Speaker, that, when Mr Humphries decided yesterday that this should be brought on today at this time, he did not tell anybody else. Of course, there has been no discussion with the Labor Party to confirm this time. It is merely a bit of fancy dancing by Mr Humphries to try to manipulate the agenda. It is to his discredit that he rushes it through. We will be opposing it; but we expect that it will go through.

MR CORBELL (11.25): Mr Speaker, it seems to me that the Government itself should be bringing on a motion in relation to the Manuka development, and the Minister should be bringing on that motion first, before we deal with the matter of which Ms Tucker gave notice yesterday. The Labor Party has a clear position, which we have stated this morning to Mr Humphries, Mr Moore and Ms Tucker, namely, that the Minister should be moving a motion in relation to the Manuka development first. That should occur

at the end of consideration of committee reports today, and Ms Tucker's motion should be dealt with following that. That is the process we would like the Assembly to undertake. At no stage did the Minister indicate to this side of the house that he intended to bring on Ms Tucker's motion before Assembly business. We will not agree to that process when we have not even been told about it. The Minister should bring on a motion about Manuka first.

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

AUTHORITY TO BROADCAST PROCEEDINGS

MR SPEAKER: I present, for the information of members and pursuant to subsection 8(4) of the Legislative Assembly (Broadcasting of Proceedings) Act 1997, an authorisation to broadcast given to a number of television and radio networks in relation to proceedings of the Assembly concerning the motion relating to the development of retail space and the Manuka car park.

MANUKA CAR PARK REDEVELOPMENT

MS TUCKER (11.26): I move:

> That, noting paragraph (3) of the motion passed on 9 April 1997 regarding the Manuka car park redevelopment, this Assembly:
>
> (1) does not approve the proposed development as described in the preliminary assessment by Morris Consolidated Pty Ltd;
>
> (2) calls on the Government to institute a moratorium on the expansion of retail space in town and group centres, not including Gungahlin, until a strategic plan and social plan for the ACT are developed which include strategies to guide the future development of appropriate retail facilities in Canberra; and
>
> (3) depending on the outcome of the strategic planning process, calls on the Government to revise its plans for redevelopment of the Manuka car park to reduce the financial, social and environmental impacts on local residents and traders in Manuka and surrounding shopping centres.

I put forward this motion today because we believe that it is important to have another opportunity to debate the issue of section 41 and retail development in Canberra. Obviously, with the evaluation of the preliminary assessment for section 41 and the Minister's public approval, it is the final opportunity to try to stop this process. There is still considerable concern in the community about this proposal, and I think the Assembly owes it to those people to clearly state its position on the issues.

Members will recall that, at the end of last year, the Greens moved a motion calling on the Government to withdraw its call for expressions of interest for the development of the Manuka car park; to undertake a study, with full public consultation, of options for the future of the Manuka car park that best meets the needs and concerns of Manuka traders, the users of Manuka shops, local residents and traders in surrounding shopping centres; and, if redevelopment of the site was identified as the preferred option, to seek Assembly approval of the preferred option before any sale of the site was contemplated.

Unfortunately, when the motion was finally debated in April, the Labor Party amended our motion to allow the expressions of interest process to proceed; but, at least through part of their amendment, they gave the Assembly the opportunity to further review the preferred option. Paragraph (3) of the amended motion read:

> even if a variation of the Territory Plan is not required, the preferred option is referred to the Assembly for approval.

This morning, on the ABC, I heard Mr Moore and Mr Berry both say that the Greens were asking for too much consultation and that there had been a lot of consultation on this issue.

Mr Berry: No; I said that you were opportunistic.

MS TUCKER: Mr Berry said that we were opportunistic.

Indeed, there have been many public meetings where the community protested about the scale of this development. These protest meetings were attended by Mr Humphries on most occasions, it is true; but little change has occurred as a result of those meetings. There has been no acknowledgment from the Government that the Government was not involved in the original prospectus or concept plan. This is fundamental to effective and efficient public consultation. That is what the Greens have been talking about since December last year.

We have, in fact, seen some improvement in this process in Civic recently with the proposed changes to the Canberra Centre, where an initial idea was put to the community before too formal a process had started. As it happened, it was not accepted by the community either. But better than this is a system whereby the community has the opportunity to state its view before expressions of interest are sought. With section 41, this did not happen, and so we had the predictable conflict. For the information of members here, this is what the Greens have been pointing out as the fundamental flaw in the process. I refer to the consultation before the concept plan or the prospectus was put in place.

Of course, we are stating quite clearly that, where such decisions are made in a policy vacuum, it is also predictable that there will be problems. We must make decisions about planning in our city in the context of an overall strategic and social plan. In our assessment of the impact of proposals, we must give serious weight to the more intangible things such as, "We love the village atmosphere of Manuka. We do not really want a mall here. We do not feel comfortable in malls". This is the human dimension.

I am sure that all members remember the Gungahlin Town Centre consultation - one of the best consultations carried out in Canberra. The community did say that they preferred a village-style town centre, and they were listened to. They were not enthusiastic about the mall-style developments that we so often see popping up.

My motion, therefore, calls for a moratorium on further retail expansion, including the Manuka proposal, until such a strategic plan is in place and we have a better idea of the real need for retail space in Canberra now and in the future. As part of this strategic plan, there must be a social plan. Such a plan would provide a detailed study of the demographics of Canberra's population and an assessment of their social needs. The planning of our shopping centres can then be undertaken in a way that best responds to those needs. Shopping centres are not just places where people spend money; they perform an important social function as meeting places for a range of people and as places where a range of community services can be located.

In relation to Manuka, there seems to have been very little assessment of how this proposal meets the social needs of residents who use Manuka. The whole project has been driven by the desire by Woolworths to expand its supermarket space. I note that the Minister has not even allowed time for his new southside LAPACs to comment on the Manuka proposal. Also, the Minister has publicly stated that he believes that opposition to the proposal is diminishing. Perhaps people are just suffering from protest fatigue, although I do not think so, from the number of phone calls I have received in my office since yesterday. Perhaps they are scared of receiving legal threats from the developer as well.

I am bringing forward this motion in this particular form because I want the Assembly to consider the Manuka development in the broader context of the need for a retail strategy for Canberra. In recent times, there has been a rush of proposals to expand the retail space in Canberra: Belconnen Mall expanded a couple of years ago; Tuggeranong Hyperdome has received approval for an expansion; Woden Plaza has recently announced that it is proceeding with its proposed expansion; the Canberra Centre, as I said, has just gone through a process of public consultation on its expansion plans; and we also have the Manuka proposal. At the same time, Canberra's economy has been relatively static because of the Howard cuts. It is, therefore, obvious that these shopping centre expansions are being done not to meet increasing market demand, but to boost individual shopping centres' share of the total Canberra retail market.

Shopping mall managers acknowledge that their catchment areas overlap to a large extent because Canberra is really too small to support four - and, soon, five - large shopping malls. So, we are seeing a battle between the shopping malls for the retail dollar. But no account has been taken of the casualties amongst the small businesses in the local centres. Let me read to you from the evaluation of the preliminary assessment:

> This project will have an adverse effect on the annual turnover and viability of Kingston, Narrabundah and Red Hill. The other six centres in the Manuka District will lose $5m as a result of other already approved developments and will lose an additional $6m if Manuka Plaza is built making the actual loss in annual trade about $11m (Kingston - $3.9m., Griffith - $1.8m., Red Hill - $0.8, Narrabundah - $0.6m., Deakin - $1.8m., Yarralumla - $2.4m.

This is apparently okay. The Greens do not think it is okay. The Greens think it is actually a very serious situation that we are allowing such development to occur in a climate in which we continually hear rhetoric in this town about supporting small business; acknowledging the employment potential of small business; acknowledging that it is through small business that we will get diversity and greater employment and, in fact, that it is the backbone of Australia.

But, more and more, we see this compromised by the rhetoric of competition. We know that the level playing field does not exist. We know that open competition is about giving big businesses the opportunity. Obviously, they have competitive advantages because of economies of scale and so on. We know that that is the result. But we do not see this being addressed when we also hear the language about the small businesses being so important to our society. When you look at this evaluation, you see what it will do to those smaller centres. It could be the end of some of those centres, because they are already not doing very well.

I repeat that this development of shopping malls is being done in a policy vacuum. There have been regular calls, inside and outside this Assembly, for a strategic plan to guide Canberra's development, to replace the ad hoc developer-driven planning that is currently occurring. I recognise that the Government has been working on a strategic plan; but progress on this has been very slow. The way we are seeing development occur - it is happening now, of course, with the Griffin Centre - is that we are being told that, somehow, if a developer comes in with an idea for totally rebuilding a large area of our city, that is fine. But what I want to know is why we, as a community, do not decide that we would like to see that large area of the city redeveloped - such as the ROCKS area, such as the Griffin Centre area, such as was decided about the Kingston foreshore. They are all totally different kinds of processes. We do not have any consistency at all in this town.

If we, as a community, decide that we want to redevelop these large areas of the city, why not bring in the community, as happened at Kingston, to have input with planning officials and so on, to work out what sort of development would meet the needs of the ACT? Then we could offer to anyone who is interested the opportunity to see how they would meet those requirements with a plan. That was fantastic in Kingston. Why do we have this other process, which seems to be given equal weight, where we have just one person coming in and then we have the job of arguing with that particular developer about fiddling around the edges, as is happening at the ROCKS? The developer says to the community sector, "If you are really good, you will get this amount of space; but your input has to be made within, say, six or eight weeks". That is not how it should be working at all. It really is no wonder that the community is getting extremely frustrated with the processes as they are occurring right now in the ACT.

The arguments against the Manuka proposal itself have been debated in this Assembly before; so, I will just summarise them now. The size and nature of this shopping mall would greatly change the unique atmosphere of Manuka shops. The new shopping mall would be out of character with the existing old Canberra buildings in Manuka, and traffic around the shops would significantly increase. The child-care centre next to the car park would be affected, as it would be next to the fast food drive-through. If Woolworths opens a new store in the mall, the existing Woolworths store will close. This site then could also be redeveloped. The existing Woolworths site forms a major corner of the Manuka shops, and its value will obviously be increased by the Government's proposed enhancements to Palmerston Lane. Does this mean that another shopping mall will be proposed? The character of Manuka will be further impacted upon. A supermarket of this size would threaten the viability of other local shopping centres in Deakin, Griffith, Hughes, Kingston, Narrabundah, Red Hill and Yarralumla, and also Fyshwick Markets. The preliminary assessments admit that $7.1m of trade would be taken away, and we have had other figures in this evaluation which are even greater.

The Government is being hypocritical in promoting this expanded supermarket, which goes against its own retail policy to support the viability of local shopping centres, by setting up a retail battle in South Canberra between Woolworths and the local shopping centres. It is merely repeating the retail battle between the town centres and local shops that it attempted to stop through the ill-fated trading hours restrictions. I acknowledge that Morris Consolidated changed the design of the building from its original proposal in preparing its preliminary assessment; but it appears that this was done more to protect the commercial viability of the project than as any fundamental reassessment of its social value.

Of particular note is that the proposal has substantially increased the number of residential units and decreased the commercial and office space, because Morris realised that there was an oversupply of commercial space in Canberra. It is a pity that the Government, in pushing this proposal, has not acknowledged also that there is an oversupply of retail space. Once again, it is a very poor process. If there had been an opportunity for community input before the expressions of interest were called for - that is, in the development of the prospectus - there would have been an equal opportunity for all interested parties to come up with proposals on the changed prospectus.

What we are seeing now is that the person who was successful - the successful proponent from the expressions of interest - once in that position as the preferred proponent, has the opportunity to change it totally because of later input. Where is the justice in that for the people who spent a lot of time, money and energy putting in their expressions of interest? It is just another example of how the processes at the moment are not only frustrating the community but also frustrating the developers.

This motion, I hope, will allow some rational planning regarding the need for further retail space in Canberra to take place before the Government rushes ahead and approves this development or gets itself caught up in supporting the Bunda Street car park development in Civic or the possible expansion of the Canberra Centre. I believe that another version of that is on the cards as well. I want to point out that, in terms of Labor's position, I am particularly concerned about the inconsistency.

Ms McRae: You have not even heard what we are going to say.

MS TUCKER: Ms McRae says that we have not heard her position. I acknowledge that. I thought that I had heard it; but, if it is different from what I thought I heard, then I will be happy to retract this. Dr Garth has done a survey. He received 700 responses. *(Extension of time granted)* What he says in this article is:

> I call on Planning Minister Gary Humphries to review the proposed redevelopment and demand a reduction in the amount of retail and commercial space being developed.
>
> This reduction will mean less traffic and fewer parking problems and will ensure that we are not adding to the woes of existing small businesses by creating retail space in a market where there are already high vacancy rates. Gary Humphries must give the community the development we want rather than the Minister's preferred option.
>
> In July I letterboxed more than 5,500 houses in the suburbs of Griffith, Kingston, Red Hill, Narrabundah, Barton and Forrest with a survey about the proposed development. I received more than 700 responses, which shows how strongly the local residents feel about this issue. The final results of the survey were that 19 percent wanted no development at all, 39 percent were in favour of the proposed development, and 44 percent want only a partial development ...

That means that 63 per cent were not happy with the current proposal. Basically, what Dr Garth was saying was what we are saying - that the scale of this project is what is worrying people. It is not that people are necessarily trying to stop the development; but they are genuinely concerned. They are passionately concerned about their place. Their place, that has a lot of meaning to them, is going to be altered irrevocably and it is not something that they have had a part in. Yet, if they had been given an opportunity, you would still be getting development there; you would still be getting investment; but it would be appropriate.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (11.44): Mr Speaker, today, the Assembly comes to make a decision on a matter which has been before the Government, the Assembly generally, I suppose, and the community for well over 12 months. It has been a major debate on an issue of great significance, particularly for those living in South Canberra. I believe, and I hope that the Assembly believes, that we have come to the point where we need to make a decision on this development.

Mr Speaker, there have been claims that not enough consultation has occurred or that the right sort of consultation has not occurred. I have to say that I think that, if we needed to engage in any more consultation on the issue of the Manuka car park, we would be taking dogs and cats in South Canberra into our care and interrogating them on what they think about this development. It has been more extensively consulted about than any other proposal I can think of in my nine years here in the Legislative Assembly. It has been subject to extensive consultation - - -

Ms Tucker: At the wrong time, at the wrong place.

MR HUMPHRIES: What Ms Tucker is saying is that the consultation cannot have been extensive enough because the result of the consultation has not been to reject the proposal, and that the people she hears, the people that have lobbied her and the loud noises that have attracted her attention in the debate have been such that she believes that the consultation, necessarily, because of the volume of noise and the volume of comment, should result in a rejection of the proposal.

I do not believe that that is the way to conduct consultation. Obviously, you have to look at the number of people who make comments and the nature of their comments. Some of the comments made on things like this are simply, "I support the development" or "I oppose this development", or something very simple of that kind. Those sorts of expressions of view are important to take into account. I do not dismiss them by any means. But, Mr Speaker, public consultation in a process like this is primarily about the quality of the arguments, not about the quantity of the arguments. It is our duty as the Government in this place and I think it is the duty of all members of this place to look not just at how many opponents there are of a particular proposal, but at what is the nature of the opponents' case and the proponents' case and how well they make their positions clear in their submissions.

To take a hypothetical case, it may be that you will find 100 people opposing a particular development or a particular application and only one person arguing in favour of it, but that one argument is more convincing than the 100 opponents'. Mr Speaker, that is the position I think we have to accept in this debate. So, if we look at the question of quality of argument, that is the debate we should have today. I might also say, however, on the question of quantity of argument, that, on the particular outcome of this particular public consultation exercise, the result is rather telling. We have had 51 submissions, of which 12, I believe - I do not have the exact figures - were opposed to the development and something like 34 were in favour of it. That is three to one in favour of the development. I think that, if you are a believer in the quantity argument, you have a small setback to overcome.

Mr Speaker, as I have said, I believe that we have had more extensive discussion and debate about this particular proposal than about almost any other development proposal I can think of. It is certainly the biggest since the Territory Plan was put in place in 1991. I want to address some of the issues that have been raised in and about this proposal. A number of submissions made comments about the adequacy of the preliminary assessment and its components. My advice - I have read the PA as well, and it is my opinion too - is that the PA was amongst the more adequately researched, complete and comprehensively consulted assessments that PALM has received during its existence.

In addition to this, the Morris group facilitated the consultation process by providing graphic information, including three-dimensional views, a scale model and on-site facilities for viewing the documentation - going far beyond what is normally required for consultation in these circumstances. Far from damaging local traders, this proposal would improve Manuka and, I think, make that centre more competitive with places such as Queanbeyan, Woden and a future Kingston foreshore.

A further argument was mounted about traffic generated by the development impacting on surrounding streets and intersections. It is apparent that the proposed development will bring additional vehicles into Manuka. The claimed impacts on existing streets and intersections, I think, take no account of their existing capacity nor of the proportion of the Manuka catchment that moves through the area to other centres on retail spending trips. The proposal, in fact, reduces traffic on Flinders Way in particular and provides the opportunity for increased access to car parking from Captain Cook Crescent - an appropriate local distributor road and one designed for that purpose. A range of traffic improvements and pedestrian safety measures are included as part of the proposal, and the traffic assessment of the proposal indicates that, on completion, all intersections surrounding the development will be operating at high levels of service.

Mr Speaker, another important consideration - a very significant argument, I think - was the economic impact on adjoining centres. This is obviously a matter which is difficult, and no-one denies that there will be an economic impact on those other centres. In some cases, it will be significant. The primary impact will be on supermarkets in the surrounding local centres, with other shops and restaurants in the area being affected, but to a lesser extent. This is an important point, Mr Speaker. One of the things which the PA drew out, which I think needs to be very carefully taken on board by the opponents, is that the identified impacts of the supermarket would be the same for a stand-alone supermarket with a small amount of retailing, which was the preferred position of the critics.

Ms McRae: That is the problem.

MR HUMPHRIES: That is the problem. As far as the development is concerned, all 51 people who made submissions said that they believe in some sort of development on that site, and so did the 700 who wrote to us. A very small proportion of people wanted no development whatsoever. If you had the more effective supermarket that we were talking about in the MBA proposal or in the Morris proposal or in some other variation between those two positions, you would have almost exactly the same impact on surrounding centres.

The fact is - and this is a matter that, I have to say, I regret - that national trends in retail are showing a continuing movement of customers away from the small local centres towards one-stop shopping at large multisection supermarkets. Mr Speaker, it is a matter of record that the ACT Government tried last year to shift that trend back towards local centres, and we met considerable consumer resistance in trying to move that trend back into local centres. We do not want to exacerbate that trend away from local centres; but we have to acknowledge that there are people who want to shop in local centres and there are others - often quite different sorts of people - who want to shop in group or town centres, where large facilities are available to them, with access to large car parking and other sorts of retailing opportunities of the kind which the Morris proposal will create at Manuka. You simply cannot pretend that you somehow protect those local centres' interests by unnecessarily restricting access to appropriate sorts of facilities of that latter kind.

Mr Speaker, my opinion is that there are different markets for those two sorts of centres. The sort of person who particularly looks for shopping on price and to some extent on convenient parking will want to go to a centre with a large supermarket with the sorts of consistent prices that national chains tend to produce, and where, if they need something else, they can often get it in a subsidiary retail shop around that supermarket. Those people who like to go to a smaller centre and be able to greet the shopkeeper by name and say, "Hello, Fred; hello, Joan" to whoever might be behind the counter, who can get their shopping carried out to their car which will be parked close by, who might not be able to walk further than to their local centre to do their shopping and who might not want to walk any further than that, are the sorts of people who are being served by a different market. Mr Speaker, I believe that those people will still be catered for adequately under the changes in South Canberra retailing which will be experienced under this plan.

It is interesting that, although much has been made - particularly by the Canberra Small Business Council, the president of which is involved in a supermarket well outside this area - of the impact on local centres, I note that there were no objections received from surrounding local centres, including Red Hill, Narrabundah and Griffith. Indeed, no objections were received from the traders at the Kingston group centre, and there was even one letter of support received from one of the Red Hill traders.

Mrs Carnell: It was not me.

MR HUMPHRIES: I hasten to mention that it was not the Chief Minister or her business. Mr Speaker, I think the economic impact on adjoining centres is much misrepresented by the opponents of this proposal. The economic impact on Manuka traders themselves has also, I think, been greatly misrepresented in this proposal. There is the potential for some of the retailing to compete with existing traders. That is acknowledged in the preliminary assessment. The Morris group has significantly modified its initial proposal to reduce the amount of commercial space. The proposal contains a range of retail operators, aimed to complement the existing retail outlets and go some way to restoring the balance of group centre functions that has progressively been forced out of Manuka by cafes, bars and restaurants. This issue was pointed out in many of the submissions supporting the proposed development.

Without the return of group centre retail outlets to Manuka, there would be an increasing drift in expenditure out of the area. What you also have to bear in mind at the present time is that there is a significant escape of retailing out of Manuka into other centres - not necessarily local centres, but other group and town centres and even Civic - because of inadequacies of the structure of the Manuka centre. I believe that what will happen with this development will be a correction of that imbalance.

Mr Speaker, comments were made also about the construction of car parking and how that will affect businesses and about overflow car parking which will supposedly reduce the amenity of surrounding areas. I think the Morris proposal has dealt with this issue quite well. It proposes a large amount of temporary car parking. Of course, at the end of the day, it will provide a significant increase in the amount of retailing provided at the moment at Manuka. That would have to rank as close to the most significant problem to be addressed at Manuka at the present time. I appreciate that the Greens do not believe

that catering to car parking at all is a particularly important issue; but I maintain that it is important that we do expand car parking there, to ensure that those who simply have to use their cars to engage in that kind of shopping and who, at the moment, in some cases, are travelling further than to Manuka - people who live in South Canberra are travelling further than to Manuka - to do their weekly shopping will be catered for. That is an important step.

Mr Speaker, I will not have time to say as much as I would like to about this; but I will, of course, be moving an amendment, which has been circulated in my name. I will make a few other comments. One is about the child-care centre. The issue of the effect on the child-care centre at Manuka has been raised. Some of those comments have been a little bit on the hysterical side, and I believe that most of them are ill-founded. What you have to bear in mind is that the assessment of the impact of traffic on the child-care centre shows that the movement along that boundary, where there will be an access route for the fast food outlet, will actually be less significant and there will be less impact on the child-care centre from cars than from the existing car park. There will be fewer cars; there will be less noise; there will be fewer fumes and emissions.

In addition, of course, we are having a replacement of the double row of Roman pines, and that will significantly improve the buffer that exists at the moment between the child-care centre and the cars on that section 41 site. There was some comment about the overshadowing of the child-care centre and its playground. My advice is that, in fact, what will cause most overshadowing will be the replacement of those lost pines, which the centre has argued for. So, Mr Speaker, there has been much that is inaccurate said about this, and that is one small example of that kind of problem.

There have been claims that the Territory Plan is not being complied with in this development. I reassert the advice I have clearly received and had reaffirmed to me by the Government Solicitor - that the proposal is consistent with the requirements of the Territory Plan. *(Extension of time granted)* I will not seek extra time to deal with my amendment. I will move that before I sit down.

The proposal is consistent with the requirements of the Territory Plan. Arguments to the contrary made by opponents of the proposal are, I think, mischievous, and they ignore information provided at a number of meetings and briefings. The Territory Plan specifically allows for the range of uses proposed, provided that they are associated with the car parking structure. When you look at this proposal and you see the number of square metres dedicated to car parking and you see the other things which are added onto or superimposed on top of that, you realise that that argument about its not being consistent with the Territory Plan is simply not sustainable.

The height and gross floor area do not match the performance measures of the plan; but the proponent has put forward a proposal which he believes is consistent with the plan's objective of ensuring that the development is of an appropriate scale compatible with surrounding development. The discretion to approve the development in those circumstances clearly exists. As I have indicated, I propose to take that up. The argument about consistency with the expressions of interest process, I believe, is well dealt with in the assessment.

There were claims - unbelievable, I have to say - that the consultation mechanisms and opportunities for comments were inadequate. We have just used the longest process of public consultation under a preliminary assessment ever employed under the Land Act. The fact that only 51 submissions were submitted - even with the period extended from 21 to 28 days - after a year of intense debate in this matter, I think, speaks volumes about the extent of people's actual concern. Mr Speaker, I have a friend, an elderly lady who lives - - -

Mr Moore: No, you do not. Do not exaggerate.

MR HUMPHRIES: It is a startling assertion, I grant you. I have a friend - - -

Ms McRae: Three more years in the Assembly will fix that. You will not have any after the next session.

MR HUMPHRIES: I know that I do not have any friends over there. I have long since given that up, Mr Speaker. This is an elderly lady who lives in South Canberra. She came to me, quite desperate, when she saw the original proposal for the section 41 development, saying that she felt that the proposal was a dreadful imposition on Manuka and a terrible mistake for the Government to undertake. She implored me, as her friend, not to approve it. I spoke to my friend a couple of weeks ago, after she had - - -

Mr Whitecross: Or is it "former friend" now?

MR HUMPHRIES: She would have been a former friend, other than for this outcome. She had been in to look at the model. She had been to look at the plan. She discussed it with someone from the Morris group. She rang me, rather sheepishly, to say that, in her view, what she had feared was not what she saw in that model or in the details of the plans. She said that the only thing she did not like was the fact that there was going to be a McDonald's at Manuka and could I take the McDonald's out. I have to say that some of the comments have had a certain snobbishness about them on that particular point; but I will not make any further comment, lest I lose a friend I have only just regained.

Mr Speaker, I think it is important to acknowledge that retailing in any city has to change and has to evolve. Even if there is not a dramatic increase in population levels, you have to have an evolving retail landscape. You cannot always achieve those changes simply by waiting for existing opportunities within the market to become available because someone bales out of or moves away from a particular retailing venture; sometimes, if needs are there, they have to be created. Particularly in a well-regulated market like the ACT, that needs to happen. Mr Speaker, it has happened in this particular case.

I want to make one more comment about the conduct of the opponents of this development. I generally respect the right of members of the public to make their comments in the way that they see fit and I respect the views, however strongly expressed, of members of the public. I have to say that I think the behaviour of some of the opponents of the Manuka development has been particularly unsatisfactory. I think that it is time I put that on record.

Mr Berry: They disagreed with you.

MR HUMPHRIES: No; it is more than disagreement. That is not true. I accept disagreement, and I live with disagreement every day of my life in the job that I do in this place; but some of the tactics used by those opponents in this particular instance were particularly repugnant.

I had cases, quite often, where I was asked to rapidly respond to a particular list of questions or demands - to explain my position on this and to explain that. On one occasion, I was asked to respond within 48 hours. I set my staff quickly to do so, in order not to give any sense of unwillingness to cooperate. I produced the answer within the 48 hours required, and a press release was issued, indicating that the Government had failed to respond to the concerns raised by the community. I might say that a particularly prominent Independent candidate for the Legislative Assembly elections also repeated that untruth in the course of remarks made the same day. I have been to public meetings where, I have to say, I think the amount of time given to either the Government or the proponent of this development to explain their position was derisory, contributed to a sense of panic and emotionally heightened the misinformation available to people in a quite reprehensible way.

So, Mr Speaker, I come before the Assembly today with a clear conscience, if you like, in recommending to it that it should approve this development. We have examined this issue extremely thoroughly. It is clearly the right development for Manuka, in my view. In a design sense, it is extremely sympathetic with the rest of Manuka and addresses Manuka's needs in a very good way. I have not seen many developments which I consider to so successfully achieve that outcome.

Mr Moore: What about the amendment?

MR HUMPHRIES: Mr Moore reminds me that I have an amendment before the house. For the reasons that I have given, I move:

> Omit all words after "this Assembly" and substitute the words "whilst approving the proposed development as described in the preliminary assessment by Morris Consolidated Pty Ltd, calls on the Government to institute a moratorium on the further expansion, except very minor expansion, of retail space in town and group centres, not including Gungahlin, until a strategic plan and social plan for the Australian Capital Territory are developed which include strategies to guide the future development of appropriate retail facilities in Canberra.".

Mr Speaker, the amendment affirms the Assembly's view that the proposal is worthy of support and should be approved; but it also accedes to the request for a moratorium. I might very quickly say that this should not cover those matters in the pipeline already - already with public proposals on the table - nor would it affect, in my view, proposals for petrol retailing, because some of those proposals are still being worked through in the aftermath of the arrival of people like Gull and Woolworths Plus in the ACT. However, the Government accepts the moratorium concept inherent in the motion as it now stands and saves that in the amendment which has been put before the house.

MR MOORE (12.06): Mr Speaker, when the issue of retail space came to this Assembly, I was very keen to ensure that there would be no increase in retail space. Instead, the Government's response in dealing with the issue was to say, "We will deal with problems in terms of smaller centres in Canberra by reducing shopping hours". There was a major debate in this Assembly over shopping hours. The result of that shopping hours debate was that it gave the Government enough time to substantially increase the amount of retail space in Canberra. So, whilst I concede that the amendment moved by Mr Humphries does put a moratorium on retail space from now on, the truth is that the horse has bolted. In supporting that - and I am happy to support it - we are going to shut the gate after the horse has bolted.

Mr Speaker, the issue of community support for the expansion of retail space with regard to Manuka is particularly interesting. I have not yet come across anybody other than the Greens, who have been consistent in their position, who has been saying that what this issue is about is an expansion of retail space. They are all saying, "We want a supermarket. We do want to expand the retail space as far as supermarkets go. We just do not want this particular development". Mr Speaker, I believe that that eliminated the particular issue on which I objected to the development of Manuka in the first place. As far as I was concerned, there ought not to have been any retail space. The weight of community and business opinion is that there should be more retail space there and, what is more, the decision was made in this Assembly that there will be more retail space in Manuka.

So, the question then became: Which is the best development? The process that the Government went through in this case was incredibly extensive. Of course, there are always ways in which processes can be improved. I expect that we will look at this process and say, "How can it be improved?". But this particular process has been more extensive than any other. There was a tender put out. It allowed competitive tendering for the particular site. There was a probity officer appointed. As far as I am concerned, the whole process was particularly good. It involved the community very widely indeed. We have been through a process that has come out with a development which, in my opinion, is head and shoulders above the other proposals. I think that anybody who sat back and honestly looked at the range of proposals would have to come to the same conclusion. It seemed to me that there were people who put in their tender and thought, "This is a lay-down misere. This is for us. Nudge, nudge, wink, wink; it is all done. It is going to go our way", and they got a shock, because somebody else went to a lot of effort to come up with what can only be described, as far as I am concerned, as an excellent proposal for that particular area. What we have to weigh up is whether or not we are going to support this approach.

Some people will simply oppose all development. I find it ironic that I am here saying this, because I have been accused of this very thing on many occasions. But the reality is - I think I have demonstrated it most adequately over the last three years as chair of the Planning and Environment Committee - that we have brought down a whole range of approvals of developments. What is more, we have done it very quickly and very efficiently, to make sure that these things can proceed. What I have objected to and what I continue to object to is the development of office blocks that are not consistent with the Y plan and the decentralised town centre concept. I will come back to that.

But, first, let us have a look at who are the objectors in this process. For me, largely, they fit into three groups. The first one is the community groups. Generally, I think, in the vast majority of cases, they are genuinely concerned about the size and scale of this particular project. Personally, I think it was well worth listening to them. They did want a supermarket, and that is very important to record.

The second is the business groups. In fact, the second and third groups fit into what I call the hypocrisy groups. The business group in Manuka, I think, is the most hypocritical business group that I have ever come across. We hear these people again and again, as I have heard for the last eight or nine years in the Assembly, saying, "Get rid of red tape. Let us do our development. There is too much regulation, too much control, over what we do". That is until it does not suit their exact interest, and then they are saying, "We need more regulation. Do not let it go ahead. Put on more control". They use every possible tool they have to prevent a development because it might affect their own personal interests. When they are calling for the reduction of red tape, they are never interested in the fact that it might affect the interests of the community as a whole. They are never interested in the fact that it might affect other businesses, until it suits them. I have seen more hypocrisy from that group than I have seen from any other set of business groups over the last eight or nine years that I have been in this Assembly. That was the second group I wanted to deal with.

In the third group I want to deal with, there is a particular person, a former head of the National Capital Development Commission, Tony Powell, who stood up there and objected to this development on a whole series of purported planning issues. This man is the butcher of the Y plan. Let us not forget Tony Powell's role in Canberra. He is the one who, as commissioner of the NCDC, without any consultation - they did not have to deal with consultation processes in those days - ignored major crying out from the community and said, "No, we are going to allow a development in Civic. We are going to allow widespread development, including the full range of White Industries buildings, including a huge range of office blocks, as well as the Parkroyal. We do not care that that will mean that there will be no government departments in the town centres". What impact did that have on Canberra as a whole? We are still living with that impact. People in Gungahlin should be aware that one of the reasons why there is no office development in Gungahlin is that the butcher of the Y plan set down the process. So, for him to stand up here and object to this in the way he has is absolutely ludicrous, and it should be dismissed out of hand, because that is what it is worth.

To keep it in perspective, I also happen to think that Tony Powell has some very interesting ideas about the general impact of the character of Canberra, and they are ideas that are worth listening to. In this particular case, I do not know what has influenced him; but it is in great contrast to the way he operated with reference to the development of Canberra when he was the commissioner of the National Capital Development Commission. I am just appalled that so many people seem to have forgotten that. But that is the reality of it. In fact, it is thanks to Tony Powell that I wound up getting involved in planning issues and that I am here in this Assembly. It was because of his approach, because of his being the butcher of the Y plan.

I have opposed a range of developments. In fact, I have challenged this very developer - Morris Consolidated - in the Supreme Court on a range of its developments. So, it is not as though I am saying, "Just let any development go ahead". I am not. As far as I was concerned, those particular developments - the ones that I opposed in the Supreme Court - were inconsistent with the Y plan. They were consistent with Tony Powell's thinking, granted; but they were inconsistent with the Y plan. That is why I challenged them. But that is history.

The final thing I would like to discuss, Mr Speaker, is the consultation process. We are always in a danger, in the consultation process, that the loudest voice will get its way. We ought not to let that happen. But I think sometimes it will appear to happen. Let me just draw a comparison. Let us compare this with what happened with the loud voice of a very small number of people from the Ridgeway. They have complained and complained, and there will be a debate in this Assembly in the next little while - I do not want to pre-empt that debate - about the issue of noise. But, in the end, it will not be just the loud voice that is taken into account. It will be the merit of the issue that we will debate here in this Assembly, not the number of people who are complaining or how loudly they complain. We have to take great care to ensure that, when these issues come before us, we are not listening to just those who have access to the media or those who have access to good lobbying or those who have a loud voice. What we must be very sure of is that we deal with the issues on merit. There is no doubt in my mind that, in dealing with this issue on merit, this particular proposal for Manuka should now go ahead. That is why I am supporting it.

MS McRAE (12.16): In standing to address the amendment and the substantive motion that we are debating today, I must note as a preamble the extreme irony of the Greens using a survey that a Labor candidate and the Labor Party put together, slightly realigning it to promote their case, and then talking about the inadequacies of the consultative process conducted by the Government. I think it should not escape us that it was, in fact, the Labor Party that said that perhaps the Government processes were not sufficient, perhaps we were not hearing, via the telephones, the airwaves or the letters pages, sufficient of the community view, and that it was the Labor Party that undertook to conduct quite wide consultation via a questionnaire and a public meeting.

What it produced for us, quite rightly, was an indication of the level of complexity and diversity of issues that exist in the community, the level of concern, the level of misinformation and the level of genuine involvement with processes in the ACT. To find now that the Greens are using our material, when they could well have done the same thing, is something that I just want to note, and to say, "Good on you". There are ways that we all, as MLAs, can seek out the wider views to assure ourselves that the processes that we want to criticise, as the Greens do so vehemently, are actually processes that are reflecting community views. Those views were diverse and complex, and the public consultation processes that we undertook led very neatly into what is now the PA.

The Greens' motion has two parts to it, and there is a very interesting implicit assumption in it. The implicit assumption is that somehow, if we conducted this strategic planning process and had some sort of master plan, Manuka would be stopped. What would be the results of all that if Manuka were processed? The Greens' implicit assumption is that it is

as if nobody is able to think about more than one thing at a time. What I have found in all the processes that have been undertaken is that people do, in fact, think about at least three things at one time, if not more. They are quite capable of thinking of the whole of Canberra, of thinking of their personal needs, of thinking of Manuka and of thinking of the future.

The responses we have seen have demonstrated the wide range of quite complicated and interesting arguments that people have put and their capacity to understand Canberra very well without legislators sitting down and mapping it out and saying, "Today we will build a community centre. Tomorrow we will build an aged care centre. The social plan demands that the next day we take care of one-legged people". For heaven's sake, people are quite capable of personal involvement, of political involvement and of social involvement where they are feeding this information to us and the social fabric of this society changes. We will not be opposing that, because it does not hurt to have a bit of a public think about these things; but I really do question whether it is going to yield us any results and whether the implicit assumption that somehow the community views would have stopped Manuka would have gone ahead.

What I find overwhelmingly pleasing about this project is that I can defend the public process. One of our roles as legislators that I take very seriously is the establishment of rules, laws, regulations and processes whereby people can feel confident that their opinions are taken into account, that they are weighed up seriously, that they are counted with information which goes to the Minister and usually to the Assembly as well, and are then given a cold-headed assessment and final decisions are made on that basis. What I feel that we have been progressively working towards in the nine years since self-government is depoliticising the planning process and developing mechanisms by which community views are well incorporated into the process and are taken account of before decisions are made. I am very confident that this has been done exceptionally well.

Ms Tucker took exception to the fact that the original idea that was accepted by the Minister was not the absolute black-and-white letter written down in this PA. She missed the point entirely. What is brilliant about this PA is that, from the preliminary assessment, we already know that this is a developer that is in tune with the community, that has already heard about everything that has gone on on radio and in newspapers and letters and has been said in public meetings. Even before the development application has begun, even in the preliminary assessment when he could have just cold-headedly put in what the original proposal was, the developer has already amended and stepped back. That has given me a great deal of faith that we are going to end up with something that is in harmony with what the people are asking for.

In the original proposal, as we heard it, what were some of the things that people were talking about as being very much of concern? The parking problem was one. What has the proponent done in the PA? He has increased the number of parking spaces, taking into account what people were saying. He has gone from 625 to 672. What has he done about the shops? He has listened to the retailers. He has not said, "Too bad; let the market rip. We want to build X number of small shops and you can sink or swim".

No, he has reduced the amount of retail space available in small shops that are going to be in the centre. The people have talked at great length at public meetings and around the place about the concept of a mall that took everybody in and kept them in that corner of Manuka and did not let them go anywhere else. What has the proponent done? He has changed the entry and exit points. He has changed the alignment of the centre, saying, "Yes, fair cop; if you do not want people just to come in here, they can move about as they please". He has addressed the notion of how to go to Palmerston Lane, and so on.

