



DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

11 December 1997

Thursday, 11 December 1997

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

LEAVE OF ABSENCE TO MEMBERS

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

That leave of absence from 12 December 1997 to 20 February 1998 inclusive be given to all members.

DOMESTIC VIOLENCE (AMENDMENT) BILL (NO. 4) 1997

MR STEFANIAK (Minister for Education and Training) (10.33): On behalf of the Attorney-General, I present the Domestic Violence (Amendment) Bill (No. 4) 1997, together with the explanatory memorandum to this Bill and the Magistrates Court (Amendment) Bill (No. 3) 1997.

Title read by Clerk.

MR STEFANIAK: Mr Speaker, I move:

That this Bill be agreed to in principle.

This Bill and the two Bills that follow are a package aimed at extending the protective nature of the Domestic Violence Act 1986, particularly in situations where there is an ongoing risk to victims. This Bill amends the principal legislation, which was only recently amended by Ms Tucker. These amendments refine further the legislation by replacing all the grounds for obtaining a protection order in section 4 of the Act with one simple ground, that is, that the respondent engaged in conduct, in respect of the aggrieved person, which constituted domestic violence under the Act. The amendments will not only serve to extend the protective nature of the Act but also provide greater consistency with the provisions relating to restraining orders.

A definition of domestic violence has been inserted in the legislation to ensure that the range of conduct covered by the legislation is clear. This enables an applicant to rely on a broader range of conduct that may not constitute a specific offence, such as threatening conduct not otherwise included in the definition of "domestic violence offence". This particular amendment serves to enhance the integrity of the Act by extending the protection of the Act more broadly to cover conduct which is not overt or physical.

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This Bill also amends existing legislation to broaden the scope of the restrictions and prohibitions that are made by the court. The amendment enables the court to make such orders as it thinks fit, rather than being restricted to the finite list of prohibitions currently set out in section 9 of the Act. The integrity of the Act has also been enhanced by making the protection afforded by the Act more accessible for people who are unlikely to obtain protection without special assistance.

Provision has been made in this Act and the Magistrates Court Act to enable the Community Advocate to apply for protective orders on behalf of those who are unable to represent themselves either because of legal incapacity or mental incapacity. There are safeguards in the legislation to ensure that the Community Advocate is an appropriate person to make an application on the person's behalf in the circumstances.

A provision has also been inserted into both Acts to provide that, where the applicant is the Community Advocate, the person for whom protection is sought shall be a party to the proceedings. The benefit of having this provision is that it will enable the protected person to make an application to vary or revoke existing orders on behalf of the person where circumstances have changed.

This Bill is also aimed at improving the efficiency of court procedure and practice in relation to the timeframes required for the listing of an application for hearing and for the service of interim protection orders and protection orders on a respondent. The legislation, as it currently stands, requires that an application for a protection order be listed within two days of the date on which the application is filed. The legislation has been amended to allow for a more flexible timeframe of up to 21 days in situations where an applicant is not seeking an ex parte order and may know that the two-day period will not be sufficient for the respondent to be served with an application. This avoids the necessity for an applicant to come back to the court and apply for an extension.

A similar problem has been identified in relation to the duration allowed for interim protection orders. Under the existing legislation, an initial protection order remains in force for a period not exceeding 10 days. This Bill enables a court to grant an interim protection order for more than 10 days where the court is satisfied that it is likely that the 10-day period would not be sufficient for the respondent to be served with an initial interim order or the application for the protection order.

This Bill also seeks to improve the efficiency of court procedure and practice relating to consent orders and variations or revocation orders made by a magistrate. The Bill enables the court to make an interim protection order or vary such an order in particular circumstances where a respondent has not been served with an application. Because we are mindful of the need to ensure an appropriate balance in the process for both applicants and respondents, the respondent is also able to make an application to vary the interim variation order.

A provision has been inserted in the Act to enable the court to order a party to compensate another party if satisfied that the conduct of the party has been frivolous or vexatious or has not been in good faith. I believe, Mr Speaker, that the inclusion of this provision may go some way towards reassuring those who see protection order legislation as enabling an abuse of process.

A new reform initiative has been inserted in the Bill to enable the court, at its discretion, to provide positive directions to parties. The amendment has been introduced with a view to enabling the court to recommend that a party participate in any counselling program or training, rehabilitation or assessment specified by the court.

For the purposes of enhancing the clarity and the application of the law in domestic violence matters, this Bill reviews a number of the existing provisions in the Act. The Bill revises the scope of restrictions on publication or printing of proceedings and inserts a new provision in the Act to clarify the application of existing evidentiary procedure in domestic violence proceedings. In addition, the Bill amends the Act to insert references to relevant procedural provisions in the Magistrates Court (Civil Jurisdiction) Act which apply to proceedings under the domestic violence legislation. The aim of these amendments is to enhance the clarity of the law by having a single legislative source of reference. The legislation has also been amended with a view to improving the overall language used in the Act and improving the layout of the Act.

Mr Speaker, this Bill encompasses the first comprehensive review of civil issues relating to domestic violence in the Territory since the Australian Law Reform Commission's report in 1986. I believe that these amendments, together with the others previously introduced - and in particular I refer to the effect of protective orders on owners of firearms - will not only make improvements to the practice and procedures to protect victims of domestic violence in the ACT but also ensure that the Territory remains in the vanguard with respect to domestic violence legislation. I congratulate the Community Law Reform Committee on both its reports and commend the Bill to the Assembly.

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

MAGISTRATES COURT (AMENDMENT) BILL (NO. 3) 1997

MR STEFANIAK (Minister for Education and Training) (10.39): On behalf of the Attorney-General, I present the Magistrates Court (Amendment) Bill (No. 3) 1997.

Title read by Clerk.

MR STEFANIAK: I move:

That this Bill be agreed to in principle.

I have already made comments on this Bill in the presentation speech on the Domestic Violence (Amendment) Bill (No. 4) 1997.

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

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**PROTECTION ORDERS (RECIPROCAL ARRANGEMENTS)
(AMENDMENT) BILL 1997**

MR STEFANIAK (Minister for Education and Training) (10.40): Mr Speaker, on behalf of the Attorney-General, I present the Protection Orders (Reciprocal Arrangements) (Amendment) Bill 1997, together with its explanatory memorandum.

Title read by Clerk.

MR STEFANIAK: I move:

That this Bill be agreed to in principle.

The Bill amends the Protection Orders (Reciprocal Arrangements) Act 1992 to allow for the registration and enforcement of protection orders made in New Zealand. It does not derive from the recommendations of the ACT Community Law Reform Committee as do the amendments to the Domestic Violence Act and the Magistrates Court Act introduced today. The Government has decided to take the opportunity to include it as part of this package, nonetheless. In keeping with the other reform initiatives in this legislative package, this Bill extends the scope of protection offered to victims of domestic violence in the Territory.

On 14 March this year a formal decision was made by the Standing Committee of Attorneys-General - excluding South Australia, which already recognised New Zealand orders - to amend legislation relating to portability of restraining orders to allow for recognition and enforcement of New Zealand orders. This Bill fulfils that undertaking given to the SCAG meeting by this Territory.

This Bill uses the terms "recognised court" and "recognised order". A recognised order is defined as including an order made under New Zealand law. The Bill enables victims who have obtained a protective order in New Zealand to be protected in the Australian Capital Territory. A New Zealand order can be registered in the Territory by filing a certified copy of the order in the ACT Magistrates Court. The effect of registration is that it allows New Zealand orders, and any other foreign protection order that may be recognised by the Territory, to be enforced, varied, cancelled and extended as if it were a protection order made under our legislation on the date of registration.