We heard that Palmerston Lane was an absolute nightmare. This proponent has delivered the money, at the very least, which will then move into ideas and solutions. It will be fascinating to see what we do with those skips and all that rubbish. I do not know what the solution is going to be - perhaps a series of holes or something amazing - because, no matter what, people have rubbish to dispose of in Palmerston Lane. But the $2m is there. The proponent has not, in any way, shirked that responsibility that came with the proposal. We have heard about the whole traffic problem and the movement of the traffic. It is a nightmare; there is no question of it. What has the proponent done? He has said, "The trucks are a problem. Docking is a problem. We will be putting it all underground". The movement around Franklin Street and Manuka generally is a problem. He has dealt with traffic engineers. He has dealt with the problem and put forward further solutions. The challenge will be in the long run to ensure that the solutions that are being offered are sensible solutions and do, in fact, yield the required result.

What I find most pleasing about this is that there is no shirking of the most serious problem of all. There is no way that this proponent, even with the Government's answer to it, shirks the real issue. The real issue, and the one that makes everybody a little reluctant to say just a big yes, is the effect that this development will have on Griffith, Narrabundah and Red Hill, and the surrounding shops. It is a reality. Do we find the proponent trying to fudge it? No. Do we find the Government trying to fudge it? No. We are all looking this problem in the face, straight on, and saying, "Yes, this proposal may well have an effect". We are trying to second-guess. We do not know how much the population will grow. We do not know how much of the supermarket shopping being lost at Manuka at the moment will come back to it. We do not know how much the shopping process at Manuka will actually drive people back to Red Hill and Deakin. But on best advice - advice which is not being fudged, which is not being covered over - this project will have an effect on those shopping centres, and in some cases a serious effect.

The challenge, then, is that, when government gives approval to this proposal, government stares us in the face and actually does something in terms of dealing with it. That is where the second part of Ms Tucker's motion and the amendment that the Minister has incorporated into the motion put the challenge to the Assembly and to the Government. Perhaps a retail strategy or a social plan will yield some results. Perhaps some stringent laws that say, "If you live in Red Hill, you have to shop in Red Hill" would be the answer. Who knows? It is not an easy problem. It is something that time itself has done to ravage the process of shopping in all our centres. I have seen it right through Belconnen. It is sometimes the product of having a big supermarket,

but not always. It is not a black-and-white science. It is extremely difficult to know what it is that drives shoppers away from some places and takes them into others. Much better heads than mine have grappled with this problem. I do not think there is a straightforward answer. That is why I am expressing grave concerns. *(Extension of time granted)*

We must put on record that our support was full of praise for the way that the proponent has answered the issues that have been raised and solved the problems. I will point out some of the other things he has done that are good. But we are in no way going into it with shouts of glee about how it will affect the other centres. We are very reluctant on that score because we know that, collectively, we are not helping the other centres by doing this. However, as Ms Tucker pointed out, our survey work did show that there was a level of support and, universally, what we have found is that everybody wants a bigger supermarket. So, once you accept that fact, you have to deal with the consequences of it. The consequences of it are that we have to make a very difficult decision which then affects the other shopping centres.

In conclusion, I think the developer has demonstrated a clear interest in the future of Manuka; a clear capacity to respond to the interests of Manuka; a clear interest in what the residents are saying; some intelligent solutions to difficult problems; some capacity to realign, to change, to reduce, to take into account what people have said. It is not in the proponent's realm actually to save the other shopping centres. That comes back to us as an Assembly. It comes back to the Government in the way that it deals with decisions. It comes back to all of us, collectively, to be acutely aware that this is what is, in fact, likely to happen, and not to shirk the difficulty of that and the complexity of how that is going to affect southern Canberra.

The Labor Party will be giving support to the Manuka proposal. The Labor Party will support the notion of developing some sort of plan or having a better look at these bigger issues. The Labor Party is very mindful of the fact that doing so comes at a price. It may be a very big price to pay, which we are not happy about. But we see that there is an overwhelming case for a supermarket. Once you accept that, the logical consequences flow. The proposal for 60 units, with 5,000 square metres or so for other shops, for the supermarket, for the underground parking, for the realignment of traffic, and for the improvements to Palmerston Lane, is something that we believe will greatly enhance Manuka, will greatly enhance the amenity for the people who use that centre, and hopefully in time not diminish too much the very important and much used shopping centres at Red Hill, Deakin, Griffith and Narrabundah.

MR OSBORNE (12.29): Mr Speaker, I do not intend to speak for long on this issue, because I am sure that there is more than enough gas in the tanks of other members. When the members run out, I am confident that community representatives, vested interests on both sides, and the odd political opportunist - without mentioning any names - will ensure that it does not go gently into the night, but rages in the light of our evening television bulletins. No-one could say that the process of getting approval for development in the ACT is easy. Despite what some people would have us believe, Canberra is not the Gold Coast. The checks that we have in the existing planning approval process ensure that it never will be.

I have spoken to both sides in this debate, and have taken their concerns into account. As always, there is some merit on both sides. But, in the end, somebody - and that is those of us in this place - has to weigh them and make a decision. Someone has to wear the responsibility for that decision and accept the criticism of those who are unhappy with it. That position falls to us today. I certainly will not back away from it. I have decided to support the development, as it has cleared the bars already set by this place and has been modified in an effort to comply with the multitude of demands. That does not mean that I do not have some reservations about the development and the impacts it will have on some of the smaller shopping centres. But, as I said, it is a question of looking at the arguments, on balance, and making a choice. Some will say that I have made the wrong choice. I can live with that.

I would like to make one point to those who will spend the day trying to manufacture just the right amount of bile to describe me and others in this place on TV tonight. Canberra is a city. Let me repeat that, Mr Speaker: Canberra is a city. If we want this city to grow, if we want to create jobs for our kids, then we have to encourage this development. I sometimes think that there is a small section in our community who agree with the old criticism of Canberra, that it is a good sheep paddock spoilt. Somehow these people have been able to set themselves up as the conscience of the community and the sole arbiters of what is right and wrong. There is almost no development that some of these so-called community representatives do not steadfastly oppose. They will never be happy whenever we approve a development. Frankly, in my opinion, there is no point in trying to please them.

I understand from a message left on my answering machine this morning that some of those who oppose this development will continue to battle to stop it. That is their democratic right, and I encourage that. However, I find the threatening tone of the message - that they will make this fight political - laughable. Mr Speaker, I am shaking in my boots. I am sure you can see that from up there. This fight has been political since day one. No doubt, it will make a decent plank for some people's election campaigns. Just who, Mr Speaker, I will leave to you. Might I be so bold as to suggest that there is no way that I will be turned around by threats. Finally, if, in the future, there is another issue that these people want to discuss, I would suggest that they take a less Neanderthal approach and stop being so threatening if they expect me to listen to them.

As I said, I will be supporting this development. I do not have a great interest in planning. The longer I am in here, the more justified I am in taking that stance. It would appear that all the checks and balances have been undertaken. This development will not please everybody, but the reality is that with every decision we make there are people who do not agree. I will be supporting the development, but I will not be supporting the motion of the Greens.

MR SPEAKER: The debate is interrupted, and I understand that it is the wish of the Assembly that this matter take precedence of Executive business this afternoon.

Sitting suspended from 12.35 to 2.30 pm

MINISTERIAL ARRANGEMENTS

MRS CARNELL (Chief Minister): Mr Speaker, I wish to inform members that Mr Kaine will be absent from question time today. Mr Humphries will answer any questions that would normally be directed to Mr Kaine.

QUESTIONS TO MEMBERS
Statement by Speaker

MR SPEAKER: Last Thursday, I undertook to report back to the Assembly on the use of standing order 116, after Mr Moore asked Mr Osborne a question without notice. Mr Moore asked Mr Osborne a question about surveillance cameras, on the basis that Mr Osborne was the chair of the Legal Affairs Committee inquiry into surveillance cameras which reported to the Assembly in September 1996. Yesterday, Ms Horodny asked Mr Moore a question which was, in part, related to the inquiry by the Standing Committee on Planning and Environment into the environment protection Bills. The report of that inquiry was presented on 4 November 1997.

Standing order 116 allows members to ask other members questions on matters of which they have charge, within certain parameters. However, I do not believe it permits questions of the nature of those asked in recent days. Once a committee report has been presented to the Assembly the committee chair no longer has charge of the matter; the report is in the hands of the Assembly. Therefore, in future I will rule out of order any question directed to a committee chair of the nature of those asked of Mr Osborne on Thursday and Mr Moore yesterday, unless the Assembly directs otherwise. I remind members that it is always open to the Assembly to review its practices in relation to question time. Any member may put forward a proposition to alter our practices and standing orders.

QUESTIONS WITHOUT NOTICE

Goods and Services Tax

MR BERRY: My question is to our Chief Minister and Treasurer, the Minister who is responsible for devising the taxes on ACT residents and who yesterday recanted on her blissfully ignorant statement in this Assembly that a GST was a technically progressive tax.

Mrs Carnell: And then I said later that was not the case.

MR BERRY: And she came back into the Assembly and said that was not the case. How is it, Chief Minister, that the Treasurer of the ACT does not know that a GST is a regressive tax?

Mrs Carnell: Mr Speaker, is that the question? I am happy to answer it.

MR BERRY: No; I am not finished yet. How is it that the Chief Minister does not know that a GST is a regressive tax - or are you going to blame your advisers?

MRS CARNELL: No, not at all. I corrected my comment, which was only an interjection, later that day. I am always willing to accept when I get something wrong; that is not a problem.

MR BERRY: Mr Speaker, I have a supplementary question. Will the Chief Minister now write to the Prime Minister and tell him that any contribution that she made to the tax reform debate was wrongly based on her assumption that a GST was a technically progressive tax and that all of her contributions should be ignored?

MRS CARNELL: I think it is a bit rich for Mr Berry to be speaking about tax when John Passant the other day revealed the Labor Party agenda on tax and that it should include things like death duties, a tax on family homes, wealth taxes. I think Mr Berry should shut up about taxes very definitely.

Olympic Soccer Matches

MRS LITTLEWOOD: My question is to the Chief Minister. I refer to the claim made earlier this week by Mr Berry that redevelopment of Bruce Stadium was a wrong priority for Canberra. Can the Chief Minister advise whether the Opposition's failure to support the ACT's bid for Olympic soccer has harmed Canberra's chances of hosting additional matches?

MRS CARNELL: I thank the member for the question because it gives me an opportunity to provide those opposite with a very interesting history lesson. The theme of that lesson is consistency - something Mr Berry knows very little about. I want to remind members of a media statement issued by the Labor Party in November 1995 and headed "Government Inaction threatens Soccer Olympics for the ACT". Obviously, it was issued by those opposite. I think those opposite should be embarrassed. I quote from the media release issued by those opposite:

> Two events have demonstrated the total lack of any commitment by the Government to bringing the Olympic soccer quarter finals to Canberra.
>
> Firstly, they lost the bid for the $5m plus contract with the Japanese Olympic team to train, acclimatise and live in Canberra before and during the Olympics.

> This in itself was a major blow to Canberra. But the Government compounded this by having its Sports Minister Bill Stefaniak announce that it would not put a penny into Bruce Stadium.

It goes on:

> The only message coming across to the Olympic Federation is that the Liberal Government of the ACT is unwilling to support its Olympic 2000 Committee, and shows no interest in attracting visitors and sports people to the ACT in 2000.

In this media statement, this Government was also condemned by the Labor Party for failing to spend "the money needed to upgrade Bruce Stadium". They were having a go at this side of the house for not spending the money that was needed to upgrade Bruce Stadium. Remember the quote "the money needed to upgrade Bruce Stadium". That is an interesting statement, indeed, from the Labor Party.

What happened? Japan has not decided yet where its team will train. Canberra did win at least 11 soccer matches and became a host venue for the 2000 Games. At least one country has announced it will train in the ACT. This Government has embarked upon the upgraded facilities for Bruce Stadium that Labor demanded in 1995. So much for consistency! Judging by the media statement from Labor almost two years ago to the day, you would think that the Opposition would be right behind our efforts to increase Canberra's involvement in the Olympics; but you would be wrong, because the Labor Party took a completely opposite tack and began to undermine our Olympic campaign at every opportunity.

Ms McRae: It is still a waste of money.

MRS CARNELL: They have repeatedly attacked the redevelopment of Bruce as "the wrong priority", to quote Mr Berry. Ms McRae just said, "It is still a waste of money". There we are, just for the record - "a waste of money". That is totally unacceptable.

These repeated attacks on the redevelopment of Bruce Stadium, saying it was the wrong priority, and constantly questioning the value of Olympic soccer in Canberra, have not gone unnoticed either in Sydney or in other key places around the world where decisions about Olympics are being made. Regrettably, a number of delegations have commented upon the lack of support from the local Opposition. One or two have even asked whether support would, in fact, be withdrawn if Labor got into government. You cannot blame them for that when you listen to those opposite. I can only tell them what I know, and that is that I do not know what the Labor Party would do. If you listen to what Mr Berry or Mr Whitecross has said lately, you cannot be sure of any Olympic commitment from the Labor Party; and that is despite the criticism of the Government back in 1995 that the Government's inaction was threatening the soccer Olympics for the ACT and that we should be spending the money needed to upgrade Bruce Stadium.

It gets even more interesting, the further back you go. Only the other day one of my staff discovered a newspaper article dated 31 October 1993. Let me read out part of it. I think the issue of consistency is a very interesting one when you read this. It was in the *Sunday Telegraph*. Obviously, those opposite would think that was a very good source. There was this story:

> ACT Deputy Chief Minister and Minister for Sport Wayne Berry has urged the Australian Soccer Federation to inform the Australian Olympic Committee that Canberra wants and is "ready, willing and able" to stage one of the four team soccer pools for the Sydney Olympics.
>
> Berry made the plea earlier this week to the ASF's chief executive Ian Holmes at the annual ACT Soccer Federation's presentation night.

It went on:

> "When Canberra hosted two of the World Youth Cup games we showed soccer's international body, FIFA, and others that we have the ground and the organisational skills necessary to run such events", Berry said.
>
> "I want to put everyone on notice that Canberra wants one of the four soccer pools from the Sydney Olympics".

Listening to Mr Berry today, he could have fooled me. He could have fooled me, because this is the politician who has attacked the upgrading of Bruce Stadium as a wrong priority for Canberra.

Mr Berry: Spot on.

MRS CARNELL: He still believes that it is a wrong priority for Canberra. Four years ago, Mr Berry was telling everyone who cared to listen that he would stop at nothing to make Canberra a host city. Today, he is doing all he can to undermine the city's involvement in something as important as the Olympics. It is time for Labor to either put up or shut up; either they support the improvements to Bruce Stadium and Olympic soccer, or they do not. I think, in this question time, they have indicated that they do not. They keep saying, "No; wrong priority". It tends to indicate to me that they do not support it. But what is it to be, Mr Berry? I think you really have to come clean on this. I have said it before, and I will say it again: If you are in government in the year 2000, Mr Berry, and you are not too ashamed - - -

Ms McRae: We will not invite you to the Olympics, I can assure you.

MRS CARNELL: I would be very surprised if you did, because that is not your style.

Ms McRae: That is right.

Mr Whitecross: It is not your style either.

MR SPEAKER: Order!

Ms McRae: We have noticed the bipartisan approach; yes.

Mr Whitecross: Where is the bipartisan Olympic committee?

MR SPEAKER: Order!

Mrs Littlewood: Mr Speaker, I cannot hear.

Ms McRae: We have noticed your inclusion of us!

MR SPEAKER: If the interjections continue, some people will not be here within the next five minutes; never mind 2000.

MRS CARNELL: I hope those opposite, if they are in power in the year 2000, are too ashamed to even turn up at Bruce Stadium for the soccer, because they certainly do not deserve to be there.

MRS LITTLEWOOD: Mr Speaker, I have a supplementary question relating to soccer.

Mr Berry: Mr Speaker, I would ask the Chief Minister to table the press clippings and statements to which she referred - not a brief; I do not want to see your brief. I would like to see the press clippings to which you referred.

Mrs Carnell: That is what I have. I was reading off the - - -

Mr Humphries: She was reading off the question brief.

Mr Berry: I ask you to table the press clippings and the statements to which you referred.

Mrs Carnell: You cannot ask me for that.

Mr Berry: I can ask you for it; do not worry about that. It is in the standing orders.

Mrs Carnell: You just have to look them up. I am happy to, if you want me to.

Mr Humphries: Mr Speaker, on a point of order: The - - -

MRS LITTLEWOOD: Mr Speaker, I have a supplementary question here.

Ms McRae: Yes, we can look them up. Just give us the reference again; it is okay.

MR SPEAKER: Just a moment.

Ms McRae: Just a minute. You said it was September 1995, and you said that Mr Berry was the Minister for Sport. That one.

Mrs Carnell: No; the first one was 1995.

Mr Berry: Who said that?

Mr Humphries: Members can be asked - - -

MR SPEAKER: Order! Mr Humphries has the floor.

Ms McRae: It is okay. It does not matter; it is all finished.

Mr Berry: It does not matter; it is all right. Rosemary Follett said it.

Mr Humphries: They have given up. That is fine.

Ms McRae: We have sorted it out. It is okay.

MR SPEAKER: Now, Mrs Littlewood, you have a supplementary question.

MRS LITTLEWOOD: Mr Speaker, my supplementary question is to the Chief Minister. Given that we are speaking about soccer, is the Chief Minister aware that on 1 November Mr Whitecross was seen accepting hospitality with a local soccer organisation and speaking to officials? Based on what we have seen this week, and the inferences drawn by those opposite, are we to expect Mr Whitecross to be offered a job somewhere?

MRS CARNELL: Mr Speaker, I was very interested - - -

Ms McRae: Is not this a hypothetical question, Mr Speaker?

MRS CARNELL: No, it was not hypothetical. I was there, too.

Members interjected.

Ms McRae: Mr Speaker, could we have some order in this place.

MR SPEAKER: What am I supposed to rule on - an own goal, or what?

Mr Corbell: On a point of order, Mr Speaker: The question is clearly hypothetical. You should rule it out of order.

MR SPEAKER: It is not hypothetical.

Mrs Littlewood: Mr Speaker, it was not hypothetical. It was 1 November; Mr Whitecross was there.

Ms McRae: Mr Speaker, with the greatest of respect: To speculate on whether a job offer comes from accepting an offer of hospitality is hypothetical.

MRS CARNELL: What have you been doing all week?

MR SPEAKER: Ms McRae, the tenor of questions in the last couple of days has been on a par with this type of questioning.

Mr Whitecross: Mr Speaker, further to the point of order: The question was related to Mrs Carnell giving job references for her deputy but not, apparently, being curious about what job he was applying for. I have not been offered a job by anyone and will not be accepting a job from anyone, except the job of Minister in the next Labor government.

MR SPEAKER: You were not asked the question. If you want to make a personal explanation later, I will be happy to accept it.

MRS CARNELL: Mr Speaker, in the tenor of the longbow approach to question time that we seem to be taking recently: Yes, I was actually at that soccer match. Mr Whitecross was talking to people that I know personally to be closely associated with Mr Knop. On that basis, there is no doubt in my mind that Mr Knop had passed a message through these people to Mr Whitecross and, therefore, there must have been a job offer.

Investment Incentives

MR SPEAKER: I call Mr Whitecross.

Members interjected.

MR WHITECROSS: I am just waiting for the burble to die down and to recover my breath after that breathtaking answer. My question is to the Chief Minister. Chief Minister, I draw your attention to an article which appeared in - - -

Mrs Littlewood: He wants a reference, Chief Minister.

MR WHITECROSS: I would not take a reference from Mrs Carnell. Mrs Littlewood, if you are well advised, you will not take a reference from Mrs Carnell either because she is not a credible witness.

MR SPEAKER: The only reference I would make is that members stop interjecting. Proceed with your question, Mr Whitecross.

MR WHITECROSS: If I were an employer I would not believe a reference from Mrs Carnell. Chief Minister, I draw your attention to an article which appeared in the *Australian* newspaper on 4 September this year and which stated that the Olsen Government had apparently succeeded in outbidding other States and Territories in order to get a company, Teletech - a United States customer service organisation based

in Denver, Colorado - to do business in South Australia. I am happy to table a copy of the article for members if they wish. No; perhaps I will wait and see whether Mrs Carnell tables her press clippings first. Chief Minister, in this article, you are reported as saying:

> We're in there with the best of them. But once the package (of government incentives) got over $20m we bailed out.

Chief Minister, $20m sounds like an awful lot of money to me. Can you inform the Assembly what the ACT would have been getting for the $20m that you were offering to an American company? Will you table the documents on which you based your bid?

MRS CARNELL: In terms of hypotheticals and longbows, this is a very interesting question. I am very concerned about those opposite so far in question time; they have suggested that I do not know the difference between a progressive tax and a regressive tax.

Mr Berry: You proved that yourself.

MRS CARNELL: Mr Berry showed this week that he did not know the difference between expenditure and revenue; I have to tell you, Mr Speaker. With regard to Teletech, as I understand it, Teletech did come to the ACT, as they did to other States. Negotiations continued with Teletech. There were quite a number of jobs involved, I have to say, with regard to a call centre. Negotiations continued until it was obvious that they were after an amount or a package that the ACT did not believe was appropriate for the number of jobs that were on offer. It was simply out of our league; so, we bailed out before we actually put a final offer on the table. They were in a different league; that is fine. South Australia got them.

We are not in the business of buying companies. Obviously, negotiations that were in place included, as they always would under our business incentive scheme, things such as payroll tax; possibly relocation money; possibly land - all those sorts of normal things that are very much on the record. But I have to say that the ACT Government will never get into the business that some States, South Australia being one of them, do, and that is simply buying businesses. It has to be a good deal; it has to be something that the ACT will get a good return on, or we are not in the game; and I will stick by that forever.

MR WHITECROSS: Mr Speaker, I have a supplementary question. Chief Minister, if offering $20m to Teletech to locate in Canberra is not buying business, if offering over $6m to the Bega cheese factory to locate a packaging plant in Canberra is not buying business, what is buying business? How many other companies have you offered $6m, $10m or $20m packages to, that we have not heard about, to get them to come to Canberra? Was the Fujitsu deal anything like $20m; or will you not tell us?

MRS CARNELL: Mr Speaker, is this part of the inquiry? I thought Mr Whitecross's committee was actually having an inquiry into ACTBIS. If Mr Whitecross and other members would actually like me to give them a little bit of a run over the target on how the business incentive scheme works, I am very happy to do so. That is what I am going to have to do, because obviously you do not understand it.

Mr Whitecross: On a point of order, Mr Speaker: My question related to the size of the packages offered, not to how the business incentive scheme operates. It is a simple question. All she has to do is answer a question about the size of the packages that are being offered.

MR SPEAKER: I would think that Mrs Carnell is probably moving to that, because it seems to me that the size of the package offered is probably part of the business incentive scheme; or am I wrong?

MRS CARNELL: It is, Mr Speaker; thank you for that. I understood that Mr Whitecross's committee had actually had public hearings and was supposed to be reporting on the issue about the business incentive scheme on 2 December, which is not far away. I am surprised that he does not actually know how the business incentive scheme works.

Mr Whitecross: On a point of order, Mr Speaker: I do not know much about the size of the Fujitsu package because Mrs Carnell will not tell us.

MR SPEAKER: You will not get a chance. If you keep interjecting all the time, of course you will not be able to hear the answer.

Mr Whitecross: I am looking forward to the answer, Mr Speaker.

MR SPEAKER: Then be patient.

MRS CARNELL: With regard to the size of packages, the amount of money the ACT Government has in our budget for the ACTBIS initiatives is quite clear. My understanding is that it is something like $1.3m or $1.4m for the year. On top of that, the sorts of incentives that can be given in certain cases include payroll tax breaks over the first few years; land, under some circumstances; and sometimes we will waive stamp duty. The basis of those waivers is revenue forgone; they are revenue that we would not have got anyway. We have had this lecture before, but I am happy to do it again. In terms of what it can cost the ACT taxpayer, it is quite clearly in the budget; and I will make sure what the figure is. It is something in the vicinity of $1.3m or $1.4m.

Housing Trust - Rental Arrears

MS REILLY: My question is to the Minister for Housing.

Mrs Littlewood: Another Kick Start question.

MS REILLY: Can I be heard in silence, Mr Speaker?

MR SPEAKER: Proceed. The pause was for effect, I trust, Ms Reilly, was it?

MS REILLY: Minister, you proudly stated during the Estimates Committee hearings that ACT Housing had reduced rental arrears, and I quote the following from the Estimates Committee *Hansard* of Wednesday, 22 October:

> As at 30 June 1997 $1.418m was owed. As at 30 June 1996, the year before, it was $2.058m.

That is at page 737. There has been a total reduction in arrears of $1.162m. You also stated, Minister, in a press release dated 12 August 1997 and headed "Public Rent Arrears and Debt Decline":

> The biggest reductions were in community housing and in the Woden and City regions, followed by Tuggeranong.

You also said that this was "a considerable and welcome improvement". However, Minister, the information you have provided to me in letters shows that in past financial years ACT Housing has written off $1.387m in vacated rental debt. Minister, can you tell me how much of the $1.162m of reduced rental arrears you told us about in the Estimates Committee, which you described as "a considerable and welcome improvement", was, in fact, debt that had been written off?

MR STEFANIAK: I think you might have asked me that question on notice, Ms Reilly; and I provided you with an answer. I will get the exact answer for you. But, certainly, as you should be well aware, total housing debt in the last couple of years has come down from a little over $7m to $5m; and tenant rent arrears have come down, as you have correctly stated there. It is a significant drop. Also in terms of any debt that is written off, if tenants are later located that debt can be reactivated. Wards debt agency, in fact, do that on occasions when a tenant who has vacated premises then turns up at a later stage and wants to be rehoused. We often reactivate a lot of that debt. There is one figure there which I think I have provided you with and which I will actually get for you; but I do not actually have that with me now.

MS REILLY: Mr Speaker, I have a supplementary question. Minister, what you are telling me is that you are not quite sure how much debt has been written off in the last few years. You also mentioned that Wards collection agency chases the debt defaulters. You told me in a letter of 11 November that you are writing off all vacated rental debt after 12 months. Does that mean that Wards collection agency stop chasing defaulting tenants after 12 months?

MR STEFANIAK: No, Ms Reilly. What it means, as I said earlier, is that, whilst some debt is actually written off, it is also actually reactivated if tenants are located. You mentioned two figures earlier in relation to tenant arrears, which have come down from a bit over $2m to $1.4m. I understand none of that includes any debt that has actually been written off. That is actually current tenant debt and is a significant drop. That shows that our debt recovery practices are succeeding greatly, as does the total overall figure of a $2m improvement.

Mountain Bike Championships

MS HORODNY: My question is to Mr Humphries in his capacity as Minister for the Environment, Land and Planning. Mr Humphries, you would know that the Australian mountain bike championships were held on the eastern side of Mount Majura in April this year and that significant damage was caused at the top of Mount Majura where the downhill race went through part of the Canberra Nature Park. I understand that since then officials have been looking at alternative venues for the next mountain bike championships and that a suitable site has been identified in the Blue Range area of the Uriarra pine forest. However, I understand that the Australian Cycling Federation is still keen on using Mount Majura. Minister, could you clarify the Government's view on the location of next year's mountain bike championships?

MR HUMPHRIES: I thank Ms Horodny for that question because it is a relevant and timely question. Yes, the Government has been in deep negotiation for a number of months now with the Australian Cycling Federation about the hosting of the national mountain bike championships in 1998. As you have indicated, the event was held this year on Mount Majura. It did result in rather more damage to parts of the Canberra Nature Park than was expected when that site was chosen. It was the view of the Government that on a long-term basis Mount Majura was an unsuitable site, particularly in so far as it included parts of the Canberra Nature Park, for ongoing mountain bike championships or for mountain bike activity generally.

We engaged in discussions with the Australian Cycling Federation with a view to finding an alternative location. I might point out to the Assembly that at the same time the federation was being approached by the Victorian Government to host the event at a location, I think at Mount Beauty, in eastern Victoria. The Government suggested two alternative sites - one at Kowen Forest and the other at Blue Range. Certainly, the site at Blue Range, as Ms Horodny suggested, was a very good site; but there were other considerations that were important to the Cycling Federation, including access by competitors and spectators, which militated against that site at the end of the day. I can say that the Government has moved to the point where it has agreed that a site at Kowen Forest should be made available for future holding of the event. Some construction work will be done over the next few years to produce a high standard international course for that event to be held successfully in future years in the ACT. That is an investment the Government believes is worth making, in order to keep the event in Canberra. Members who attended the championships this year will know that it was a very successful event, attracting a great many people from around Australia and, indeed, internationally.

However, that Kowen Forest option is not available, and cannot be made available, in time for the championships this coming March. As a result, the Government has agreed that the event should be held for one further year on Mount Majura. This, again, is a question of balance between retaining an important event in the ACT, and the economic benefits it produces, and accepting a relatively small amount of damage to the environment. The Government's intention is to redesign the course on Mount Majura in such a way that it maximises the use of the existing routes caused by things such as the laying of trails for other purposes and areas that are already degraded, to reduce the effect on the environment. I believe we have been able to strike a balance on that matter.

There will be ongoing negotiations with the federation and with affected and interested environment organisations, including the Conservation Council, with whom I have spoken already, to ensure that the event minimises the impact on Mount Majura in 1998. However, the benefit of taking on that risk to Mount Majura - a marginal risk, I might say, to Mount Majura - in 1998 is that the ACT gets to host the championships for the foreseeable future at a purpose-built facility at Kowen Forest. We believe that was a good balancing of those considerations.

MS HORODNY: I have a supplementary question, Mr Speaker. Is it the case that responsibility for determining the location for the mountain bike championships has been taken away from Environment ACT and given to the Bureau of Sport, Recreation and Racing? If so, that is a concern, because they do not have the same regard for environmental considerations.

MR HUMPHRIES: The answer is no.

Housing Trust - Rental Arrears

MR CORBELL: My question is to the Minister for Housing. Minister, you would be aware that ACT Housing was roundly condemned by the ACT Ombudsman in the Ombudsman's report for 1996-97, their annual report, in relation to "inadequate record keeping practices". Minister, you would also be aware that the *Canberra Times* ran a story, titled "ACT Housing forced to waive tenants' debt: report", on Friday, 26 September this year. I quote from the article:

> ACT Housing has been forced to waive debts it said were owed by tenants because it had been unable to substantiate them.

Minister, how much of this waived debt contributed to the remarkable level of reduction in rental arrears for 1996-97?

MR STEFANIAK: I think you will find, Mr Corbell, that, in terms of any debt that is waived, that is something that does not occur very often and is occurring less frequently. There are a number of points in the Ombudsman's report which Housing actually has taken up with the Ombudsman.

Mr Corbell: How much?

MR STEFANIAK: In terms of the exact amount that has actually been waived, Mr Corbell, I do not have that in front of me. I can tell you, though, that, where debt has been waived due to an error, it would be a very small sum indeed. It has happened on occasions. I am pleased to say that it is happening less frequently.

I have indicated in the past that there are a number of factual inconsistencies in the report, which Housing is taking up with the Ombudsman. In terms, however, of record-keeping practices - and I note the Ombudsman says that it is right across government - that is of concern to me. It would be of concern, I think, to any of my colleagues when that occurs.

That is something that I am very keen to see improve. I note significant improvements have been made in Housing's ability to keep records. Only the other day I was trying to find some material in relation to something that had occurred in 1993 and 1992. The record-keeping then was pretty appalling, under you lot. It has improved; it has improved greatly under the current Government. However, I appreciate comments such as those because it is important to ensure that record-keeping has improved; it is absolutely essential. That is certainly something that I, as Minister, will actively continue to pursue, Mr Corbell.

Gambling - Voluntary Code of Practice

MR MOORE: My question, which is asked under standing order 116, is to Ms Tucker. It refers to orders of the day Nos 10 and 11 on the notice paper - her Gaming Machine (Amendment) Bill and the motion to appoint a gaming industry inquiry. Ms Tucker, why is it that you have not withdrawn or sought to have withdrawn your motion and your legislation, which are on the table, now that the Chief Minister has announced a voluntary code of practice on gambling?

MR SPEAKER: I will allow that question.

MS TUCKER: Thank you for that question, Mr Moore. I think it is an important question. I still have several main concerns about the growth of problem gambling in the ACT. It is primarily associated with poker machines, as you are no doubt aware. Lack of funding for education and prevention programs is also of grave concern, as is inadequate funding for counselling and community support services generally. The three main factors contributing to growth in gambling problems are - and this is well documented in research - access to gambling places, access to cash, and lack of education and prevention programs.

The measures which we are proposing and which do still sit on the notice paper mean that we want the Assembly to immediately establish an inquiry, involving all the stakeholders, into the task of developing an industry plan for gambling in the ACT and a moratorium on the issuing of new licences to remain in force until the inquiry has reported. We also envisage that the inquiry would consider limits on the number of licences and the number of gaming machines; extending licences to hotels and the casino within the context of an industry plan; the creation of an authority to regulate future growth and conduct in the industry; and provision for ongoing funding from gambling profits and/or taxes on research, education and prevention, counselling and community support services.

The legislation that we propose, which is basically taken from South Australia and which is still on the notice paper, is to do with labelling; licensees would be required to put warning labels on all poker machines, and warning notices near the entrance to each gaming area; there would be no cash facilities in gaming areas; licensees may not provide or allow provision of cash from automatic teller machines, EFTPOS facilities or any other facility for gaining cash or credit within a gaming area. The ACT does have the highest per capita expenditure on poker machines in Australia - over $1 billion annually.

MR SPEAKER: Order! You are now beginning to debate the matter. The question related to the inquiry.

MS TUCKER: That is fine; okay. Basically, the point I am trying to make, Mr Speaker, is that we have a problem in the ACT. That is why I am continuing to leave these items on the notice paper.

MR SPEAKER: One would assume, if you were going to investigate it, madam, that there was a problem.

MS TUCKER: The question that Mr Moore asked - and this is very important information that I am sure the Assembly is very interested in - related to the reason that I have not withdrawn these items from the notice paper. The reason is that, while I applaud the voluntary code that Mrs Carnell has presented and there has been a quite good consultation process within that and all stakeholders were involved, I was very concerned to see that within it there was no evaluative process. A voluntary code may or may not work; but we need to be able to determine whether or not it works. That is not actually possible with the existing voluntary code. So, I felt it was very important that we have this debate and that was why I still have these items on the notice paper.

MR MOORE: Mr Speaker, I have a supplementary question for Ms Tucker. Has your decision to leave these items on the notice paper been further influenced by your awareness that, on the one hand, Mr Osborne, sitting next to me, has stood aside from voting on such issues, to avoid any perception of conflict of interest; and, on the other hand, there are others you might be aware of who have some level of conflict of interest associated with any income from gambling? This might apply, for example, to candidates at the next election or members of this Assembly.

MS TUCKER: I think this is an interesting supplementary question, because I understand that at the moment the Labor Club, the Tradesmen's Union Club and the Workers Club are all seen to have some connection with the Labor Party. I think last month it was at least $3m that had been brought in. I think this is indeed an issue of concern.

Housing Trust - Property Maintenance

MS McRAE: My question is to the Minister for Housing, Mr Stefaniak. Minister, last week in answer to a question in relation to ACT Housing announcing, to its approximately 12,000 tenants, they had developed a long-term maintenance plan, you answered:

> There may not be a plan as such.

I also remind you that the Liberal Party released a housing policy statement during the 1995 campaign - I know it is a long time ago - in which you promised that you would require the trust to develop a comprehensive plan for improved maintenance of all properties at reduced cost. Minister, has ACT Housing developed a comprehensive long-term maintenance plan or not; or is this yet another broken election promise?

Opposition members: Oh, oh!

MR STEFANIAK: Well might you go, "Oh, oh!". You can groan all you like.

MR SPEAKER: That is not an answer.

MR STEFANIAK: It is not an answer, but Ms McRae is talking semantics. If by "plan" you mean a lovely document with all the frills attached, which could be described as a plan, no, we do not have such a document. But yes, we certainly have a plan. Maybe "strategy" would be a better word, Ms McRae. You might remember, as part of that strategy - - -

Ms Reilly: Why did you call it a plan in the newsletter? Do you lie to your tenants?

MR STEFANIAK: Will you be quiet. It is terribly important to put enough money into maintenance so that we can actually do things like plan ahead long-term maintenance, strategic maintenance of properties. If you look at the budget this year, there is about an extra $7.9m all up for maintenance of all kinds, including planned maintenance - planned maintenance, rather than just ad hoc maintenance and reacting to crises. That is certainly something that Housing is developing, to ensure that we can be proactive; that we can go in there and actually improve properties.

Mr Whitecross: Without a plan, though.

MR STEFANIAK: You do not need a document for everything, Mr Whitecross; you do not need a single document saying, "This is the plan". We have a strategy; we have a course of action; we have put money specifically into our budgets to ensure it can be carried out; and we have a long list of properties - and I have said this a number of times in this house - where we are doing some very substantial planned maintenance. We also have a significant amount of funds for things such as emergency maintenance. I think I have already gone through the amount of money that we have been spending on maintenance, which is considerably more than this lot opposite did. I think that is very significant and is certainly something that is greatly appreciated by our tenants.

MS McRAE: I have a supplementary question, Mr Speaker. Mr Stefaniak, currently ACT Housing tenants are being promised things like, "Your roof will be fixed by Christmas", "The drains will be fixed by Easter", with no better indication of when the work will actually be done. Minister, as there seems to be no planned maintenance program of any kind, will you now change the ACT Housing message to, "It will be fixed after the election."?

MR STEFANIAK: Ms McRae, just to give you some of those figures again: I mentioned that this time about $7.9m more than last time is being spent; we spend some $7m on general repair work and $8m on a painting program and things such as replacement of windows at Bega and Allawah Flats; capital improvements to 220 properties; things like upgrading of kitchens and wet areas; and increasing the energy rating of the Ainslie aged persons flats to four-star. All of those things are part of rolling property maintenance. We have established also a rolling five-year property maintenance inspection program, commencing this year.

I think I might have mentioned last week, too, that we did some tenant surveys. We got about a 96 per cent response to the survey we put out in 1995. We asked, "Tell us what is wrong with your property". All those things are very important in terms of planning maintenance. As you should also be aware, Ms McRae, because you were the shadow housing spokesperson for a while, a lot of our properties are at that stage where planned maintenance is important. So, we do have cyclical programs for that. Not only that; as I said earlier, we put our money where our mouth is. We are actually doing something. It is a continuation of ongoing improvements initiated by this Government.

Erindale Police Station

MR WOOD: My question is to the Chief Minister. It concerns a soon-to-be-empty government building. If it is appropriate, you might pass it on to someone else. I welcome the opening shortly of the Tuggeranong Police Station; it is a good move. But 1 December is now earmarked for the closure of the police station at Erindale. Can the Chief Minister, or another Minister, inform the Assembly what plans there are for the use of the land and buildings? Has there been, or will there be, consultation with the community over the future use?

MR HUMPHRIES: As Minister acting in the place of the Minister for Urban Services, part of whose responsibility it is to deal with decommissioned buildings, I will take that question. The answer, in fact, is that the use for the building has not been determined as yet. I know that members of the Government, I included, have been approached by a number of organisations, including a nearby church, seeking access to the building once it is decommissioned. We listen sympathetically to all of those requests. We would like to make sure that the best use is made of that land, and perhaps of the buildings on that site, if that is reasonably cost effective. We will certainly look at all those matters. I do not believe any decision has been made about the use of the building; but, if any progress has been made about a decision on that matter, then I will certainly ensure a report is made to the Assembly by the Minister for Urban Services.