New Zealand domestic violence legislation already makes provision for the enforcement, in New Zealand, of final orders made in Australia or any State or Territory of Australia. It is therefore important that the Australian jurisdictions reciprocate this and enable the registration of New Zealand orders in Australia, particularly given the extent of movement of individuals across the Tasman. I commend the Bill to the Assembly.

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

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 4 of 1996 -
Government Response

Debate resumed from 11 December 1996, on motion by **Mr De Domenico:**

That the Assembly takes note of the paper.

Question resolved in the affirmative.

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Report on Nudurr Drive Construction - Government Response

Debate resumed from 11 December 1996, on motion by **Mr Humphries:**

That the Assembly takes note of the paper.

Question resolved in the affirmative.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 4 of 1995 -
Government Response

Debate resumed from 11 December 1996, on motion by **Mr Stefaniak:**

That the Assembly takes note of the paper.

Question resolved in the affirmative.

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 5 of 1996

Debate resumed from 11 December 1996, on motion by **Mr Moore:**

That the report be noted.

Question resolved in the affirmative.

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DAY AND HOUR OF NEXT MEETING

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

That the Assembly, at its rising, adjourn until a day and hour to be fixed by the Speaker either:

- (1) at the request of the Chief Minister; or
- (2) on receipt of a request in writing from an absolute majority of members

and that the date and time of meeting shall be notified by the Speaker to each member in writing.

JOINT COMMONWEALTH-A.C.T. REVIEW OF THE GOVERNANCE OF THE A.C.T.

MRS CARNELL (Chief Minister) (10.45): Mr Speaker, I seek leave to move a motion relating to the Review of the Governance of the ACT.

Leave granted.

MRS CARNELL: I move:

That this Assembly supports the joint Commonwealth/ACT Review of the Governance of the ACT, being chaired by Professor Philip Pettit and recommends that the Fourth Assembly gives serious consideration to the report arising from the Review.

Mr Speaker, it is with great disappointment that I feel I have to move this motion today but I suppose I move it with a degree of excitement as well. This week I received a letter from the chair of the joint Commonwealth-ACT Review of Governance in the ACT, Professor Philip Pettit, which I table. It would be a good idea if it were circulated as well because I think it is important that people read the letter. He advised me that he has had discussions with various members of the Assembly, namely, the Leader of the Opposition, Mr Berry, and members of the crossbenches, concerning the review. Understandably, Professor Pettit was seeking an assurance that if a new government is formed after the February election there will be enough support for the review to ensure that the committee's recommendations are not shelved without a fair hearing.

I am advised by Professor Pettit that this assurance has not been forthcoming. I understand that Mr Berry in particular has advised that he is unable to provide Professor Pettit with the assurance he requested. Mr Berry expressed concern about the timing and the terms of reference of the review. I understand that he also advised Professor Pettit that if there had been any discussion in the Assembly about the review then it would not have been endorsed or the terms of reference would have been different.

Professor Pettit makes that comment in his letter. He also comments in his letter that Mr Berry indicated that members of the Assembly were not asked for input into the terms of reference or the make-up of the review. I have to say that that is not the case. I would like also to table a copy of the letter that I circulated to all members of the Assembly. This is the one to Mr Berry.

Mr Berry: What date?

MRS CARNELL: It is dated 13 October. I also circulated letters to other members of the Assembly with regard to the proposed terms of reference and did get back input that in many cases was included. I think Ms Tucker and the Greens indicated that they wanted to make sure that Hare-Clark was not part of the approach. I included that. Others put forward ideas on how we could improve the terms of reference. Many of them were included in the terms of reference. I understand that some crossbenchers have had some concerns. I am not for a moment suggesting that Mr Berry is the only person with concerns about the way the review was set up, but the crossbenchers were basically supportive of the approach that was taken.

Mr Speaker, as I am sure you will understand, I am deeply concerned about this. Not only does this put Professor Pettit in an extremely difficult position but I am also concerned that some members do not seem to have the decency to be open about the process which I believe has been put in place to establish this review. All members in this place were consulted about the terms of reference of the review. I wrote to all members on 13 October seeking comments on the terms of reference. I have the feedback that members gave.

I made the point that I was disappointed that I had to bring this motion forward but also quite excited. The reason that I am excited is that I believe that this term of the Assembly has shown a change in the way the Assembly operates, and I think a change for the better. Over the last six months or so the Government has become more experienced in the sorts of approaches that work in a minority government and the sorts of approaches that can improve community consultation, and I think we all have matured somewhat. It gives me a great feeling that there is a real opportunity now to take another small step forward, or maybe a big step forward, in governance in the ACT. I feel that the time is right to do that now that the Assembly is a little older and maybe a little wiser as well. I would like to see this inquiry look at the sorts of things that we might be able to do to make our Assembly more responsive to the people of the ACT, to make our Assembly more democratic and to make our Assembly more participatory. They are things that I know Mr Berry cannot understand that we actually believe, but we do.

Mr Humphries and I have argued long and hard, both at party level and in this place. I believe, and I know this side of the house believes, that the olden days of governments being elected every three or four years and the community being willing to allow them to get on with the job, or even the Executive to get on with the job, without community input have gone. I also believe that the days when members of this Assembly may have been willing to allow that to happen are gone too, and rightly so. We believe strongly that there needs to be a process in this Assembly that allows all 17 members to have more direct input than might have been the case in the past.

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I do not think this review should have come as a surprise to anybody. Mr Berry is indicating that it is some sort of a stunt. Mr Speaker, as you would know, that simply is not the case at all. Mr Speaker, you would be aware that over the last two years the Government has undertaken extensive consultation about the governance of Canberra. Mr Osborne has made comments on this; other members of the Assembly have made comments as well. Mr Speaker, we have had two major vehicles for consultation on this issue. One was the "Governing Canberra" report, which was released for community consultation in February 1996, and the other was the National Capital Futures Conference.

Mr Berry: Which was just another wasteful stunt.

MRS CARNELL: Mr Berry just said that the National Capital Futures Conference was a stunt. I am just stunned. I just cannot believe that those opposite believe that an opportunity for the community to have direct input into a conference of this nature is somehow a stunt. The people who spoke at the National Capital Futures Conference and who have been part of this whole process, the vast percentage of them certainly not aligned to the Liberal Party, do not share Mr Berry's view that this is a stunt.

Mr Speaker, we believe that there are better ways to run this Assembly, but we also believe that there needs to be an independent look at governance in the ACT. Professor Pettit, I can promise you, is not somebody aligned to the Liberal Party. He is certainly somebody who is not aligned to government at all. We chose him for that reason. We did not want it to be seen to be a stunt or something that was set up just to come up with a particular outcome. Mr Speaker, for Mr Berry to suggest that somebody like Professor Pettit would be involved in a political stunt for the Liberal Party is simply unacceptable. Those opposite seem to believe - and I cannot believe that they believe this - that the people of Canberra are happy with the way this Assembly works all the time.

Mr Berry: They are not happy with the Government.

MRS CARNELL: Mr Berry is saying that if there was a different government they would be absolutely happy with the way the Assembly works. Mr Speaker, there is no doubt that the Assembly has grown up, has matured and works better every year, but that does not mean there are not ways to improve even further; that there are not ways to ensure that every member of the Assembly has more input into government; that the community generally has more input. I believe that this is a critical review. I believe that this is at the appropriate time. The Assembly runs into its tenth year next year. It would seem to me that its tenth year, just before the turn of the century, is a good time to have a look at the way we are operating.

All members did have an opportunity to have an input into the terms of reference. I believe that those opposite missed an opportunity to change the terms of reference if they did not like them, but that is their deal. I think that it is important for us as an Assembly to send a message to the next Assembly that we would like them to give serious consideration to whatever this report decides. That does not mean that they have to support it. What it does mean is that if we are going to spend some dollars, and certainly a lot of time, looking at this very important area a new Assembly really should look

at it seriously. They then need to make the decision that they are elected to make. That is the decision whether or not to put some of the recommendations in place. That is for the new Assembly to decide. I would like this motion to be passed this morning to send a message that says, "We would like it to be looked at seriously. Do not just put it on a shelf. Do not just shove it in a cupboard". Let us make sure that it is looked at seriously. Let us make sure that Professor Pettit and the other two members of the committee are given a clear message from this Assembly that we do support the work that they are embarking upon - we do not necessarily support the outcomes, because we do not know what they are yet - and that we will look at it seriously in the new Assembly.

MR BERRY (Leader of the Opposition) (10.57): I am delighted that the Chief Minister has brought this matter to the Assembly at last. It is a great pity, though not surprising, that the Chief Minister did not consult properly with members. When I say "properly", I mean consult with members at the contemplative stage before making the decision to determine whether in fact there was keen support for this review. If that had been the case, Professor Pettit may not have been put in the embarrassing situation that he has been put in by this Government.

Mr Speaker, I saw Professor Pettit and he asked me to give certain undertakings. As a result of that meeting, I wrote him a letter. I will read it into the record:

May I first of all thank you for putting aside time ... to meet and discuss with me the ACT and Federal Governments' Review of Governance in the ACT. Regrettably this was the first occasion where I have been able to formally express an opinion about the Review and the decision for it to proceed.

You made the decision before you sent the letter out. I will come to your letter in a moment. This is the most dishonest piece of work I have seen for a long time, though again not one that shocks me. My letter continues:

I was most concerned to hear your advice that your acceptance of the position as chair of the Review was on the then understanding that the Review had bipartisan support.

Who gave him that impression? Labor was not consulted about the idea and has never expressed support for the review and remains of that view. The letter further states:

As I explained to you, I have concerns about both the timing of the Review and the terms of reference. I am of the view that it is not appropriate to conduct a Review in the heat of an election campaign. I also believe that wider discussion and involvement of all parties in the Assembly would have yielded different terms of reference if a review at this time was endorsed at all.

Whether the committee proceeds is not a matter for me to decide, and any decision about the continuation of the committee or acceptance of any report it might produce would be a matter for consideration by an incoming Labor Caucus.

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I want to assure you that my concerns do not relate to your appointment as chair, nor to the appointment of other committee members as I accept that your and their participation has been entirely in good faith.

Mr Speaker, that is the position that I adopted. I want to foreshadow an amendment to this motion which I think goes to this issue. My amendment will cause the motion moved by the Chief Minister to read as follows:

This Assembly recommends that the next Assembly instigate a joint Commonwealth-ACT Review of Governance of the Australian Capital Territory.

Then they would be in a good position to examine the effects of the latest version of the electoral system on the electorate. I do not believe that the electoral system should be left out of the review, by the way.

Mrs Carnell: We had a referendum. It is entrenched.

MR BERRY: Somebody says, "It is entrenched". Does that mean that it can never be looked at again? No, of course it does not. That is the very point that I make. This place is the product of an electoral system. If you are looking at this place and the way that it operates, it is fair that you look at the electoral system which created it, for heaven's sake. You cannot look at one and not the other if you are looking at governance in the ACT. I am saying to you that I would never have supported a review going forward without the review looking at the electoral system. It is crazy to do so and it is dishonest to do so, because you are misleading the electorate into a position where they might consider that the matter is being properly looked at. It is not, if the electoral system is not being looked at.

Mrs Carnell, you raised this letter that you sent to me on 13 October, after the decision was made. That letter reads:

I am writing to you about the proposed joint Territory-Commonwealth review of self-government.

I have enclosed draft terms of reference for the review, and I would appreciate your comment on them. Your urgent advice would be appreciated as the incoming Minister for Territories, the Hon. Alexander Somlyay MP is keen to settle them and the administrative arrangements for the review as soon as possible.

The review was going ahead no matter what. The decision had been made. It was a stunt from the start. It was about creating the impression that Kate Carnell was doing something about self-government in the ACT, trying to rake over the old coals and trying to extract some popularity out of her concerns about self-government. That is what this stunt was about. It was a pre-election stunt. It has nothing to do with the quality of governance in the ACT. It is about the quality of publicity that Kate Carnell can bleed

from a particular activity. If you were fair dinkum, you would have come to people and talked to them before any decisions were made. No, you agreed with the Minister before you spoke to anybody; so do not give me any of this rot about consultation. You did not consult. You have placed Professor Pettit in an embarrassing situation as a result. I am telling you that we do not support the review at this stage and will not be voting for it. I am not giving any guarantees about a review throughout an election period. I am not giving any guarantees about a review that does not take into account the electoral system. It is impossible for a review - - -

Mr Moore: Because Labor hates the electoral system. It has always hated it.

MR BERRY: No. The problem in the ACT is the Government - the Kate Carnell, Michael Moore, Paul Osborne, Greens Government. That is the problem. They are the Government. They are the ones who hold it together. They are the ones who jointly take responsibility for all the things that have gone wrong - the hospital implosion, the futsal stadium. They all share in those sorts of little problems. The Government is the problem. Mrs Carnell wants to shift the responsibility for all these dud decisions onto some review of ACT government.

I have said all I need to say in relation to the review. I am sorry that Professor Pettit has been caught up in this mess. I know that he would deal with it in good faith. We will not be supporting a review which does not include the electoral system. That is not to say that the electoral system would or would not survive such a review or would or would not get the endorsement of such a review. You cannot consider governance in the ACT without looking at the electoral system. Let us just have a look at one aspect - - -

Mrs Carnell: You just cannot handle minority governments, and they are actually quite workable.

MR BERRY: Of course they are, especially if Labor have their hands on the levers. What has happened here is that the Independents and Greens have allowed you to impact your conservative agenda on the ACT electorate and impact your media-driven stunts on the electorate of the ACT. That is the problem. Your leadership is the problem, Mrs Carnell. We would have stopped and waited for the breathalyser. Mr Speaker, this is just another Carnell stunt and I will - - -

Mr Stefaniak: You are at a loss for words now.

MR BERRY: No, I am just reading my amendment that I am going to circulate. It recommends that the new Assembly investigate a joint Commonwealth-ACT review of the governance of the Australian Capital Territory. I would expect that, following on from that, the next Assembly would set terms of reference which were quite appropriate for such a review.

Ms McRae: Together.

MR BERRY: Together. That is most important. Together we would set them. Let us have a look at how the electoral system affects the ACT. There has been much criticism of the adversarial nature of the parliament.

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Mr Moore: There would be no adversarial nature if you had 17 Labor members.

Mr Stefaniak: You do not help.

MR BERRY: Listen to them all being adversarial. There has been much criticism of the parliament being too adversarial. Is there something wrong with pursuing one's ideas with passion? Who is the most adversarial person in the place? She is sitting straight across the chamber from me. Set the standard in this place. This is intended to distract attention from the failure of the Government to satisfy the needs of the electorate. I understand why the Greens might say that they do not want the electoral system in. They do not want anybody to think about it. They do not want to think about the relationship between the electoral system and the economy of the ACT. They do not want any cerebral effort to go into that at all. The same applies to Michael Moore. Mr Moore is rusted onto the electoral system and does not want any intelligent reassessment of it ever, because he cannot think beyond the boundaries of it. He is locked into it. Labor, in fact, endorses the Hare-Clark system.

Mrs Carnell: You campaigned against it.