MR WOOD: I have a supplementary question, Mr Speaker. Thank you, Mr Humphries. Will you approach your colleagues and ensure that the police station and the buildings soon to be emptied do not suffer the same fate as another nearby public asset, the John Knight Hostel, which was left vacant for nearly two years to be vandalised and run down, imposing an unwarranted cost before new tenants can move in?

MR HUMPHRIES: There are much better examples than the John Knight Hostel of things run down. Holder High School is an excellent example of a building allowed to run down for years after it was closed. I am sure you can think of better examples than that, Mr Wood. No, it is not the Government's view to repeat the mistakes of the former Government and leave buildings to run down. We have taken the bit between our teeth and provided a very modern, very well designed and, I think, very architecturally significant police station for the citizens of Tuggeranong. It is near the town centre. We will be making sure that similar uses are made of the other, older site at Erindale which are compatible with the aspirations of the people of Tuggeranong.

Cemeteries

MR OSBORNE: My question was to be to Mr Kaine, but I think I will ask it of you, Mr Humphries. It is about cemeteries. In April this year, Mr Berry asked Mr Kaine a question about your Government having any plans to sell the ACT's public cemeteries. In response, Mr Kaine said that there had been a proposal initiated by the private sector and that it was being considered. Perhaps Mrs Carnell can answer it. I will ask the question of whoever would like to jump up. Minister, I ask you: Was the proposal that your Government was considering put forward by the world's largest funeral group, the American giant, Services Corporation International, or any of its Australian affiliates - remembering, of course, that Tobin Brothers is already owned by the Australian arm of that group? Has any member of your Government met with the Services Corporation International's lobbyist, the high profile Victorian Liberal, Michael Kroger, to discuss the matter? If so, what were the discussions about? If not, which group has made the proposal to which Mr Kaine referred? What is the nature of the proposal? Is the Government still seriously considering it?

MR HUMPHRIES: I have some knowledge of this matter in my own right because I have, in fact, met with a representative - I think, the legal representative - of that corporation you referred to, a certain Mr Kroger from Melbourne.

Mrs Carnell: Does he know Mr Knop?

MR HUMPHRIES: He may know Mr Knop, too. Yes, that could be a problem, could it not? He did not offer me a job.

Mrs Carnell: He might have done something for Lend Lease once.

MR HUMPHRIES: He might have done something for Lend Lease; that is true. So, we have a problem here. I do not know whether I have too much of a conflict of interest to answer the question.

Mr Whitecross: Resign, Gary; to be on the safe side.

MR HUMPHRIES: That is the safe thing to do; I will just resign. Mr Kroger certainly discussed with the Government the possibility of obtaining land for a facility - if not for cremations, then for other services associated with funerals - on the southern side of Canberra. I think he was interested to see whether land was available near or in the Woden Cemetery or possibly further south in the Tuggeranong Valley. The Government has been prepared to consider the issues raised, but the Government certainly is not in the market to sell its cemetery - or any of its cemeteries, for that matter, if we own more than one; I am not sure that we do. We have also considered a request to make some land available for a crematorium at Woden and have rejected that advance. It is not possible, we believe, to make that land available for that purpose; and we have indicated to that company that we cannot do so. If there are other proposals to enhance the range of funeral services available to people in South Canberra or elsewhere, we will certainly look at those, whether they come from a major international corporation or elsewhere. I can say at this stage that there is no active consideration of anything involving any transfer of ownership of any facilities that the ACT presently operates.

Gambling - Voluntary Code of Practice

MS TUCKER: Mr Speaker, under standing order 116, I have a question for Mr Moore. Mr Moore, why have you not withdrawn order of the day No. 1 on the notice paper, that is, your legislation on gambling, now that the Chief Minister has announced a voluntary code of practice on gambling?

MR MOORE: Thank you for that question, Ms Tucker. Order of the day No. 1 is about gaming machines; it is about gambling. Indeed, there are some quite important distinctions between that legislation and the legislation to which you referred earlier. The legislation on gaming machines that I introduced would extend the ability of groups other than clubs to have the range of gaming machines that clubs currently have. At the moment hotels, in particular, are limited to a particular class of gaming machines, the technology of which is out of date by some 25 years. They are not allowed to have gaming machines that are equivalent to the gaming machines that clubs have. The legislation does not in any way attempt to increase the number of gaming machines that they are entitled to; just the types of gaming machines. You may well be aware that on this issue Mr Osborne has indicated that he has - - -

MR SPEAKER: Order! Standing order 117(f) states:

> Questions may be asked to elicit information ... but discussion must not be anticipated.

MR MOORE: Indeed. I would hate to have a discussion.

MR SPEAKER: Mr Osborne's views are not necessarily relevant.

MR MOORE: One of the reasons that I have not withdrawn my legislation from the notice paper is that, when it is considered by this Assembly, I have to be very careful in weighing up the numbers. In determining what the numbers are going to be, I have taken into account the fact that Mr Osborne has stood aside from voting on such issues, to make sure that there is no perception of a conflict of interest.

I have also taken into account that there is a party in this Assembly who has received in the order of a million dollars - not quite a million, a bit less - over the last three years.

Mr Humphries: Name them.

MR MOORE: It is the Labor Party, in fact. The vast majority of that money has originated from gaming machines. But they do not have the same attitude as Mr Osborne in terms of conflict of interest; they seem to think that $1m does not generate a conflict of interest. To be specific in answer to your question: The reason I have not removed the legislation from the notice paper is that I am still hoping that the numbers will be there in a series of possible ways. One is that the Labor Party recognises what an ordinary member of the community recognises, and that is that $1m does create some form of conflict of interest when legislation would interfere with that income coming to the party. So, we have to deal with that issue.

The second issue, I think, that you raise, effectively, is the voluntary code of practice on gambling. I do not think the voluntary code of practice has a great deal to do with the particular piece of legislation that I have on the table, it is much more about a perception of conflict of interest and about a conflict of interest. Well, it was really a $1m conflict of interest.

ACTEW - Proposed Sale

MR HIRD: My question is to the Chief Minister. In recent weeks I note that Mrs Carnell has attended a number of meetings including Leaders Forums and COAG where she would have had the opportunity to speak to the Premier of New South Wales. I ask the Chief Minister: Can she categorically rule out today, in this parliament, that she has had secret talks with Mr Carr about selling ACTEW, in line with his Government's commitment to privatise the $25 billion power industry in New South Wales?

MRS CARNELL: Mr Speaker, I can categorically state that I have had no discussions whatsoever with Mr Carr about ACTEW or the New South Wales Government's intention to sell off its power industry. But, Mr Speaker, I know who has.

Mr Humphries: Who?

MRS CARNELL: And that person knows who he is, too. In fact, he is right over there, Mr Speaker. The person who has been having secret talks with Bob Carr about selling ACTEW is none other than Wayne Berry. Yes; the politician who accuses this Government of doing deals behind closed doors, failing to consult and seeking favours is the same person who is up to his neck in a deal with the New South Wales Government. How many times have we heard Mr Berry or Mr Overtime - Mr Whitecross, before he asks me to withdraw it - tell the world that Labor is not interested in selling off ACTEW? Over and over again comes the line that Labor will not sell ACTEW. So why, then, would Mr Berry have held secret talks with the Premier of New South Wales in Sydney, down there with those nasty people from New South Wales, on more than one occasion? Well, we know why, because it seems in this case, anyway, the walls have ears. We now know that not only did Mr Berry meet with Mr Carr, but our sources in Sydney tell us that privatisation and the carve-up of the New South Wales power industry were specifically discussed.

What was the deal that was done behind closed doors? Well, obviously, Mr Berry knows. But would Mr Berry be prepared to tell us? I surely doubt it. However, I understand that it has a lot to do with funding a raft of big spending election promises that Mr Berry plans to trot out over the coming months. We know that when Mr Berry comes out with outrageous claims, which he does most days, the media, because they are so used to Mr Berry's outrageous claims, simply shrug their shoulders and say, "Well, that is just Wayne; what else do you expect?". There has been very little scrutiny of Mr Berry's agenda, and it seems that he is relying on that continuing right through the election campaign, a campaign that will include its fair share of big spending promises. But now the cat is out of the bag. The Labor Party will pay for those promises with the proceeds of the sale of ACTEW.

Mr Speaker, we now know that if Labor is in government in the ACT after next February that would fit very neatly into the plans of the New South Wales Government. Would it not just? But little did I know that all this time the Leader of the Opposition was up in Sydney, sneaking around, having quiet little chats with the New South Wales Labor Government about privatisation. What does that say about a leader of a party that publicly tells us that ACTEW will never be sold and privately tells New South Wales that he is happy to come to some sort of arrangement after the next election? It says a lot, Mr Speaker. It says to the Canberra community that we have a Labor leader who will do anything and say anything to win an election. Can I suggest to Mr Moore that maybe this is the sort of secret agreement - - -

Mr Corbell: People in glass houses should not throw stones, Chief Minister.

MR SPEAKER: Order! I warn you, Mr Corbell.

MRS CARNELL: Thank you, Mr Speaker. This is the sort of secret agreement that maybe should be covered by Mr Moore's legislation governing interstate agreements. This is certainly an interstate agreement. I wonder whether Mr Berry has told the unions that have coverage of ACTEW about his meeting with Mr Carr about privatisation. I wonder whether Mr Berry has told at least one member of the B-team candidates who has argued passionately to retain public ownership of ACTEW about his meetings with Mr Carr. Remember that famous comment by the New South Wales Treasurer at the 1995 Labor Party conference that he would never, never, never, never, never privatise the electricity industry in New South Wales. Remember what happened a few months later. From now on, whenever Mr Berry or Mr Overtime Whitecross says that he will never sell off ACTEW, we know exactly what they mean because we have seen it before. When they make extravagant promises in the run-up to next year's election, we now know how they are going to pay for them.

MR HIRD: I have a supplementary question, Mr Speaker. I understand from your answer, Chief Minister, that Mr Berry has been planning for a long time to privatise ACTEW. As you understand these discussions that were held with the Premier of New South Wales, is it a Berry plan or is it a Labor plan to privatise ACTEW?

MRS CARNELL: From my information from New South Wales, Mr Berry has had discussions with the Labor Premier of New South Wales about privatisation issues - the privatisation of ACTEW. It does seem that the information that we have been given in this house before may not have been all the truth.

Mr Humphries: On a point of order, Mr Speaker: I cannot hear the Chief Minister's answer because of the interjections of protestation of Mr Berry's innocence in this matter. I would ask them to be a little quiet.

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

MEETING WITH PREMIER OF NEW SOUTH WALES
Suspension of Standing Orders

MR BERRY (Leader of the Opposition) (3.32): Mr Speaker, I move:

> That the standing orders be suspended for as long as it takes the Chief Minister to prove that Mr Berry had ever met with the Premier of New South Wales.

During question time, Mrs Carnell made some claims about meetings that I was supposed to have had with the Premier of New South Wales. This suspension of standing orders will give Mrs Carnell the opportunity to prove that I - - -

Mrs Carnell: Just say that you did not, if you did not.

MR BERRY: No; you are the one that made the statement. You will have to prove it. You are the one that gave this Assembly information. I want you to prove it. I want you to demonstrate that you have the evidence, to lay the evidence you have on the table. This is clearly your opportunity to demonstrate that what you said to this Assembly is not a lie. This is your opportunity to prove that you have not lied to this Assembly. Why do you not get up and do so? The Government should support this motion so that Mrs Carnell can demonstrate that she has not lied to this Assembly.

MR HUMPHRIES (Attorney-General) (3.34): I have to say that for a man who has been slinging mud furiously throughout the entire week to rise now, his back rigid with indignation at the suggestion that he might have been involved in some tawdry little deal with the Carr Government, is ironic, to put it very mildly, and highly hypocritical, to put it more accurately. Mr Speaker, that man over there has a very easy way of defusing this issue, a very easy way indeed, the easiest way in the world. He can rise in his place and say with all the grace he can muster - that is not very much, I might say - that he has never had any discussions with Premier Carr or any other member of the New South Wales Government with relation to privatisation of power or electricity utilities in the ACT or New South Wales. That is a very easy thing to do. It is so easy, Mr Speaker, that it would barely register in *Hansard*.

He is a man who all week has been throwing around unsubstantiated allegations which he has not bothered to repeat outside the house, where he is not under the protection of what he called, I think, the coward's castle. He has made unsubstantiated allegations throughout the week about some sort of deal done on Mr De Domenico's retirement from this place. For him to rise now and say, "I am offended by your suggestions" is absolute hypocrisy. If Mr Berry is prepared to rise again, we will give him leave to make that admission if he wishes to, or make that denial if he wishes to. But I do not propose to waste the time of this Assembly by supporting this stunt by the Labor Party.

MR MOORE (3.36): Mr Speaker, I rise to move an amendment to Mr Berry's motion, which I circulate now. The amendment reads:

> Omit all words after and including "the Chief Minister", substitute, "Mr Berry to deny a meeting with Mr Carr on the issue of ACTEW".

The reason I put it up, Mr Speaker, is that I have sat here in the Assembly basically for the full sitting listening to question after question being put by the Labor Party slinging mud. Clearly, they have spent all their time and all the resources that the community provides for them on digging dirt for these questions.

Mr Berry: You lied.

MR MOORE: I grant that there have been a few exceptions to that, but for this whole sitting period we have had question after question slinging mud. The very moment it comes back to them in the slightest way, they go for this kind of stunt. The same people have a million dollar conflict of interest and still deny it. Mr Berry refuses simply to stand up and say that it did not happen. I want to know why he would need so much time - and we will give him as much time as he needs - to deny it. Just deny it and it is finished. Maybe you cannot deny it.

Mr Hird: On a point of order, Mr Speaker: During the debate, Mr Berry pointed to the Chief Minister and said, "You lied". I ask you, sir, to rule on that.

MR SPEAKER: Did you do so, Mr Berry? If so, you will withdraw it.

Mr Berry: I withdraw it.

MR WHITECROSS (3.38): Mr Speaker, I rise to support Mr Berry's motion and to oppose Mr Moore's amendment. It is very clear from Mr Moore's speech, and from the interjections we have heard from the Government, what is going on here. Two things are going on here. The first is that the Government are stinging because of the Labor Party's sustained attack on their plans to sell ACTEW, to expose the Canberra water market to competition, and their refusal to say why they have - - -

Mrs Carnell: Mr Speaker, on a point of order: Could I move that Mr Whitecross prove that? If he cannot prove it, I suggest that we move a censure motion.

MR SPEAKER: There is no point of order.

MR WHITECROSS: They are stinging because they will not give any satisfactory explanation of what they have Fay Richwhite doing. They are stinging because of the sustained attack of the Labor Party on their agenda in relation to ACTEW - to privatise ACTEW, to open the water market to competition.

They are also stinging about something else. They are stinging about the questions that we have been asking this week, because they know that there is a basis for those questions. They know that those questions were not just plucked out of the air. So, they have said, "This is really bad. We are stinging from all these things we are getting from the Labor Party about the events of early this year. We are stinging from the Labor Party's scrutiny of our position on ACTEW. We have to get something back on the Labor Party. We have to try to train the guns back on the Labor Party. How are we going to do it? We have a problem because we do not have anything to throw at them". They were sitting in their offices racking their brains for a couple of days, thinking, "What are we going to do? How are we going to get back at the Labor Party for this attack that they have made on us?".

After a couple of days it finally came to them, Mr Speaker. Mr Hird knew that Mr Berry was in Sydney. So they thought, "Why do we not make up a story that he met with Mr Carr and struck some secret deal to sell ACTEW?". That is pretty interesting, Mr Speaker. But before Mr Berry got anywhere near Sydney the New South Wales Labor Party had already told Mr Carr that he could not sell the New South Wales electricity service. Obviously, they have not been reading the papers and that just passed them by. So, they said, "Let us make up a story". They spent the first couple of days of this week scuttling round the corridors, pushing out this story: "Guess what; someone from the Public Service here heard a story from someone from the Public Service in Sydney that Wayne Berry met with Bob Carr and a secret deal was struck between them to sell ACTEW". It was such a secret deal that Bob Carr told the New South Wales bureaucracy so that the New South Wales bureaucracy could tell the ACT bureaucracy and they could tell Kate Carnell, so that she could get her staff to run round the corridors telling everybody this story and they could come in here today and run this story and everyone would believe it! That is what has happened here.

The fact of the matter is that they are stinging because of the way that they have been put under sustained pressure over their own mistakes, their own secret agendas, their own unwillingness even to tell us in question time today how much money the Government is spending on the business incentive scheme. Even today, Mr Stefaniak could not answer a simple question about whether the reason why the housing arrears have gone down is that he wrote them all off. Mr Speaker, they are under sustained attack from the Labor Party over all these matters. The only way they can get back is by making up a baseless allegation. The Chief Minister does not have the guts to get up in this place and explain how she came by this story. The reason she cannot is that it is fiction, Mr Speaker. It is fiction from beginning to end, made up by the Liberal Party because they were trying to find a way to take the pressure off themselves over their own plans to sell ACTEW.

MR SPEAKER: The member's time, mercifully, has expired.

MR HIRD (3.44): Mr Speaker, I will be supporting Mr Moore's amendment. To stop wasting the time of this house - and its time is valuable - all Mr Berry needs to do is deny that he had a meeting with Mr Carr and discussed the privatisation of ACTEW. It is as simple as that, sir. He needs to rise in his place and just deny it. But he knows full well that it actually did happen. By the fact that he is sitting in his chair and is not moving, he is condoning what it is suspected took place.

Question put:

That the amendment (**Mr Moore's**) be agreed to.

The Assembly voted -

AYES, 10	*NOES, 5*
Mrs Carnell	Mr Berry
Mr Cornwell	Mr Corbell
Mr Hird	Ms McRae
Ms Horodny	Ms Reilly
Mr Humphries	Mr Wood
Mrs Littlewood	
Mr Moore	
Mr Osborne	
Mr Stefaniak	
Ms Tucker	

Question so resolved in the affirmative.

Motion, as amended, agreed to, with the concurrence of an absolute majority.

Statement by Member

MR BERRY (Leader of the Opposition) (3.47): Mr Speaker, today we had Mrs Carnell leap to her feet and confidently spruik about a meeting which was alleged to have been held between me and the Premier of New South Wales, Mr Carr. It was said that I met with Mr Carr to discuss issues concerning ACTEW.

Mrs Carnell: And other things.

MR BERRY: Mrs Carnell interjects. ACTEW, of course, is the organisation that the Liberals would love to sell; though I would never claim that Mrs Carnell had met with Mr Carr, the Premier of New South Wales, to discuss the sale of it, because I do not know that that is true.

This allegation was made at the end of a week in which the Government has been under significant pressure for its $422m of wrong priorities. These priorities, of course, have been exposed to the ACT community. They involve a range of issues from dud deals, poor expenditure - - -

Mr Humphries: On a point of order, Mr Speaker: Mr Berry has leave to - - -

MR BERRY: Miscalculations - - -

MR SPEAKER: Order, Mr Berry! Just a moment; there is a point of order.

Mr Humphries: It is courtesy to resume your seat, Mr Berry, when a point of order is taken.

MR SPEAKER: Yes.

Mr Humphries: Mr Speaker, Mr Berry has leave to speak specifically to deny a meeting with Mr Carr on the issue of ACTEW. Unless these issues were discussed with Mr Carr at the meeting, I think they are irrelevant to the matter for which he has leave to speak.

MR BERRY: No; certain accusations were made. I have to cover the grounds for the accusations and the background to the accusations. Surely that is allowable, Mr Speaker.

MR SPEAKER: I will listen carefully, but I caution you about relevance, Mr Berry.

MR BERRY: Indeed. This is entirely relevant, because it is about the Chief Minister saying to this Assembly anything that comes into her head to present the picture she wishes to present. This does not have anything to do with the truth or her obligations, as the Chief Minister of this Territory, to ensure that the information that comes before this Assembly does so in an honest and straightforward way.

I do not mind my association with the Labor Party, its policies or my meetings with various politicians around the country - Liberal or Labor - being criticised. I do not even care if the claims are true. But what does bother me is when information is put to this Assembly which is untrue. This statement by the Chief Minister was deliberately designed to take the heat off her because of the problems that the Government has had in relation to - - -

Mrs Carnell: Just say it is either wrong or right and see what happens.

Ms McRae: Mr Speaker, on a point of order: You have ruled before on interjections, may I remind you.

MR SPEAKER: Yes, thank you. I uphold the point of order.

MR BERRY: Let me go to Mr Moore's amendment that was subsequently carried by the Assembly. Mr Moore is keen to protect his investment in this Liberal Government - - -

Mr Humphries: Mr Speaker, I rise on a point of order. This is a matter that has already been debated and voted on by the Assembly. He is either reflecting on a vote of the Assembly or, at best, being irrelevant to the matter presently before the house.

MR SPEAKER: I certainly question the relevance of what is being said. We have had it out before on this question of reflecting on votes.

Mrs Carnell: Just deny it.

MR BERRY: We need to get all the background straight here. Mr Speaker, I do not recall ever being in the same room as Bob Carr in my life. I do not recall ever being in the same room. I have not ever met with Mr Carr on the issue of ACTEW. I do not think I have met with him ever. So, we have a situation here where the Chief Minister has been prepared to stand in this place as the head of the Government and deliberately put to this Assembly information which was untrue.

The Liberals were given the opportunity for the Chief Minister to climb to her feet and demonstrate to this Assembly that what she was claiming was true, but they shirked the job. They were not game to do it because they could not prove it. They all know that what Mrs Carnell said was untrue. She cannot back it up. This ought to be a lesson to you, Mrs Carnell. Do not come into this place, as Chief Minister, and make claims which are recklessly or deliberately untrue. This is the person who has been censured for misleading the Assembly in the past, Mr Speaker.

Mr Humphries: Mr Speaker, on a point of order: Mr VITAB - I mean, Mr Berry - has provided as much information as he can on this subject. He is now moving on to personal vitriol, I think. If he has nothing further to say, he should be called to order and asked to resume his seat.

MR BERRY: If you want to make a circus of the place with statements like that, we will just add a little to the amusement. Mrs Carnell, you will have the opportunity to climb to your feet as soon as I sit down and say to this Assembly, "I misled this Assembly and I am sorry". If you do not climb to your feet in this place and say, "I misled this Assembly and I am sorry", Mr Honesty over here, Mr Moore, will climb to his feet, if he has any standards about him, and move that you be censured. That will be the test. So, now is your chance. There are two chances here - for you to be honest and for him to be honest.

MRS CARNELL (Chief Minister) (3.51): Mr Speaker, I can jump to my feet and say that, as I said in my statement, my sources in New South Wales, which actually did come from the union movement, did give me the information that I had, and I suppose it is who you believe.

MR SPEAKER: You need leave, but leave is granted - - -

MRS CARNELL: I think I have said it; it did not matter.

PERSONAL EXPLANATIONS

MR SPEAKER: Ms Horodny, did you wish to make a personal explanation under standing order 46?

MS HORODNY: Yes, but not on this topic. You can all relax.

MR SPEAKER: Ms Horodny, there is no motion before the Chair. The matter has been dealt with.

MS HORODNY: Yes. I wish to make a personal explanation under standing order 46. It relates to a statement that Mr Humphries made in this place on 23 September 1997. It was a day that I was not in the Assembly, so I was not able to respond at that time. Mr Humphries, the debate was about community consultation. Ms Tucker had presented a paper from her committee and you were responding on the issue of consultation. You misrepresented, I believe, the facts on the issue of the mountain bike championships on Black Mountain at that time. Mr Humphries, as I recall, you came to me with a proposal that you had been presented with by the mountain bike people. You asked me what I thought of this proposal and - - -

Mr Humphries: No, I did not. I asked you what process you would use to deal with the proposal.

MS HORODNY: Okay; well, you can explain yourself under standing order 46 as well, if you like. As I recall, you came to me with this proposal and you asked what I thought of it, how I thought it would go down with the groups, and how I thought the proposal should be presented to the groups. You made a statement in the house that you then left me with this proposal. You claimed that I did not get back to you for a number of weeks, by which time there was a whole lot of hoo-ha in the community about this issue, a whole debacle about it.

MR SPEAKER: Order! This is a personal explanation, Ms Horodny. You have touched on the fact that there are some references in the *Hansard*.

MS HORODNY: Yes, I am getting to it. It is quite detailed. There are references in the *Hansard*. Mr Humphries, very soon after you came to me with that proposal - in fact, within a matter of days - I received a number of phone calls from individuals who had read in a magazine about the proposal for the Black Mountain site to be used. It was the mountain bike magazine, or one of the cycling magazines. Anyway, there was a proposal already in that magazine. So a number of the groups and individuals - - -

Mrs Carnell: Mr Speaker, I take a point of order. I think we have all been pretty reasonable on this.

MR SPEAKER: I am going to uphold the point of order. This is a personal explanation. I am not interested in cycling magazines, or anything else. I want a personal explanation.

MS HORODNY: I am getting to it. It is a very long, detailed and complex issue, and I am afraid - - -

MR SPEAKER: The standing orders are quite specific, Ms Horodny. They say:

> Having obtained leave from the Chair, a Member may explain matters of a personal nature, although there is no question before the Assembly; but such matters may not be debated.

Ms Tucker: Mr Speaker, I think Ms Horodny is entitled to take her time to respond to the misrepresentation, or a different understanding of a series of events that occurred over that period. It is, indeed, a personal explanation, and she has been misrepresented in *Hansard*.

MR SPEAKER: Then let her say how that happened.

MS HORODNY: I am happy to address the house and not speak to Mr Humphries on this issue. What happened, in fact, was that Mr Humphries came to see me about this proposal. Mr Humphries may or may not have known that this article had already appeared in a mountain cycle magazine. People, organisations and individuals in the community had heard already about this proposal and were already reacting to it. In other words, Mr Humphries had come to me with a loaded dog, in essence, and he was expecting me to come up with a process for him in terms of the consultation that he should then go through.

The problem was that the issue was already out there in the community. There was already considerable debate going on about the mountain bike championships being held on that particular site at Black Mountain. It was already a problem. People were already ringing me and talking to me about it. It had appeared in a magazine, as I said. It was not my responsibility to give Mr Humphries a process for dealing with it. It was already a sham. Now, that is - - -

Mr Humphries: But you agreed that you would do so. You agreed to do so, Lucy.

MS HORODNY: I am not going to debate this at this point, Mr Humphries. I am presenting the case as I saw it. Mr Humphries, I believe, as Minister for the Environment, should have put his foot down when the proposal came to him - - -

MR SPEAKER: Order! You are now not making a personal explanation. You are now debating the issue.

MS HORODNY: Okay, I will not debate the issue. That is my personal explanation of that situation.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning): Under standing order 46, Mr Speaker, I also wish to make a personal explanation. I do not want to take up the time of the Assembly. I stand by the remarks I made on 23 September. Obviously, there is a difference of view between Ms Horodny and me about what we said to each other. In the face of intense criticism from the Greens

about how we never got the consultation process right, I was clearly asking Ms Horodny to explain to me what the Greens would do about consultation in this case. That is what I say I said. Ms Horodny, obviously, has a different recollection or understanding of what I was saying to her. I am sorry for that, but the fact is that that was what I was asking her.

Ms Tucker: You remember it differently.

MR HUMPHRIES: I do.

MR BERRY (Leader of the Opposition): Pursuant to standing order 46, Mr Speaker, I would like to make a personal explanation.

MR SPEAKER: Yes, proceed.

MR BERRY: During question time untrue accusations were made in relation to my meeting with the Premier of New South Wales. Mr Speaker, I seek leave to table a news release I have just received from the Premier of New South Wales, and which reads:

> ACT Leader wrong on Wayne Berry-Bob Carr.
>
> It was claimed in the ACT Legislative Assembly that Premier of New South Wales Mr Bob Carr and ACT Labor leader Wayne Berry met to discuss ACT Electricity.
>
> For the record, Mr Carr and Mr Berry did not meet.
>
> In fact, Mr Carr has never met Mr Berry.
>
> But Mr Carr has met ACT Chief Minister Kate Carnell on numerous occasions.

I seek leave to table that document.

Leave granted.

Mr Corbell: It sounds like the Chief Minister misled the house.

MR BERRY: It sounds to me like she misled the house, and deliberately misled the house.

Mr Humphries: I do not believe she did.

Mr Corbell: Yes, I think she lied.

Mr Humphries: Mr Speaker, I think the standing orders are very clear about what can and cannot be said. Mr Corbell just said: "I think she lied". I think that should be withdrawn.

MR SPEAKER: Withdraw that, Mr Corbell. I did not hear it, but if you did say that - - -

Mr Corbell: I was having a private discussion, Mr Speaker.

Mr Humphries: That is no excuse, Mr Corbell. It was heard and it will be in *Hansard*.

Ms Tucker: It was a very loud private discussion.

Mr Humphries: Mr Speaker, on a point of order: I realise that having such close proximity to the liar in front of him would make it very easy for him to feel that lies could be sprayed around very easily without people having any concern about that. The fact of the matter is that he did say that, Mr Speaker.

MR SPEAKER: Order! This is going to degenerate. I would ask you to withdraw, Mr Corbell.

Mr Berry: And him.

MR SPEAKER: Yes, and then I will ask Mr Humphries.

Mr Corbell: Mr Speaker, I withdraw that the Chief Minister deliberately misled the house.

MR SPEAKER: Thank you. Mr Humphries, would you withdraw.

Mr Humphries: I withdraw that Mr Berry is a liar.

MR SPEAKER: Thank you.

PAPERS

MRS CARNELL (Chief Minister and Minister for Health and Community Care): Mr Speaker, for the information of members, I present the Mental Health Services Report 1996-97, including the director's report for 1996-97, pursuant to section 120 of the Mental Health (Care and Treatment) Act 1994.

I also present the ministerial travel report for 1 July to 30 September 1997.

Pursuant to sections 31A and 79 of the Public Sector Management Act 1994, I present copies of contracts made with Neil Leslie, a long-term contract, John Clifford, a long-term contract, Glen Gaskill, a Schedule D extension and new performance agreement, and Elizabeth Fowler, a short-term contract. Mr Speaker, in the interests of time, I will just table my statement.

MR HUMPHRIES (Attorney-General): Mr Speaker, I present the Administration of Justice - Statistics Profile for July to September 1997.

ABORIGINAL RECONCILIATION AND MULTICULTURALISM - FAIRNESS AND OPPORTUNITY
Ministerial Statement

MRS CARNELL (Chief Minister): Mr Speaker, I ask for leave of the Assembly to make a ministerial statement on fairness and opportunity.

Leave granted.

MRS CARNELL: Mr Speaker, I am pleased to deliver to the Assembly today a report on the fairness and opportunity policy of this Government. Members will recall that in November last year this Assembly unanimously passed the motion moved by me in support of Aboriginal reconciliation and multiculturalism. The initial motion put was subsequently amended by the Assembly to include a requirement for the Government to table the 1995 Update Report on the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody, to report to the Assembly on current access and equity policies for ACT government services, and to report to the Assembly on measures in place to provide cross-cultural awareness training to employees in the ACT government services, including nurses, teachers, police and other public contact staff. This report addresses the last two points - that is, the current policies and the measures in place to provide cross-cultural awareness training to employees in ACT government services.

Mr Speaker, in June 1995, the Council of Ministers of Immigration and Multicultural Affairs agreed that increased efforts in access and equity are required by Australian governments, and that a commitment to access and equity in service delivery should be sought at the highest levels of government through the Council of Australian Governments, COAG. The Ministerial Council on Immigration and Multicultural Affairs, comprising the Commonwealth Minister for Immigration and Multicultural Affairs and his ministerial counterparts in the States and Territories, has endorsed a charter of public service for a culturally diverse society aimed at ensuring government services meet the particular needs of users and achieve intended outcomes for them. Mr Speaker, in November last year this Government agreed to the integration of the charter's principles into relevant strategic planning, policy and corporate reporting processes.

The charter has seven principles. The first one is access. Government services are available to everyone who is entitled to them. They are provided without unlawful discrimination, especially on the grounds of race, sex or religious or political views. Secondly, equity - fair and just treatment is assured to eligible customers. Thirdly, communication - eligible customers know of the services to which they have an entitlement, and how they can get that entitlement. Service providers are to consult regularly with their customers about the adequacy, the design and the standard of government services. Fourthly, responsiveness - which ensures that government services are aware of the needs and requirements of all customers, and respond to those needs and requirements. Fifthly, effectiveness - that government service providers focus on meeting the needs of all customers. Sixthly, efficiency - providing outcomes for customers from available public resources. Lastly, accountability - that government service providers have a reporting mechanism in place to say how they delivered outcomes for their customers.

Mr Speaker, I am sure members will recall that, in debating the motion on Aboriginal reconciliation and multiculturalism in November last year, Mr Whitecross expressed his concern that these kinds of motions will be seen as all about words and not about actions. Under the previous Government each ACT government agency was required to do just that - focus on the words, words and more words. They were to develop a specific access and equity policy for identified target groups; to develop separate access and equity plans; and to appoint access and equity officers sitting in policy areas to write that up. That regime, of course, was all about words and did not translate into measures to assist those at the front counter. This resulted in a plethora of plans, with little understanding of their customers' needs or wants, even less action, and certainly no evaluation of their achievements or otherwise.

In contrast, the approach of this Government has been to move positively, stop the talk and get on with delivery. This Government's policy is about opportunity and fairness, so that the community can be assured they will know about and have access to the services to which they are entitled. Service to the community and responsiveness to the needs of the public are core values for the ACT Public Service, as expressed in section 7 of the Public Sector Management Act. We have used one of the public service reforms, a customer focused public service, to ensure that service delivery is fair and accessible.

A key element of the customer focused public service is the customer commitment strategy. The customer commitment strategy is an acknowledgment that customers of government agencies have a right to information about government services and to high-quality, cost-effective goods and services; a clear expression of what services are available from an agency; a clarification of what level of service the customer can expect; and a matching of services and their delivery to the customers' needs and expectations.

The customer commitment strategy is based on the following core principles: Firstly, customer service information - clear, plain language to identify the agency, the agency's purpose, its customer base and its services, including the date of publication of the commitment to service statement. Secondly, consultation and choice - evidence that the views of those who use and provide service have been considered in the ongoing process of setting the commitments to service, and that the service provider has clearly identified the customer base. Thirdly, openness and equity - publication of the commitment to service standard as a separate document, stating the commitments to service that a customer can reasonably expect, ensuring customers of the service are able to easily access the information, which may be in different mediums. Fourthly, suggestion and complaint procedures - avenues by which a customer may provide feedback on the level of service provided and how customer inquiries and complaints are handled. Fifthly, courtesy and helpfulness - service with a smile, friendly and welcoming and knowledgeable staff, and the use of name badges. Sixthly, joint value creation - details of how the customers can assist the service provider to improve delivery. Seventhly, value for money - a clearly stated commitment by agencies to provide efficient and effective services within existing resources. Lastly, monitoring, review and performance reporting - sets out how agencies will monitor and review their service performance and compliance with their statement.

Under this strategy ACT government agencies must clearly identify their customers and consult them about access to their services, and consider the views of those customers in the ongoing process of setting commitment to service standards. Commitment to service statements are written statements about the type and level of service which ACTPS staff are committed to providing. The statements will enable customers to check their expectation against the type and level of service being offered and provide avenues for giving feedback if their expectations are not met. The principles of fairness and opportunity are incorporated into these statements. This ensures that services are available to the elderly, to people with disabilities, to people from diverse cultural and linguistic backgrounds, to women, to young people, and to people from different socioeconomic groups.

The emphasis on a customer focused public service has seen government agencies developing and using client satisfaction surveys and broadening their consultation with consumers, and as a result they have gained a better understanding of who their customers are and what they need; benefiting from improved feedback and the development of quality improvement processes resulting in improved fairness in the treatment of customers; and making better use of technology, thus providing better communications and information to their customers and resulting in improving the access of customers to their service.

The Government's approach can be summarised as follows: First, services are available to everyone entitled to them. This is accomplished through government service delivery areas identifying their customers and their needs and ensuring that service delivery priorities are directed at those with the greatest needs and incorporating these elements in the commitment to service statements.

Services are provided free of discrimination. The ACTPS standards require that no client or potential client shall be disadvantaged in accessing a service or receiving an equitable program outcome by virtue of their background. The Public Sector Management Act, the Public Interest Disclosure Act and the Discrimination Act provide the legal framework, which is supported by ACTPS standards, ethics and training as well as appeals and review mechanisms. The Office of Multicultural and International Affairs in the Chief Minister's Department plays a significant lead role in these matters.

Customers have fair and just treatment. Customers who believe their expectations of service have not been met are made aware of and provided with appeals and complaint mechanisms, including the Ombudsman, the Auditor-General, the ACT Human Rights Office and the Health Complaints Commissioner. Government services are also committed to ensuring the training of staff in customer service and cross-cultural awareness.

Customers know of the services to which they have an entitlement. Again, this is accomplished through the commitment to service statements which identify the customers whom services are targeted at and their eligibility requirements. Customers know what entitlements are for each service and how they are applied. Services providers make clear the priority basis on which services are delivered to customers through their commitment to service standards as well as providing information on the type and level of service which they may expect.

Service providers consult regularly with their customers about the adequacy, design and standard of service. The development of feedback and consultation mechanisms with customers is an important process to develop quality customer service. These mechanisms include complaints procedures and handling, customer surveys and customer focus groups. Information on how customers may consult with service providers or how they may comment on service is written into commitment to service statements.

Services are responsive to customers. The customer commitment program is underpinned by training to develop staff at all levels in the ACT Public Service to enable improvement in our customer service. Training includes improvement in customer service, such as telephone skills, complaints handling and dealing with a diverse customer base. Services meet the needs of customers. The customer focus unit within the Chief Minister's Department provides information to service delivery areas on customer commitment, which includes guidelines and techniques for improving customer service.

Services maximise the outcomes for customers. The program of reforms in the ACT government services has been underpinned by a shift from inputs to outputs. In the purchase agreements with service providers the emphasis is on the delivery of specified outputs which contribute to the attainment of desired outcomes for customers. This is now measured through the alignment of outputs with outcomes in purchase agreements performance measures. Services report on how they deliver outputs for customers. This is done on an annual basis through reports to the Legislative Assembly.

MR SPEAKER: Order! There is too much audible conversation in the chamber.

MRS CARNELL: While the principles I have described apply across government services and are applicable to all customers, it should be noted that in the case of specific target groups particular agencies may take a lead role, such as in the case of disability issues where the Department of Health and Community Care has a lead role. In other cases where there is a whole-of-government approach, or an intergovernmental approach is required, the Chief Minister's Department takes a lead coordination role. An example would be multicultural and international affairs.

The application of fairness and opportunity principles is, of course, an issue for all government services, especially those with a high service delivery role. The Chief Minister's Department takes a lead role in developing the strategies for implementing a customer focused public service and in evaluating commitment to service statements. Each agency, however, is responsible for the finetuning and ensuring that fairness and opportunity principles are applied and are relevant to their particular consumers.