MR BERRY: Labor endorses the Hare-Clark system. It has been a decision of the people and we endorse it. We have taken some policy decisions where we think it should be simplified so that there can be more choice for the electors. There should not be the hobbles on freedom of speech which have been endorsed by incumbents in this place. These are the people who say they want an open and democratic system, but they make sure they have an electoral system that supports only incumbents. The ones who make the most noise are the ones who get elected. Mr Moore laughs across the chamber. Why is it, Mr Moore, that you are rusted onto the process where people in this place are allowed to form a party with no members, but anybody outside has to have 100 members? Funny! Do not give me any of your altruistic comments about open democracy, Michael. You are not interested in it; you are only interested in yourself. Mr Speaker, this is a stunt and always has been. If the motion is not amended along the lines of my amendment, we will not be supporting it. I move:

Omit all words after "Assembly" (first occurring), substitute the following words:

"recommends that the next Assembly instigate a joint Commonwealth/ACT Review of the Governance of the Australian Capital Territory".

MS TUCKER (11.12): This motion gives us an opportunity to raise a number of issues. I do have some concerns with the process. I support Mr Berry's concern that this review came out of the National Capital Futures Conference and was announced by the Government without full consultation. I am concerned that it came out of the National Capital Futures Conference, because even though I did participate in that conference and work with it - and I acknowledge the positives that came out of it - I did clearly state that I did not think that any resolution that came out of it should be seen as a definitive statement from the community of Canberra. I was therefore rather

alarmed when I saw this coming out as if it were a direction from the National Capital Futures Conference and therefore a very definitive statement with a lot of weight behind it. I was at the forum where the idea came up, and I was not overly impressed by how the forum was run or even sure whether a review was representative of the views within that very small group, let alone the desire of the community.

However, I do think there are merits in having a review such as this. While I did express concern initially about it coming out of the National Capital Futures Conference, when I heard that Labor was being totally oppositional to the whole idea I also said that I was concerned that people should be asked to put in a lot of time and effort to make submissions to this review if the whole thing was going to be dropped in the next Assembly, if Labor had the numbers to do that. I was concerned that it could be a waste of time for the community and for people in this Assembly.

We wrote to Mrs Carnell expressing views about the terms of reference. One of them, as Mrs Carnell said, was that the Hare-Clark system should not be part of the terms of reference. Our reason was that the Hare-Clark system had been agreed to at an ACT referendum and that not enough time had passed since. I would suggest that you need to let 10 years pass before you can evaluate a voting system. It was too early to look at that. I am not saying that it should never be looked at again, although of course I am a very strong supporter of the system, because I believe its proportional nature provides for a much greater range of political interests to have a chance of achieving representation in the Assembly than other voting systems would allow. This enhances the democratic nature of ACT self-government, which we believe must be a very important goal.

We are a unicameral system. We work very well with a minority government in terms of accountability and the way the crossbench is able to work with either of the older parties. I heard Mr Berry spouting off about the Liberal-Green-Independent alliance. I guess we can look forward to this for the next few months. It is a fairly predictable negative campaign. We have already heard it mooted by Labor itself that this is how they want to do it. I guess that we just have to keep pointing out that we have looked at issues on their merit as they have arisen. We have voted with Liberal and Labor pretty well equally, if you look at the figures. If you look at the number of divisions called, that may not be absolutely clear. You would have to look at the issues being voted on. As we have pointed out, on very significant issues in this town, especially planning, we have seen Labor and Liberal voting together against the crossbench. Our challenge is to counter the misinformation that no doubt Labor is going to be consistently pushing out. Because they do not have any positive ideas of their own, they will try a negative campaign.

Another comment we made to Mrs Carnell about the terms of reference, which she did not pick up, was that we wanted to see the working party expanded to include greater community representation. Another comment we made was that the terms of reference should specifically note that the review should examine and report on mechanisms to more effectively involve all Assembly members in the governance of the Territory. In her response, Mrs Carnell felt that this was actually dealt with in the terms of reference where they say:

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The review will examine and report on the governance of the ACT since the commencement of self government in 1989, with respect to the operations and organisation of both the legislature and the executive.

I am saying here today that that could certainly incorporate what we asked for. I want to see a commitment from government, and will certainly be expressing this view to Philip Pettit, that serious and clear interest will be given to how we can involve people or members of the Assembly more in the workings of this place. I think it is one of the critical issues, and it is one of the things that the Greens have raised consistently. In the last election Mrs Carnell came in on a platform of council-style government. We have not really seen that in evidence. Mrs Carnell claimed today that this Assembly has matured and that more cooperative work has been occurring. I think that that is quite true and that there has been an improvement in the way some members in this place have worked, and that is useful. That is why I think there is a case for this review starting now. If this review gives members of this Assembly and the new Assembly equal opportunity to have input, then I think it would be more useful than just having members of the next Assembly making an input. Who knows who will and will not be here next time? Mr Osborne has put up substantial proposals that can be incorporated into this review. The Greens have consistently raised questions. Why not bring into this review what has been learnt by some members in this Assembly and then allow the next Assembly to have equal input so that we can come up with a report that incorporates the experiences of the old Assembly and brings in the new ideas, if there are some, of the new Assembly?

That is basically why I think that this review is worth supporting. We should not be afraid of looking at how we can improve the way we work. Participatory democracy and inclusive ways of working will bring about outcomes that will benefit the community. As leaders, we should show that we are prepared to challenge our own workings and see how we can improve them. I am therefore quite happy to support this motion, but not Mr Berry's amendment, for the reasons that I have stated, although I want to repeat that I want to see a commitment from members here that the terms of reference will include a close look at more inclusive practices and ways of working here; that there will be an opportunity for community input; and that a reasonably long time will be given in the next Assembly so the next Assembly has equal opportunity to have input.

MR WOOD (11.22): The fact is that we have a unique Assembly here. I think all of us have commented on that at some length over a period. In large degree, the nature of this Assembly was determined by the Federal Parliament about 10 years ago. More than that, there has been significant development internally over the life of three Assemblies. We would expect that development to continue in the next Assembly. This Assembly has shown that nothing stays quite the same. Mr Berry has indicated his support for another review process, but has indicated, I believe quite properly, that that should be in the hands of the next Assembly. This Assembly has one chamber. It covers both State and Territory functions, it has fixed terms and it has unique systems that have been developed over three years. No-one would argue that it is the best possible system we can have. We would never achieve that. Everybody would argue that we should look continually to improve what happens in this place. Nobody would resist that, if it were done in a proper and reasonable way.

This Assembly is unique in another way too. To my knowledge, it is the only parliament in Australia, perhaps the only parliament anywhere, where nearly a quarter of the members elected at the first election did not want self-government and were pledged to overthrow it. We had three members of the No Self Government Party and one member of the Abolish Self Government Coalition. That was a reflection of the substantial opposition to self-government in the ACT. It was recognised then that a very large proportion of the ACT population did not want self-government. They had been mollycoddled for so long that that was perhaps an understandable view, and perhaps the concept was not well sold to them.

That opposition has diminished. Let us call it a reserve now. That reserve about self-government remains a fact of life in the ACT. A substantial number of voters are still not convinced about self-government. That is good reason for us to look at it and see how we can improve it. Politicians and parties are well aware of that residual reserve about self-government. Do not forget those four members in the First Assembly and one in the Second Assembly. In the election campaign three years ago attempts were made to exploit that reserve. Three years ago the Chief Minister, on behalf of the Liberals, ran the line that we needed a council-style government. Why that line? I have no doubt that the Liberals' polling showed that reserve about self-government. Three years ago we had a stunt very like the stunt that we are debating today. The Liberals were all about council-style government. I have not seen anything come of it. The Liberals formed the Government. I have not seen any firm proposals here about council-style government. We have a repeat performance now. Mr Osborne is in tune with those sentiments in the community and he too has been talking about council-style government or a different style of government. For the Liberals, it is election time again. They cannot run their council line once more. That would not hold with the community because it has been run before. Someone else may be able to run it but the Liberals cannot. What is the stunt on this occasion? It is a review of government, a joint review with Federal and Territory involvement.

What will come out of this review? I do not think anything will come out of it as it stands at the moment, because it is a stunt. It is not designed to produce anything other than a view in the community that might attract some votes. That is what it is about. That is what this debate today is about. If Mrs Carnell was serious about her intention to look objectively at this, she would have come to this Assembly in the first place. We would have had this debate three or four months ago. If the Liberals were serious, that is when we would have had this debate. The Chief Minister was kind enough to allow us, before any announcement, to comment on the terms of reference but not to comment on the process at all. It was designed as a stunt, like the debate we are having right now. If the Chief Minister was looking at anything more than a stunt, she would have given notice of this debate today. We would have known about it at least yesterday, or perhaps earlier in the week when the business program was being discussed. It was dropped on the Assembly at a moment's notice in order to run a line. That is the whole story. That sets it in context. The Chief Minister says, "This is something that I want to send out to the public to try to attract some votes".

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In accordance with the Labor amendment, let us look at the review in the next Assembly. Let us give it a serious base. Let us take it on from there, as we all would agree, to improve and refine, as far as we can, the operations of the Assembly. That will not be achieved if it is a stunt, as this is.

MR MOORE (11.28): Mr Speaker, I can understand why Labor would say that this is a stunt. After the response that they gave to Professor Pettit, they really have no other choice. They really feel cornered, as indeed, I suppose, Professor Pettit also feels cornered. It is interesting to me, Mr Speaker, that for years - from the very time that Mr Wood talks about, when people opposed to self-government were elected to this Assembly - I have heard people bagging the Assembly. I have observed people stand up here and say, "I am not a politician". It was a favourite saying of Dennis Stevenson. Of course, the irony, as all of us observed, was that he operated as the archetypal politician much more than anybody else did. Yet he would still constantly argue that, for whatever reason, he was not a politician.

Additional to that, I observed many times people bickering over things that do not matter. That bickering over things that are not important, as opposed to discussion and differences of opinion, has increased with the election of Wayne Berry as Leader of the Opposition. His goal has been much more to find ways to oppose things than to look at matters, see where there is agreement, see where compromises can be made and then work out where we have differences so that those differences can become part of a debate in this place and in the community. There is a difference in emphasis.

Through all that, I have sat back and watched people from the public and some people from this Assembly bagging the Assembly and saying that it is a mess; it is not working; and so on. It is an easy thing to say. It gets reported again and again, and it gets reported widely. The constructive things that are done in this Assembly and how well the Assembly works are reported. Certainly, when I raised this issue on ABC radio, people leapt to the defence and said, "Yes, we reported it". To be fair, in the particular instance that I did raise it, ABC radio had run an issue fairly widely; but that was about it. It had been reported; but, as we all know, there is a big difference between a bagging of the Assembly being reported on page 1 and an achievement of this Assembly in working together in a cooperative way being reported on page 6, in the left-hand corner down at the bottom.

We all know the difference. Indeed, we also know that our colleagues in the media are aware of that. When you actually speak to people who have worked in this Assembly as observers and have been elsewhere or to people who have looked at other parliaments, invariably they recognise that this Assembly works extremely well. One of the most significant examples of that, I think, is Matthew Abraham. He had worked in South Australia and in the Federal Parliament. He monitored this Assembly for some years, and then went back to South Australia and reported on the South Australian Parliament. He was very open in observing how well the Second Assembly was working.

Since that time, there have been more improvements. We have strengthened our committee system. Through a motion originally put by Terry Connolly, we have the power to disallow subordinate laws. It is a very rare thing. My legislation amended that to allow us to not only disallow but amend. We have the Statutory Appointments Act.

Just the other day, we passed the Administration (Interstate Agreements) Bill. These are all things that make the Assembly work better. In almost all of those cases, there has been fairly widespread agreement. There may have been disagreement on details. Even now, when we look back at them, we find that, even when there was disagreement, people said, "They have had an impact. They work".

It seems to me, Mr Speaker, that there are many things here that we have to be proud of and there are many ways in which we have attempted to improve the workings of this Assembly for the benefit of the people of the ACT. From my perspective, they include the work that was done by Chief Minister Rosemary Follett on the 2020 vision. It was an issue that she had originally been reluctant to take on; but, once the motion had been passed in this Assembly, she took it on and did it extremely well. It was a great credit to her and her Government, of which Mr Berry was a part. Then that moved on in terms of developing a strategy, and through that we looked at "Governing Canberra". It came back to the National Capital Futures Conference, where many of these things linked together.

There is no doubt that there is room for improvement in the way we operate. There will always be room for improvement in the way we operate in this Assembly. After I had attended that National Capital Futures Conference and had expressed significant disquiet about some of the things I heard, the Chief Minister announced that she would be putting this matter to a committee for it to be considered. It seemed to me, Mr Speaker, that the critical factor was ensuring that we had somebody to chair that committee who would be seen as independent. That is why I approached the Chief Minister and nominated Professor Pettit.

Mr Berry: Thanks for consulting me, Michael. You are just as bad as they are.

MR MOORE: By the way, Professor Pettit had written a joint article with me opposing one of the fundamentals that Kate Carnell had pushed - citizen-initiated referenda. He had also very recently published a book on governance, on the philosophy of democracy. To support my argument that he was the appropriate person, I provided to the Chief Minister and Mr Humphries copies of a summary that he had written in his book called *Republicanism*. Just a short time ago, Mr Berry interjected, "Well, thanks for consulting me". Wayne, every time I have consulted you in the last while, since you have become Leader of the Opposition and before, whatever it is that I have worked on you have wrecked. I will not consult you if you continue with that kind of approach. What I do instead is seek to work with other members of your party on whatever the issue is that they have responsibility for. When you do not work on a wrecking basis when you are consulted, I will be delighted to go back and open that process. I invite you right now to continue that process.

Mr Berry: If you ever get a good idea, it would be a good start.

MR MOORE: I will take that interjection. I realise that you think I never have a good idea. Since I never have a good idea, what is the point of consulting with you? In this case, I actually thought that I had a very good idea for the nomination of somebody who - - -

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Mr Berry: Well, why did you not ask me?

MR MOORE: You ask again: Why did I not ask you? I just explained. My experience has taught me that you would go about finding a way to wreck any idea. That has been my experience since you have become Leader of the Opposition, because that is the way you perceive opposition. The fortunate part is that that is not the general view of members of your party. But this was an area for which you had responsibility.

I would like to make a couple of comments on why the electoral system ought to be left out of the consideration of this report. We have to set a certain basis for it. The basis that we already have is the Hare-Clark electoral system. It has been to a referendum. It has been supported by a two-thirds majority of people for its establishment and also its entrenching. That means that we have a very good basis upon which to start. I would say to you and I would also say to Professor Pettit that, as the electoral system has been entrenched, that should remain the basis. The issue you raised, which I think is the issue of how-to-vote cards, I do not see as being part of - - -

Mr Berry: No - - -

MR MOORE: You did raise that issue as part of - - -

Mr Berry: No; it is not the only issue.

MR MOORE: I realise that you think it is not the only issue; but you did raise the issue of how-to-vote cards. We will deal with that later. It seems to me that that is an issue that should be up for grabs. I do not think that is excluded when we say that we exclude Hare-Clark as entrenched. You also say, "We should include the electoral system". If we were to include the electoral system now, it would mean a huge amount of extra work and work that we ought not be doing. (*Extension of time granted*) That electoral system forms a basis for what happens here and what happens in government. To go and reconsider that now, when it has been operating for such a short time, would be a ridiculous waste of time and effort. That has to be considered as taken, in so far as it is entrenched.

I have no problem with modifications to the electoral system, as have been made in here, including how-to-vote cards, being presented to the inquiry to look at. They will not change the fundamentals of what happens. It seems to me that what we should have is those parameters. There is no point in getting into a debate here on how-to-vote cards because we have already had the debate. We know why we have differences of opinion. Those differences of opinion are, largely, you would argue, about free speech. We would argue that what you are really trying to do is entrench the power of the parties.