Mr Speaker, as a consequence of the approaches I have outlined, I now propose to provide to this Assembly some examples of the real outcomes which have been delivered. In July 1996 the Chief Minister's Department arranged a national symposium, "The Way Forward: Harnessing Australia's Cultural and Linguistic Diversity".

This highlighted the importance of cultural and linguistic diversity for both Canberra and Australia. The "Welcome to Canberra ACT Information Booklet for New Settlers" was published and made available in eight languages. It outlines the relevant services to assist new migrants.

A brochure, "Care Options for Older People from Diverse Cultural and Linguistic Backgrounds in the ACT", was produced in five languages to assist elderly people in ethnic communities which have the largest numbers of people aged 65 years and over. The "ACT Interpreter Card" was delivered to help people who speak little or no English gain access to the full range of ACT government services. It provides free access to interpreting services in 60 languages, and 3,000 cards were distributed to 100 ethnic organisations as well as to government and non-government organisations. The "1996 Directory of Multicultural Resources" has proven to be an extremely valuable document, not only for ACT and Commonwealth government agencies but also for community groups and ethnic and non-government organisations. A quarterly newsletter, "Communicado", is distributed regularly to more than 100 ethnic organisations.

The Government established a separate ACT Human Rights Office in December 1996, following the ending of the previous joint Commonwealth-ACT agreement on human rights services. The new office administers the ACT Discrimination Act and, at the request of the Attorney-General, is undertaking an expanded community education role on discrimination matters. All of the office's information material is available in nine community languages.

ACT Community Care has a network of bilingual community workers who have facilitated a range of women's and parenting programs which have enabled women to gain greater access to information regarding immunisation and health care. Another migrant health initiative is an orientation program for new arrivals to Canberra which gives an overview of health services in the ACT. The unit consistently provides information to staff regarding services available through the interpreters. Within the Attorney-General's Department, cross-cultural training has been provided for staff of Corrective Services, Magistrates and Supreme Courts and the Director of Public Prosecutions.

The Department of Urban Services has improved communication and access to information for its customers, using the latest technology through several initiatives. Austouch kiosks provide the public with a wide range of information on government and community services. Austouch on the Internet provides customers with quick and easy access to basic information on government services and contact details for ACTPS agencies. Government shopfronts also access this service to provide accurate, consistent information when assisting people. In March 1997 Austouch received a silver award in the Tenth Government Technology Productivity Awards. Planning and Land Management, PALM, have introduced a range of initiatives to improve communication and service to customers. They now have a comprehensive plain language information package that clearly sets out application requirements and rights for the development of land in the ACT.

ACT Housing launched its customer assistance and complaints helpline in February 1997. This has improved customer feedback and allowed customer concerns to be more promptly addressed. To better suit the changing needs of bus travellers, ACTION has introduced prototype midi-buses which offer easier access and provide more flexibility in scheduling. At the Canberra Hospital, surveys are conducted regularly in all areas to assess the quality of services provided, and a customer relations officer coordinates the investigation and follows up all complaints.

ACT Community Care recently reviewed their commitment to service statements and, as a result, one commitment to service statement was developed for the whole of ACT Community Care. This has been widely distributed and it contains mechanisms for customers to provide feedback. The whole of the aged and disability program, both government services and those services purchased through contracts with the non-government sector, are clearly focused upon improving the accessibility to quality lifestyles for those in need. The current introduction of a single telephone number for government services is yet another example of how this Government is making a difference in improving the access to services for the whole community.

Another key element of the customer focused public service strategies has been the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody by government agencies. Mr Speaker, in December I will table the 1996-97 ACT Government report on the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody. I will then outline in detail the practical measures adopted for Aboriginal and Torres Strait Islander peoples. These will include policing. As announced in the budget, the Aboriginal Friends police call-out roster has been extended and an Aboriginal police liaison officer appointed to improve communication and relationships between the police and the indigenous community.

Youth justice, a new art and culture program with an Aboriginal component, has been established within Quamby to improve self-esteem amongst residents. This program progresses reconciliation within a custodial environment and promotes understanding of differences and acceptance of indigenous culture. In Health and Community Care, the Aboriginal policy officer has been working with the Winnunga Nimmityjah Aboriginal Health Service to improve the service delivery linkages between the department and Winnunga Nimmityjah. The ACT Community Care child, family and youth health program provides an outreach model that includes an improved process of screening to maximise access of Aboriginal and Torres Strait Islander children by providing a full audiometry test, medical assessment and treatment during one school visit. Free childhood immunisation, including Hepatitis B, is available at the Winnunga Nimmityjah Aboriginal Health Service, child health clinics and special immunisation outreach days, and, of course, the new mobile van.

The ACT Breast Screening Clinic makes arrangements for Aboriginal and Torres Strait Islander women to be screened at specific times. The Aboriginal liaison officer at the Canberra Hospital has increased awareness of the needs of indigenous people in hospital. A residence next to the Canberra Hospital was opened in August 1997 to provide accommodation for families of Aboriginal and Torres Strait Islander patients at the hospital.

In the area of education, this year the Aboriginal artist in residence is working in youth centres during school holidays, providing a program for indigenous and non-indigenous youth. An early childhood teacher is now working with Aboriginal and Torres Strait Islander children aged 5 to 8 years to improve their literacy skills. In this school term, 40 teachers will attend an in-service program promoting literacy skills for indigenous children using the package "Deadly, Eh Cuz" - an Aboriginal English package.

The Koori sport and recreation program is now well established, with more people accessing the program. The indigenous community are receiving training in coaching, sport and recreation administration, first aid and sports training. Six young indigenous school students, aged 15 to 18 years, have been trained as traditional games leaders and have delivered 18 traditional games displays in 1996-97. The program has been accepted by mainstream sport and recreation programs and is being integrated into wider community sporting activities.

Family Services have created four new identified positions - ASO5s - two child protection workers, one foster care worker and a youth justice worker. A number of Aboriginal people have accessed the special arrangements made through the adoption information services to trace links with families or communities. An indigenous officer is available to assist indigenous clients.

Mr Speaker, the examples that I have provided are but a few of the many practical initiatives that this Government has supported to make fairness and opportunity a reality rather than just rhetoric. This Government, through its customer focused public service initiatives, will continue to ensure that its services are accessible, fair, responsive, effective, efficient, accountable and made available to those eligible through appropriate and effective communication strategies. We will continue to ensure that members of the ACT community have full opportunity to access the Territory's social, political and economic life regardless of socioeconomic status, race, ethnicity, religion, language, gender, or place of birth, as we all have a responsibility to ensure that members of our community are treated fairly and with dignity.

Mr Speaker, the notion of fairness and opportunity also demands that service providers are sensitive to the needs of customers and that they have been trained to meet those needs. Under the previous Government, cross-cultural awareness training was provided to ACT Public Service employees on an ad hoc basis. Under this Government, some 500 customer contact staff received training last year on how to work with interpreters and people who presented at counters with interpreter cards.

This year my department will implement a detailed and targeted cross-cultural awareness training package across the ACT Public Service. The coordinated approach to this training will ensure that customer contact staff and those who supervise work groups with large numbers of staff from culturally diverse backgrounds are provided with an appropriate standard of training as part of their ongoing development and commitment to the delivery of quality services, particularly to customers from diverse cultural backgrounds.

Mr Speaker, the principles of fairness and opportunity have also been clearly in evidence in the legislative program of this Government. The Discrimination (Amendment) Act 1996 streamlined the handling of discrimination complaints by imposing strict deadlines on investigations and by placing an increased emphasis on conciliation of complaints. The Discrimination Commissioner now takes an active role in investigation and conciliation of complaints. For those discrimination complaints which require a hearing, the ACT established a new Discrimination Tribunal presided over by a magistrate. Again, this is a demonstration of the practical approaches which have been a central issue for this Government.

The Community and Health Services Complaints (Amendment) Act 1997 enabled the Health Complaints Commissioner to investigate and resolve complaints about a wide range of services provided specifically for aged people and for people with disabilities in the ACT. This is important in ensuring the availability and quality of services for particularly vulnerable members of the community. The Housing Assistance (Amendment) Act 1996 saw the provision of a range of affordable quality housing options to those in most need in the most flexible and most cost-effective manner possible. As a further example of this Government's inclusive view of fairness for all citizens, the recently tabled Births, Deaths and Marriages Registration Bill 1997 adopts a more flexible approach to changing social needs and includes provision for persons who have undergone gender reassignment to be issued with new birth certificates.

Mr Speaker, in introducing the Smoke-Free Areas (Enclosed Public Places) (Amendment) Act 1997, I stated that the responsibility to protect public health carries with it the obligation to ensure that health requirements are timely, equitable and likely to achieve the desired outcome. Similarly, in introducing the Public Health Act 1997, I stated that equity is an important principle recognised by this Government; that a component of this is that the health of the greatest number is promoted and protected to the greatest capacity; that this has particular implications for those who are in the higher risk groups, such as infants, older people, and other groups more vulnerable to ill health; and that it creates an obligation to remove as many barriers to good public health as possible.

Mr Speaker, the measures and examples that I have outlined today demonstrate this Government's recognition of the importance of acknowledging the needs of all its customers, irrespective of their characteristics, as we continue to develop a truly inclusive customer-driven service. Meeting the needs of a community is a challenging and difficult task. It requires government service providers to have a knowledge of the needs that exist in the community, a basis for prioritising those needs, and capacities for delivering services to meet those needs. This Government has shifted the focus from inputs to outputs to deliver services which are outcome-focused on meeting the needs of customers. It has taken on the challenge of changing the ACT Public Service to a customer focused service which is more customer driven and more accountable to the community through performance measures. I believe the record for the past three years has been excellent and that with the ongoing evaluations in the commitment to service statement strategy we will see continuous improvement.

MR SPEAKER: That was a marathon effort, Chief Minister.

MRS CARNELL: Thank you. I present the following paper:

> Fairness and opportunity - ministerial statement, 13 November 1997.

I move:

> That the Assembly takes note of the paper.

Question resolved in the affirmative.

LEAVE OF ABSENCE TO MEMBER

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

> That leave of absence for today, 13 November 1997, be granted to Mr Kaine.

PRIVATE MEMBERS BUSINESS - PRECEDENCE
Suspension of Standing Orders

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

> That so much of the standing orders be suspended as would prevent the order of the day, private members business, relating to retail development and the Manuka car park being called on forthwith.

MANUKA CAR PARK REDEVELOPMENT

Debate resumed.

MS TUCKER (4.39): Mr Humphries's amendment considerably changes the intent of our motion. I am not happy with the fact that it excludes the Manuka development from the moratorium. Obviously, from the way members have spoken on the issue, it is clear that the numbers are there to carry the amendment. I am glad to see that at least further retail development and expansion in the medium and large centres in Canberra will be put on hold until a social and strategic plan is in place. I think that will be some comfort to developers and the community in Canberra, because hopefully from this point on

we will see a more considered approach that results in a lot less conflict than we have seen with the Manuka proposal. It was very concerning to hear people representing both sides of the argument on Manuka expressing indignant outrage at the way they were treated. This kind of conflict is predictable when you have a process that is flawed from the beginning. I will not repeat why I think the process was flawed. I went into detail on that in my first speech.

I would like to pick up just a couple of issues that were raised in the debate. Mr Humphries said that, of the 51 submissions, 34 were in favour. I would be very interested to look at those submissions. I am not sure whether the Land Act enables us to do that.

Mr Humphries: The Privacy Act has something to say about it as well.

MS TUCKER: Mr Humphries says that the Privacy Act has something to do with it, but if there is a full environmental impact assessment or an objection - and this applies to another process too - you can see the submissions. That being the essence of the Land Act, you would think that it was quite appropriate that these submissions be made public. In the normal processes, you have the right to say that you do not want your submission, whether it is an objection or a submission generally on an EIS, made public. The information that I have been given is that it would be in the spirit of the Act that submissions on this particular preliminary assessment should equally be available and of interest to the community. We have heard Mr Humphries assure us that it is not just quantity that counts, although he does keep stressing that 34 were in favour. That is why it would be very interesting to see how many of those submissions represent larger groups of people and whether, in fact, that quantitative level is indicative of the quality of the arguments that were put up.

Ms McRae raised a couple of issues that I thought were interesting. Ms McRae thought the PA was brilliant. I think that was the word she used. She believes that, as a result of what has happened to the proposal since public comment, it is now in harmony with what the people are asking for. As I said earlier, a large number of people in the community do not feel they have been heard in this debate. That, as I said before, is the result of a process which was flawed. Ms McRae said that the survey by Labor candidates showed a level of support and that is why Labor took the line that it has taken, but the survey showed a greater level of no support. I find that an interesting argument.

I will close the debate. I think it is disappointing, but I accept the numbers as they are. I am glad to see that there will be a moratorium on other developments until we have a strategic and social plan in place.

Amendment agreed to.

Question put:

That the motion (**Ms Tucker's**), as amended, be agreed to.

The Assembly voted -

AYES, 13		*NOES, 2*
Mr Berry	Ms McRae	Ms Horodny
Mrs Carnell	Mr Moore	Ms Tucker
Mr Corbell	Mr Osborne	
Mr Cornwell	Ms Reilly	
Mr Hird	Mr Stefaniak	
Mr Humphries	Mr Wood	
Mrs Littlewood		

Question so resolved in the affirmative.

CHIEF MINISTER
Leave to Move Motion

MR BERRY (Leader of the Opposition): Mr Speaker, I wish to move the motion circulated in my name, namely:

> That the Chief Minister be censured for deliberately or recklessly misleading the Assembly in her statement that the Leader of the Opposition had met with the Premier of New South Wales to discuss ACTEW.

MR SPEAKER: Is leave granted?

MR BERRY: I move the motion circulated in my name.

Mrs Carnell: Mr Speaker, can I have leave to make a statement which could obviate the need for it to go further?

Leave not granted.

Mrs Carnell: I will suspend so much of standing orders as will allow me to do so.

MR BERRY: No. I have leave.

Mrs Carnell: You cannot move your motion, then.

MR BERRY: I have moved it.

Mrs Carnell: No, you have not.

MR BERRY: I got leave and I moved it.

Mrs Carnell: I am sorry; you have not.

MR BERRY: I have leave to move the motion.

MR SPEAKER: I asked members, "Is leave granted?".

Mrs Carnell: And I hopped up and said, "Can I have leave to make a statement?". Leave was not granted.

MR SPEAKER: Just a moment. We had better sort this out. If you are not going to grant leave you had better say no, rather than getting up.

Leave not granted.

Suspension of Standing Orders

MR BERRY (Leader of the Opposition) (4.48): I move:

> That so much of the standing orders be suspended as would prevent Mr Berry from moving a motion of censure of Mrs Carnell.

The motion is circulated. I do not need to speak to it, Mr Speaker.

MRS CARNELL (Chief Minister) (4.49): I am very happy to debate the suspension of standing orders, Mr Speaker. I will debate the suspension of standing orders by making a statement which should obviate the need for the motion of censure. I have noted Mr Berry's comments and Mr Carr's comments in the house today about the lack of any meeting between the two people, and I accept the veracity of what has been asserted concerning the meeting, particularly given Mr Carr's comments on the subject. If Mr Carr says that he has not discussed privatisation of ACTEW with Mr Berry, then I accept that and I withdraw any allegation against Mr Berry. However, I have to say that my sources are very close to the Labor Party - in fact, some are right here in the Assembly - and are usually very good sources. I did check those sources, as I always do.

Mr Berry has moved a censure motion today over behaviour that he engages in every day. This week we have seen Mr Berry and his colleagues come into this place day after day and make unsubstantiated allegations.

Mr Berry: I raise a point of order, Mr Speaker. Is this relevant to the suspension of standing orders?

MRS CARNELL: It is relevant. It is all about - - -

Mr Berry: The question is whether standing orders ought to be suspended or they ought not.

Ms McRae: I raise a point of order, Mr Speaker. If the Chief Minister wishes to make allegations of improper motives by the member in anything the member has done, she had an opportunity in question time and at any other time to do so. She is now seeking to impugn our motives and to make allegations in a way that is completely irrelevant to this debate.

Mr Humphries: Mr Speaker, this is the very kind of thing that Mr Berry traditionally says when he rises to move those sorts of motions. I think it is appropriate that those comments be made, particularly as they go to the heart of the question which is the subject of the suspension of standing orders.

MR SPEAKER: There has been a great deal of this this week. It would be remiss of me to uphold points of order against the Chief Minister, considering what has been going on in the last two days. Continue, Mrs Carnell.

MRS CARNELL: Mr Speaker, allegations have been made day after day this week. They have slurred the reputations of the former Deputy Chief Minister, a prominent businessman and a number of different corporations. Not one scrap of evidence has been presented to support these allegations. I think that the standard set by Mr Berry's censure motion today should be applauded. I agree totally. We need to ensure that when people make statements in this place they can substantiate those statements. When I see evidence that suggests that a statement I made was not right, I am more than happy to withdraw it. The same standards have to be placed on everybody. If this issue today achieves that, then this Assembly will be a better place. I acted in good faith, on the information provided to me. On the basis of new information, I am very happy to accept Mr Carr's comments and Mr Berry's comments on the issue.

MS TUCKER (4.54): I do not support this motion to suspend standing orders. We have a lot of business on the notice paper. Mrs Carnell has made a statement. I am sure that there will be plenty of media coverage and she will be made to eat humble pie, which is what the censure motion would be designed to make her do. Although I agree that Labor asked questions, the imputations and implications in those questions were just as libellous of individuals as this is. I do not understand why any of this has to happen. Mrs Carnell has apologised and withdrawn her statements. Let us leave it at that and get on with the business.

MR BERRY (Leader of the Opposition) (4.55), in reply: It would be a gutless move indeed if you prevented me from moving my censure motion. Censure motions have traditionally been heard in this place. If you stop them from being debated, it sets an ugly precedent for this Assembly. You have not heard my argument in relation to the censure.

Mrs Carnell: You do not have to move it. I just withdrew.

MR BERRY: Mrs Carnell says "You do not have to move it. I just withdrew". The fact of the matter is that Mrs Carnell never withdrew until she knew she was caught. This is the same story over and over again. This was not about a question being asked of me and me being allowed to answer the question. It was a contrivance deliberately constructed to mislead this Assembly with a fabrication. That is what it was about.

When you were told that I had not met with Mr Carr and you were given the opportunity to apologise, you refused to do so. You had either in your hands or on the record in this place a news release from the Premier stating that I had never met with him, and you did not apologise. You had plenty of time to apologise. You never sought to apologise until the censure motion was circulated. Once caught out, you want to apologise, but not before. You deserve to be censured. I deserve the entitlement to move the censure motion and debate it.

Question put:

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

The Assembly voted -

AYES, 5	*NOES, 10*
Mr Berry	Mrs Carnell
Mr Corbell	Mr Cornwell
Ms McRae	Mr Hird
Ms Reilly	Ms Horodny
Mr Wood	Mr Humphries
	Mrs Littlewood
	Mr Moore
	Mr Osborne
	Mr Stefaniak
	Ms Tucker

Question so resolved in the negative.

SOCIAL PLAN
Discussion of Matter of Public Importance

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

The need for a social plan for the ACT.

Good luck, Ms Tucker.

MS TUCKER (4.59): I am sure it will not be nearly as interesting as what some people were hoping would happen. It is just about something positive and interesting.

Mrs Carnell: You mean something useful?

MS TUCKER: Something useful.

Mrs Carnell: I do not think we should bother, then!

MS TUCKER: No, I probably should not! Maybe I could turn it into something really negative. I believe that this is a very important matter. My work as chair of the Social Policy Committee during the past three years has highlighted for me the enormous and urgent need for the ACT to have its own comprehensive and well-researched framework for the planning and delivery of social welfare and community services within its boundaries.

Mrs Littlewood: Where is the evidence?

MS TUCKER: I do have evidence, and I will provide it; but I will not reveal any of my sources! The Local Government Association of New South Wales stated in 1993:

> Social planning is the process of investigating and responding to the needs and aspirations of the people who live or work in a community.

The consequences of the lack of a social plan in the ACT have been made very clear to me through inquiries by the Social Policy Committee into issues as diverse as disability services, mental health, violence in schools and, most recently, services for children at risk. We have found consistently a very concerning lack of understanding of the current unmet need and no real documentation of projected need. When I say that, I am referring to government. When I ask government agents, they say that they are not that sophisticated in their work at this point. However, the community sector, which are often closely in touch through their service delivery functions, recognise and are very concerned about the unmet need. They have some information on that.

I am sure members will recall the exchange between me and Minister Stefaniak - it would have been amusing if it had not been so tragic - on the rate of homelessness in the ACT. I asked him what he thought the level was and he answered that he did know; that anecdotally he had heard that there were seven. After a hurried discussion with the officer, he said that it was not anecdotal after all; it actually came from the Australian Bureau of Statistics that we had seven homeless people. I then asked, "What is the definition of homelessness in the ABS census?". Of course, the bureaucrats did not know and thought it was not really their concern.

Debate interrupted.

ADJOURNMENT

MR SPEAKER: Order! 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.

SOCIAL PLAN
Discussion of Matter of Public Importance

Debate resumed.

MS TUCKER: The officer responding felt that that was the concern of the Australian Bureau of Statistics and not of the department, which was very alarming. I had a lot of feedback from the community sector after that appeared in the *Canberra Times*. The community sector were outraged to see such little understanding from the Minister and the department on the level of homelessness. Homelessness is not about just who is living on the streets. Homelessness is about who is moving from one friend's garage to another. Homelessness is about three families living in one house. Homelessness is about several young people - sometimes up to 15, we were told in the Social Policy Committee - living in a bed-sitter. Homelessness is not that difficult to define. It is something that we need to understand because it is a key indicator of the social wellbeing of a community.

In the discussion of need, sometimes people trying to avoid the issue will say, "How do you define need anyway?". For the interest of members, I will quote the American sociologist John Bradshaw. Bradshaw has defined four different types of need. We have felt need, when people feel the need for a particular thing; expressed need, when people tell others about the need they feel; comparative need, when people in one locality lack a thing that people in another locality have; and normative need, when experts tell people that they need a particular thing that they had not realised they needed. These four aspects of need, in combination, have a stronger indication.

Social planning forms a vital part of the way that governments guide the future of their communities. A community the size of the ACT can no longer accept decisions made about the provision or withdrawal of social services on a largely ad hoc basis. This community deserves no less than to have decisions made in line with the recommendations of a well-researched and widely disseminated plan, a plan with which the community have been involved and their contributions to which are valued. A great deal has been made of the need to live within our means and make decisions based on available resources. Without a social plan, it is impossible to make informed decisions which are consistent with identified criteria to meet community need.

It has been argued that a long-term view such as that espoused by a social plan is expensive and a luxury we cannot afford in this economic climate. I would argue, however, that a clear plan with a focus on preventative mechanisms is ultimately less expensive than the crisis management approach currently often in place. Crisis management is a value-laden exercise underpinned with notions of rescuing people who are disadvantaged in our community. A social plan, on the other hand, is a value-neutral exercise which empowers and encourages a community to fulfil its potential. It is of the utmost importance that we break away from the prevailing wisdom that unless social problems can be solved within the three-year political cycle they are not worth addressing. We as a responsible legislature must work cooperatively for the implementation of strategies to combat social problems and meet community need over the long term.

Social planning has become increasingly necessary because the increasing demand for local community services, coupled with scarcity of funds, means that planning of community services is important for allocating resources fairly and efficiently and because awareness that communities can be isolating and non-supportive for many residents has created support for community development and community cultural development as techniques for improving the local quality of life. Social planning must be underpinned by principles of social justice. A well-formulated social plan should take particular care to involve, and protect the interests of, people in vulnerable positions; avoid discriminatory practices and promote positive opportunities for participation by discriminated groups; consider the equity implications of proposals - who pays and who benefits; develop a respect for cultural diversity and an acceptance of basic human rights; promote fair, open and participatory decision-making; and ensure equal opportunity in its practices. That was also from the Local Government Association of New South Wales in their 1993 *Ground Rules: Social Planning for Local Government*.

There are a series of steps or stages to be followed in the formulation of a social plan. Firstly, a demographic profile of the community is developed. This will draw on existing data such as that from the ABS and DEETYA's labour market survey data. Collection of data will, of course, not be limited to these documents. In the case of the ACT, the current quality of life project being undertaken by ACTCOSS and the Government would prove a valuable resource in informing the development of a demographic profile and the provision of benchmarks for judging progress. The projected population for the next 20 years would be considered at this stage, although planning usually confines itself to potential demand for services over the next five or 10 years.

Secondly, the issues to be researched are identified and prioritised. Certainly, all the traditional social indicators - health, housing, employment, education, training - are included. A social plan is not necessarily restricted to these areas, however, and many progressive social plans include public safety considerations, recreation facilities and transport issues.

Thirdly, an extensive consultation phase takes place. Consultation can be in the form of community forums, public meetings, focus groups, written submissions or interviews with individuals. Usually service providers, consumers, community service groups such as Rotary and Lions, peak bodies and lobby groups are all requested to participate in, and contribute to, the consultation stage. It is at this stage in the formulation of the social plan that existing services, gaps in service provision and the needs of the community are identified, based on sound research methods. Strategies for implementation are canvassed from participants, who are perhaps best placed to propose innovative and effective delivery methods.

Fourthly, an action plan is written outlining the most appropriate method of moving from the present to the desired situation. The action plan focuses not on what is the best thing to do in an ideal world but on what is the best that can be achieved in the real world. It is not a blueprint which prescribes the future but is flexible enough to be revised when circumstances change. The final stage in the development of a social plan is the review phase, which ideally provides for comprehensive annual reviews and ongoing monitoring of the implementation of the plan.

The ACT has an unfortunate history of half-hearted attempts to address social planning matters. In 1988 a framework for a social justice policy for the ACT Administration was developed but never adopted, in 1995 the draft ACT and subregion planning strategy failed to consider social planning issues, and in 1997 the National Capital Futures Conference had an overwhelming emphasis on economic planning, resulting in the issue of social planning being marginalised.

The benefits of a comprehensive and thorough social plan extend beyond the effective and fair delivery of social and welfare services. The research conducted in the preparation of the ACT social plan, for instance, will prove valuable in informing the Office of the Auditor-General in the identification of social indicators and benchmarks to be used in accounting processes. I believe that as a legislature we can do much better than past attempts would indicate. I believe that as a community we deserve much better than past attempts have delivered.

MRS LITTLEWOOD (5.11): Yet again the Government has to explain the basics to our fellow members. There is not one single document that I can hold up today called a social plan, because to adopt this approach without care would stifle the growth of Canberra and would seriously impede the increasing quality of life that Canberrans from all groups of the community are enjoying. Social planning is a complex issue. It cuts across all areas of government policy and service delivery programs. To do it well, which of course is what the Government is doing, we will have to remain flexible and responsive to the needs of the community and listen to the community. There is a difference between engineering and issuing a social plan and providing the framework and the support mechanisms that allow the community to do that, that allow the people of Canberra to drive and to develop social outcomes that reflect their aspirations.

In developing these frameworks and supports, the Government involves the community. We consult, we listen and only then do we act - and we act on what we hear. In this way the Government practises a responsive and flexible approach to social outcomes for the community. We have focused our approach to this issue through a range of living documents, documents that speak to particular groups with particular social needs. For people to see that the Government cares is more important to us than developing a meaningless concept that ranges over every issue, is remote from the community and is rigid in its content.

Let me outline the Government's record in social planning. I will just give you a snapshot. We have delivered real social outcomes for the ethnic community. We have implemented a range of consultation mechanisms to give the people their say. We have introduced strategies in health to support the aged and the sick. We have dealt with crime and the perceptions of crime in the community. We have made major improvements to the education sector. That is to name a few.

Let me get down to some detail. I deal first with consultation. Since February this year the customer involvement unit has met with some 150 community groups. The issues they have raised have been referred to the relevant agency for action and feedback. These issues are fed into the planning process at the agency level. This Government has worked closely with the community in the implementation of the service purchasing

arrangements with non-government service providers - an example of genuine consultation in reviewing and developing policy. Another example is the quality of life project. The Government and the ACT Council of Social Service are working together to identify quality of life factors. These then lead to the development of quality performance measures. The process is an opportunity to look at the quality of service delivery and the links to outcomes for the community.

Let me outline our record in the area of customer service. We have a customer focused public service which has seen the integration of key service values and the principles of fairness into all systems and processes. It is an ambitious program that links the strategic level with the way people act in delivering service. What we have in place is tangible and pragmatic. It emphasises the open relationship between customers, stakeholders and public servants. It allows a free and full exchange of information, and it connects the people of Canberra with their services.

The commitment to service statements are based on sound social principles - those of opportunity, fairness, consultation, openness, diversity and responsiveness to the needs of all consumer groups. Service delivery areas must access fully the characteristics of the whole consumer base. This includes not only those who use the service but also those who should but do not because they feel that there are barriers to overcome.

The multicultural community has seen significant outcomes from this Government. The Office of Multicultural and International Affairs maintains a high profile. It assists people who do not speak English well or at all to gain access to government services through the ACT interpreter card. It assists older people from diverse cultural backgrounds and their carers to gain information about care options in the ACT through the publication of comprehensive information about care facilities and services in five community languages. It assists new arrivals to settle in Canberra by publishing comprehensive information about settlement services available in eight community languages. They are just a few of its services.

In Health and Community Care we have introduced an overarching strategy framework for the department, Vision 2000. Its mission is:

> In partnership with customers, service providers, and the community, continuously improve health and community care services to maximise both community and individual health and wellbeing.

The Government has, among other things, developed and implemented a population-based health and community care outcomes framework and supported and strengthened primary health care as the entry point of other more expensive services. A whole-of-Territory mental health plan is being developed to enhance the coordination of services between various mental health programs. We have a whole-of-Territory strategy which defines and coordinates the roles of government and non-government agencies in minimising the harm associated with drug use in the ACT. In collaboration with the Aboriginal and Torres Strait Islander people of the ACT and surrounding region, the Government has developed a health plan for the development and purchase of programs and services to meet the needs of Aboriginal and Torres Strait Islander people.

The list goes on. A women's health strategic plan is being developed to address women's health needs, and a men's health strategic plan is under way. We have a whole-of-Territory disability services plan, and we are developing a palliative care strategy to develop services and programs for palliative care clients and their families in the ACT. To address longer-term issues in health, a 10-year service plan is being developed to guide the development of health services and infrastructure for the next 10 years. This is genuine social planning.

MS REILLY (5.17): I rise to say a few words on this matter, but before I start let me look around the house and see how many people are here. We are talking about important social matters - not money and not economics, but the social wellbeing of the people in the ACT - and not a lot of people seem to be terribly interested.

Mr Humphries: Let us censure the ones who are not here.

MS REILLY: Grow up, Mr Humphries. Mrs Littlewood talks about various programs. It was a list. She called it a list. All it was was a list of what is happening. I think this puts in a nutshell what the issue Ms Tucker has raised is about. We are not talking about an integration of programs. We are not talking about programs that might be responding to a whole-of-government or whole-of-community process. We have a list of programs, a fragmented approach to social policy in the ACT, and that has been typical of this Government. This is characteristic of this current ACT Liberal Government. We get a list of programs, none of which seems to be coordinated with, or connected to, the others.

Mrs Littlewood mentioned consultation. That has been an exciting process! We regularly hear from the Chief Minister about how many consultations are going on, but there is no coordination of these consultations. Some organisations find themselves being consulted on matters by a number of different departments and agencies that have no apparent understanding that another department or agency has consulted on the same matters. There does not seem to be any understanding that social policy can cover a broad range of areas. It does not deal with just social matters. It also deals with social and physical infrastructure. But this Government has a list and they are working from the list. We saw a great example earlier this afternoon. The Housing Minister has a list for maintenance, but that is not helping ACT Housing tenants access maintenance. People have to wait for years. That does not suggest good social policy. It does not suggest any integration of programs at all when you have old people waiting to get their roofs fixed, waiting until Christmas comes - but no mention of which Christmas.

Three years ago we had a social policy branch within the Chief Minister's Department. That branch had a responsibility to coordinate and take a whole-of-government approach to social planning in the ACT. This meant that the Government was taking a strategic look at the development of a just and fair community. The Chief Minister of that time, Rosemary Follett, recognised the importance of having a coordinating role in social planning and she included that in the Chief Minister's Department. There is no such thing in the current Chief Minister's Department. It has moved all round the place. It has become little pieces here and there, with no coordination at all. One hand often does not know what the other hand is doing.

Labor recognises the importance of having a whole-of-government approach to social planning and to social programs in the ACT, to ensure that we work towards having a fair and just society. Having such a society does not happen by accident. It takes a concerted effort. It takes commitment to the principles of social justice. This cannot happen in the haphazard way in which social programs are being implemented in the ACT today. There is no coordination of programs in the ACT.

There is no coordination in matters such as women's policy. We do not have a women's policy in the ACT. Nobody is looking at the problems associated with this. For example, look at exit points from refuges for women and women with children escaping domestic violence. Nobody seems to consider it their responsibility to have these things arranged. ACT Housing throw up their hands and say, "We do not have sufficient houses to take these women from the refuges". The supported accommodation policy and program unit has moved around from place to place within departments and agencies in the last three years. It is now back in the community care area. This means that it has no connection with ACT Housing, even though the supported accommodation program is about the provision of housing. We do not connect it up with ACT Housing. Women spend an unacceptably long time in refuges because they are unable to get into more permanent accommodation, unable to settle their lives and recover from the problems associated with domestic violence.

Last Friday the Chief Minister, who is doing nothing to resolve these sorts of problems within the ACT, was attacking John Howard. It would be better if the Chief Minister were looking at getting an integrated approach to resolving this issue, rather than just getting on TV and talking about how John Howard is not giving her enough money. Maybe if we were using the money more effectively the problem would be less. Women's housing is just one issue that shows a lack of coordination and a lack of social planning within the ACT.

It is really hard to see on what basis funds and support are allocated to any of the community or social programs. As I said during the response to the budget, there is no social plan. There is no planning. Money appears to be allocated on whim or on the basis of the last person the Chief Minister spoke to or who is in favour at the moment. The Chief Minister said that they had plans. In her response on 24 June she said:

> We have three-year plans, we have 10-year plans, we have five-year plans, we have every bloody plan you can think of.

But there is no mention of a social plan for the ACT. It shows in the number of changes that have happened over who gets funding and the changes in the arrangements for programs. There is no plan. There is no understanding of the need to coordinate a number of factors to ensure that you get effective social planning. We see some quick responses sometimes when, in sheer desperation, the money is allocated before it disappears because you have to spend it or the Commonwealth will take it back.

We had a lovely example of that recently in the announcement of the money for the youth health centre. There was no tendering process, just an announcement of who would get it, because we were about to lose that money that had been sitting here for two years. If the Chief Minister had done some work to discover the need for youth health services she would have had the opportunity to allocate this money effectively a long time ago, not just in the last month.

Another example was the spreading around of $118,000 of youth funding in May. A youth organisation that needed funding so it could continue to operate was not given any of that funding. The money was divided up into small pieces and scattered throughout the ACT, achieving no good outcomes, just bits and pieces to satisfy the whims of the Minister. Giving $4,000 to each youth centre is not looking at what might be needed in any one youth centre, or even looking at the needs of one youth centre to the exclusion of others. This $118,000 could have been well spent, but it was frittered away because the Youth Services Minister, along with the Chief Minister and the other Ministers involved with social planning and policy, have no idea of what is required. There is no coordination.

I could talk about people wanting to use buses. A long discussion yesterday exemplified the fact that bus services need to take into account the social needs of the people using them. We are getting new buses that will be able to take people with mobility disability, but we have no idea where those people live. We have no idea which bus routes to put these buses on, but we will have them. What a silly way to go about a program! Talk about putting carts before horses! Maybe we should go back to those types of transport. It shows a lack of knowledge and the lack of data available to the ACT Government. They have not done an analysis of community needs.

Mrs Carnell has talked often about maintaining funding for HACC in real terms. It sounds commendable, but if you do not take account of the real need for HACC-type services it is totally meaningless. Real terms funding is meaningless if you have no idea of the extent of the need. We had a great example of that last week. The Chief Minister announced a program of bonds for potential nursing home residents and the Housing Minister knew nothing about it. No-one has looked at the impact of this program on ACT Housing tenants, but we have this program implemented in isolation.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! The member's time has expired.

MR MOORE (5.28): I think this matter of public importance is an appropriate matter to be brought before the Assembly. I suppose one of the great disappointments for me in looking back over the Third Assembly and what we are likely to achieve by the end of the Third Assembly is that we have not been able to put together an agreed strategic plan for Canberra. A strategic plan for Canberra would take into account a social plan. That is a fundamental part of a strategic plan. This Assembly rejected the so-called strategic plan that was originally put up by the Chief Minister, for the very reason that it lacked this sort of social plan. It was an economic plan of what would happen for Canberra and a general conservative view of how that should be carried forward.

When we met at the National Capital Futures Conference, the notion of a social plan was so much stronger in the discussions and the thinking of people at that conference. Identifying social needs, identifying social concerns and identifying possible outcomes in social terms are important factors in establishing a strategic plan.

It is also important to tie this in with the work that Ms Tucker did on her legislation for the Auditor-General that passed this Assembly yesterday. That legislation looked at environmental indicators that the Auditor-General would take into account; but Ms Tucker, as part of a compromise, moved an amendment that removed the social indicators for the Auditor-General, because at this stage we still do not have social indicators detailed enough to be taken into consideration as part of a performance audit. Those are the sorts of issues that need to be worked through in the development of a subsection of the strategic plan, the social plan.

Social planning runs right across the full spectrum of planning. It does not deal with just land use planning. It is part of economic planning; it is part of health planning; it is part of environmental planning. All of these issues are interwoven to ensure that we have a healthy society. A healthy society ensures that people are empowered and that their living conditions are such that they are less likely to get sick, that they are less likely to be vulnerable to disease and that they are less likely to be vulnerable to early death. A healthy social environment also ensures that there is not a huge discrepancy between the wealthy and the poor. Many of those developing social indicators across the world at the moment are finding major problems not so much where people are very poor or reasonably poor but where they are very poor compared to other people in the same society. In other words, their reasonable expectations are not met. That happens where there are huge discrepancies between the wealthy and the poor.

It concerns me that that is the path Australia is going down at the moment under the ultra-conservative Government of John Howard. John Howard makes Malcolm Fraser look dripping wet. I find this most extraordinary. Under this style of government a sectional group - those who are already well off - are particularly well looked after, and those who are not well off are looked after very badly. I think that is becoming more and more obvious to more and more Australians. From that point of view, I hope that it is a very short-lived government.

It seems to me that in the ACT we can apply some of those lessons from these social indicators and try to play our role within the way we fit within the Federal Government, to ensure that our social planning does provide, in a full range of ways, for people to have appropriate opportunities. That applies particularly to education, health, transport and other areas that affect the way people live their lives and enjoy their leisure time.

This is a very important matter of public importance. It having been raised at the end of the Third Assembly, all of us, those people here who are re-elected and other people who are elected to this Assembly after February, should try to deal with social planning as part of an integrated planning system through the Fourth Assembly.

MR TEMPORARY DEPUTY SPEAKER: The discussion is now concluded.

ESTABLISHMENT OF A NEW PRIVATE HOSPITAL - SELECT COMMITTEE
Report

MR BERRY (Leader of the Opposition) (5.34): I present the report of the Select Committee on the Establishment of a New Private Hospital, which includes a dissenting report, together with copies of the minutes of proceedings, and I move:

That the report be noted.

This report arose from the Government's decision to establish a private hospital on government land co-located with the Canberra Hospital. It is not a new idea. This is an idea that was tried by Mr Humphries in the Alliance Government, except that Mr Humphries wished to place his hospital close to Calvary Hospital, which at the time would have had a similar effect on Calvary Hospital to that which this new development will have on the John James Memorial Hospital. It will not be received well by that business in the ACT. It is a business that will be affected by the Government's decision.

This report is about an inquiry that commenced at the time the Government, in a sneaky fashion, signed contracts for the development of that hospital, doing so on the morning of a debate about the establishment of this committee. Subsequently, the Government refused to provide copies of contracts and agreements in relation to the matter. It has treated the committee system here quite shabbily. The Government offered, on the one hand, access to some documents, provided that the committee kept these documents secret; but the committee was not prepared to give an undertaking that it would not release information if it thought it was in the public interest to do so.

That was the beginning of the committee; but it could not have started if it had not been for the work of the Secretariat in putting together a team. Mr John Cummins had to be called back to the Assembly. Mr Cummins was associated with the Assembly Secretariat at an earlier period. He had to deal with a committee which would have been difficult to manage, given the very busy circumstances of all of the members who were involved in it. His wordsmithing and patience have been a major contribution to the completion of this report. Kim Blackburn, in the Secretariat, worked tirelessly to support Mr Cummins in this role. Of course, Harold Hird and Kerrie Tucker were members of the committee.

This report is a majority report. It is not a unanimous report. The Liberal member, Mr Hird, understandably has issued a dissenting report, because this report is very critical of the Government's approach to this entire matter. It has been hopeless. I mentioned that, on the day the motion was moved to establish the select committee, the agreement was signed between the Government and HCoA. It was a deliberate move to block the committee's proper investigation of these issues - an absolutely deliberate move. It was a dishonest move and not reflective of the Government's utterances in relation to the committee process in this Assembly. You will never hear members of the Government say that the committee system is a joke, but we often see them treat it in that way.

Mrs Carnell: This was a joke.

MR BERRY: Mr Speaker, Mrs Carnell says that the Assembly's decision to form this committee was a joke. That is a reflection on the Assembly's decision, and I think she ought to withdraw it.

Mrs Carnell: Would you like to ask me to prove it, because I am happy to?

MR BERRY: What?

Mrs Carnell: That you had preconceived ideas before you went into the deal.

MR BERRY: You have been found out. This was a dud decision which is going to impact on businesses in the ACT which you did not consult before you made the decision. This is the open and consultative Government at work here. Businesses in the ACT are going to be badly affected by this decision. This all comes from a Government that claims it has connections with business and cares about business. I am sure those businesses that have been badly done by as a result of the approach taken by the Government in this case would not agree.

The committee accepts that the process by which the preferred proponent was selected was an open and public tender process. This occurred, however, after the decision of the Government to proceed had been made. The committee's view was that the decision to proceed with the new private hospital was an ideological one made without open consultation with the parties who might be affected, including the general Canberra community.

Mrs Carnell: We put it out to tender.

MR BERRY: Mrs Carnell interjects again and shows her utter ignorance of the proper requirements of consultation. If you are going to consult properly, you consult at the contemplative stage, not after you have made up your mind. The committee, in its observations on this issue, said:

> The Government did not properly consult interested persons or organisations concerning the need for, and nature of, additional beds. The Committee finds it astonishing that, in particular, neither Calvary Hospital nor JJMH -

John James Memorial Hospital -

> were consulted.

That is an extremely serious position for those hospitals, which have invested millions of dollars in infrastructure to operate the businesses they operate in the ACT. I do not have the reputation of being a strong ally of the private hospital system, but I do recognise when something wrong has been done. I recognise fully and understand and accept

totally that the private hospital system has a continuing role in the provision of health care in the community, but my major concern has always been for the public system. There will be an effect on the public system with the establishment of this hospital.

The lead-in to the Government's submission to the inquiry claimed that the commitment to the development of the private hospital was announced in the policy platform prior to the 1995 election. That is untrue. The committee was unable to find any reference to a new private hospital in the official policy documents; nor was anybody able to provide the committee with any documents indicating that this was official Liberal policy. This is an out-the-back policy that they wheel out when it suits them, you might think. This matter was further discussed with the chief executive officer of the Department of Health and Community Care, who said:

> I was certainly informed by my Minister -

referring to the Health Minister -

> it was a policy of hers prior to the last election ...

So, it was a policy she kept under wraps somewhere, not announcing it until it suited her. It was sprung on those private hospitals - private hospitals which may have supported the Liberals in the lead-up to the last election - at a point where they could do nothing about it, because the decision had indeed been made. The major criticism of the Government's action in this matter is that it did not consult with the hospitals that might be affected.

The Government also claimed that this hospital will fill a niche market. In the committee's view, that is another misleading statement. The committee found that it was clear from the number of non-cardio and non-intensive care beds at the National Capital Private Hospital that the new private hospital will be attempting to attract business across a wide range of public and private services. This will be assisted by medical specialists with clinical practices in both TCH and the new private hospital. So, the niche is anybody's backyard. That is not to be too critical of Health Care of Australia. They have seen a business opportunity and they have leapt at it. They have been given an unfair advantage, a very unfair advantage, over other businesses in the ACT. You cannot blame them for that. The Government made the wrong decision. If they had not jumped at it, somebody else would have. It was a Government decision that got in the road of this whole process. It seems to me that Health Care of Australia manages a quality system.

The committee also questioned the view put by Health Care of Australia - and this was a major point made by Health Care of Australia - that a major source of its patients will be those privately-insured patients who do not declare themselves in the public system or use the public system. We were told that there was evidence that this had occurred elsewhere. Indeed, none was provided to the committee, and we pursued that. We have taken the view, therefore, that this claim was questionable and that significant numbers of patients would now declare themselves as private patients in a public hospital, that they might change their longstanding habit of going to the more expensive hospital. You can understand why.

We were told, when we were visiting a Health Care of Australia hospital in Sydney - St George Hospital - that it costs about $10,000 for heart bypass surgery. That is $10,000 if you are not insured. Of course, some insurance arrangements would allow you to recover the lot. But it would nearly always cost more to have private care for that sort of procedure than it would cost in the public system. We assume that the public system is about to provide these sorts of services in the ACT. It was promised before the last election. We are yet to see heart by-pass surgery done at the Canberra Hospital, and I wonder whether it will be done before the next election. I hope nobody is in too big a rush to make sure that it happens before the next election just to make it happen before the next election to prove that the promise has been delivered. Who would want to be the patient if they were in a hurry?

The situation, clearly, is not as presented by HCoA. It was demonstrated on our visit to the St George Hospital that very few patients come from the private hospitals to go into the public system. So, the bases of many of the assumptions are dead wrong. The Government has been wrong all the way along. It did not do a proper assessment of the needs in Canberra and it has got its assessments wrong. The Government has said, "It is up to the private sector to determine what is right, not us". Governments have a responsibility to existing businesses and to prospective patients in the ACT, and for the Government not to carry out a proper assessment of this matter is, in my view, culpable. Businesses are being dealt a bad blow by a Government that did not seem to know what it was doing.

The Government contended that the viability of the hospital had been carefully assessed by the private sector. I would have been more interested if the Government had taken some interest in the issue as well. John James Memorial Hospital have made it clear that the only option for current operators will be to close beds and downsize because this business has been given an advantage over them without proper consultation. Calvary Hospital considered that the third hospital would have an impact. Again, we have a hospital that will be impacted upon not having the opportunity to contribute to the decision-making process in the first place, an existing business that will be affected by the Government's decision. The AMA considered that the dilution of private patients into three private hospitals would severely impair economies of scale and comprehensiveness. They know a little bit about their business, one would think.

The other issue that arose in relation to attracting private patients from the public system was evidenced in our visit to St George Hospital. That hospital finds it in its interests, as would the Canberra Hospital, to keep the privately-insured patients in the hospital. If too many are spirited away, there is a significant drop in revenue to the hospital and, of course, the Government has to supplement it, and the cost of health care goes up. Mrs Carnell shakes her head. We have a funny system of mathematics if you cannot work that one out. *(Extension of time granted)* It was also made clear to the committee that the only way that the Government could make savings out of this would be if it closed the beds when patients were levered into the private hospitals. If, as Health Care of Australia say, they will be able to attract the privately-insured patients from the Canberra Hospital, it will lose revenue as a result and have to supplement it from somewhere else. None of these things, clearly, have been well thought through by the Government.

There are other issues of concern as well. The committee concluded that having some additional beds may be justified, but was not convinced that these beds need to be provided in a new hospital. It was not convinced that Canberra requires the number of additional private beds proposed. The decision by the Government to proceed with the proposal was taken without proper consideration of its impact on the existing two private hospitals and flies in the face of the proper process of consultation which should have occurred, given the likely dramatic effect on existing private hospital business. That is the truth of it.

The Government and public health authorities need adequate data to ensure that limited health resources are allocated effectively. The committee is convinced that there is only inadequate data available to ACT health authorities on bed needs, and in particular the effect of an additional 100 private beds. In fact, this was an ideological decision based on a non-existent policy, or a policy that was made up on the run. The committee noted that one justification for the provision of additional private beds was to attract private patients away from the public sector. I have mentioned that. It was said that the extra capacity so created in the public sector would enable a reduction in waiting times for elective surgery. If you look at the experience of St George Hospital, it will not happen. Something like one a month transferred from the hospital. So bad is the business that they have taken out the liaison officer who was put there to attract patients to private hospitals. That theory looks as though it could be a dud one as well.

The employment prospects become the most laughable. Yes, there will be some construction jobs for the period of the construction of the hospital, but that is about where it ends. As resources are shifted around in the system to make room for the new private hospital, hospitals like the John James Memorial Hospital will have fewer jobs. The estimates of jobs in the future are very rubbery; there is absolutely no doubt about that. The Government has made a grave mistake, has misled the community, has misled this Assembly and should apologise.

Mr Humphries: Move a motion of censure, Wayne.

MR BERRY: I would not be able to get it through the Independents and the Greens. They are too busy protecting you. Unquestionably, the decision was one that was not well thought through.

I mentioned that the Government would not provide copies of documents. The second recommendation from the committee was that the Legislative Assembly request the Standing Committee on Public Accounts to examine the principle of commercial-in-confidence. I think that is a good recommendation and should be followed through. The third recommendation was that the Attorney-General request the Government Solicitor to examine the contract and other agreements, to ensure they comply with trade practices legislation. I note that the Government member who has issued a dissenting report disagrees with that. The fact of the matter is that just convincing the Government is not good enough anymore; nobody believes them. The community have to be satisfied that this matter is examined and a public statement made to ensure that it does comply with trade practices legislation.

The committee also recommended that the Auditor-General examine the arrangements between the Government and Health Care of Australia, to ensure the ACT taxpayers are receiving a fair return for their investment. There is a major question at large over the use of public facilities which have been provided at public expense. Over $170m was spent in refurbishing that hospital. One of the major users now will be a private hospital next-door. That was never intended and the community were never advised of that when their taxes were used for these purposes. If it can be shown that every dollar is accounted for, fair enough; but that will require some administrative expenditure as well.

The committee accepted the view of Calvary Hospital, John James Memorial Hospital and the Royal College of Nursing that there were shortages of nursing staff in the ACT. We found that the fact that HCoA holds a contrary view implied that staff would be recruited from interstate. But there are shortages generally, I understand. Again, it goes back to the issue of whether staff will be available, where they will come from and whether it will create shortages in other hospitals. The committee also expressed some views about the presence of National Capital Private Hospital staff in accident and emergency cases. There is a major issue there. We have to make sure that nobody who is sick or injured is levered into the private hospital as a result of the hunger for business that will exist in the early stages.

There was also a critical issue about cardiac care. What a debacle! The health officials came into the inquiry saying that they were convinced that Health Care of Australia were going to cooperate with them. There was going to be some collaborative arrangement whereby they would have joint use of facilities and some patients would be in the public system and some would be in the private system. That fell apart before the committee. Health Care of Australia said they would have nothing to do with it. They made the Government and the departmental officials look like fools because they had not even stitched up an agreement on cardiac surgery before the agreement was signed. That demonstrates how much of a rush this Government was in to get it signed so that this committee could not properly examine the issue. This inquiry has discovered that the Government's approach on this whole issue has been deceptive and without care for existing businesses in the ACT. It will do nothing good for the existing private hospitals - in fact, it will damage them. The agreement has been made unfairly on the basis of inadequate consultation. I commend the report to the Assembly.

MR HIRD (5.57): At the outset, I would like to sincerely thank the secretary of the committee, Mr John Cummins, and his assistant, Kim Blackburn, and those groups who gave evidence and submissions to the select committee. I would also like to thank the other members of the committee, Mr Berry and Ms Tucker. The members of most Assembly committees I have served on have taken their political hats off and objectively considered the evidence which has come before the committees. That was not possible with this select committee. The chair made clear his dislike of the development of the private hospital both in his public comments and during the debate in the parliament before we even started to consider the evidence. This bias has strongly influenced the majority report of this select committee.

When the committee was set up the Government, correctly, predicted a politically-driven finding. However, we did not predict the extraordinary turn of events, which was an unlikely alliance between the chair, Mr Berry, the proponent of public provision of hospital care, and the John James Memorial Hospital, the hospital which considered itself most at risk from the development of a new private hospital. The evidence of John James is even attached to the committee's report - the only submission given this status. Somewhere along the line - and it was very early on - this select committee lost the plot. In my view, the committee has not done its job. Its first recommendation clearly says it did not, as it was required to do in the terms of reference, inquire into the current provision of public and private beds. Rather, it suggested that the ACT Government should commission an independent review of public and private bed needs.

The majority report accuses the ACT Government of poor consultation. You will note the attachments to my dissenting report, which speaks for itself. To have consulted behind closed doors with potential vested interests in the development of a new hospital, as suggested in the majority report, would have been totally inappropriate. The ACT Government went through an open, well-publicised call for expressions of interest and the second stage of a select call for tenders, permitting the widest possible interest. The selection process was scrupulous. It was overseen by an independent probity auditor, to ensure an absolutely fair and even-handed approach to all interested parties. This approach would have been totally undermined if we had adopted the committee's suggestion of collusion with two major players in the ACT. I have expanded on these concerns in the dissenting report. I look forward to the Government's response to the majority report, which will show it for what it is - a thinly disguised political farce.

MS TUCKER (6.01): I, too, would like to thank John Cummins for his support in this committee. I agree that Mr Berry did take a highly political stand on this issue before the inquiry started. That did concern me to some degree. However, I want to make it quite clear that I joined this committee because I was interested in understanding better how these decisions are made and I was prepared to work within the committee system, even though there did appear to be some fairly strong sentiments expressed quite early. I will not accept Mr Hird's claim that bias has driven the committee's report. I was very careful that I was comfortable with the recommendations that came out of this inquiry. I did not start off with any bias at all. I went in there with an interest in understanding it better, as I said.

Mr Hird just said that the report, obviously, is biased because the submission of the John James Memorial Hospital was attached to the report. I think that is actually quite insulting to John Cummins. It was not attached for any reason other than that it was an opportunity to show clearly the arguments that were outlined. Health Care of Australia did not present a written submission. This did disadvantage them, in my view. They were invited to make a written submission, but they declined to do so. If they had given us more evidence, maybe there would have been something else that we would have said in this report. But the fact is that they did not. The evidence that was presented to the committee was solid and supported the recommendations that came out of this inquiry.

One of the issues that I found quite surprising - and Mr Hird has certainly claimed this to be his view - was that there was consultation because there was a tender process. I have heard some pretty interesting definitions of consultation in the time I have been in this Assembly, but that one takes the prize. A tender process cannot possibly be called consultation. Then we get the other argument of why on earth would you talk to competitors in a commercial market to see what the impact of this proposal would be on them; that that, equally, would be quite inappropriate. I can see some logic in that. Why would you ask a competitor what they thought of a new player coming into the market?

That actually brings me back to the whole idea of a social plan. The same argument comes up over and over again with the retail discussion. Why, in the name of competition, do we allow a free-for-all and think that society generally is going to benefit? There are unfair advantages. Some players in the open market have a competitive advantage. In the case of retail, it is the large businesses because of economies of scale and so on. So, when we allow further retail expansion, the big players in our society are winning all the time. We know how many small businesses are going out of business. We see how Woolworths, Coles and so on are always the winners. We see how they purposefully provide the goods in their shops at a lower price to wipe out those small businesses. It is what happens. Woolworths has a publicly-stated aim to take over most of the retail sector by doing this. It is fair game; this is how the competitive market works. Once again, right now we have the same problem. We have a couple of private hospitals operating already and we are allowing another one to be built. That one obviously will have an advantage if it is co-located with a public hospital's accident and emergency section. There is an obvious disadvantage for John James because they do not have that. I think that is a reasonable reason to question whether it is fair trading to offer that.

I will go through all of the recommendations briefly. Basically, the first recommendation is actually looking at the need for more private beds in the ACT. I know this is after the fact and it might all seem a bit hopeless in one way; but I think for the record it is important to work out why things went wrong, so that, hopefully, we can stop them going wrong in the future. There can be lessons learnt from this. The second recommendation requests the Standing Committee on Public Accounts to examine the principle of commercial-in-confidence. Members are well aware of my often expressed concerns about this matter. I think it is a real issue for us in the committee system generally, not just in the Assembly, that we do indeed look closely at where commercial-in-confidence is used and get some clear understanding of where its use is, in fact, legitimate and where it is not. Often it is and often it is just almost a sacred symbol under which we classify anything that has to do with a private company.

The third recommendation is that the Attorney-General request the Government Solicitor to examine the contract and other agreements. This is about whether it is fair or not. The fourth recommendation is that the Auditor-General examine the arrangements between the Government and Health Care of Australia, and that the Auditor-General monitor those arrangements. Once again, this is about fairness. The recommendation about the Canberra Hospital entering into arrangements with the National Capital Private Hospital concerning access to accident and emergency is about fairness, too. That is about unfair advantage.

The recommendation dealing with the numbers of patients admitted to the three private hospitals from the Canberra Hospital's accident and emergency section being monitored and that data being reported to the Assembly is, once again, a monitoring recommendation, which is always useful if we want to understand what we are doing in the community when we allow these new operations to start. The last recommendation is that protocols be developed and published concerning the roles and conduct of private and public staff in the Canberra Hospital. Obviously, that is because there was some concern expressed to the committee that there could be some kind of pressure. Basically, this is about ensuring that good practice occurs.

One of the other matters that I think need to be addressed is the cardio-thoracic unit. I support Mr Berry's concern on that. I was surprised to get different stories from the health officials and Health Care of Australia on exactly what the relationship between the two hospitals and the cardio-thoracic unit would be. What it showed very clearly was a disturbing lack of detail in the agreement. Once again, I just think that is very poor practice, because the ACT community is spending a lot of money on developing a cardio-thoracic unit in the public hospital, and we want it to be viable. I cannot understand how this kind of arrangement could have been gone into without actually going into that amount of detail beforehand.

I did learn something from being part of this committee. I think these recommendations are reasonable, if you look at them. I think Mr Berry has gone a little bit over the top in the way he has actually presented some of the recommendations. I hope that I have presented a more level-headed response. I am certainly not convinced by Mr Hird's arguments, obviously. I do look forward to seeing in the next Assembly, whoever is in government, a select committee, or some other committee, looking at commercial-in-confidence. I want to see the development of some protocols so that we know that any unfair advantage that Health Care of Australia might have because of the co-location does not unfairly disadvantage John James.

One comment I remember was that John James could have tendered for this operation but, because John James had a clear understanding of the lack of viability in this increase in private beds, they would not tender. They knew that their own facility was adequate at this point and that, if they had tendered for this new facility, the new facility would have failed or the John James facility would have failed. So, I can understand why they were very frustrated that there had not been any real needs assessment done, to begin with, to determine whether there was a capacity to take in this many extra private beds.

MRS CARNELL (Chief Minister and Minister for Health and Community Care) (6.11): I will speak briefly on this issue because I imagine that it will not get back to this Assembly with the Government's response, due to timeframes. I think one of the issues that need to be addressed here is consistency. Over the last two weeks in the Assembly, if not over the last 2½ years, we have seen the most amazing amount of inconsistency from Mr Berry. Mr Berry, it appears, takes the approach that whatever is the most expedient line that he can take today to have a go at the Government is the one he will take.

I have not had a chance to read this report, obviously, but I have read the recommendations. Recommendation No. 2 is that the Legislative Assembly request the Standing Committee on Public Accounts to examine the principle of commercial-in-confidence. The report itself has a significant go at the Government with regard to commercial-in-confidence. Similarly, Mr Berry has made similar comments in this place. I think it is appropriate here to put on the record some of Mr Berry's past comments about commercial-in-confidence. I quote from page 401 of *Hansard* of 2 March 1994 on commercial-in-confidence. Mr Berry said:

> It is fair enough that people who have commercial contracts with the ACT would expect them to be kept in confidence. None of the Liberals' friends would be too happy if their contracts with the ACT Government were all exposed to the community and to their commercial competitors; neither would they be satisfied if any of their tendering arrangements with the ACT Government were exposed. At any time the Liberals could leap to their feet and say that there is a big question mark about the tendering arrangements in relation to such and such. People who support them would scream their heads off if those tendering arrangements were released and exposed commercial advantage for one group over the other.

I will go on. I will now go to 22 February 1994:

> The issue of commercial-in-confidence contracts is one that has been raised here before. As I have indicated in this place, unless I had the agreement of the company to table commercial-in-confidence matters I would not table them. I have also informed this chamber before that the company is in agreement with the concept of offering no inducements ...

He went on to make the point that he would not make commercial-in-confidence documents available to the Assembly unless the company agreed. Mr Berry also said:

> It is commercial-in-confidence. It was an agreement between VITAB and us. While that commercial-in-confidence position is observed by both parties, it will be observed by us.

I could go on forever, because Mr Berry has made those comments time and time again when it has suited him. Now that it does not suit him, we have a totally different position. That is of concern to me and I think it should be of concern to all members of the ACT community, because this is the man that will, more than likely, be Chief Minister after the next election. We have somebody who can be absolutely 180 degrees different - not just a little bit different, but absolutely at odds - depending on what suits him at the time.

Similarly with this report, given the very small amount of it I have had an opportunity to read. I heard Mr Berry in his comments say, "We certainly found there might have been a need for a couple more" - or "a few more" - private hospital beds, but we certainly did not need this sort" - 100-bed type - "of facility". I got to page 5 of the report, and what it says there is really interesting. It reads:

> The current level of 0.8 private beds per 1000 population is below the national average of 1.3 private beds per 1000 population. The addition of 100 beds at the NCPH would bring the ACT close to the national average -

still under the national average, but close to the national average -

> for private bed provision.

The interesting thing about those figures and those statements there is that they do not actually take into account the region. This report also states:

> In 1995-96, 20 per cent of patients treated at TCH, which is the only tertiary referral hospital in the region, had home addresses outside the ACT.

The report goes on to say that there are no private hospital beds in the region. There are no private hospital beds in the region other than the ones in the ACT and we already have a level of private hospital beds significantly under the national average. Even with the new private hospital, we would not quite make the national average inside the ACT; but we are actually servicing an area nearly double the size of Canberra that you could expect at least an extra 20 per cent of patients from. From the small amount that I have read, it would appear that the figures that have been put in here, although right in themselves, have not taken on board the actual part of New South Wales that we service.

It is also interesting to note that the approach that John James has taken in this particular circumstance is not unique. In fact, I would like to read something from the *Australian Surgeon* of spring 1997. It is from the "Around the States" part of the magazine and the article is headed "Co-location angers surgeons". The article reads:

> The State Committee of the Australian Association of Surgeons recently went public in its opposition to co-location of a private hospital on the campus of the Royal Hobart Hospital or any other public hospital in Tasmania.

Here we have a magazine distributed around Australia making negative comments about co-location of private hospitals. What is interesting is that when you go into this article it tells us why it is not liked. The article makes a few points about reducing private health insurance. Then it says:

> It is against this background of an ever decreasing percentage of privately insured patients that we see the suggestion mounted by the Government that a significant proportion of the Royal Hobart Hospital should be turned over to a private wing to be managed in some shared capacity -

as a private hospital -

> to enable -

wait for this -

> funds to be siphoned from the private sector into the public sector.

I am happy to table that. The reason the surgeons are cross is that the public sector could end up better off. I must admit, as Health Minister and the person responsible for the public sector, that if we manage to do well out of the new private hospital, if money that otherwise would have been in the private sector ends up in the public sector, that would not be a negative argument for me. If we can make sure that the services we are providing at the Canberra Hospital can put some extra revenue into the public system to serve more public patients, I cannot see that that is a negative to the people of Canberra. In fact, I am sure that it is not.

In this situation, the things that are self-evident are, firstly, that we have fewer private hospital beds per head of population than anywhere else in Australia and, secondly, that we have the highest level of private insurance. Mr Berry made a comment that it would mean that privately-insured patients could potentially go to the new private hospital, and that would mean a revenue reduction at the Canberra Hospital. That would actually be quite difficult because the great problem we have right at the moment is that we have at least 34 per cent of Canberrans with private health insurance and the last figures I saw at the Canberra Hospital indicated that our admission level of privately-insured patients was about 9 per cent. We know that private patients are using our public system, and they have every right to do so, and are not declaring their private insurance. Therefore, there is no revenue going into our public system. If those people choose now to use a private hospital, for whatever reason, rather than the public system, there is a bed freed up for a public patient. Mr Speaker, I think that is a very good thing to encourage. *(Extension of time granted)* If we can free up more public beds, that has to be a good thing.

Let us look at the things that we know here. We know, firstly, that Mr Berry's consistency on such things as commercial-in-confidence and tender documents is, shall we say, less than perfect. In fact, he says what suits him at the time, and that is totally proven. It is interesting to note that none of the recommendations say that the new private hospital should not have gone ahead. The terms of reference read:

> ... ...
>
> (a) current provision of both public and private beds in the ACT and the appropriate ratio of public/private beds as well as the overall requirement for beds in the ACT and surrounding region;

I think that is really a useful thing to do. A lot of that work had already been done. So, what is the recommendation? It reads:

> The ACT Government commission an independent review of public and private bed needs with particular reference to the impact ...

of the new hospital. In other words, they did not do what the terms of reference asked of them. They just suggested that maybe we should have an independent review.

The second recommendation is one I have spoken about with regard to commercial-in-confidence. The third one suggests that the Government Solicitor examine the contract. I gave the committee an opportunity to examine the contract on the basis that it was kept commercial-in-confidence. Mr Berry said that he was not interested in doing so, because all he wanted to do was to make political capital.

Mr Berry: No. I did not say that. You have misled the house again.

MRS CARNELL: Mr Speaker, Mr Berry said that he was not interested in looking at it unless he could make it public if there was a problem. I will go back and requote Mr Berry from past *Hansard*s when he has said the exact opposite. I quote again:

> It is fair enough that people who have commercial contracts with the ACT would expect them to be kept in confidence.

It is almost impossible to believe that somebody who has made such absolutely categorical comments on commercial-in-confidence in the past would then turn around and not just bring up a recommendation like this, but also refuse to look at the contract unless he was in a position to go public with it if he felt there was a problem. The same person in the past was not even willing to allow anyone else to look at a contract because it was inappropriate.

Mr Speaker, I have to say that I think it is a great pity that the committee process was used for this purpose. A couple of good things have come out of it, though. Interestingly, I think looking at the principle of commercial-in-confidence is one of them. I do believe that that is something we should do as a government. We have certainly been looking at it for a while. At least, we are not two-faced about this. We are consistent about the approach.

Yes, I believe a new private hospital in the ACT will be a good idea. Yes, we have proven that there is a need for the beds if the national average for beds is what we are aiming at. Mr Berry has suggested that that is what we should aim at in the public sector more times than I can remember. So, why would it not be the same in the private sector? Why would we not be aiming at national averages in both the private sector and the public sector? I do not know what the answer to that is. The report certainly does not tell me what the answer to that is.

I am very pleased that there is no indication here by the committee that it was not a good decision or that we should not have gone ahead. There is no recommendation along those lines at all. On that basis, I suppose I should be thankful for small things. But would it not be good if Mr Berry took a deep breath and said, "I will be consistent for a whole two weeks in the Assembly, the last two weeks."?

Mr Humphries: Do not ask for too much.

MRS CARNELL: No, just for two weeks. "I will not say things that are absolutely at odds with things that I have said before".

Ms McRae: You are rattled and fussed. You cannot cope.

MRS CARNELL: I agree, Ms McRae, that it is not a big show. But would it not be lovely?

Mr Speaker, I would like to finish by quoting from the *Canberra Times* what Dr Colin Andrews said with regard to this project. I think Mr Berry said before that the AMA did not like it. Dr Andrews said:

> The overall impact will be some of the existing private hospitals might have to scale back and maybe even close beds or wards. The impact may be that they have to lift their game and offer more services ... and the third impact will be there will be a lot more private beds for doctors to practise in ... particularly in high-tech areas.

I do not care if they have to lift their game.

MR SPEAKER: The member's time has expired.

MR BERRY (Leader of the Opposition) (6.28), in reply: Mr Speaker, the first issue I want to deal with in closing the debate is commercial-in-confidence. Nobody in any previous government has snuck off before a proposal for a committee was put to this Assembly and signed off a contract to prevent a matter from being properly inquired into. That was a sneaky and dishonest act. That is where the issue of commercial-in-confidence gets a new significance in the ACT. This committee was hampered in its inquiry because the Chief Minister deliberately and dishonestly signed off a contract to stop the committee getting access to it.

Mr Humphries: Mr Speaker, on a point of order: I heard Mr Berry make comments about the Chief Minister being dishonest. I think that is clearly outside standing orders and I would ask that he withdraw it.

MR SPEAKER: Withdraw the word "dishonest".

MR BERRY: I withdraw. She sneakily signed off the contract to prevent the committee from conducting a full inquiry.

Mr Humphries: Mr Speaker, on a point of order: I did ask Mr Berry to withdraw.

Mr Corbell: He did.

Mr Humphries: No, he did not. He just said "sneakily". He did not say, "I withdraw" - not that I could hear.

MR BERRY: No; I withdrew "dishonestly" and said "sneakily".

MR SPEAKER: "Sneak" also requires withdrawal.

MR BERRY: It is not on either, is it? Okay.

MR SPEAKER: Do you withdraw that?

MR BERRY: I withdraw that one, yes. With arrogant disregard - is that all right? - for the principles of this Assembly, the Chief Minister behind closed doors signed off a contract to prevent the Assembly from properly considering a matter which was due to go before it that day. That is the height of arrogance and shows the contempt by the Government for the Assembly processes. Some people might be prepared to sit quietly and cop that; not I.

The Chief Minister talked about the number of beds in the ACT and mischievously used averages as a justification for having additional private beds in the ACT. The Chief Minister referred to page 5 of the report. She was very careful not to turn to page 6, where there was further comment in relation to the matter. All the evidence presented to the committee demonstrated that with the new private hospital the occupancy rate for the total private beds would be about 52 per cent. That clearly indicates that there will be some non-viable resources in the private sector, which again points to closures and reductions in private hospitals. I think the Chief Minister has not been forthright in her approach to this report. I think she needs to read it a little more closely to fully understand it.

I heard the Chief Minister say, "If we manage to do well out of this arrangement more money will flow to the public sector". How would you enter into this sort of arrangement not knowing what the outcome was going to be? It is like just about everything this Chief Minister has done. It is always guesswork and it is always with lots of somebody else's money. The end result is that it is left to somebody else to fix up. That will be the case with this hospital. Of course, the hospital's construction could not be stopped, because the contracts had been signed before this Assembly could deal with the issue. But there are very clear implications for the private sector and other businesses. ACT business needs have been abandoned in the Chief Minister's ideological push on this private hospital, which was never mentioned before the last election and for which the Chief Minister had no mandate.

The Chief Minister also mentioned that there could be more money from private patients being induced to go to the public system. She mentioned that 9 per cent of patients were treated as private patients within the public system. I think she attempted to refute the impression that there will be a reduction in revenue to the public system as a result of the transfer of private patients to this new private hospital. That is a nonsense. It makes no sense at all. This demonstrates the level of understanding of the issues.

How could the Health Minister suggest that those who do not declare their private hospital status now, in order that they can be treated as public patients in a public system at no cost, would announce their private hospital status and request private hospital care in the private hospital, where charges would be far higher than they would be if they were treated as private patients in the public system?

It is a nonsense to suggest that people are going to change their ways for the opportunity to travel at greater expense in the private hospital. The fact of the matter is that these patients are going to be taken from other private hospitals, unless the public system is squeezed. That is the risk here. With this Government, it is the probability. Pressure will be put onto public patients, with fewer beds. People will be pressured into the private sector in order that the Government can save money.

Mr Speaker, this is an ideological move from people who think that the private sector has all the answers for the community. It has no trust in the public sector, it has no belief in the public sector, and it has no understanding of the service provision aspects of the public sector - a most important feature of any public hospital system. This report is extremely critical of the Government's approach. It demonstrates that the Government's approach was a dud approach and that the Government arrogantly disregarded the needs of existing ACT businesses in order to pursue an ideological goal which had never been raised with the community in the ACT. That is a dishonest government at work. It is not something that will be forgotten by the community. I commend the report to the Assembly.

Question resolved in the affirmative.

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Report on Outdoor Lighting - Printing, Circulation and Publication

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

That:

(1) if the Assembly is not sitting when the Standing Committee on Planning and Environment has completed its inquiry into outdoor lighting, the Committee may send its Report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, circulation and publication; and

(2) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Inquiry into Petition on Curtin Shopping Precinct

MR MOORE: Pursuant to standing order 246A, I wish to inform the Assembly that on 12 November 1997 the Standing Committee on Planning and Environment agreed that the following statement on the Assembly's referral of a petition on the Curtin shopping precinct be made to the Assembly.

On 28 August 1997, Ms Reilly, MLA, tabled a petition in the Assembly. The petition was from 1,331 residents and read:

> That the Curtin Shopping Precinct is in need of an upgrade of its public amenities and public spaces as they are in a condition that is of concern to public safety.
>
> That the Curtin Shopping Precinct has missed out on any funding through the ACT Government's Precinct Management capital works program.

The petitioners asked the Assembly to:

> Immediately undertake a consultative process with the community and Traders of the Curtin Shopping Precinct into concerns relating to the Curtin Shopping Precinct's public amenities and public spaces.

After tabling the petition, Ms Reilly moved that it be referred to the Standing Committee on Planning and Environment. In speaking to this motion, Ms Reilly emphasised four points. She mentioned that the retailers feel that they are not getting any assistance from the Government to look at the public areas. She said that the retailers are quite concerned about the fact that a number of other group centres and other smaller shopping centres have appeared on the upgrade list for precinct management in the last two budgets, but the Curtin shopping precinct has failed to appear in any of the budgets. Ms Reilly expressed concern about the unevenness of the pavement, which caused older people in particular to be worried about using the centre. She stated that traders and the users of Curtin shops were not asking for special privileges; they were simply asking for the same opportunities as some of the other group centres in the ACT to have their public fabric improved.

The Minister for Urban Services, Mr Kaine, MLA, responded by saying that Curtin is on the list for upgrade and has been for at least three years, and that Curtin is the next cab off the rank. He advised the Assembly that the precinct committee will be established before this year is out. The Minister added that there are other shopping centres that are worse off than Curtin, and that is why they took precedence in the upgrading program. After the Minister spoke, I moved for the adjournment of the matter in order to give time for my colleagues on the Planning and Environment Committee to privately discuss the referral of the petition. We did this the very next day, 29 August, and again on 19 September, when we decided that we were comfortable about the referral of the petition.

Members of the Assembly are aware that it is unusual for a petition to be referred to a committee and we wanted to be sure about the usefulness of the process. In the event, I think the process has considerable merit. The Assembly formally referred the petition to this committee on 25 September 1997. On 24 October the committee agreed to schedule a public hearing, which took place on 31 October. I am pleased to advise the Assembly that Ms Reilly attended the public hearing and asked many questions of the officials before us. These officials were the manager and the precinct coordinator of Canberra Places, which is the business unit within City Services which administers the precinct program.

The officials made these points: The Government's 1997 budget identified Curtin as one of three shopping precincts marked for the establishment of precinct community groups in 1997-98. The Minister directed that the process in Curtin be accelerated. Survey forms are going out to the Curtin community this month. These forms invite participation in the process and it is hoped to have a group of interested people in place by the end of this month. It will be up to the precinct committee to recommend specific works, such as landscaping, street furnishings, lighting and paving, and to allocate priorities among these items. In doing so, the precinct committee will be assisted by a design team from Canberra Places.

The officials pointed out that the money for the actual upgrading must await the Government's decision on next year's capital works program, which will not take place until early next year. But the officials expressed their confidence that there will be funds for design and construction in 1998-99 for the Curtin centre. The Planning and Environment Committee hope that this is the case. We note that the Government's draft capital works program will come before this committee for scrutiny. Of course, an election will take place between the time of this statement and the new Government's submission of its draft capital works program to the committee that succeeds this one in the Fourth Assembly. Members of this Assembly cannot commit a new Assembly, but we hope that the contents of the petition and of this statement will be carefully noted by the incoming government. The Planning and Environment Committee finalised the wording of this statement at our meeting on 12 November. I commend the statement to the house.

Sitting suspended from 6.40 to 7.40 pm

ELECTORAL (AMENDMENT) BILL (NO. 2) 1997

Debate resumed from 11 November 1997, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR BERRY (Leader of the Opposition) (7.40): Mr Speaker, the Labor Opposition will be agreeing to this Bill. I will not go through the process of rereading the Minister's speech or the explanatory memorandum to demonstrate how well I am across this issue, but one matter which is of concern in relation to the Bill is the issue of completing declaration certificates. We in the Opposition believe that that amendment ought not be

carried because we think it is a reduction in security at the poll, although we understand that the numbers here would support the amendment. We understand, too, that the Electoral Commissioner is in favour of it because there are some administrative savings which, like any good bureaucrat, he should pursue; but I have some reservations about anything which reduces security at the poll.

I know also that there is a similar practice occurring in other States. There have been elections there and, as far as I am aware, there have been no reports of difficulties with the procedure. In any event, it is something that I am reserved about because I think the security of polling places should be paramount. There should be no relaxation or invitation to unscrupulous people to abuse the system. That is not to say that that will be the case, but there are always bright minds around who can work their way around these things. As I say, I am very reserved about this provision. Other than those comments, I have nothing further to say in opposition to the Bill.

MS TUCKER (7.44): I will speak to the in-principle part of this Bill, and I will also foreshadow the amendments that I was proposing to put; but I will not put them now because I know that there is not sufficient support for them at this point in the Assembly.