I will just add one more comment. You did say that the system favours incumbents. Indeed, if you look, as I did, at how it operated in Tasmania you would find that just the opposite is true. The only systems that really favour incumbents are those where a party appoints its people to key positions and safe seats to protect its favoured sons. Mostly it is favoured sons; occasionally it is favoured daughters. But almost invariably it is favoured sons. That is the experience of single-member electorates around Australia. But that is a debate for another day.

What we have here is a letter from Professor Pettit where there is an embarrassment. I can understand that embarrassment. I will support the motion of Mrs Carnell. I will oppose the amendment put by Mr Berry because I think this is an appropriate opportunity and appropriate timing to have this review and to report fairly soon into the new Assembly, so that those of us who are here - if we are fortunate enough to be re-elected, if indeed it is the will of the people - will have the opportunity to look at those things and see what we can do to implement an even better system of government. It seems to me that this Assembly and the people of Canberra are very fortunate to have the talents of Professor Pettit, a world-renowned philosopher. I look forward to that report and to seeing where I can be involved in implementing what is in that report.

MR OSBORNE (11.42): I rise to support Mrs Carnell's motion, Mr Speaker, and I will not be supporting the amendment of Mr Berry. Mr Speaker, if ever anybody has nothing to do on a sitting day in Canberra, they should try this: Go up to the House of Representatives and watch the proceedings. Let me give you a word of advice. Do not go during question time. Take in some of the other sittings. You should not find it too hard to get a seat, although the visitors gallery will generally be more crowded than the chamber. Believe me; you will not "feel the power of Canberra". You will probably see a single Australian Associated Press journalist in the press gallery and a mostly empty parliament. While this pathetic spectacle is played out, the country is being run behind the closed doors of the Ministers' offices. The image is disturbing for those who have eyes to see. What it says is that parliament has become an irrelevance. The action hots up briefly at question time, when the press gallery and the Government come out of their offices and descend on the chamber for an hour of theatre. When it is finished, the chamber quickly empties again, returning to its naturally inconsequential state.

Under changes implemented by the Keating Government, even question time was downgraded. Ministers and the Prime Minister were not subjected to daily scrutiny, but turned up on a roster system. It was another sad blow to our system of government and was all the more disgraceful because it came from a party that claims to represent the little people. Of course, it barely raised a stir in the press gallery, as they were off chasing gossip from their sources in Cabinet.

The chamber of the House of Representatives should be the centre of our democracy; but, after decades of assault on it by the two-party system - by the two old parties - it has been all but gutted of power. Almost all power now rests with executive government. The same is true in State and Territory parliaments around Australia. This country and this city are not democracies. We are ruled by the oligarchy of Cabinet governments. Parliament is simply there to provide the appearance of representation. To be fair, it is a little different here in Canberra. By way of our electoral system, we have never had a majority government in the Territory. Happily, there seems no likelihood of it in the near future. Debates in this Assembly do mean something. Government legislation can go down or be significantly amended. In this way, our system sees a much more powerful parliament than that which operates up on the hill. However, Cabinet - the Executive - still reigns supreme. The real power in any system comes with the control of the purse strings and the bureaucracy, and the Executive in the ACT has that locked up.

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Cabinet has control of the money and the know-how. Members of the Assembly do the best they can to scrutinise the Executive and the way in which public money is spent; but they are doing it with no power over money Bills, with limited resources and with little access to all the information.

Over the past five years, around Australia - and in Canberra - there has been a sinister new development. Public money is being spent on commercial deals stamped "never to be revealed to the community". This is done behind the smokescreen of commercial-in-confidence. Once this brand is slapped on any government undertaking with business, we are all supposed to shut up and just accept the fact that, however public money is being spent, it is all being done with the community's best interests at heart - "money for jam", to use a phrase. I find this deeply disturbing, Mr Speaker, and completely unacceptable. I am surprised that more people, and particularly the media, do not.

I am still a political novice. I make no secret of the fact that I try to make up for my lack of knowledge by talking to people who do know what they are on about. Perhaps the most interesting conversation I have had was one with an official from the Federal Treasury. He asked me whether I knew why Australia had always been a stable democracy. I thought long and hard about this, Mr Speaker, hoping that I would come up with the right answer, because, as you are well aware, I am just a front-rower.

Mr Moore: I thought that you played on the wing.

MR OSBORNE: I did; but I started the game in the front row. I thought that it was because of our democratic systems. We had adopted and adapted a fair system of government, in which everyone had a say at least once every three years, and we really had good and fair electoral systems. He said that this was important; but it was not the most important thing. He said that the foundation stone of our democracy was section 83 of the Constitution. It may surprise you to learn, Mr Speaker, that I was unfamiliar with section 83 of the Constitution. Happily, it turns out to be short - just one sentence. It says:

No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law.

It was not immediately apparent to me how this relatively obscure section of the Constitution anchored our democracy; but the Treasury official was kind enough to explain. He said that the line ensured that there was transparency in dealing with public money. Public money was clearly accounted for, and only the parliament could draw on the public purse. Countries where people could see politicians and bureaucrats growing fat on their taxes tended to be unstable. Section 83 was meant to guarantee as far as possible in a society that the public could see how their money was being spent. That financial transparency ensured democracy.

Having spent nearly three years paying more attention to politics, I can now see the wisdom of his words. Seeing what is happening around me, I begin to worry about the future, about the kind of democracy my children will inherit, because I believe, Mr Speaker, that our system of democracy is under threat. It is not under attack from

external forces, but from forces that are, in fact, even more insidious. It is under threat from an old two-party system which has seen a concentration of power in the Executive, at the expense of parliament. Today, government is by Executive fiat, and parliament is little more than a rubber stamp.

I believe that the de-democratisation of Australia is almost complete. Once every three years, we simply replace one oligarchy with another. Those generally concerned about good government should concern themselves with returning parliament to its rightful place, as the keystone of our democracy. That can happen, Mr Speaker, only at the expense of Executive power, and, clearly, the chief beneficiaries of the system will staunchly resist it. In case you are wondering whom I am talking about, Mr Speaker, I mean the Labor and Liberal old parties. I hold little hope that the trend can be reversed federally. However, I think we have a rare opportunity in the ACT to do something about the imbalance. Who knows; we may start something that captures imaginations beyond our humble Legislative Assembly.

Two points need to be borne in mind when considering our system. First, the Hare-Clark electoral system will generally guarantee that neither of the major parties will be in a position to govern in its own right. Secondly, the Assembly is the smallest chamber in the Commonwealth; so, talent is very thin on the ground. Mr Speaker, it is well known that since early this year my office has been considering possible reforms to the Assembly. It has been a painstaking process as we examine what can reasonably be done to improve the system without damaging all that is worth while. We are not finished yet, Mr Speaker; but, for the record, I will go over some of the areas which we are examining. I believe that one of the key problems in this place is that, in the battle between the Executive and the Assembly, the Assembly is underresourced and often intellectually unarmed. I would like to see the committee system overhauled so that each standing committee mirrors a ministerial portfolio. The committees need more resources; but, to borrow a phrase from the Government, this could be a revenue-neutral exercise, the money to fund this to be drawn from the departments. Often, when dealing with complex financial matters, the Legislative Assembly is unable to properly scrutinise departmental submissions because it lacks the expertise to do so. I suggest that the Assembly adopt the New Zealand model, where the Auditor is given a special allocation which allows his office to assist Assembly committees.