Mr Berry: Test the water, you wimp. Come on, have a go.

MS TUCKER: I should test the water, you think, Mr Berry. Basically, the Greens will be supporting - - -

Mr Moore: She can count. The one thing she has learnt in these last three years is how to count. Isn't that right, Ms Tucker?

MS TUCKER: That is right.

Mr Berry: You have to steel the spine. You have to go through a humiliating defeat or two.

MS TUCKER: A humiliating defeat? Mr Speaker, Mr Berry thinks I need a humiliating defeat. I was knocked back 2 : 15 today, or was it 2 : 13? I think we have had a humiliating defeat. But we were standing on the side of right, of course, so it was not humiliating at all. We were right. History will show that, of course.

We are supporting this Bill, and we were going to be proposing an amendment but we will not. Basically, this Bill implements the recommendations made by the ACT Electoral Commission in its report on the operation of the ACT's electoral legislation following the 1995 ACT election. The review recommended that the commission have a greater degree of independence from the government. It also recommended a range of amendments to the Electoral Act to improve the process of conducting elections. This Bill largely reflects the commission's recommendations, which seem quite reasonable, and will enhance the ACT's electoral system. I also note that Mr Humphries consulted with non-Government MLAs some months ago about the proposed amendments to the Electoral Act, which was a good approach which hopefully should ensure a smooth passage of the Bill through the Assembly.

The amendments which I was proposing basically all relate to the insertion in the Electoral Act of a schedule which sets out a new system of rotation of candidates' names on the ballot papers as an enhancement to the Robson rotation system. This amendment is designed to reduce as much as possible the potential impact of donkey voting on the election of candidates. The Robson rotation of candidates' names on ballot papers was first adopted in Tasmania, and then in the ACT, for the express purpose of evening out the effect of the donkey vote and to reduce the influence of party machines over the election of candidates. Because each candidate in a party list is given an equal chance of being No. 1 on the ballot paper through Robson rotation, it is more difficult for a candidate to receive an advantage.

MR SPEAKER: Ms Tucker, are you speaking to the amendments that you are proposing to move?

MS TUCKER: I was attempting in my in-principle speech to deal with the amendments. If you do not like that, that is fine. I will put my amendments and I will go through the whole process. I am talking about the amendments that I think would have been good if I had had the numbers. Is that okay?

MR SPEAKER: If it is the wish of the Assembly to accept that it is in general terms, I have no great problem.

MS TUCKER: I thank members for that. Because each candidate in a party list is given an equal chance of being No. 1 on the ballot paper through Robson rotation, it is more difficult for a candidate to receive an advantage from the votes of people who just vote one, two, three, et cetera, down the column. However, the Electoral Commission's report on the conduct of the 1995 ACT election noted that the Robson rotation system can still lead to a donkey vote effect which has the potential to elect candidates on the luck of the draw rather than through the deliberate choice of voters. It appeared that less well known candidates who did not have a high first vote were able to boost their overall votes by receiving the donkey votes of other candidates who were earlier excluded from the count.

The commission pointed out that Mr Hird probably won his seat because of the donkey vote allowing him to overtake fellow Liberal Party candidate at the time, Cheryl Hill, who had more first preference votes. Mr Hird did this by picking up the donkey votes of excluded Liberal candidates, Martin Gordon and Lyle Dunne. Unfortunately, later on the donkey vote was to have a further influence on the make-up of this Assembly when the recount was done after the resignation of Tony De Domenico. It appears that Louise Littlewood narrowly won the seat on donkey votes from De Domenico ahead of the other Liberal candidates, Sandie Brooke and Brian Lowe.

In addition to the commission's analysis, the numbers to back up these claims have been crunched by CSIRO scientist and spare-time election analyst Dr Miko Kirschbaum, who in May this year released a report entitled "How to get the donkey out of Hare-Clark". This report was distributed to all Assembly members. He calculated that nearly 20 per cent of the electorate voted using the donkey vote method. He also found that the donkey vote would have to reduce to below 3 per cent to not have the effect it did on the election of Harold Hird.

In fact, the donkey vote problem may become worse because of the ban on giving out how-to-vote cards outside polling booths, because people are less likely to follow a party's preferred order. It would be a great pity if the personal approval gained by members of this Assembly could be easily lost against a competing candidate who has the luck of the donkey vote. There is a real problem here that needs to be corrected if our voting system is to maintain credibility in the eyes of voters. Two members in this Assembly partly owe their election to the luck of the donkey vote. These two members may not have been in the Assembly today had their names not appeared in the right place on the ballot paper. That placement was purely a matter of chance. The election of candidates should not be affected by luck, but only by the merits of the respective candidates as perceived by voters. This motion is not about singling out Mr Hird or Mrs Littlewood. It is in the interests of all Assembly members, and of all candidates for that matter, to ensure that the voting system is as fair as possible.

There can be no doubt that Hare-Clark is the world's best electoral system, but we must continue to work to make it even better and fairer. Dr Kirschbaum should be commended for doing the detailed analysis of the extent of the donkey vote problem and proposing a relatively simple solution, which, perhaps if accepted by the Assembly today - well, I know it will not be now, but we are getting this on the record and hopefully it will be accepted in the next Assembly - will be known as the Robson rotation with the Kirschbaum twist. My amendment is a direct copy of Dr Kirschbaum's proposal. I should note that I have received the full support of Dr Kirschbaum in putting up this amendment. It simply involves increasing the number of rotations of the ways in which ballot papers are printed. It would add significantly more fairness to the election, with negligible side effects.

The Electoral Commission acknowledged the donkey vote problem in its report but thought that it would be too complicated to change the Robson rotation system. The genius of the Kirschbaum proposal is that it involves a relatively simple change to Robson rotation but with significant impacts. The amendment merely involves adding another set of rotations to the set of rotations in which candidates' names are printed on ballot papers as specified in the existing Schedule to the Electoral Act. The second set of rotations would have the same candidate on the top of the party list, but the order of all other candidates in that list is inverted. For example, to an order of candidates 1, 2, 3, 4, 5 we would add an additional rotation of 1, 5, 4, 3, 2. This would have the consequence that the donkey vote would be shared between two candidates, and where it came to a competition between two candidates for one available seat the effect of the donkey vote from excluded candidates would be evenly shared between the contestants.

This system is still not perfect, in that it does not provide a completely random distribution of the candidates' order on the ballot paper. However, to get such a random system would be technically very difficult to print and very expensive. The Kirschbaum amendment provides an optimal compromise which improves the fairness of our elections but requires minimal increased printing costs. The number of ballot papers remains the same but they would be printed in slightly more lots. Dr Kirschbaum calculated that printing costs would increase by less than 4 per cent, which seems to me like a good investment in democracy. Voters would not notice any difference in the ballot papers they fill in, and the amendment would not add any further complexity to the counting of votes.

Members would be aware that Dr Kirschbaum's paper has generated some debate with other election number crunchers, in particular Mr Bogy Musidlak. I want to make clear, however, that the criticisms that have come forward have been minor and do not detract from the central proposal put forward by Dr Kirschbaum. It is accepted by everyone that this amendment will not remove all possible donkey vote anomalies because it is impossible to completely randomise the rotation of candidates on the ballot paper; but it will remove nearly all of them. Mr Musidlak has highlighted a donkey vote anomaly that will still be left in the voting system, but this does not mean that we should not remove other anomalies through this amendment. Mr Musidlak also questions Dr Kirschbaum's calculation of the donkey vote in the ACT. Even if Dr Kirschbaum's calculation is out by some percentage points, this does not detract from the point that elimination of the undue influence of the donkey vote can only be of benefit to our voting system. It will certainly not make it worse.

In conclusion, the Greens have an ongoing commitment to fairness, in politics and in society in general. It is important that members elected to the Assembly are the best representatives chosen by the community. The Kirschbaum twist to the Robson rotation will go a long way towards achieving this objective, and I commend it to the Assembly. I have received assurances from Mr Moore and, I understand, from the Government, and, hopefully, also from Labor, that this will be looked at again and possibly referred to a committee in the next Assembly. I would appreciate it if people could put that on the record, if that is how they feel.

Ms McRae: All you have to do is feel, Ms Tucker.

MS TUCKER: That is right; but let us see it on the record, just in case.

MR MOORE (7.54): Mr Speaker, I think it is quite possible that Ms Tucker wants it on the record just in case she is not here. She can feel the pressure of the polling in the election coming up, and can't we all. Ms Tucker, just in case I happen to be here and you are not, amongst a series of recommendations from the Electoral Commissioner there is a recommendation that the Assembly establish a committee to monitor electoral matters. I think an electoral affairs committee would be a very important committee of this Assembly. In the Government's introductory speech to this Bill, Mr Humphries indicated that an electoral affairs committee would be part of their commitment in the next Assembly. I would be happy to support that commitment, and I would also be happy to support the notion of the Kirschbaum twist, as it will be known from this evening, being referred to such a committee as its first task. I think it is a very important issue.

These amendments to the Electoral Act are generally fairly mechanical amendments, but there are some very interesting ones. The right of the Electoral Commissioner to speak to any of the MLAs is, I think, an important one that expands the role of the Electoral Commissioner. Really, I think it reconfirms what Mr Humphries has always made available, and what Ms Follett before him made available - that we could always speak to the Electoral Commissioner. But I think it establishes that relationship in a far better way and so that his independence is enhanced. I would think that the Electoral Commissioner would wind up becoming very familiar to the Assembly committee on electoral matters as well.

Mr Speaker, I want to touch on a series of other issues here. One of the most important issues for me is the issue that was raised by Mr Berry, and which he discussed with me for a number of days, and that is the notion that, administratively, we make it more efficient to do pre-poll voting. I think the administration of pre-poll voting will be of far less concern once the election date changes from February to October. At the moment, February is the absolute peak of holiday time. It is when families are getting down to the coast or to other favourite holiday places and are often away for weekends, or are away for the election weekend. They want to ensure that they have done their voting and can go off and enjoy their weekend. It has become a quite common thing for people to say, "Yes, I can pre-poll vote", make the declaration and go off.

Mr Berry's concern is that removing the declaration opens the electoral process to the possibility of more fraud. When I discussed this matter with the Electoral Commissioner he drew my attention to the fact that it has been operating both in the Northern Territory and in Victoria and there has been no evidence of fraud in those places. I think it is appropriate that we proceed with this legislation, as, indeed, I think Mr Berry has decided as well. However, there is an important role for the Assembly committee on electoral matters, when it is established, to monitor that issue as well, because, if there is an increase in fraud associated with pre-poll voting, then, clearly, that cost would be too great.

There is also an issue about closing the roll at 8.00 pm rather than 6.00 pm and allowing pre-poll voting on the Friday before polling day to go to 8.00 pm. It will be interesting to see how our new electoral date fits in with that, because I think this is something we would expect in a daylight saving situation. I cannot remember exactly how daylight saving fits in towards the end of October and how that will fit in with the date of the election, whether we will be into daylight saving and whether this will be appropriate at a different electoral date. Certainly, for this election, 8.00 pm seems fine to me, and I think it will be an appropriate time even if it does not occur in a daylight saving time.

It seems to me, Mr Speaker, that, other than that, the general issues are fairly mechanical. The Bill has been drawn up in a way that is consistent with the approach taken by the Electoral Commissioner's report, and those are the reasons why I will be supporting it.

MR HUMPHRIES (Attorney-General) (8.00), in reply: I am not sure whether the Labor Party wants to contribute to this debate or not. No? Okay.

Ms McRae: Mr Berry has. He has spoken already. You were not listening.

Mr Moore: Mr Berry spoke. He was the first one to rise.

MR HUMPHRIES: That is good. Very well done. I am really impressed. I was not here. That is why I did not know.

Mr Speaker, I want to thank members on all sides of the chamber, including the Labor Party, for their support for this Bill. It is a Bill which has been developed collaboratively, as I think Ms Tucker noted, given that, as much as possible, we wish to ensure that the operation of the electoral system in the ACT enjoys a modicum of support from all the parties who contest an election. With the announcement by the Australian Labor Party a few months ago that they support the retention of the Hare-Clark system in the ACT, no doubt supported by the results of two recent referendums on the subject, I think we can move quite firmly towards the position where the Hare-Clark system is accepted as the system that is suitable for the ACT, and one which will increasingly be used, I think, as a model for other parts of the world that may care to overhaul their systems and achieve a system of greater fairness than they might presently enjoy.

I am pleased that the refinements which the experience of the first Hare-Clark election in 1995 gave rise to are to be supported by the Assembly. I trust that there will be a continuing process of us refining and finetuning a system which is essentially very strong. In that regard I will make a brief comment on Ms Tucker's criticisms of the donkey vote effect of Hare-Clark. She made reference to the paper by Dr Kirschbaum and, with reference to a particular candidate, quoted the words, "She probably would not have been successful had she not also had the luck of the draw or, more precisely, the luck of the donkey vote".

I think it is very important in saying that to put in context the impact of the donkey vote under Hare-Clark generally. Do not forget that under other electoral systems, such as the PR system used in the Australian Senate and elsewhere, with list systems for multiple candidates, the donkey vote is all powerful. It determines the outcomes of elections within particular parties. I think it was said to me that there was one case in an election at the beginning of the 1970s where the order of the candidates on the party ticket in some election for the Senate, I think in Victoria, did not result in that being the order in which the candidates were elected. That is the only occasion when the donkey vote has not dictated the outcome of elections in other fields. It is obviously very clear that a system like this which does not have a significant effect from the donkey vote is a vast improvement on the system for electing people.

To come to the amendments that Ms Tucker is going to move later on, it is conceded very readily by me that there is still some impact by the donkey vote. I do not comment on any particular case where it may have resulted in a different result in the election held in 1995, but it is clear that a case can be made - - -

Mr Moore: You would not want to make an ass of some of your colleagues.

MR HUMPHRIES: I do not comment, Mr Moore, but it may well be the case that it did have an impact on the way in which people were elected to the Assembly. Irrespective of what may or may not be the case, and we cannot really be sure without examining the ballot papers in detail, we need to be able to ensure that cases like that, if they do arise, are minimised, if not eliminated altogether.

Turning to Dr Kirschbaum's paper, I generally agree with much of what he says, but I am unsure about other things that he says. I am not greatly encouraged by the fact that throughout the paper he misspells the phrase "Hare-Clark" - a slight problem, I would have thought, for someone writing at length on improving the system. Putting that to one side, I also have to say I strongly disagree with his conclusions on the effect of the donkey vote in a number of cases, particularly in the case of the countback in Brindabella early this year. My view is that it is quite clearly not the case that the donkey vote caused the outcome that was achieved in that case.

The issue that is focused on here is whether this Kirschbaum twist on the Robson rotation will achieve a better outcome in future elections, whether it will effectively eliminate the donkey vote. Mr Speaker, on the face of this proposal from the Greens, it does appear to address the donkey vote by further randomising the votes that are cast through donkey voting to particular lower order candidates in an election. I think it is also important to ensure, if we are going to change the fundamentals of the Hare-Clark system, that the changes do not themselves produce other anomalies.

In a paper to me by another commentator on the electoral system in the ACT, the point has been made that you can produce an apparently anomalous outcome by the use of the Kirschbaum twist on the Robson rotation. It is possible, for example, for there to be three candidates with approximately equal primary votes in a particular electorate and for there to be a fourth candidate from that party eliminated. Because that eliminated candidate's vote is being split equally between two of the remaining three candidates, it is possible for the effect of that to be to eliminate the third candidate, who actually is the leading candidate, the front running candidate.

I do not want to give figures because it can be very confusing; but, if you have three candidates, one of them in the lead, with the distribution of the fourth candidate's preferences between the other two, resulting in them overtaking that leading candidate, you would end up with the leading candidate actually being eliminated under that system because he would be the next candidate to have his votes excluded. Under the system as it now operates, that leading candidate could not be excluded under the process used presently to exclude a candidate with a single rotation affecting that eliminated candidate's flow-on of preferences.

Mr Berry: We have the solution.

MR HUMPHRIES: Yes, I am sure you have, Mr Berry; take it out the back and shoot it. That is your solution. Mr Speaker, I do not say to the Assembly that I am certain that the Kirschbaum proposal is not the right one. It may well be the right solution to the problem. It certainly seems to be fair, and it may be that the anomaly that I have drawn attention to is simply a counteranomaly to the one that we see in operation with the present system and that was alleged to have occurred at the last election.

Mr Speaker, I do not propose to say to the Assembly one way or the other, whether this proposal might or might not work. I will say that, in light of the doubt about it, a much better arrangement is to refer the issue to a standing committee on electoral matters which the commissioner has recommended, and the Assembly appears to have accepted, should be established after the next election. I am confident that it will be. I hope that that

committee will be able to inquire into this issue, to determine whether there is such a donkey vote effect which could be eliminated or reduced by the Kirschbaum twist, and then proceed to recommend it if it is the appropriate system, or perhaps some alternative to that to solve that problem. I look forward to that being one of those issues that the committee will be able to get its teeth into early in its operation.

Mr Speaker, I thank members for their support for the Bill. I thank also Dr Kirschbaum for his contribution to this debate. I appreciate attempts to refine and improve the system. I hope that we can address in more detail and more thoroughly the questions he has raised, to see whether they offer a solution to what appears to be a small but significant problem with the operation of the current system. Let us hope that in the election due in about three or four months' time nobody here suffers an ignominious fate because we have failed to deal with this apparent anomaly in Robson rotation.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 27, by leave, taken together, and agreed to.

Proposed new clause 27A

MS TUCKER (8.10): I move amendment No. 1 circulated in my name, which proposes a new clause 27A. I have already spoken to it. The amendment reads as follows:

Page 12, line 9, after clause 27, insert the following clause:

"**Schedule 2**

27A. Schedule 2 to the Principal Act is amended -

(a) by omitting paragraph 2(1)(a) and substituting the following paragraph:

'(a) separate batches are printed -

(i) except where subparagraph (ii) applies - equal in number to twice the number of names in the column; or

(ii) where there are 2 names in the column - equal to that number;'; and

(b) by omitting the table and substituting the table set out in Schedule 1.".

Amendment negatived.

Clause 28

MR HUMPHRIES (Attorney-General) (8.11): Mr Speaker, I have circulated some amendments to the Bill. I move amendment No. 1, circulated in my name, which reads:

Page 12, line 10, omit the clause, substitute the following clause:

"**Schedule 3**

28. Schedule 3 to the Principal Act is amended -

(a) by omitting clause 6 and substituting the following clause:

'6. (1) In this clause -

'relevant provision' means -

(a) in the case of a vote under section 135 - subsection 135(4);

(b) in the case of a vote under section 136A - subsection 136A(8);

(c) in the case of a vote under section 136B - subsection 135(4) as applied by subsection 136B(18); or

(d) in the case of a vote under section 136C - subsection 135(4) as applied by subsection 136C(6).

'(2) This clause applies to a set of declaration voting papers if the officer is satisfied that -

(a) the signature on the declaration is that of the elector;

(b) the certificate by the witness is in accordance with the relevant provision;

(c) in the case of a postal vote where the papers were posted to the Commissioner - the papers were so posted before the close of the poll; and

(d) in the case of the vote of an Antarctic elector - the envelope referred to in paragraph 176(1)(c) is endorsed and signed by an authorised officer in accordance with that paragraph.

'(3) For the purposes of paragraph (2)(b), where an officer referred to in subsection 135(4) omits to sign the certificate, the certificate shall nevertheless be taken to be in accordance with the relevant provision, if -

(a) the issue of the relevant declaration voting papers was recorded under Division 3 or 3A of Part X; and

(b) the OIC is satisfied the papers were properly issued to the elector.'; and

(b) by omitting subclause 9(2).".

I present the supplementary explanatory memorandum.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 29 to 32, by leave, taken together, and agreed to.

Schedule

MR HUMPHRIES (Attorney-General) (8.12): Mr Speaker, I ask for leave to move together amendments Nos 2 and 3 circulated in my name.

Leave granted.

MR HUMPHRIES: I move:

Page 14, line 7, after proposed amendment of subsection 139(1), insert the following amendment:

"**Subsection 143(2)** -

Omit 'paragraph 136(4)(a)', substitute 'paragraph 136A(2)(a)'.".

Page 14, line 23, paragraph 6(2)(a), proposed amendment of Schedule 3, omit the amendment.

Amendments agreed to.

Schedule, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

ENVIRONMENT PROTECTION BILL 1997

[COGNATE BILL:

ENVIRONMENT PROTECTION
(CONSEQUENTIAL PROVISIONS) BILL 1997]

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

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 order of the day No. 3, the Environment Protection (Consequential Provisions) Bill 1997? There being no objection, that course will be followed. I remind members that in debating order of the day No. 2 they may also address their remarks to order of the day No. 3.

MR CORBELL (8.13): Mr Speaker, I am pleased to rise this evening on behalf of the Labor Party to address the Environment Protection Bill. This is a significant piece of legislation and, as this is the first formal opportunity which members in this place have to address the Bill in detail, I will take the opportunity to make a few comments.

This legislation has been introduced by the current Government. It was, I think, initiated under the previous Labor Government and there has been a consensual process from both sides of the house as well as the crossbenches in reaching this stage. There is no doubt that this is an important piece of legislation. It has been said before that this is perhaps the most significant piece of environment protection legislation to come before this Assembly. It is certainly one of the most complex pieces of legislation I have seen, and it is comprehensive in its ambit.

There are some important concepts in this legislation and I would like to outline a couple of those this evening. Labor is very supportive of these concepts. Perhaps the most important and most fundamental one in this piece of legislation, which is a progressive and significant step in the protection of the environment in the ACT, is the concept of legislating for an environmental duty. For the first time in the Territory we are about to pass into law a requirement for every citizen of this Territory to take due care of the environment. It is a requirement under law to protect the environment and people must ensure that their individual actions do not affect the environment adversely in any way which contravenes the Act. That is a very important step. It is a step to be welcomed because it places on the books for the first time the understanding that all of us in this community have a legal obligation as much as a moral obligation to protect our environment and to work to enhance it.

It is also significant, Mr Speaker, that for the first time the legislation regulates and licenses many activities which currently do not have a high level of regulation. An example is codes of practice and other requirements on the building industry. This is a progressive step. It is a step that has been a long time coming, but it is an important step because there are many activities and many processes that occur in the Territory at the moment that do not have the appropriate level of regulation and appropriate scrutiny, and appropriate ability for enforcement where there are breaches. Those things do not exist at the moment. It is very important that those things are in place, and this Bill achieves that.

The Bill also establishes important new concepts on environmental protection which have not been built into the law before. The concept of environmental authorisations, the concept of providing businesses, industries and individuals with licences to pollute, I think, is a very significant step. It is significant because what we are saying in the legislation is that the Territory is prepared to extend a privilege to a business, an organisation or an individual to pollute if the Territory deems that it is for the social wellbeing of the community and, to a degree, the economic wellbeing of the community for that to occur; but only within certain limits and only for very strictly regulated processes. That, I think, is an important step. It has not occurred before and it is important that we formalise that process.

It is important also that people who receive those sorts of licences, those sorts of authorisations, understand that it is indeed a privilege that the community is granting them. It is indeed a courtesy that has been extended to them by the community because the community believes that their activities or actions are worth while, are a social benefit, are an economic benefit, and are an essential service. There is a degree of integration there that we need to understand.

Mr Speaker, the integration of the concept of protecting and maintaining our environment with social and economic needs is clearly another very important aspect of this Bill, and an important aspect which the Labor Party supports. This was a case that was argued quite strongly in the committee's deliberations and the committee's discussions and negotiations with officers of the department and the Minister. We did not want to be in a situation where we were saying we have to trade off one aspect, say an environmental aspect, against an economic aspect. We wanted to see an integration of these concepts. We wanted to achieve an integration of decision-making when it came to assessing economic needs, environmental needs and social needs. I am sure that later in this debate the Minister will be moving some amendments which reflect that very important point in the objects of the Act. Labor supports that change. We believe it is an important change. It is important because we want to make sure that the primacy in this Bill is about protecting our environment, and that change achieves that.

The establishment of the notion of a precautionary approach in environment protection legislation is also a very significant step. To see that integrated in a piece of environment legislation is absolutely crucial. We are pleased to see that that precautionary principle is being built into the environment protection legislation. That is a very important concept which must sit there and which the EMA and the Government overall must take into account.

Mr Speaker, in the course of the debate over the past couple of months during the development of this Bill to the stage we are at tonight, Labor has focused on a number of key concerns, and I would like to highlight some of these now. First, and perhaps most importantly, is the opportunity for public participation in and debate on the processes undertaken by the proposed Environment Management Authority in the development of codes of practice, environmental authorisations and environmental protection agreements. We were very concerned to see that there will be open processes for public consultation and public access to information on the range of undertakings that will be overseen by the EMA. We wanted to see that, Mr Speaker, because these processes provide for important mechanisms which protect the environment and which allow, in some cases, the pollution or exploitation of our environment within particular limits. The community deserves, indeed, the community has a right to expect, to be able to comment, to make suggestions and to participate in the development of these mechanisms because these mechanisms in some instances are defences under the Act. It is very important, therefore, that people have the opportunity to comment.

Labor has also been concerned to see that the EMA is effectively independent and able to undertake its tasks without undue hindrance from political sources or from individuals who may attempt to thwart the regulations and laws which the EMA is there to uphold. This perhaps was one of the key issues in the debate over the environment protection legislation. Labor shared concerns by the Greens in relation to the independence of an Environment Management Authority. We were presented with argument from the Government that the Territory really is too small to sustain an independent separate statutory organisation outside a government department.

The alternative approach argued to us by organisations such as the Conservation Council was that, just because we are a small Territory, it does not mean that we could not have a small organisation separate from other government departments and other government administration. Labor was prepared to accept the Government's argument on the issue of a statutory office within the department, but only if certain provisions were written into the Bill that ensured that if a Minister were to direct the Environment Management Authority in some way we knew what was going on and that there were opportunities for public scrutiny of a Minister's direction.

I am pleased that the Government has responded to that comment and again has been prepared to amend its Bill to allow for scrutiny of processes and public notification and notification in the Assembly of decisions made by Ministers to direct the authority in particular circumstances. I believe that that is very important. That is why we were prepared to accept the Government's argument that the Environment Management Authority could sit within the structure of a government department. If we find that that mechanism does not provide the independence and effectiveness of operation that we believe the Environment Management Authority should have, we will be prepared to look at the Act again and look at opportunities to provide for an independent Environment Management Authority. If it has to be outside the structure of government departments, we would support that if it is warranted. It is very much up to the government, regardless of its persuasion, to ensure that the EMA operates in a truly independent manner.

Mr Speaker, there has been some important discussion about the opportunity for bodies outside the Assembly and in the community generally to have access to documentation that the EMA will be collating and working on. Along these lines, Labor supports very strongly the provision of draft environment protection policies to organisations such as the Conservation Council of the South East Region and Canberra. This is a provision similar to that in the Land Act. It was a recommendation by the Conservation Council and we were very pleased to be able to support that recommendation. We believe it is appropriate. I understand that discussion has also taken place - I am fairly sure this is in the amendments - about a similar provision in respect of the Canberra Business Council, again an appropriate mechanism, for outside organisations to see copies of these draft environment protection policies. I believe that is quite appropriate and it will allow a wider flow of information and discussion about the direction that the EMA is taking. Again, I think it is a step that should be welcomed.

Mr Speaker, Labor also wanted to make sure that this legislation is workable and practical. One issue that the community more generally has followed in this complex debate about environment protection legislation is the washing of cars. This very basic issue demonstrates the importance of the environmental duty that all people will have under this Act. The provision required people to wash their car on a grassed area instead of on their driveway or somewhere else where water with soap suds in it could run down the stormwater drain. A very legitimate concern was raised to the committee during its deliberations. The concern was, "What if you live in a townhouse? What if you live in a unit? What if you live somewhere where there are no areas where you can wash your car down so that the water will not flow into the stormwater system?".

This was an appropriate concern to raise because increasingly in Canberra there is debate about increased density and the development of townhouses, flats and units. In those developments that opportunity does not exist. I think it was a very appropriate recommendation to say that people who did not have the opportunity to wash their cars in such a manner on a grassed area could still be taken to be complying with their environmental duty if they took all appropriate steps to minimise the amount of water containing soap suds and other chemicals washing down into stormwater drains. This is a very practical demonstration of how all parties in this Assembly have worked to make sure that the environment protection legislation is good not only at the conceptual level but also at the practical level.

Mr Speaker, the need for integrated environment protection legislation has been a pressing need in our community for some time and it is good to see this legislation at the stage where it is to be passed. Our community is, I think, not just increasingly concerned about environmental issues. It is very concerned about environmental issues. I think there is widespread understanding of the importance of every individual taking whatever steps they believe they can to minimise their own detrimental effect on the environment as well as the effect of our society and community overall. The comprehensive regime which this Bill puts in place, which monitors, regulates and guides good environmental practice, whether it be by individuals, businesses or other organisations, and which ultimately sometimes sanctions activities which the community has decided are not in the best interests of the environment, is an important step. It is a step that the Labor Party welcomes. Labor will support the passage of this Bill through the Assembly this evening.

MR OSBORNE (8.30): Mr Speaker, I will be very brief. I support the Bill and the proposed amendments. I think the progress of this Bill is a demonstration of how the Assembly committee system can be used to great effect. For those who clearly have not been listening in this place, I have been saying that the system could be improved, not that it does not work. On that point, Mr Speaker, my criticism is mainly about the operation of the Executive, but I will get to that at a later date.

When this Bill was proposed I had some serious concerns about it. I believed it needed a lot of work before it passed into law. I said at the time that I thought the Bill was too vague in parts. It left industries' environmental obligations unclear and exposed employees to unreasonable levels of liability. I raised this issue with Mr Moore because I felt that this piece of legislation was one of the most important that this Assembly has faced in the short lifespan that we have had here. Mr Moore agreed and, rather than have a public debate on it, it was self-referred by Mr Moore - - -

Mr Moore: And the committee.

MR OSBORNE: It was self-referred by Mr Moore and the Planning and Environment Committee to the committee. Although the committee did not entirely agree with some of the issues I raised, at least it considered them in detail, and I thank it for that. I propose to support all of the committee's recommendations. Although I do not fully agree with them all, the committee has done a lot of work and is best placed to advise on the Bill. It has been a very sensible process on what could have been a very divisive issue. There has been compromise on all sides, I believe, and I want to show my support for that by supporting all of the amendments.

MS HORODNY (8.33): Mr Speaker, businesses in the ACT do have concerns about this legislation. They are concerned that this legislation will somehow impede their business activity; that it will make life difficult for them and more costly for them. I believe, Mr Speaker, that there is no need for industry to fear this legislation. Industry can actually benefit from strong environment regulations. Such regulations can eliminate dodgy businesses which undercut their competitors by not acting responsibly. They can lead to new business initiatives such as new business opportunities in environmental management technology. They can improve market competitiveness by reducing production costs and fostering innovations. They can also create a better working environment for employees and can reduce the overall pollution costs to the community.

There are many examples around the world of companies which have profited from adopting strong environmental management practices. The 3M company, for example, is a multinational company which has had a pollution prevention program in place since 1975. This company has prevented 750 tonnes of pollutants from entering the atmosphere and has saved $790m over this period. These are their figures and they are very proud of their track record in the 20 years. This type of program can be profitable regardless of the size of the company.

The Environment Protection Bill contains very good initiatives that provide incentives for industry to improve their environmental performance, but the Bill must be effectively administered and the conditions must be effectively enforced. The proposed Environment Management Authority has wide discretion to impose conditions on industry. I must stress that this authority must be given sufficient resources to undertake the task effectively. At present, for example, there are only four environment protection inspectors covering the whole of the ACT, and I believe that that is inadequate. One way of ensuring that industry and the Government meet their environmental responsibilities in this regard is to have an active and aware population that monitors the implementation of this Bill. The community must be able to participate in the development of environment protection policies. They must have access to information about how the Act is being administered, and they must be able to instigate their own actions to stop polluting activities.

The Bill initially had some deficiencies in this area which we, as a committee, have now addressed and improved. I am very proud and very pleased to have been involved in improving the Bill that now will be passing through this house. The Bill sets a framework for environmental protection, but the implementation and resourcing of this Bill is the critical issue here. We have ensured that public participation in the working of this Bill is strong. That is absolutely appropriate because the whole idea is to build a partnership between government, business and the public to protect our most valuable asset, the environment. I am very happy that the Assembly will be reviewing this Act two years after gazettal. I am sure that over time there will be many amendments and modifications to this legislation, and the regulations as well, as we continue to improve standards for the protection and enhancement of the environment.

MR MOORE (8.37): Mr Speaker, to avoid needless repetition, I will draw attention, first of all, to the fact that most of my comments on this Environment Protection Bill 1997 were made when I tabled the report of the inquiry into the Bill last week, and I think those comments remain valid.

Since that time there has been a further round table discussion which a couple of members alluded to, and in that discussion final compromises were made. Through all the discussions it is my observation that the ACT public servants responsible for this legislation acted in the most professional way. I see my colleagues nodding agreement. I think they deserve acknowledgment because they are the ones who have carried this through. The Government's intentions were clear and the committee's intentions were clear, but they really took the carriage of the detail and carried it through. I would like to say congratulations to those bureaucrats - I use the term without in any sense being pejorative - because I think it reflects a very rapidly improving pride in our ACT Public Service, and, judging by the people that we had to deal with through this process, it is a well-deserved pride.

The duty and environmental obligations that this legislation will place on the community will, I believe, be welcomed by the vast majority of people. I think the legislation will reflect its own objects, and the most important of those is to protect and enhance the quality of the Territory environment. That is the leading object of the Act. Mr Speaker, we can be very proud of the action being taken here tonight to protect the environment not only for ourselves but also for the next generation and the generation after that,

and so on. The action taken in this Assembly tonight is going to ensure a sense of intergenerational responsibility that will be remembered for many years to come. Even when people do not know what led to it and do not know of the compromises that were made and the decisions that are finally being drawn to a conclusion here tonight, they will enjoy an environment that results from this process. That is something of which everybody who has been involved with it, and every member of this Assembly, can justifiably be proud.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (8.41), in reply: Mr Speaker, we come tonight to the end of a long road - a road which began in 1992 and which has spanned the work of several governments, many members of this Assembly, a large number of members of the ACT Public Service, and many people out in the community who were participants in consultative mechanisms about the development of this legislation. I must say that I was extremely grateful to hear, in the comments members have made around the chamber tonight, a recognition of the very large leap that we make by enacting this legislation, the very considerable benefit we bestow on the operation of this legislation, and the confidence with which public servants, members and servants of the Environmental Management Authority and others will have in its operation, because of the unanimity that we have brought to this exercise tonight.

We are going to debate later on this evening a Magistrates Court Bill in respect of which there will be some amendments and some debate. There have been some debates about rather significantly less important things on the agenda today, and on most days in this place, but here we have a piece of legislation which completely reinvents the whole structure of environmental protection in the ACT. It throws out five major Acts and creates a whole new edifice around environmental protection. It reverses, in a large sense, the onus or responsibility for managing the environment from government departments using a top down approach, telling people what they can and cannot do with respect to the environment - mainly what they cannot do - and instead places on the citizens of the ACT, every last one of them, a duty to act to protect the environment.

We have reached the point of taking forward, with virtually complete agreement on what needs to happen, all of the massive change which we are engineering with tonight's two Bills. In all the parliaments in this country and on all the issues that are debated, that would have to be a quite extraordinary state of affairs. The environment is one of the key issues, and it may be an issue in the coming campaign. If asked by people in this Territory, "What have you done in the last three years here? What do you have to show for all the money we have spent on you? We are paying your wages", merely pointing to this Bill, to which we have all contributed, would be, I think, a very worthwhile answer to those questions.

Mr Speaker, in developing the Bill we have drawn on the experiences of many other jurisdictions. We have tried to pick the eyes out of other legislative frameworks to make the best possible package. I think, with the legislation we pass tonight, we will have state-of-the-art environmental legislation. Indeed, we will probably lead the country, at least for the time being, in this area. I am aware that at least one other State, New South Wales, is also looking to review its environmental package. I would like to think that what we do tonight will be a model for New South Wales. Perhaps it will be.

The Bill retains the strengths of traditional regulatory systems but also adds flexibilities evident in more modern approaches to environmental protection. So, as well as this top down approach, this Environment Management Authority which will say, "You must not do that", there will be a whole raft of other devices which are essentially designed to promote self-responsibility on the part of ACT citizens and, in particular, corporations who work in areas that might have an effect on the environment. There will be environmental authorisations, codes of practice, and environmental protection agreements where you sit down and work out how you can operate your affairs or your business in such a way as to minimise harmful impact on the environment.

It may be that we should focus on those sorts of things when we talk about this legislation. Some might characterise this Bill - indeed, the media did so characterise it when it was first tabled - as a get tough approach on the environment. They talked about the $1m fines which corporations can be subject to if they recklessly or wilfully cause serious environmental harm. That is not the real answer. There are tougher penalties available, but this is essentially about shifting an onus. Rather than using a stick, we are encouraging people by using carrots, or offering them carrots to act in the interests of the environment.

The legislation shifts the focus of regulation to outcomes rather than to processes, and encourages moves to cleaner production and smarter ways of doing things rather than simply end-of-pipe solutions. It allows scope for newer and more innovative approaches which might offer opportunities in the future. For example, the Bill provides for tradeable permits and bubble licences to be used where appropriate. These techniques offer real scope to harness market forces to achieve environmental objectives.

Efficiency is another benefit of the legislation. Taking the building industry as an example, the Bill allows environmental authorisations to be considered contemporaneously with development applications under the Land Act, creating in effect a one-stop shop. It is obviously very important that the overlay of environmental protection we effect here not come as another barrier, another hurdle to overcome, for those businesses that need to do their job and get on with making money. Developers who enter an environmental protection agreement will not need an environmental authorisation, even for large or multiple sites. An appropriate environmental protection agreement can cover all of these aspects. Within the same industry, concrete manufacturers producing more than one cubic metre in any single batch could also avoid the need for an authorisation by entering into an environmental protection agreement. So there are real benefits to an industry if it is prepared to be proactive and consider in advance what it can do to minimise harmful impacts or to advance the cause of the environment.

At a grassroots level, the legislation introduces this concept of a general environmental duty which imposes itself on each one of us. Whether a government, a business employee, a householder, or a small business operator, the Bill recognises that it is the cumulative effect of individuals and their impact on the environment which is the most significant, perhaps, but least visible side to pollution in the Territory, particularly in a jurisdiction like the ACT. I do not personally fear that that duty will be shirked or

begrudged by many Canberrans. I think it will be embraced because citizens of this Territory have come to appreciate that the bush capital in which they live is a delicate creature which deserves ongoing protection and active support through the actions of individuals to ensure that it thrives and continues to be there into the future.

The legislation obviously is complex. That is unavoidable in dealing with issues of this magnitude. I can guarantee, however, that the Government is committed not simply to passing the Bill tonight and patting itself on the back, but to complete implementation of the new legislation. Several people have pointed out that how well the legislation is implemented will depend to a large extent on the process of educating the Canberra community about the changes involved. Once the Bill is passed and its form is finally settled, we will have to engage in a very large process of education of the community. This is a large law. Ignorance of the law is no excuse, and a law which imposes, in a sense for the first time, a real duty to the environment has to be explained; it has to be brought to the attention of everybody in the Territory.

As I undertook to committee members earlier, the legislation has been amended to provide for statutory review after it has been in operation for two years. It is my intention that this review be conducted by a high-level steering committee, drawing representatives from business, the community and government. This should give adequate time for a complete round of processes to operate and function under the legislation, and be an appropriate time to review and, if necessary, finetune the legislation.

In closing, I would like to place on record my personal thanks to many people in a range of areas - the reference group which guided the development of the legislation, particularly in the later stages, the industry and community groups; a number of industry bodies; the Conservation Council and other organisations - who contributed to the development of the legislation. There has been a team of people within the government service which, as Mr Moore indicated, has spent a large amount of time. In fact, the team has worked for much of the last few months exclusively on bringing this legislation to the stage where it can be brought before the house tonight.

One always has the fear, when one creates a great new edifice completely reinventing a new area of government activity, that there may be flaws in the structure which could cause it to come crashing down if it is not fully thought through. I have been more than satisfied, in talking to those officers who have worked in this area, that they understand comprehensively what they are doing with this; that they have thought through the implications. When critics have come forward with possible problems, saying, "Have you considered this, this, this and this about the Bill", they have generally silenced those critics. I am very confident that, through the efforts of those people, we have been able to get a very sound working model. I look forward to being able to see the model finetuned in the future; but I am sure it will provide that level of environmental protection which we all want and aspire to in the Territory, and which I am sure will be of great benefit to the citizens of this Territory into the future. I commend the Bill to the house.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (8.52): Mr Speaker, I ask for leave to move together the amendments circulated in my name.

Leave granted.

MR HUMPHRIES: I move:

Page 2, line 4, clause 3, subclause (1), omit the subclause, substitute the following subclause:

"**(1)** The objects of this Act are -

(a) to protect and enhance the quality of the Territory environment;

(b) to prevent environmental degradation and adverse risks to human health and the health of ecosystems by promoting pollution prevention, clean production technology, reuse and recycling of materials and waste minimisation programs;

(c) to require persons engaging in polluting activities to make progressive environmental improvements, including reductions of pollution at the source as such improvements become practical through technological and economic development;

(d) to achieve effective integration of environmental, economic and social considerations in decision making processes;

(e) to promote the concept of a shared responsibility for the environment by acknowledging environmental needs in economic and social decision making;

(f) to promote the concept of a shared responsibility for the environment through public education about and public involvement in decisions about protection, restoration and enhancement of the environment;

(g) to promote the principles of ecologically sustainable development;

(h) to regulate, reduce or eliminate the discharge of pollutants and hazardous substances into the air, land or water consistent with maintaining environmental quality;

(j) to allocate the costs of environmental protection and restoration equitably and in a manner that encourages responsible use of, and reduces harm to, the environment with polluters bearing the appropriate share of the costs that arise from their activities;

(k) to facilitate the implementation of national environment protection measures under national scheme laws;

(m) to provide for the monitoring and reporting of the environmental quality on a regular basis in conjunction with the Commissioner for the Environment;

(n) to control the generation, storage, collection, transportation, treatment and disposal of waste with a view to reducing, minimising and, where practical, eliminating harm to the environment;

(p) to adopt a precautionary approach when assessing environmental risk to ensure that all aspects of environmental quality, including ecosystem sustainability and integrity and beneficial use of the environment, are considered in assessing, and making decisions in relation to, the environment; and

(q) to co-ordinate all activities as are necessary to protect, restore or improve the Territory environment;

and this Act shall be construed and administered accordingly.".

Page 3, line 4, clause 3, subclause (2), omit "(e)", substitute "(g)".

Page 3, line 31, clause 4, definition of "area of high conservation value", paragraph (c), omit the paragraph, substitute the following paragraph:

"(c) the area identified in the Territory Plan as the area to which the river corridor land use policy for the Murrumbidgee River applies; or".

Page 6, line 24, clause 4, insert the following definition:

" 'newspaper' means a newspaper published and circulating in the Territory;".

Page 9, line 10, clause 8, after subclause (1), insert the following subclause:

"**(1A)** This Act does not apply to environmental harm that results, or is alleged to result, solely from the appearance or siting, or both, of a structure (other than a structure naturally occurring).".

Page 12, line 17, clause 18, omit the clause.

Page 12, line 35, clause 19, add the following subclause:

"**(3)** The Territory is vicariously liable in respect of a tort committed by a person in the performance or purported performance of a function conferred on the person for the purposes of this Act, where the performance or purported performance is in the course of his or her capacity as a public employee.".

Page 13, line 3, clause 20, subclause (1), omit "A person may, on payment of the determined fee,", substitute "Subject to section 21A, a person may".

Page 13, line 12, clause 20, after paragraph (c), insert the following paragraph:

"(ca) codes of practice accredited under Part V;".

Page 13, line 16, clause 20, paragraph (1)(f), omit the paragraph, substitute the following paragraphs:

"(f) any document setting out the results of a review of an environmental authorisation;

(fa) results of monitoring or testing required by the Authority to be conducted under an environmental authorisation, environmental protection agreement or environment protection order;

(fb) environmental audit reports under Division 2 of Part IX;".

Page 13, line 23, clause 20, subclause (3), omit the subclause.

Page 13, line 32, after clause 21, insert the following clause in Division 2 of Part II of the Bill:

"**Exclusion of material**

21A. (1) Where for the purposes of this Act, a person provides a document to the Authority in relation to -

(a) the grant, variation or review of an environmental authorisation;

(b) the submission of an environmental improvement plan;

(c) the approval of an emergency plan;

(d) the entry into an environment protection agreement;

(e) the making of an environment protection order;

(f) setting out the results of monitoring or testing required by the Authority to be conducted; or

(g) the submission of an environmental audit report;

the person may apply to the Authority to exclude so much of the document as is specified in the application from inspection by the public under section 20 on the ground that -

(h) the disclosure would reveal a trade secret; or

(j) the disclosure would, or would reasonably be expected to, adversely affect a person in respect of the lawful business affairs of that person;

and it would not be in the public interest for that part to be published.

(2) An application under subsection (1) shall -

(a) be in writing; and

(b) be made at the same time the document to which the application relates is provided to the Authority.

(3) If the Authority is satisfied that a ground referred to in subsection (1) exists for the exclusion of a document or part of a document, the Authority shall cause that part to be excluded from each copy of a document made available for public inspection under that subsection.

(4) Where a part of a document is excluded from the copy made available for public inspection, each copy shall include a statement to the effect that an unspecified part of the document has been excluded for the purpose of protecting the confidentiality of information included in that part.

(5) The Authority shall not permit the inspection of a document or part of a document under section 20 to which an application under subsection (1) relates -

(a) until 28 days after the Authority has made a decision under subsection (1) excluding or refusing to exclude all or part of the document from inspection; or

(b) if an application for review of that decision has been made to the Administrative Appeals Tribunal - until that matter has been determined by the Tribunal.".

Page 14, line 7, clause 22, subclause (2), omit the subclause, substitute the following subclause:

"**(2)** In determining whether a person has complied with the general environmental duty, regard shall first be had, and greater weight shall be given, to the risk of the environmental harm or environmental nuisance involved in conducting the activity, and, in addition, regard shall then be had to -

(a) the nature and sensitivity of the receiving environment;

(b) the current state of technical knowledge for the activity;

(c) the financial implications of taking the steps referred to in subsection (1);

(d) the likelihood and degree of success in preventing or minimising the environmental harm or environmental nuisance of each of the steps that might be taken; and

(e) other circumstances relevant to the conduct of the activity.".

Page 15, line 35, clause 25, add the following subclause:

"**(3)** The Authority shall cause a copy of a draft environment protection policy or a draft variation of an environment protection policy (other than a variation of a formal nature) to be sent, without charge, to -

(a) the Conservation Council of the South-East Region and Canberra (Inc.); and

(b) the Canberra Business Council Inc..".

Page 16, line 14, clause 26, add the following subclause:

"**(4)** Where the Authority publishes a notice in the *Gazette* under subsection (1), the Authority shall publish a copy of the notice in a daily newspaper.".

Page 16, line 29, clause 28, add the following subclause:

"**(4)** Where the Authority publishes a notice in the *Gazette* under subsection (1), the Authority shall publish a copy of the notice in a daily newspaper.".

Page 17, line 16, clause 31, subclause (2), add ", and the public".

Page 17, line 18, after clause 31, insert the following clause in the Bill:

"Notification of accredited codes of practice

31A. (1) The Minister shall, within 10 working days after the date of a notice under subsection 31(1), publish notice of the accreditation in a daily newspaper.

(2) A notice under subsection (1) shall contain a statement to the effect that a copy of the accredited code of practice is available for public inspection in accordance with section 20.".

Page 17, line 27, clause 33, omit "cost effective environmental regulation", substitute "the objects of this Act".

Page 19, line 28, after clause 31, insert the following clause in Part VII of the Bill:

"**Notification of environmental protection agreements**

39A. (1) The Authority shall, within 10 working days after the date on which an environmental protection agreement is entered into under section 37, publish notice of entry into the agreement in the *Gazette* and a daily newspaper.

(2) A notice under subsection (1) shall contain a statement to the effect that a copy of the environmental protection agreement is available for public inspection in accordance with section 20.".

Page 21, line 23, clause 43, subclause (2), omit "the court shall only have regard to the environmental harm caused by the excess pollutant", substitute the following:

"the court shall have regard to all the circumstances of the offence including -

(a) the conditions of the environmental authorisation; and

(b) the environmental harm caused by the excess pollutant.".

Page 22, line 19, after clause 35, insert the following clause in the Bill:

"**Public consultation**

45A. (1) Subject to subsection (2), the Authority shall, within 10 working days after receiving an application under section 45, publish in the *Gazette* and in a daily newspaper a notice -

(a) containing a brief description of the prescribed activity to which the application relates and its location;

(b) indicating where copies of the application may be obtained; and

(c) inviting any person who wishes to do so to make written submissions to the Authority not later than the date specified in the notice, being a day not less than 15 working days after the date of the notice.

(2) The Minister may, by instrument, specify a prescribed activity as one to which subsection (1) shall not apply.

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

Page 22, line 22, clause 46, subclause (1), after "section 45", insert ", or within 20 working days of the date specified in a notice under paragraph 45A(c) and after taking into account any submissions received in response to that notice, as the case requires".

Page 24, line 16, clause 47, add the following subclauses:

"**(3)** The Authority shall, within 10 working days after the date on which a decision is notified under subsection (1), publish notice of the decision to grant an environmental authorisation in the *Gazette* and a daily newspaper.

(4) A notice under subsection (1) shall contain a statement to the effect that a copy of the environmental authorisation is available for public inspection in accordance with section 20.".

Page 27, line 23, after clause 52, insert the following clause in the Bill:

"**Refund and remission of fees**

52A. The Authority may, of its own motion, or on application by a person, remit any fee or portion of any fee payable by a person under section 50, or refund to any person any fee or portion of any fee paid under that section if, having regard to the circumstances, it would be fair and reasonable to remit or refund all or part of the fee.".

Page 28, line 12, after clause 54, insert the following clause in the Bill:

"**Notification of review of environmental authorisations**

54A. (1) The Authority shall, within 10 working days after the date on which a review under subsection 53(1) or 54 (1) is completed, publish notice of the outcome of that review in the *Gazette* and a daily newspaper.

(2) A notice under subsection (1) shall contain a statement to the effect that a copy of the review is available for public inspection in accordance with section 20.".

Page 31, line 16, clause 62, omit "5", substitute "10".

Page 34, line 25, clause 67, paragraph (4)(b), add "and".

Page 34, line 26, clause 67, paragraph (4) (c), omit "and".

Page 34, line 27, clause 67, paragraph (4)(d), omit the paragraph.

Page 45, line 8, clause 87, subclause (1), after "may", insert ", by instrument,".

Page 45, line 16, clause 87, add the following subclause:

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

Page 45, line 16, after clause 87, insert the following clause in the Bill:

"**Directions of Minister**

87A. (1) The Authority shall perform his or her functions and exercise his or her powers in accordance with any directions of the Minister under this section.

(2) The Minister shall not give a direction to the Authority in relation to a matter under Parts XI to XV (inclusive).

(3) A direction shall be in writing.

(4) The Minister shall publish notice of the making of a direction under this section in the *Gazette*.

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

Page 47, line 15, clause 93, omit the clause, substitute the following clauses:

"**Inspection of premises - routine inspections**

92A. An authorised officer who enters premises under subsection 90(1) may do any of the following in respect of the premises or anything on the premises:

(a) inspect or examine;

(b) take measurements or conduct tests;

(c) take samples for analysis;

(d) examine records or documents relating to the operation of equipment and the operational processes carried out on those premises.

Inspection of premises - search warrant

93. (1) Subject to section 93A, an authorised officer who enters premises under subsection 91(1) may do any of the following in respect of the premises or anything on the premises:

(a) inspect or examine;

(b) take measurements or conduct tests;

(c) take samples for analysis;

(d) take photographs, films, or audio, video or other recordings;

(e) in the case of a thing - subject to section 99, seize the thing;

(f) if the thing is a document - take copies of, or extracts from, the document.

(2) An authorised officer who enters premises under subsection 91(1) may require the occupier or a person on the premises to do any of the following:

(a) answer questions or furnish information;

(b) make available any record or other document kept on the premises;

(c) provide reasonable assistance to the officer in relation to the exercise of his or her powers under subsection (1).

Inspection of premises - seriousness and urgency

93A. An authorised officer who enters premises under subsection 90(1) may, if the officer has reasonable grounds for believing that the circumstances are of such seriousness and urgency as to require the exercise of the power without a warrant, in addition to the powers he or she may exercise under section 92A, do any of the following:

(a) take photographs, films, or audio, video or other recordings;

(b) require the occupier or a person on the premises to do any of the following:

(i) answer questions or furnish information;

(ii) make available any record or other document kept on the premises;

(iii) provide reasonable assistance to the officer in relation to the exercise of his or her powers under this section.

Procedure where samples taken

93B. Where an authorised officer takes a sample under section 92A or 93, the officer shall -

(a) divide the sample into 3 parts;

(b) place each of those parts in a separate container and seal each container;

(c) attach to each container a label bearing the signature of the authorised officer and particulars of the date and time when, and the place at which, the sample was taken; and

(d) deliver 1 of the 3 containers to each of the following persons:

(i) the occupier or the person apparently in charge of the premises;

(ii) an analyst;

(iii) the Authority.

Page 50, line 19, clause 97, subclause (1), omit the subclause, substitute the following subclauses:

"**(1)** The authorised officer shall, orally or in writing, direct another person who is present on the relevant premises to take emergency action if the authorised officer has reasonable grounds for believing that the person has the appropriate practical or technical knowledge and authority to take the action.

(1A) If the authorised officer does not have belief of the kind referred to in subsection (1), the authorised officer may take emergency action.".

Page 51, line 32, clause 100, paragraph (1)(a), omit "authorised officer", substitute "Authority".

Page 52, line 16, clause 100, paragraph (1)(c), omit "authorised officer", substitute "Authority".

Page 52, line 28, clause 101, after subclause (1), insert the following subclause:

"**(1A)** Despite subsection (1), the Authority shall, at the same time as giving notice under that subsection, by notice in a daily newspaper, invite persons who have a legal or equitable interest in the thing to be disposed of to show why it should not be disposed of.".

Page 52, line 29, clause 101, subclause (2), after "notice" (first occurring), insert "under subsection (1) or (1A)".

Page 52, line 32, clause 101, paragraph (2)(b), omit "2", substitute "20".

Page 53, line 2, clause 101, paragraph (3)(a), after "(1)", insert "or (1A)".

Page 60, line 24, clause 116, subclause (1), omit the subclause, substitute the following subclause:

"**(1)** Where the Authority has reasonable grounds for believing that a person has contravened or is contravening an environmental authorisation or a provision of this Act, the Authority may serve an environmental protection order on the person.".

Page 62, line 13, clause 118, omit the clause, substitute the following clause:

"**Application for order**

118. (1) An application for an order under section 119 may be made to the Supreme Court by -

(a) the Authority; or

(b) any other person with leave of the Court.

(2) The Court shall not grant leave under paragraph (1)(b) unless satisfied that -

(a) the person has requested the Authority to take action under the Act and the Authority has failed, within a time that is reasonable in the circumstances, to notify the person in writing that it has taken any action that is appropriate in the circumstances; and

(b) it is in the public interest that the proceedings should be brought.".

Page 64, line 19, after clause 120, insert the following clause in the Bill:

"**Costs - public interest**

120A. In determining the amount of costs to be awarded against a party to a proceeding under section 119 or 120, the Supreme Court shall take into account the nature of the public interest.".

Page 66, line 3, clause 125, subclause (1), omit "Application may be made", substitute "An eligible person may make application".

Page 66, line 5, clause 125, paragraph (1)(a), omit the paragraph, substitute the following paragraph:

"(a) under subsection 21A(1) excluding or refusing to exclude a document or part of a document from public inspection;".

Page 66, line 20, clause 125, paragraph (1)(h), omit the paragraph.

Page 67, line 13, clause 125, paragraph (1)(w), omit "(2)", substitute "(1)".

Page 67, line 29, clause 125, paragraph (1)(ze), omit the paragraph.

Page 68, line 4, clause 125, paragraph (2)(a), omit ", (za) or (ze)", substitute "or (za)".

Page 68, line 5, clause 125, paragraph (2)(b), omit ", (h)".

Page 68, line 6, clause 125, paragraph (2)(b), omit ", (zd) or (ze)", substitute "or (zd)".

Page 68, line 22, clause 125, add the following subclause:

"**(5)** In subsection (1) —

"eligible person", in relation to a decision, means -

(a) a person to whom a notice is required to be given under subsection (2); or

(b) any other person whose interests are affected by the decision.".

Page 73, line 15, clause 136, subclause (3), omit all the words after "person" (third occurring).

Page 74, line 7, clause 137, paragraph (2)(b), omit "and", substitute "or".

Page 74, line 14, clause 137, subclause (4), omit the subclause, substitute the following subclause:

"**(4)** In this section -

"prescribed officer", in relation to an offence committed by a body corporate, means -

(a) a director of the body corporate or other person (however described), responsible for the direction, management and control of the body corporate; or

(b) any other person who is concerned in, or takes part in, the management of the body corporate and whose responsibilities include duties with respect to the matters giving rise to the offence.".

Page 76, line 6, clause 140, subclause (1), after "person" (first occurring), insert "(whether a natural person or a body corporate)".

Page 76, line 9, clause 140, subclause (2), omit "a person (whether a natural person or body corporate)", substitute "a natural person".

Page 76, line 11, clause 140, subclause (2), omit "this Act", substitute "subsection 93(2) or section 93A or 123".

Page 77, line 16, clause 143, subclause (2), omit the subclause, substitute the following subclause:

'**(2)** Without limiting the generality of subsection (1), in determining whether the defendant exercised due diligence, the court may have regard to -

(a) where the defendant is a body corporate, the steps taken by it -

(i) to ensure that persons employed or engaged by it were aware of the requirements of this Act and any relevant environmental laws and standards relating to the prevention or minimisation of environmental harm;

(ii) to ensure compliance with those laws and standards by those persons; or

(iii) to establish an environmental management system and to ensure implementation and compliance with it;

(b) where the defendant was the director of a body corporate or other person responsible for the management of the activity in connection with which the environmental harm occurred -

(i) whether the defendant was personally familiar with the requirements of this Act and any relevant environmental laws and standards relating to the prevention or minimisation of environmental harm;

(ii) whether the defendant had taken all reasonable steps to comply with those laws and standards;

(iii) the steps taken by the defendant to ensure other persons for whom it was relevant were familiar with this Act and any relevant laws and standards, and compliance with those laws and standards by those persons;

(iv) the steps taken by the defendant to establish an environmental management system and to ensure familiarity and compliance with it by other persons for whom it was relevant; or

(v) whether the defendant reacted immediately and personally when he or she became aware of any non-compliance with the environmental management system or other incident connected with the environmental harm that occurred; or

(c) where the defendant was an employee or other person whose responsibilities did not extend to the management of the activity in connection with which the environmental harm occurred —

(i) whether the defendant had taken all reasonable steps to become familiar with this Act and any relevant environmental laws and standards relating to the prevention or minimisation of environmental harm;

(ii) whether the defendant had taken all reasonable steps to comply with those laws and standards;

(iii) whether the defendant had taken all reasonable steps to become familiar, and comply, with any environmental management system established by the body corporate to the extent that the system is relevant to his or her position; or

(iv) the steps taken by the defendant to prevent or minimise environmental harm when the defendant became aware of any incident connected with the environmental harm that occurred or the likelihood of any such incident.".

Page 84, line 26, after clause 156, insert the following new clause in the Bill:

"**Review of Act**

157. (1) The Minister shall review the operation of this Act as soon as possible after the period of 2 years after the date of commencement of section 3.

(2) A report on the outcome of the review shall be tabled in the Legislative Assembly within 6 months after the end of the period of 2 years.".

Page 87, line 21, Schedule 1, paragraph 2(c), omit ", including a crematorium,".

Page 87, line 24, Schedule 1, after paragraph 2(c), insert the following paragraph:

"(ca) the conduct of a crematorium for the reduction by means of thermal oxidation of human bodies to cremated remains;".

Page 87, line 26, Schedule 1, after paragraph 2(d), insert the following paragraph:

"(da) transport activities to which a national environment protection measure made under subsection 13(1) of the *National Environment Protection Council Act 1994* relating to the transport of waste between the Territory and a State or another Territory relates;".

Page 88, line 30, Schedule 1, add the following paragraph:

"(t) activities involving the storage or production of a petroleum product, including waste oil recovery activities, where the amount stored is greater than 500 cubic metres or the amount produced is greater than 100 tonnes per year.".

Page 89, line 25, Schedule 1, paragraph 3(h), omit the paragraph.

Page 89, line 34, Schedule 1, paragraph 3(k), before "collection", insert "commercial".

I present the supplementary explanatory memorandum. It is a matter of great satisfaction to be able to move a large number of amendments tonight which essentially represent the efforts of the Planning and Environment Committee of the Assembly, with some revisions agreed to at a round table meeting earlier this week. There are 67 amendments. Some represent quite significant changes to the tenor of the legislation and constitute a major revision at the political level.

Obviously, when groups such as a reference group spend a lot of time working over a piece of legislation and reaching agreement on it, there is always the risk that when it comes before the decision-making forum, that is, the parliament, further changes will be made which will upset the applecart. I think that, for the most part, we have avoided that with this package of amendments. For the most part, we have preserved the spirit of the legislation but refined it in such a way that ultimately people will find it hard to criticise.

As I have said, I cannot be confident that there will not be some things that have to be changed in the near future or after the two years which this legislation operates before a review takes place. I am fairly confident that we have struck a good balance, both in the Bill and in the amendments which I have moved today and which are the product of that earlier work.

MR MOORE (8.55): I would like to take a few moments to comment on the amendments. The amendments have been drawn directly from the report of the Planning and Environment Committee, as Mr Humphries indicated. I would like to comment on the round table revision that was conducted. Mr Humphries came back to each member of the committee as individuals and said, "We would like to sit down at a round table because we think you have misunderstood a few issues and because your report is worded in such a way that it could be interpreted in a couple of different ways". We sat down around the table, and I feel confident that the revisions that we went through did not change the principles that we were trying to achieve in each of our recommendations.

It was a very interesting process which, for me, reiterates what Mr Humphries said about the principles behind the legislation being understood not just by him and the support staff from his department but also by each member who was involved in dealing with the report and the legislation. It is a particularly complex piece of legislation; but through all those discussions members were focused on the principles that we were trying to achieve, rather than a particular way to achieve them. On a number of occasions the committee had recommended a particular way to achieve something and the Government were able to say, "We think there is a better way to achieve it", and that was recognised by the committee. I think the outcome will speak for itself.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (8.57): There are a number of points I think I need to make to explain the amendments. The first of these relates to the objects clause of the Bill. While the objects clause articulates principles and practices, it is nonetheless central to the whole operation of the Bill because it constrains what action can be taken. Regard has to be had to the objects clause in every decision where there is an exercise of discretion on the part of the Environment Management Authority or the Minister. It is therefore vitally important that the objects clause reflect our intentions and aspirations for the legislation.

The amendments enshrine the principle that decision-making under the Bill should integrate environmental, economic and social considerations. They also reflect our concern that environmental considerations be taken into account in economic and social decision-making. That is an important principle, and I am grateful to members of the Assembly for their willingness to compromise on that matter. I think we would all accept that balancing of those considerations is absolutely essential to the operation of any effective piece of legislation, this perhaps most of all.

Secondly, there is a suite of recommendations that relate to increasing public access to, and scrutiny of, decision-making. Thirdly, there was some concern from stakeholders and from the committee regarding the provisions governing deemed liability for corporate officers and the defence available to individuals and corporations. It was always our intention that people at board level be responsible for anything done by the company. On the other hand, employees or staff should be responsible only if they are in the direct chain of command for the matter concerned. The amendments aim to better reflect our intention. The same need for clarification was also pointed out by stakeholders and the committee in relation to the defence of due diligence. The amended provisions now provide clear guidance to the courts on how due diligence can be demonstrated.

Fourthly, there has been a reconsideration of the provisions relating to the powers of authorised officers. The Government has accepted the committee's recommendations to omit a clause which required authorised officers to act in a manner which minimises the disruption to a business or activity. The Government has accepted that in its original drafting the powers given to authorised officers were very broad and did not adequately differentiate between routine and urgent circumstances. The amendments now differentiate between powers which may be exercised during routine inspection and those which may be exercised only in urgent or serious circumstances.

Fifthly, the provisions in relation to injunctive orders have been refined to better reflect their nature as a last resort for individuals and the Environment Management Authority to take action to prevent significant environmental harm. The Government and the committee agree that it is important to have such a mechanism available, but there was concern that the existing provisions represented too great a hurdle for individuals to overcome. The proposed amendments better reflect the two fundamental requirements for injunction, namely, that the individual should first give the Environment Management Authority the opportunity to take action to address the circumstances that have generated the concern and, secondly, that the action is brought forward in the public interest. In making these changes, the Government and the committee were motivated to prevent these provisions from being used to further private or commercial interests.

Lastly, the concept of general environmental duty has been clarified to give stronger emphasis to the nature of the environmental harm potentially or actually caused. This amendment is entirely in keeping with the intention behind the general environmental duty which provides that everyone has a responsibility to take practical and reasonable steps to prevent or reduce environmental harm.

MR CORBELL (9.00): I want to speak very briefly on a particular amendment which is part of this package that the Minister is now putting forward. Amendment 17 amends clause 31 to provide for public consultation in accrediting codes of practice. This issue has been brought to my attention in the past day or so by representatives of the building industry, who are concerned about when the public consultation should occur. They have put it to me that the consultation with members of the community should occur when the Environment Management Authority is in the process of assisting in the preparation and the accreditation of a code of practice but before a draft code of practice has been put into place.

Labor believes it appropriate that public consultation occur once a draft code of practice is in place, rather than only before and not afterwards; but we do accept that it is appropriate for the Government, through their administrative processes and the Environment Management Authority, to develop what they believe is the most appropriate public consultation process in the development of accredited codes of practice. If at some stage down the track we find that the processes for consultation before accredited codes of practice are put in place are not living up to the expectation that either the community or the industry has of them, then I think it appropriate that they be reviewed.

For the record, I would like to flag one option that Labor believes may be a sensible way around any problems that may occur if the Government's process is found to be unworkable. I am not suggesting that it will be, but this is simply a suggestion. At a later date the Government may wish to look at the provisions of the Occupational Health and Safety Act which allow for a council to advise the Minister on many matters, including the approval of codes of practice and the variation of codes of practice. Such a council could have representatives of industry, representatives of the community selected by government and representatives of the EMA. The Government might like to explore this mechanism when it is considering its codes of practice consultation process, or at a later stage if the process that it does decide on does not appear to be working. At this stage we are very happy to accept the provision put forward by the Government to ensure that there is public consultation in the development of codes of practice, and we look forward to good operation of consultation in that respect.

Amendments agreed to.

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

Bill, as amended, agreed to.

ENVIRONMENT PROTECTION (CONSEQUENTIAL PROVISIONS) BILL 1997

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

> 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.

MAGISTRATES COURT (CIVIL JURISDICTION) (AMENDMENT) BILL 1997

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

That this Bill be agreed to in principle.

MR WOOD (9.05): The Small Claims Court plays a very important role in the ACT system of justice. This is a significant review that we consider tonight. If the Small Claims Court were not there, it is likely that many of its cases would simply not emerge, as the parties involved would not risk the considerable costs of legal representation or face the possibility of paying court costs if matters appeared in the Magistrates Court. Justice would not be as well served as it ought to be.

In these times when we look for ways of providing justice in appropriate but less costly ways, the court has worked very well indeed. Its particular benefits lie in its process. A hearing is not like an ordinary court case; rather, it is an inquiry. The rules of evidence do not apply and legal costs are not recoverable. Hence, it is a jurisdiction which is relatively user friendly to unrepresented parties. The Opposition will be supporting these amendments. They follow a long period of consultation and quite significant changes to the original proposals.

Now there will not be stand-alone legislation for small claims matters, as the situation is now or as was proposed by the tribunal in the exposure draft Bill. This Bill provides for the court to be in the legislative framework of the civil jurisdiction of the Magistrates Court. That seems a sound approach, and we will observe with interest how it works in practice.

The Bill proposes some expansion in the jurisdiction of the court to cover disputes about dividing fences and party walls and rental bonds. In the detail stage I will be proposing a further expansion of its jurisdiction - or perhaps “restoration” is a better word - by increasing from $5,000 to $10,000 the amount of money involved in cases that can be brought to the court. If the Small Claims Court is to hear consumer disputes, which is an important part of its work and an important access to justice role, then we must wonder at the reason for a monetary limit that excludes all but the most modest kitchen or bathroom renovation, excludes many relatively small-scale building disputes and excludes matters involving all but the cheapest motor vehicle or the smallest motor vehicle property claim. These are just a few examples.

The effect of this limit is not to send a claimant to the Magistrates Court but generally to require them to abandon that part of a claim which exceeds the monetary limit and to be undercompensated when they are successful. Justice is not well served. Those examples that I gave are the types of claims which self-represented consumers should be able to bring, and would bring, to a reasonably accessible and convenient forum. They may not do so if they have to incur substantial legal costs, whether their own or those of the other party, depending on the outcome. That is a likelihood if they are forced to the Magistrates Court.

Ten thousand dollars is a reasonable limit. In fact, I was not correct when I said that my amendments would expand the jurisdiction of the court. They really do no more than restore it to close to the level it was at when the $5,000 limit was set some years ago. The $5,000 limit should have been revised long before this. Perhaps there is a case for some form of indexation to be written into the legislation. It is sensible to take this opportunity to restore the monetary limit. I believe that it is in the interests of justice.

MR HUMPHRIES (Attorney-General) (9.10), in reply: I thank Mr Wood and the Opposition for their support of the Bill. I have some comments to make about the amendments, but I will leave them to the detail stage. On the day when we have dealt with the Environment Protection Bill, this Bill might appear to be small fry. It is actually a very significant amendment to the structure of the small claims jurisdiction of the ACT. There are some very significant modifications to the way in which the Small Claims Court operates. I hope that the impact will be considered by members here and that they will look at the changes made.

Although not to quite the same extent as the Environment Protection Bill, this Bill also has been the subject of considerable consultation and debate over the last few years with the courts themselves, with bodies like the Fair Trading Advisory Committee, with community organisations and so on. It represents a significant overhaul of the operation of the small claims jurisdiction. It is important to have reached this stage, and I thank the Opposition for its support.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR WOOD (9.11): Mr Speaker, I ask for leave to move together the three amendments circulated in my name.

Leave granted.

MR WOOD: I move:

> Page 6, line 22, clause 6, proposed new subsection 402(1), omit "$5,000", substitute "$10,000".
>
> Page 6, line 25, clause 6, proposed new subsection 402(2), omit "$5,000", substitute "$10,000".
>
> Page 6, line 34, clause 6, proposed new subsection 402(5), omit "$5,000" (wherever occurring), substitute "$10,000".

I have spoken to the amendments. I will not do that again. I will only respond to comments.

MR HUMPHRIES (Attorney-General) (9.12): I have to indicate my opposition to these amendments. It may appear to members of this place that widening the jurisdiction of the Small Claims Court in an informal jurisdiction where the rules of evidence are not applied and where representation is sometimes considered not to be necessary is an advance. In fact, some would probably wonder why we should not make all courts operate like the Small Claims Court. For some cases, that is a good question to ask. It is important to bear in mind that there is a drawback in operating in the small claims jurisdiction, and that is that the jurisdiction does not offer any opportunity for the payment of costs. People, members of this place included, might say that costs are a part of the legal process which can be a great disincentive to proceed with legal proceedings or to be involved in the court at all and that costs are a bad thing and should be excluded. That is not necessarily the case. In fact, it often is not the case.

Costs are a means whereby justice can be enhanced and better delivered. Say person A sues person B. If person A's action is without merit and is dismissed by the court and person B has incurred some costs in defending the action, in most other jurisdictions within the ACT there is the capacity for person B to have an order of costs made in their favour. Some see the threat of costs as being a bad thing, and sometimes it is. The costs, you must remember, are generally an instrument for justice. They are a means of redressing an injustice or a cost incurred by a litigant because of the activity or actions of another litigant in particular proceedings. We should not assume that to remove access to costs is just.

I will give you the practical example of a small business that deals, as small businesses often do, with a large number of clients. Say it supplies machinery or tanks or something of that kind. Obviously, in dealing with a large number of clients, from time to time this business may find that its clients do not pay for the services or goods supplied to them. When that happens, the business has to organise to recover the money. Very often that means taking particular parties to court. If a business operates a number of accounts and in any given year a number of accounts need to be pursued through action in the court, then the business will be in court fairly regularly to recover money that is owed to it. If they are only operating in a jurisdiction where they cannot obtain costs, then the costs imposed on that business are very much greater.

A business person may not be in a position to represent himself or herself in the court every time they need to take a matter to the court. There are a variety of reasons why they might need to be represented in the court. They may be busy in their business and not be able to attend the court for all the procedural hearings and other matters that accompany a matter before the court. They may not feel confident to argue a case before a court where legal principles are at stake. Do not forget that the Small Claims Court operates without the rules of evidence necessarily applying, but it certainly does not operate without the rules of law applying. You have to understand what the law is to be able to make your case. Many citizens in this community need to be able to access a lawyer and to have a lawyer represent them in a court to be able to make those cases.

If a person has to operate in a court where no costs are awarded, when generally they have been successful in their cases and they have had their costs paid by the unsuccessful party they have taken to court, then you impose a significant cost on their business. Unfortunately, Mr Moore is not listening. I am making a quite important pitch for this - - -

Mr Moore: You have my full attention.

MR HUMPHRIES: Good. I am making the point that doing away with the capacity to order costs in all cases is not necessarily a just solution to a problem. If people need to be able to access the courts on a regular basis, as a small business often does, but are not able to recover costs when they are successful in the court or, alternatively, if they are sued from time to time for a variety of reasons and they are not able to recover the costs of defending those actions successfully in the court, then the costs to them or their businesses can become quite prohibitive.

If an individual sued by somebody else in the community does not feel confident about standing before a court and arguing their case, notwithstanding the lack of rules of evidence, it is an injustice to force that person to engage a legal representative because of the nature of their position but then not to allow them to recover the cost of doing so. In some cases that will lead to people discontinuing legal action, settling a matter on terms most unfavourable to them, not proceeding with the recovery of money owed to them, or whatever it might be, because they cannot afford to operate in a court without costs. I think members are sometimes under the misapprehension that if no costs are awarded it must be a good thing. That does not necessarily follow.

I want to conclude by noting the limits of courts in other jurisdictions. I think that many other jurisdictions have appreciated the point and have quite low limits for their Small Claims Court. In the Northern Territory the limit is $5,000, in Queensland it is $5,000, in South Australia it is $5,000, in Tasmania it is only $2,000, in Victoria it is $5,000, and in Western Australia it is less than $6,000. It is true that the New South Wales Consumer Claims Tribunal has jurisdiction up to $25,000; but a much narrower range of actions can be brought in that court and, as a result, it is not strictly comparable with the other jurisdictions. Also claims in that jurisdiction are heard by a referee rather than by a magistrate.

I would say to members that there is danger in moving these amendments tonight. This is an extremely large change to the Bill before the house. It might not appear to be much, but it is actually a very big change. There has been no consultation on this change. I have no doubt that the Law Society, the Bar Association and organisations out in the community responsible for dealing in the courts would be interested in expressing a view about the operation of the legislation. I realise that lawyers who argue in this matter may well have a vested interest that they will be arguing for. You might not want to hear what they have to say, but the fact is that they will have a case to put. There will be others who will have the same point of view. This Bill has been carefully canvassed with a large range of stakeholders, and I am concerned about coming forward tonight and throwing all that out the window and saying that we have decided at the last minute to bring forward amendments to double the jurisdiction of the court. I believe it is dangerous, and I urge members to be a bit cautious about doing this.

MR STEFANIAK (Minister for Education and Training) (9.21): I rise briefly to back my colleague Mr Humphries. Prior to coming back into this Assembly in August 1994 I did quite a lot of work in the Small Claims Court. I had done some in 1988 and 1989 when the court was set up. That was after I left prosecutions. In 1993 and 1994 I noticed a significant difference. When the court was set up, it certainly attracted people who wanted to represent themselves. You would rarely see a lawyer represent people in the Small Claims Court. In 1993 and 1994, when I did a fair bit of practice in that court, it was commonplace to see lawyers representing plaintiffs and defendants there.

In the course of my practice in that particular jurisdiction I also had cause to talk to a number of people who would regularly bring cases there. A number of businesses had a number of bad debts. Those businesses spent an extraordinary amount of time taking people to court. In a small business with one or two or three employees, for one person to have to do that takes an inordinate amount of time out of the business. Often those people would need to hire a solicitor to appear for them. That of course adds to the cost.

The only cost you can be awarded in the Small Claims Court is the fee you pay, which is $32 for the first $2,000 and $70 or $75 for anything between $2,000 and $5,000. There is some limited capacity for witness expenses but nothing for professional costs. Sensible lawyers will keep their prices for representing people in the Small Claims Court down. That in itself is a bit of a disincentive to a lot of lawyers to practise there. Certainly, the costs and the time can be quite astronomical for businesses that regularly have to use that court. I think it is very sensible that the court has a restriction of $5,000. As my colleague has said, it is so much better for many businesses to utilise the Magistrates Court, where if the judgment is in their favour they can at least recoup the costs they incur through no fault of their own. That occurs quite frequently. I think there is a lot of strength in what Mr Humphries says.

I was interested to hear Mr Humphries give the limits in all the other jurisdictions. Five thousand dollars is a very sensible limit. I know from my experience in 1993 and 1994 that most of the actions brought were under $2,000. There is not a huge difference between $2,000 and $5,000. I think $5,000 is a very appropriate limit. It is a limit that is imposed virtually right across the Commonwealth of Australia. I agree with my colleague. From my practical experience in that court, I do not think the time is right now to suddenly increase the amount to $10,000.