Government in Australia is characterised also by a culture of secrecy. I have tabled a draft Freedom of Information Bill, which was passed in principle. (*Extension of time granted*) I intend to revisit it in the next Assembly, if I happen to be here. However, I hope that other members of the crossbenches will take up the cause, should I not be. I hope that it will, among other things, open up the closed shop of commercial-in-confidence. As it stands, the Assembly has very little say in the way the budget is formulated. The Executive presents the budget as a *fait accompli* and expects the Assembly to pass all, or none, of it. We would like to reform the process so that the Assembly has more scrutiny. This will involve a reform of the way the Estimates Committee works.

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Unlike that of the Federal Parliament, the ACT Legislative Assembly's budget is at the whim of the Executive. The Federal Parliament has the parliamentary departments Appropriation Bill. So, I suggest that there be a separate appropriation for the money needed to run the Assembly and its committees. I also suggest that the Speaker have control of that part of the budget needed to run the Assembly building, the secretariat, the committee system and the parliamentary library. As for the parliamentary library, Mr Speaker, I would like to see it withdrawn from the Department of Urban Services and made a specialist parliamentary library. I would like to increase the budget for both acquisitions and staff. I would like to see research officers appointed by the library and made available to do independent research for the committees and for non-Executive MLAs. I would also like to explore the possibility of strengthening links with the ANU and the University of Canberra to turn the library into a government research centre of national standing.

Mr Speaker, these are some suggestions; but, as I said, the system I am working on is incomplete. What we have examined is how to improve the system within the existing rules that run this place. The review proposed by the Government can go much further and examine the whole box and dice. This is a worthwhile exercise and an opportunity which I will support, no matter what motivated the Government to call for it. As I said earlier, Mr Speaker, I support the review and wish Professor Pettit and his team well. But I will make one last point. The main problem with the system as it stands is the two-party system. The key problem with the Assembly is the same thing that is wrong with every other parliament around Australia: It is dominated by the two major parties - the two old parties - and they ensure that everyone else is locked out of the system. The two old parties do not want real reform of government because they have designed the system to suit themselves. For the old parties, governing Canberra is a game about power for their party.

What we want to do, Mr Speaker, is get the Assembly working for people, not for the parties. We do not need a parliament of adversaries where an opposition opposes for no other reason than that it wants to become the government. We want a system where more commonsense prevails. That will happen only if we have more Independents not bound by the constraints of an organised old party. Mr Speaker, only the people can make this reform. We want to ensure that real people have a real voice in it. If anyone wants an example of how the system should not work, they need look only at any debate between the Government and the Opposition at any time over the last nine years of this Assembly's life. The exhibition so far in this debate would do, Mr Speaker. But, as I have said, neither I nor Professor Pettit can design a system that will fix the problem. Only the people can change that - at the ballot box. Maybe, to borrow a phrase, it is time they did just that.

MR CORBELL (11.56): Mr Speaker, there is no doubt that parliament is, and should always be, the keystone of our democracy, because only in the parliament can the will of the people be formally expressed in a way without violence, without going outside the appropriate democratic processes. But, Mr Speaker, what we have seen in the establishment of this review into the governance of the Territory has, unfortunately, itself had the hallmarks of an undemocratic process. Indeed, what we have seen on the two occasions when the Chief Minister has raised this issue - when she first announced it and when she moved this motion today - is a complete absence of any willingness

to genuinely participate in a bipartisan process. On the first occasion, when the Chief Minister proposed and announced the establishment of a committee to inquire into the governance of this Territory, she did it by media release. The first time that the second largest party in this place found out about it was when we heard about it on the radio news that morning. You would think that, if the Chief Minister was genuine about getting all-party agreement on the need for an inquiry and wanting to make sure that it could not become a political issue, she would have approached Mr Berry, Mr Moore, Mr Osborne and the Greens before she agreed to the establishment of it. She did not do that, and she admits it.

She wrote to Mr Berry - she has tabled the letter - after she had made the announcement, saying, "What do you think the terms of reference for this process should be?". She did not ask whether or not there should be a process. She did not say, "Do you think now is the appropriate time to have a process? Are you worried that this process might get caught up in the politics of an election campaign?". She did not raise any of those things. She just said, "I have announced it. You can make a few comments about what you think should be in the terms of reference". That is not a democratic process. That is not even a consultative process. That is nothing more than trying to justify a political stunt. That is what that process is.

Then, this morning, we had the Chief Minister again come into the chamber and, without warning, say, "I want you to support this motion; otherwise the committee of inquiry into the governance of the Territory is not going to go ahead, because Professor Pettit says that he is unhappy with the way it is going at the moment". Again, the Chief Minister had an alternative. I appreciate that the Chief Minister received the letter only yesterday. That is quite clear from the tabled letter from Professor Pettit. But she could have come along before the commencement of sitting today and said to Mr Berry and the crossbenchers, "I want to move this motion. What do you think? I have concerns about how the process is operating. Professor Pettit has put this proposal to me. What is your feeling on it? Is this the best way to handle it? Can we handle it in another way?". No, she did not do that either. She sprang the motion on the Assembly and asked the Assembly to vote for it - yes or no, what do you think? That is not consultation. If the Greens and crossbenchers think it is, then all that indicates is that the Greens and crossbenchers have a relationship with this Government which is denied to the Opposition.

I was surprised to hear Mr Moore say that he had proposed the chair. Obviously, that is the trade-off Mr Moore wanted for his support for the inquiry. What is the democratic process in that? What about the six members on this side of the house? As long as the crossbenchers can be satisfied, we have democracy, it seems. That is not really an inclusive process, I say to Mr Moore, who is leaving the chamber.

Mr Speaker, those are the facts. The Labor Party is not saying that we oppose an inquiry or review of the form of governance in the Territory; far from it. We believe that it is appropriate that the forms of governance in our Territory are reviewed. It is entirely appropriate, particularly because of the underlying current, which my colleague Mr Wood

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referred to previously, of the attitude of residents of the Territory towards self-government. But to do it in the middle of a political campaign - an election campaign - does nothing more than politicise it. It does nothing more than jeopardise its ability to effectively scrutinise and make recommendations on the system of governance we have in this Territory. I just do not think it is appropriate that a government is prepared to jeopardise what it itself says is a good process and an important process by throwing it in in the middle of an election campaign.

There is an important convention in the Westminster system, which is that governments do not make major policy announcements during an election campaign. I know that we have a caretaker period and I know that we have a specified time during which the caretaker period takes effect; but an inquiry which is about the very way that our parliament operates, about the very way that we govern ourselves and make decisions collectively as a community, should not be thrown into the mix of an election campaign. That process jeopardises its ability to make a good decision. That process undermines its effectiveness. That is why the Labor Party does not support it.

That is why Mr Berry's amendment to Mrs Carnell's motion is a sensible one. It says, "Yes, we do need to have an inquiry and a review of governance in the Territory. Yes, those are important things to look at. But do not jeopardise it by putting it in the middle of an election campaign. Do it when the election campaign is completed. When the Fourth Assembly is elected, make sure that the Fourth Assembly instigates a review and make sure that everyone in this place has an opportunity to fairly and evenly participate in what the review should be about, what it should look at, what its terms of reference should be". That is how it should work, Mr Speaker. That is the way to guarantee a fair and effective review - not the process we have been presented with by this Chief Minister.

Mr Speaker, comments have been made about things such as electoral systems. You could take the comments from the Chief Minister to mean that you were not allowed and it was completely inappropriate to look at anything to do with electoral systems. Are electoral systems not the fundamental basis on whether or not we achieve representative democracy in this Territory? Are electoral systems not about making sure that the voice of the people is heard properly in this place through their elected representatives? Is that not what electoral systems are all about? Are they not a fundamental part of governance? The argument is that they are entrenched. That does not mean that you cannot review them. That does not mean that you cannot look at them again. That does not mean that after the next election, when people have experienced the consequences of the changes made by this Assembly in relation to the electoral system, they cannot put their comments to a review. All those things should be allowed to happen because, at the end of the day, entrenchment is there, and the only way that the electoral system can be changed is by a requisite majority of this place. It does not mean that you cannot discuss it

and it does not mean that it cannot be reviewed. Indeed, the Deputy Chief Minister himself has indicated that he believes that there may be scope for some review of the electoral system. The Deputy Chief Minister made the comment that he believed that perhaps the Chief Minister should be directly elected.