MR WOOD (9.24): I heard Mr Humphries's argument, and in a sense he is quite correct. If I put his argument into my words, it is a deterrent against frivolous claims if you know you have to go to the Magistrates Court and face the prospect of costs. I would have been more impressed if we had had a balanced argument that recognised that a number of people do not make a claim at all because of the costs that may go against them. I understand that frequently people who have a claim for $7,000, $8,000, $9,000 or $10,000 take it to the Small Claims Court and try to settle for $5,000. That is not justice either.

If the Minister wanted to pursue his argument, he should have produced some statistics to give some idea of the relative strength of those two arguments. I still think that the advantage should be given to those people who want to make a claim but find it threatening to go to the Magistrates Court. The overriding point is that the $5,000 has not been changed for a very long time - about 10 years, I think. You might correct me. It has not been changed for about 10 years.

Mr Humphries: We have not had much inflation in the last 10 years.

MR WOOD: There has been very little inflation in the last year. I am not going to argue about that, but there was pretty hefty inflation in earlier years. I have not done the maths and I have not checked the CPI for each year, but I would judge that the $5,000 about 10 years ago would be very much less now. The jurisdiction has actually shrunk. Rather than expand the jurisdiction, which was the word I used, it might be more correct to say that we will restore the jurisdiction. I think that is what this would be about.

Amendments agreed to.

MS TUCKER (9.26): I ask for leave to move together the three amendments circulated in my name.

Leave granted.

MS TUCKER: I move:

Page 55, Schedule 1, proposed new Schedule 3:

Omit -

"I, [*name*], swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, and Her heirs and successors, according to law.

I swear that I will well and truly serve in the office of referee in the Small Claims Court.".

substitute -

"I, [*name*], swear that I will well and truly serve the people of the Australian Capital Territory in the office of referee in the Small Claims Court.".

Omit -

"I, [*name*], solemnly and sincerely affirm that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, and Her heirs and successors, according to law.

I solemnly and sincerely affirm that I will well and truly serve in the office of referee in the Small Claims Court.".

substitute -

"I, [*name*], solemnly and sincerely affirm that I will well and truly serve the people of the Australian Capital Territory in the office of referee in the Small Claims Court.".

Page 65, line 33, Schedule 3, after the item relating to paragraph 248A(1)(c) of the *Magistrates Court Act 1930*, add the following item:

"**Second Schedule** -

(a) Omit -

I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, Her heirs and successors, according to law, that I will well and truly serve in the office of and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will. So help me God!

substitute -

I, [*name*], do swear that I will well and truly serve the people of the Australian Capital Territory in the office of and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will. So help me God!

Omit -

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, Her heirs and successors, according to law, that I will well and truly serve in the office of and that I will do right to all manner of people, according to law, without fear or favour, affection or ill-will.

substitute -

I, [*name*], do solemnly and sincerely affirm and declare that I will well and truly serve the people of the Australian Capital Territory in the office of and that I will do right to all manner of people, according to law, without fear or favour, affection or ill-will.".

These amendments relate to the appointment of referees for the Small Claims Court. Under this Bill, the referee has to take an oath or make an affirmation of office before the Chief Justice of the Supreme Court. This process matches the appointment of magistrates under the Magistrates Act. The oath or affirmation of office included in the Schedule to the Bill virtually copies the Schedule in the Magistrates Court Act. However, the wording included in the Schedule to the Magistrates Court Act must have been originally drafted many years ago. The first line of the oath says:

> I ... swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, and Her heirs and successors ...

The law requiring magistrates, and now referees, to swear allegiance to the Queen is really an antiquated relic of our judicial system and does need to be changed. The oath does not even mention allegiance to Australia or Australians. It is ludicrous that our magistrates and referees should be required to swear an oath to a foreigner. There would be few Australians alive today, irrespective of their views on whether or not Australia should be a republic, who would regard such an oath as a true expression of their national loyalty.

This oath is a totally inadequate expression of what the referee or magistrate is taking an oath for - committing themselves to serve in their office according to law and without fear or favour. It has nothing to do with the Queen. This oath is even more anachronistic when you consider that members of the Legislative Assembly no longer need to swear allegiance to the Queen when they take their oath of office. The MLA's oath of office was amended in 1995. Why should judges have to swear allegiance to the Queen when other key office-holders in the ACT do not? This amendment will not reduce the importance of this oath, nor reduce the required commitment of referees or magistrates to their job.

As Australia makes its inevitable move towards a republic, references to the Queen will need to be removed from many pieces of legislation. I understand that the New South Wales Labor Government had already begun this process through its tabling of the Oaths and Crown References Bill in the New South Wales Parliament in 1995; but I gather that that Bill was defeated by the conservative elements in the New South Wales upper house.

As the Greens have said at various times in this Assembly, we do not believe that we should have to put off important reforms in the ACT just because they are ahead of the thinking in other States. I believe that the Assembly should take the opportunity, while this Bill is before us, to start to remove references to the Queen in our legislation, by fixing up the oath taken by magistrates to make it more relevant to their real responsibilities to the people of the ACT and not to their outdated responsibilities to a royal family 16,000 kilometres away. Labor, through Mr Wood, I think, or Mr Whitecross, actually did suggest that we put in our amendments the reference to serving the people of the ACT. That idea is integrated into the amendments that I have moved. I acknowledge that input. I think that was a sensible suggestion.

MR CORNWELL (9.30): Madam Deputy Speaker, it is rare, but not unique, for the Speaker to come down to address the chamber. There is a certain symmetry in this. At the beginning of this Assembly, I addressed the chamber in relation to the prayer. It appears that, in the closing stages, I am going to address it again, in relation to this rather strange amendment. I am wondering whether, in fact, the Greens intend to pick off each piece of legislation that comes through this place if there is any reference to the Queen in it - in which case, it is a rather clumsy method of dealing with the matter.

This action shows all the hallmarks of being hurried. It seems strange to me that we have decided to target this particular piece of legislation, when the Greens appear to have overlooked standing orders 53, 268 and 269 of our own Assembly. We have not even had the Constitutional Convention - let alone the referendum - but already our friends the Greens are moving into a republic by stealth. This is very interesting. I can understand Ms Tucker's views on this. I am a member of Australians for a Constitutional Monarchy. I make no apology for that. I can understand that Ms Tucker might be a republican. But tell me, Ms Tucker: Have you and your colleague in the Greens consulted the community on this move?

Ms Tucker: Yes - through you, Madam Deputy Speaker.

MR CORNWELL: You have? All the time we hear from the Greens, "Consultation is required. We cannot make decisions unless we consult the community". To echo your views, Ms Tucker, I do not believe that you have consulted enough. I do not think you have consulted thoroughly. I know many people in the community who simply would not wear what you are suggesting. So, where is your much-vaunted process of community consultation? I think you really should await the referendum outcome before you address these issues in such a piecemeal fashion. It does not seem to me to make any sense. It is a hurried consideration. I notice that you have not moved an amendment to delete any reference to God. There is, in fact, an oath in the proposed amendments that ends with the words "So help me God!". We abolished the prayer here. We changed it; but now - - -

Ms Tucker: No, we did not abolish the prayer. We have a silent prayer.

MR CORNWELL: No; we changed it to a prayer or reflection. Did you have trouble getting your tongue around the words "So help me reflect", or something like that? I am not 100 per cent sure how you could do it. Obviously, you found that a little too difficult. I really think, however, that if you were going to take the same approach you could at least have been consistent in deleting the reference to the Almighty. After all, it might offend some people. I seem to remember that that was the line that you last ran, in spite of the fact that various people, non-Christians, wrote in and said, "We are not offended at all by the prayer".

Madam Deputy Speaker, I do not know what would be the cost of changing this. The Greens are very interested in saving paper. We know that. They are very interested in trees - those things that grow and are green. I am naturally concerned at the massive amount of money that may be wasted. I am also concerned that this is one of these one-off things that may very well leave this court out of step with other jurisdictions. It seems to me that it would be better to leave the matter alone until we get some sort of decision from a referendum in relation to whether or not we have a republic.

I will, however, concede one thing: It is probably very appropriate that this premature move has been made in relation to a small claims court. One could make an unflattering comparison, I suppose, with the amendment, if not with its mover. Of course, I would not do that, because that would be inappropriate and I probably would be hauled up by the Deputy Speaker. Please let us have some commonsense on this. This has obviously been a hurried, last-minute thought. I suggest that we leave the matter at least until after the referendum, because I really cannot see the point of such a pre-emptive strike.

MR CORBELL (9.35): I was not going to speak in this debate; but the opportunity to address the Speaker in debate and not be warned by him is one that is presented to me rarely, and I wanted to take that opportunity. Madam Deputy Speaker, all I can say is: What an extraordinary argument it is, when all that a constitutional monarchist can put forward is that this issue is a small claim. I would have thought that, for a constitutional monarchist, anything that had to do with removing the Queen, the head of state, from any oath would have been a very big deal indeed. What a bizarre situation it is when the only argument that a constitutional monarchist can put forward is that it is a small claim and, really, we should not be pre-empting the debate.

I want to address that very point. I do not know whether Mr Cornwell has noticed; but the Queen plays virtually no role whatsoever in the government and administration of the Territory. Indeed, the Queen, or her representative, does not in any way approve Bills passed by this Assembly and gazette them. That is an action taken by the Chief Minister on behalf of the Territory. It seems to me that that is a fundamental misunderstanding on his part.

I am very pleased indeed, as a republican, to see the Greens moving these amendments, because they place the primacy of this parliament and the operation of our administration in the Territory where they belong - with the people - and base them in the people, not in the Crown. That is why I believe that these amendments are appropriate. We do not need our officers to be swearing allegiance to a head of state who resides in another country. What we need, instead, is officers of our administration - whether they be in the courts or in this Assembly - to be swearing allegiance to, and affirming that they will act in the best interests of, the people of the Territory. That is not something that is in the oath at the moment. There is no reference to acting in the best interests of the Territory; there is reference only to being faithful and bearing true allegiance to Her Majesty, Queen Elizabeth II.

That seems to me to be a complete anachronism. Why on earth should we not change it? Indeed, it seems to me that, if there is any place in Australia which has the potential of returning two delegates of a republican strain to the Constitutional Convention, it is this Territory. Polling has demonstrated again and again that the proportion of the population supportive of the concept of a republic is higher here in the Territory than it is in any other State or Territory in Australia. I think that is a good thing. I think it shows that the amendments moved by Ms Tucker are relevant to people in the Territory and, I would argue, reflective of the wishes of a majority of people in this Territory. Mr Cornwell, unfortunately, is in an ever-dwindling minority which increasingly has less and less relevance in Canberra today.

Madam Deputy Speaker, I wanted to put those thoughts on the record and to say very clearly that, when it comes to making decisions in this place, the most important things are the people of the Australian Capital Territory and the interests that we serve - not the interests of the head of state who resides many thousands of miles away; but the interests of the residents of this Territory. That is why I believe that this Assembly should be supporting these amendments.

MR STEFANIAK (Minister for Education and Training) (9.40): Unfortunately, Mr Corbell does not appreciate that that is exactly what the traditional form of words which Ms Tucker is seeking to remove means. I will make just three brief points. I will agree with the Speaker that we are not yet a republic. When we become one - Ms Tucker may be right; that may well be sooner rather than later - then it would be appropriate to remove these words and insert other words, and to do that in a consistent way across all legislation, rather than in a piecemeal way like this. What will she want to do next, Madam Deputy Speaker? Have a look behind you. You have a very nice coat of arms up there, which says, "For the Queen, the Law and the People". Does she want that to come down? Does she want to smash that or paint it out? What will she want to do next?

Mr Wood: In the next parliament, that is going. You anticipate me.

MR STEFANIAK: I hope not. Ms Tucker, wait. You might be right. If Mr Corbell is right and if this huge percentage of people want us to become a republic, no doubt we will have a referendum in due course. That may well occur. When it does, go for your life, Ms Tucker. My colleague Mr Cornwell is a member of Australians for a Constitutional Monarchy. I do not know whether I am a member at present. I would probably have to repay my subscription. I think they sent me a reminder. Let us assume, Ms Tucker, that you are right and that we will at some stage become a republic.

I have one further point to make, apart from your being very premature in this. The current words have a lot of style. They are:

> I ... swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth the Second, and Her heirs and successors, according to law.

Then it goes on about well and truly serving in the office of referee. That has a lot of style. What are you suggesting that we put in its place, Ms Tucker? You are suggesting just the last sentence, with the insertion of "the people of the Australian Capital Territory". Regardless of the other arguments, I think you need to go back to the drawing board and come up with something with a bit more style.

Mr Humphries: It is not elegant.

MR STEFANIAK: It is not elegant.

MR MOORE (9.42): Madam Deputy Speaker, I think that you could rightly be accused here tonight of observing that there are some people who are more conservative than others. I have made this observation myself. If the accusation that my observation was inappropriate comes my way, then it is something that I will wear; but I have to say, in particular having heard Mr Cornwell and Mr Stefaniak speak, that I am convinced that there are people in this Assembly who are more conservative than others. Madam Deputy Speaker, this is not the first time that I have observed this, in particular, from these two gentlemen. The irony is that they should mention this matter just prior to the Constitutional Convention, at a time when we are considering the possibility of a republic. I am surprised that these two gentlemen in particular, and perhaps others, have not observed that, really, we are an example of a republic and what a republic is about in Australia. Where is our legislation checked by an administrator or a governor? It is not. Granted, there are references to the Governor-General in our self-government Act. He does have a final power. But that final power does not in turn go to the Queen.

Mr Berry: Yes, he does. Look at the Andrews Bill.

MR MOORE: Mr Berry interjects. There is one sense in which the Governor-General has a final power. We can have a look at the Andrews Bill. Indeed, the Andrews Bill could go through only with the royal assent. To take it in two or three steps, you might make that point. I think it is an interesting observation that the ACT is the closest thing to a republic that we have in Australia. Therefore, although I see myself as an ultraconservative on most issues, on this issue I am going to drag myself a little to the left and try to sharpen up my ideas. I have a great fear that I will become a communist if I make this move; but I am going to take a risk, and I am going to support my Green comrade, Ms Tucker, on these amendments.

MR WOOD (9.45): Madam Deputy Speaker, I have to say of Mr Stefaniak that he has a good sense of what is going to happen. I have already indicated that, should I survive into the next Assembly - and I will make no predictions about that - I intend to see that we get a better and more appropriate coat of arms. It is quite inappropriate to have a coat of arms for the city of Canberra in the Legislative Assembly for the Australian Capital Territory. So, Mr Stefaniak, if you are here too, I will invite you to join a committee of the Assembly to look at this matter.

MR MOORE (9.46): Madam Deputy Speaker, I will make one further observation. For the second time in this Assembly, the Speaker has come down to join in the debate and, for the second time, he has lost.

MS TUCKER (9.46): I want to thank people for their very insightful comments on this matter. I was very interested in Mr Cornwell's comments when he suggested that I should be consistent and remove God. I had not realised that you held the Queen in such high esteem. But I understand now that it really is very important to you, and I hope that it does not cause you too much concern - although perhaps what you did mean was that we had removed the necessity for a loud prayer, a spoken prayer. I am reassured that the Queen is not held in as high esteem as God. My comment on that is that it was never designed to make it impossible for someone to pray; it was so that we would have our own prayer. So, I have to clarify that. I thank Mr Cornwell for pointing to the standing orders, because that is something we can look at, and I thank members for their support.

MADAM DEPUTY SPEAKER: The question is: That the amendments be agreed to.

Mr Moore: Mr Humphries cannot help himself.

MR HUMPHRIES (Attorney-General) (9.47): No, I cannot help myself, Madam Deputy Speaker. I could rise to underline the comments made by my colleagues Mr Stefaniak and Mr Cornwell, and I certainly do. I think that the arguments they have put to the house are very good arguments. I think it is a little bit insulting to the people of the ACT, among others, to be pre-empting an outcome in a process to do with changes to the Australian Constitution.

I also think we overlooked the fact that, if we examine oaths of office and things of that kind in republics, we will also find quite often, I suspect, that even in second and third tiers of government the legislation requires that an oath of office be sworn to the head of state, not merely to the people of the jurisdiction concerned. So, that is an argument, I think, that needs to be borne in mind. In taking out references to the Australian head of state at this time and replacing them with references to the people of the ACT, we may feel that we are modernising our law; but we are also, I suspect, putting it at odds with practices elsewhere.

Madam Deputy Speaker, the reason I have risen tonight is actually to raise a much more practical problem with what has been suggested. I note that there are actually three lines of the oath and affirmation. We are taking out the first two lines and substituting for them this line about well and truly serving the people of the Australian Capital Territory. The third line, which remains in the oath and the affirmation, reads:

> ... that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.

There is an important point in the difference between the language used there and the language used in the amendment moved by Ms Tucker. It is drawn out by the fact that we need to bear in mind that the people who appear before the ACT Small Claims Court are not merely residents of the ACT; they are residents of other jurisdictions as well, who are entitled to come before our court and seek justice from our court. None of our courts are reserved exclusively for the people of this Territory. So, we have an oath or affirmation being sworn or affirmed by a referee of our court, promising to serve the people of the Australian Capital Territory.

Mr Moore: By giving justice to all.

MR HUMPHRIES: I am not sure that that is the way you would interpret that, to be frank. If you have sworn an oath to serve the people of the Australian Capital Territory, I think it is open to people to interpret that to mean that you serve them and you serve their interests; and, in doing so, it could be argued that you are under an obligation, either by oath or affirmation, to favour them over those of other jurisdictions - residents of other States who might come before those courts. I have not raised this point; it has been raised with me by an officer of my department, who has made the point that it is a concern in terms of the drafting of these things.

If we take the view that the oath or affirmation is of no importance, then that is fine. We can just lightly gloss over those matters and say, "Who will ever read the oath or the affirmation?". But, if they mean anything at all, then the words are serious and need to be taken seriously. I have to say that I think there is a serious problem with promising - swearing on a *Bible* - to serve the people of the Australian Capital Territory in an office which should be impartial and which should not serve any individual but which should be serving the law.

MR MOORE (9.52): I seek leave, Madam Deputy Speaker, to speak again on this matter.

Leave granted.

MR MOORE: Mr Humphries has raised some very interesting issues. The first and most important of those issues is the question of swearing and affirming at all. I think we should ask ourselves the really important question - whether or not it actually makes any difference in a court of law. It seems to me that somebody who is going to lie in a court of law is going to lie anyway. I think that it is anachronistic for us to be swearing at all. It is a question that we could well deal with in the next Assembly. I am sorry to shock my conservative colleagues with a suggestion of that kind; but there we are. That is the first thing.

The second thing is that, very regularly - every day at the beginning of this Assembly - we pray or reflect on our responsibilities to the people of the ACT. As happened today and as has happened on other occasions, we have stood in this place and taken quite significant action to defend people in Queanbeyan. So, we accept that our responsibilities to the people of the ACT have much broader ramifications in terms of the community as a whole. We recognise that, obviously, with our regional approach.

Similarly, somebody who swears that they will well and truly serve the people of the Australian Capital Territory in the office of referee in the Small Claims Court will well and truly serve the people of the ACT - who have, in effect, employed them, paid them and put them in the position - by making sure that they deal justly with everybody who comes before them. I have no problem with that. I understand that your interpretation was the opposite to that. I am saying that there is this other interpretation, which seems to me just as sensible and just as logical. I am very comfortable with it. I have no problem in expecting that people will do that and will interpret it in that way. It would be very clear to anybody who is an appropriate person to fulfil this task that they would, by the very nature of the task, ensure a just outcome for whomsoever it is that appears before them. That is why I am still comfortable with this wording.

MS TUCKER (9.55): I seek leave to speak again.

Leave granted.

MS TUCKER: I must say that my interpretation also is that, when you say, "I will well and truly serve the people of the ACT", it is about giving a sense of your allegiance to your area. To suggest that in some way this person would be freed of responsibility to well and truly serve those outside the ACT - that is, the people they are actually

working with professionally - I find quite extraordinary. If it is a really serious concern, as in the Magistrates Court, you could say, "I will do right to all manner of people according to law". You could spell it out, if you really wanted to, as it is in the Magistrates Court Act.

If you want to put that amendment up, I am quite happy to look at that; but, personally, I find it extraordinary that you would suggest that a person swearing this would actually take that as meaning that they did not have to well and truly serve people from outside the ACT. It is about the allegiance that you have and your sense of belonging to the ACT. That is the point that is being made. It is about who we are here, now; and the Queen does not fit into that.

MR HUMPHRIES (Attorney-General) (9.56): I want to make an important point, Madam Deputy Speaker. I just want to respond to a couple of things that have been said. With respect, I think there is a very big difference between being invited each morning in here to pray or reflect on our duties to the people of the Australian Capital Territory and imposing a legal obligation on people to act in a certain way. The oath or affirmation is not a mere prayer, the complying with which is a matter between you and the Almighty; it is a legal obligation, and a person who fails to honour their oath is, I suspect, in breach of the law. I am not sure about that; but I think they are in breach of the law. Ms Tucker and Mr Moore say that they are quite confident that this is the interpretation that they would take of it; that it means a certain thing. Perhaps they are right. We all have had a bit of a giggle about this tonight; but we may not be correct - - -

Ms Tucker: We can take it out.

MR HUMPHRIES: Frankly, I would be more comfortable if the words that had been written in by hand were not proceeded with. I have already made an argument about the other part of the amendment; but at least that would avoid that complication.

Ms Tucker: Okay.

MADAM DEPUTY SPEAKER: Do you so move, Mr Humphries?

MR HUMPHRIES: Yes, by leave.

Leave granted.

MR HUMPHRIES: I will move amendments to Ms Tucker's amendments, to remove the handwritten words. I move:

> Omit "the people of the Australian Capital Territory" (wherever occurring).

Amendments (**Mr Humphries's**) agreed to.

Question put:

That the amendments (**Ms Tucker's**), as amended, be agreed to.

The Assembly voted -

AYES, 8	*NOES, 6*
Mr Berry	Mrs Carnell
Mr Corbell	Mr Cornwell
Ms Horodny	Mr Hird
Ms McRae	Mr Humphries
Mr Moore	Mrs Littlewood
Ms Reilly	Mr Stefaniak
Ms Tucker	
Mr Wood	

Question so resolved in the affirmative.

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

Bill, as amended, agreed to.

QUESTIONS WITHOUT NOTICE

Housing Trust - Rental Arrears

MR STEFANIAK: Mr Speaker, during question time Ms Reilly asked me a question in relation to housing. There were a couple of incorrect figures in my answer. I now have a reasonably detailed response to her question. I seek leave to have it incorporated in *Hansard*.

Ms Reilly: You certainly keep your staff working late, Mr Stefaniak.

MR STEFANIAK: I have actually been sitting on that for a couple of hours, Ms Reilly. Let the truth be known.

Leave granted.

Document incorporated at Appendix 1.

Housing Trust - Rental Arrears

MR STEFANIAK: During question time Mr Corbell asked me a question about housing. There were some incorrect figures in my answer. I now have a response for Mr Corbell. I seek leave to have it incorporated in *Hansard*.

Leave granted.

Document incorporated at Appendix 2.

LEGAL PRACTITIONERS (AMENDMENT) BILL (NO. 2) 1997

[COGNATE BILL:

LEGAL PRACTITIONERS
(CONSEQUENTIAL AMENDMENTS) BILL 1997]

Debate resumed from 23 September 1997, on motion by **Mr Humphries**:

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 Legal Practitioners (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 address their remarks to order of the day No. 6.

MR WOOD (10.05): Mr Speaker, the Opposition will be supporting this Bill and the consequential amendments Bill that follows. The Bill amends the Legal Practitioners Act to take account of the mutual recognition scheme. That is something to be widely supported. If, in the case of the last Bill we discussed, Mr Humphries had concerns about the views of the legal profession, I know that he would be confident that they would be very supportive of this Bill going through. I have no amendments to move to it. The Opposition will be supporting both Bills now being discussed.

MR MOORE (10.06): Mr Speaker, whilst I rise to support this legislation, I do have some comments to make. The comment that I think is most significant is that it is interesting that this legislation, which is part of the mutual recognition scheme, is the one area that I am conscious of where we allow the union to regulate the profession. I think it is an interesting concept that we use within the legal profession. Indeed, it has been going on for some time. I must say that it is some years since the Legal Affairs Committee of the Assembly looked at the cost of justice. It occurred at the same time as the inquiry in the Senate. Nobody has yet found a way to wrestle with the growing costs of legal services. I cannot help wondering whether this way of regulating the profession is part of the reason why costs in legal circles are escalating.

There is another comment that is interesting to me, Mr Speaker, and that is that this particular piece of legislation is one of the most difficult pieces of legislation I have read. It is interesting that it is so, because this is legislation that applies to legal practitioners. In this case, because it is primarily legal practitioners who are reading it, who cares whether it is in plain English? It is strongly couched in legalese and is wordy, legalistic and complex. One would think that, of all pieces of legislation, this is one that you would put into plain English as a demonstration of what the legal profession can do.

It is interesting, Mr Speaker, that even the relatively last-minute amendments - I think we have had them for a day, but I notice that they were completed in the afternoon of 11 November - are reasonably legalistic. There are seven pages of them. This is not a criticism of the Parliamentary Counsel, although it may be construed that way. I can see exactly why this has happened. This has happened because lawyers are being very careful about how other lawyers are going to interpret legislation that is about lawyers. So, for a regulatory Bill, we get a huge, long, complex Bill, when I would have thought that it could have been something reasonably minimal.

Those are just a couple of small criticisms. I think we have to question whether, in the future, this is actually the best way for us to regulate the legal profession. It seems to me and, I think, to many people in our community that the cost of justice is out of hand and we have to find a better way to deal with it. Maybe it is this way of regulating that is actually creating many of the problems for us. I think that is an issue that ought to be looked at very carefully in the next Assembly.

MR HUMPHRIES (Attorney-General) (10.09), in reply: Mr Speaker, I thank members for their support for the Bills. They are important Bills, providing for free movement of lawyers and improvement of the quality of service that they offer to citizens. So, I am pleased to see that they have support. Mr Moore's comments are only some of a number of comments he has made about the Law Society. So, I think lawyers in the Territory ought to be well and truly on their guard and alert to what Mr Moore might do on this score in the next Assembly. I am sure that, after he has dealt with other important issues, like euthanasia, he will get around to lawyers. So, they had better be watching out very carefully.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR HUMPHRIES (Attorney-General) (10.11): Mr Speaker, I seek leave to move together amendments Nos 1 to 14 circulated in my name.

Leave granted.

MR HUMPHRIES: I present supplementary explanatory memoranda for both these amendments and those that the Government will propose to the Legal Practitioners (Consequential Amendments) Bill 1997. I move:

Page 1, line 8, after subclause 2(1), insert the following subclause:

"**(1A)** Section 39 of the Principal Act as amended by this Act shall be taken to have come into operation on 23 September 1997.".

Page 1, line 9, subclause 2(2), omit "The", substitute "Subject to subsection (1A), the".

Page 2, line 6, clause 4, before paragraph (a), insert the following paragraph:

"**(aa)** by omitting the definition of 'Admission Board' and substituting the following definition:

' "Admission Board" means the Legal Practitioners Admission Board;';".

Page 2, line 7, clause 4, paragraph (a), omit "definition of 'barrister and solicitor' ", substitute "definitions of 'barrister and solicitor' and 'Roll of Barristers and Solicitors' ".

Page 2, line 17, clause 4, paragraph (b), add the following definition:

" 'Roll of Legal Practitioners' means the roll kept under section 16C;".

Page 25, line 16, after subclause 21(1), insert the following subclauses:

"**(1A)** Where before the commencement of this section a person had lodged with the Court a notice under section 19 of the Mutual Recognition Act but had not become entitled to registration before that commencement, for the purpose of enabling the notice to be dealt with under the Principal Act as amended by this Act -

(a) the lodgment of the notice shall be taken to be the making of an application for enrolment under section 12 of the Principal Act as amended by this Act;

(b) the person on whose behalf the notice was lodged shall be taken to be the applicant; and

(c) if the Registrar had not, before that commencement, forwarded a copy of the notice to the Admission Board and to the Law Society - the Registrar shall comply with section 13 as soon as practicable after that commencement.

(1B) In relation to an application referred to in subsection (1A), the reference in -

(a) paragraph 15(c);

(b) subsection 16A(1); or

(c) subsection 16A(4);

of the Principal Act as amended by this Act to the making of the application shall be taken to be a reference to the commencement of this section.

(1C) Subject to any order of the Court, where in relation to a particular application the Registrar is satisfied, having regard to the time limit specified in subsection 21(1) of the Mutual Recognition Act, that the processing of the application within the periods provided for in -

(a) subsection 14(5) of the Principal Act as amended by this Act; and

(b) the provisions referred to in subsection (1B), as affected by that subsection;

would not be possible, or reasonably practicable, the Registrar may issue written directions to abridge any 1 or more of those periods.".

Page 30, line 7, subclause 21(29), after "by this Act", insert "and remained in force immediately before that amendment".

Page 30, line 23, clause 21, add the following subclause:

"**(33)** Where before the commencement of this section permission had been given under section 197 of the Principal Act and remained in force immediately before that commencement, the permission shall be taken to have been given under section 197 of the Principal Act as amended by this Act.".

Page 31, line 11, Schedule, omit the amendment relating to section 39, substitute the following amendment:

"**New section 39 -**

After section 38, insert the following section:

Payment of remuneration and allowances

'**39.** The amount which a member of the Professional Conduct Board is entitled to be paid by way of remuneration and allowances shall be paid by the Law Society out of moneys standing to the credit of a Statutory Interest Account.'.".

Page 31, line 25, Schedule, after the amendment relating to paragraph 41(2)(c), insert the following amendment:

"**Subsection 63(2) -**

(a) Omit 'barrister and solicitor' (first occurring), substitute 'legal practitioner'.

(b) Omit 'and solicitor' (last occurring).".

Page 33, line 10, Schedule, before the amendment relating to paragraphs 192(1)(a) and (b), insert the following amendment:

"**Subsection 191M(5) -**

Omit 'Barristers and Solicitors kept under section 16', substitute 'Legal Practitioners'.".

Page 35, line 14, Schedule, omit "and 40(2)(a), subsection 63(2), paragraph", substitute ", 40(2)(a) and".

Page 35, line 19, Schedule, omit "Section 3 (definitions of 'Admission Board' and 'Roll of Barristers and Solicitors'), subsections", substitute "Subsections".

Page 35, line 23, Schedule, omit ", paragraph 191C(a) and subsection 191M(5)", substitute "and paragraph 191C(a)".

Mr Speaker, these amendments are, in a sense, consequential on the Remuneration Tribunal (Consequential Amendments) Act, which came into force on 23 September, because it repealed section 39 of the Legal Practitioners Act 1970. This supplementary amendment to the Bill addresses two matters as a consequence. First, the Schedule to the Legal Practitioners (Amendment) Bill (No. 2) amends section 39 of the Legal Practitioners Act. Due to the repeal of section 39 of that Act by the Remuneration Tribunal (Consequential Amendments) Act, this amendment will delete the amendment of section 39 in the Bill.

Secondly, the amendment of section 39 of the Legal Practitioners Act by the Remuneration Tribunal (Consequential Amendments) Act has inadvertently removed subsection 39(3) of the Legal Practitioners Act, which provided for payment of members of the Professional Conduct Board to be made by the Law Society out of moneys standing to the credit of the statutory interest account. To continue to provide authority for the Law Society to make payments to members of the board from that account, a provision based on the former subsection 39(3) of the Legal Practitioners Act is inserted into the Act. In order that continuity be maintained, this provision is deemed to take effect from 23 September 1997.

Amendments agreed to.

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

Bill, as amended, agreed to.

LEGAL PRACTITIONERS (CONSEQUENTIAL AMENDMENTS) BILL 1997

Debate resumed from 23 September 1997, on motion by **Mr Humphries**:

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

Amendments (by **Mr Humphries**, by leave) agreed to:

Page 6, line 13, Schedule 1, omit the amendments of the *Coroners Act 1956*, substitute the following amendment of the *Coroners Act 1997*:

"***Coroners Act 1997***

Subsection 3(1) (definition of 'legal practitioner') -

Omit the definition.".

Page 8, line 2, Schedule 1, omit the amendments of the *Domestic Relationships Act 1994*, substitute the following amendment:

"**Section 31 (definition of 'solicitor') -**

Omit the definition, substitute the following definition:

' "solicitor" means a legal practitioner who practises as a solicitor, either on his or her own account or as a member of a partnership;'.".

Page 10, line 6, Schedule 1, omit the amendment of subsections 5(3) and (8) of the *Government Solicitor Act 1989*, substitute the following amendments:

"**Subsection 5(3) -**

(a) Omit 'solicitor' (first occurring), substitute 'legal practitioner'.

(b) Omit 'barrister and solicitor' (wherever occurring), substitute 'legal practitioner'.".

Subsection 5(8) -

Omit 'barrister and solicitor' (wherever occurring), substitute 'legal practitioner'.".

Page 11, line 29, Schedule 1, omit the amendment of paragraph (b) of the definition of "responsible person" in subsection 3(1) of the *Intoxicated Persons (Care and Protection) Act 1994*, substitute the following amendment:

"Omit 'legal representative', substitute 'solicitor'.".

Page 14, line 14, Schedule 1, omit the heading to the amendment of subsection 164A(1) of the *Land Titles Act 1925*, substitute the following heading:

"**Subsections 164A(1) and (2) -**".

Page 18, line 4, Schedule 1, insert the following amendment of the *Magistrates Court (Civil Jurisdiction) Act 1982*:

"**Subsection 394(1) (definition of 'legal practitioner') -**

Omit the definition.".

Page 18, line 17, Schedule 1, omit "and 408(1)", substitute ", section 400, subsection 408(1)".

Page 21, line 17, Schedule 1, after the amendments of the *Public Trustee Act 1985*, insert the following amendment of the *Residential Tenancies Act 1997*:

"***Residential Tenancies Act 1997***

Subsection 111(2) -

Omit all the words from and including 'enrolled as a legal practitioner' to and including 'has been so enrolled', substitute 'a legal practitioner and has been'.".

Page 22, line 13, Schedule 1, after the amendments of the *Sale of Motor Vehicles Act 1977*, insert the following amendment of the *Stamp Duties and Taxes Act 1987*:

"***Stamp Duties and Taxes Act 1987***

Subsection 4(1) (definition of 'solicitor') -

Omit the definition, substitute the following definition:

' "solicitor" means a legal practitioner who practises as a solicitor, either on his or her own account or as a member of a partnership;'.".

Page 22, line 14, Schedule 1, omit the amendments of the *Small Claims Act 1974*.

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

Bill, as amended, agreed to.

ADJOURNMENT

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

That the Assembly do now adjourn.

Assembly adjourned at 10.13 pm until Tuesday, 2 December 1997, at 10.30 am

ANSWERS TO QUESTIONS

QUESTIONS ON NOTICE
4 November 1997
(30 days expires 4 December 1997)

Coordinated Care Trial

***474 MR CORBELL**: To ask the Minister for Health and Community Care - In relation to the ACT Coordinated Care Trial, what costs are participants required to meet as part of the trial, in particular is there any joining fee for people wishing to participate in the trial and if so, (a) how is the money collected (from such a joining fee) distributed and (b) to whom.

MRS CARNELL: The answer to the Member's question is:

There is no joining fee for people wishing to participate in the ACT Coordinated Care Trial.

The ACT Coordinated Care Trial is focusing on people with ongoing complex health problems who require a range of health and community services and may benefit from better coordination of the services.

These people often pay a fee or co-payment for some of the services they currently receive. With better care coordination, individuals may receive a changed level, or mix, of services. Some individuals may therefore receive an increase in services for which there is a co-payment while others will have a decrease in these services.

The ACT Coordinated Care Trial does not collect or distribute any such co-payment or fee. Co-payments from participants of the ACT Coordinated Care Trial are collected and administered by each service provider in exactly the same way as for other clients of that particular service.

Under the National principles for the Coordinated Care Trials, agreed by the ACT, trials will maintain the broad proportional contribution from clients, from private insurers and from Governments.

APPENDIX 1: Incorporated in Hansard on 13 November 1997 at page 4218

Response for the Minister for Housing, Bill Stefaniak to questions asked by Ms Marion Reilly.

1. Ms Reilly has quoted that at 30 June 1997, the debt owed to ACT Housing by public tenants was $1.418 million and at 30 June 1996, this debt amount was $2.58 million. The first figure is correct, however the second figure for 30 June 1996 is $2.058 million. These are shown on the annual financial statements for ACT Housing.

   However, Ms Reilly needs to understand that these debt figures relate to debt owed by current tenants and not those who have vacated public rental properties still owing moneys to ACT Housing.

2. Ms Reilly is correct in pointing out that over the 12 month period to 30 June 1997 that ACT Housing together with public tenants had reduced the level of debt. This reduction is $640.00. Notable reductions have occurred in Woden, City and Tuggerawong regional offices.

   This is an excellent achievement and both ACT Housing and public tenants should be congratulated. I must add that this performance is also attributed to the good debt management policy this Government has required of ACT Housing.

3. The further figure that Ms Reilly has referred to - $1.388 million for debts written off over 1995-96 and 1996-97 years - relates to debt that could not be recovered or were uneconomic to recover from former tenants.

4. Under the current policy for debt write-off, vacated rent debts more than 12 months old where there is no continuing recovery action and those under $200 are written off. This is an accounting treatment only and occurs as at 30 June each year. Where former tenants are later located or seek to be re-housed, recovery action is recommenced and the debt is written back to the financial accounts.

5 Ms Reilly is not correct in assuming that the debts written off have contributed to the improved level of debt on current tenant account. There is no write off against current tenant debt and all the reduction of $640.000 in the 1996-97 year is attributed to the debt management policy and the efforts of ACT Housing staff and current public tenants.

6. All vacated debt is referred to Wards Collection Services. Where this agency is able to locate a former tenant, including where debt has bee written off in accordance with the accounting policies, recovery action will be pursued.

7. It should be noted that the former Minister for Housing, Mr Lamont, advised that for the financial year ended 30 June 1994 (during the term of the previous Labour Government) total rental write offs amounted to $2,330,269.

APPENDIX 2: Incorporated in Hansard on 13 November 1997 at page 4219

Response for the Minister for Housing, Bill Stefaniak, to a question asked by Mr Simon Corbell.

None of the rental debt referred to by Ms Reilly in her question as written off was as a result of enquires from the Ombudsman's Office during 1996-97

The Ombudsman's Report referred to maintenance work. These in fact have not been waived or written off as debts owed.

The situation was that where there was doubt over older invoices or the documents were not adequate to support the invoice, the invoice was written back. This may occur either on a current tenant account or a vacated tenant account. These invoices relate largely to the period when the Labor Party was in Government.

Procedures introduced over the past 18 months as part of the new Regional Office structure, ensure that invoices raised for maintenance debt and other sundry debt are properly documented and advised to tenants.