Mr Humphries: I did not.

MR CORBELL: Yes, you did. You made the comment that the Chief Minister should be a directly elected position - not elected by this place, but directly elected by the voters of the Territory. If those sorts of comments are part of the political landscape, why can other comments about the electoral system not also be considered? That is what the Labor Party is arguing also.

Mr Speaker, we do need a constructive debate about governance. Mr Osborne waxed lyrical about the Independents and the role of the old parties in this place. I have never had any objection to people electing Independents or minor parties to houses of parliament. If they are effective enough to win the support of the electorate, then so be it; that is the will of the people. But, Mr Speaker, I will say something about Independents. Where do they stand? Do you know how they vote? Do you know what they are on about? (*Extension of time granted*) The major political parties - whether it be the Labor Party or the Liberal Party - and even smaller parties like the Greens and the Democrats, have a platform; they have policies; they have positions. Indeed, the community expects those parties to have a comprehensive range of policies dealing with almost every subject imaginable. You yourself would know this, Mr Speaker. Whether they are on issues of major concern to everyone in the Territory or on issues of concern to only a small group, people expect our parties to have policies. They expect our parties to have positions, and we do.

The Labor Party takes the issue of policy very seriously. We have an annual conference, which endorses our policy platform on almost every issue imaginable. But what do the Independents have, Mr Speaker? What does Mr Osborne have? What does Mr Osborne say about the subjects that the Australian Labor Party's platform deals with? What does Mr Osborne say about animal liberation? What does Mr Osborne say about animal welfare? What does Mr Osborne say about fuel wood supplies? What does he say about a whole range of things? We do not know, and his electors do not know. Indeed, Mr Osborne himself probably does not know. He thinks about it only when he needs to. He makes up his mind on the spur of the moment; that is his policy. I do not know whether the electors who elected him knew what he stood for when they elected him. How representative is it when an individual decides himself, or herself, that this is what they are going to say this time? They might change their mind in six months. They may change it again in another six months, depending on the political environment. There is no process of consultation and no process of involvement with their electors. It is their own decision - no-one else's. There is no sense of involvement with their community, no sense of involvement with their electors and no sense of involvement with those people who supported them.

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That is not a representative process, Mr Speaker. That is a process which is highly individualistic and driven by self-interest and political opportunism. That is how an Independent works, Mr Speaker. I say it because I feel strongly about it. I say it when I hear people like Mr Osborne stand up in this place and suggest that the old parties are somehow undemocratic or unrepresentative, because I know that in my own party the processes of policy formulation are very democratic. Some people would even say that they are overly democratic, with the number of levels and processes we have to work through. But at least our membership and at least our constituency know where we stand on every issue, know what we believe in and know what we will do if elected to government. That is something you do not know when it comes to Independents on the crossbenches.

Mr Speaker, in the end, governance of this Territory is important. In the end, it is too important to jeopardise as part of an election campaign. In the end, the only way to achieve an effective review of governance in the Territory is to make sure that that review does not occur in the heat of a political election campaign. We believe that it is important that it occurs. It should not be occurring now. That is the intention of Mr Berry's amendment.

Mr Moore: Mr Speaker, I would like to make a personal explanation under standing order 46, with your leave. In fact, I would like to make four, with your leave.

MR SPEAKER: Can you do it after the debate, Mr Moore?

Mr Moore: There are already four, Mr Speaker. There might be some others. So, I might as well wait.

MR SPEAKER: Yes.

Mr Moore: Mr Speaker, I draw your attention to the standing orders. In this case, they do not require me to wait until after the debate. The precedent is to wait until after question time, but not until after the debate. But I am happy to wait.

MR SPEAKER: It is simply a matter of convenience, Mr Moore.

MRS LITTLEWOOD (12.12): Mr Speaker, I am absolutely amazed at some of the words that have been uttered in this place this morning. This is a genuine attempt to give the people of Canberra a little more of a say, to look at our process and to see whether or not it is the best for the people of Canberra. Again, it has been turned into a "bash Kate Carnell" exercise. Mr Speaker, what is happening here is just pathetic. There is no other word to describe it. This is a genuine attempt to give the people of Canberra possibly a review of what they want their Assembly to be. Yet again, we have the negative aspects from people on the other side, who have no ideas of their own and who bag everything that comes into this place that is worth while.

Question put:

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

The Assembly voted -

AYES, 6

Mr Berry
Mr Corbell
Ms McRae
Ms Reilly
Mr Whitecross
Mr Wood

NOES, 11

Mrs Carnell
Mr Cornwell
Mr Hird
Ms Horodny
Mr Humphries
Mr Kaine
Mrs Littlewood
Mr Moore
Mr Osborne
Mr Stefaniak
Ms Tucker

Question so resolved in the negative.

MRS CARNELL (Chief Minister) (12.16): Mr Speaker, I thought that it was very important to clarify a few questions that Kerrie Tucker asked in her statement with regard to inclusive practices. Mr Speaker, in Mr Osborne's submission - which will, of course, go to the Pettit inquiry - in "Governing Canberra" and, I think, in many other submissions that will go to the inquiry, the view that all 17 members of the Assembly should be more directly involved with decision-making, from my perspective, is a base issue. It is one of the things we simply must address. Mr Moore raised the issue - or maybe it was Mr Osborne - that, when you have only 17 people, you do not have a huge breadth of talent. You have only 17 people, so you have to use the talent that is there. I think those things are an absolute necessity for any review.

Mr Berry: Were you reflecting on Mr Osborne then? It might have been an imputation that he has no talent.

Mr Whitecross: It sounded like it to me.

MR SPEAKER: Continue, Chief Minister.

Mr Berry: Mr Speaker, on a point of order - - -

MR SPEAKER: If you want to have a talk, I suggest that you go out into the lobby provided for the purpose.

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Mr Berry: That sounded like an imputation that Mr Osborne has no talent.

MR SPEAKER: I have no idea what that was all about, and I do not think it is an imputation either. Continue, Chief Minister.

MRS CARNELL: Mr Speaker, I make no imputations about anybody in this house. Mr Berry does it all for himself.

Mr Speaker, with regard to submissions, the inquiry will seek public submissions so that people will be able to have input. In fact, I would be suggesting to Professor Pettit - and I am sure that the Assembly would too - that he might seek public submissions fairly shortly so that information is on the table. Also, Mr Speaker, I do take on board - - -

Mr Corbell: During an election campaign? That is very non-partisan, non-political!

MR SPEAKER: Would you people be quiet. Some people in the chamber might like to listen, even if you do not; and, if you do not wish to listen, I would suggest that you go outside.

Mr Corbell: Are you calling us to order, Mr Speaker?

MR SPEAKER: There is still time to suspend members, and you may very well be the next one.

Mr Corbell: Are you calling us to order?

MR SPEAKER: Yes, I am calling you to order.

MRS CARNELL: Ms Tucker also raised a good point, that members of a newly elected Assembly as well should have an opportunity for input to this inquiry. Certainly, that is a position that I will be putting to Professor Pettit as well. I am sure that he will concur with that approach. Mr Speaker, it is very hard to work out what those opposite are on about a lot of the time; but this review is not beginning in the middle of an election period. This was announced in October. The members of the committee actually have been appointed. My understanding is that they were due to meet this week. The only reason it has taken as long as it has to get it up and running has been the opposition of those opposite. Mr Speaker, we are not in the middle of an election period now. We are not even in caretaker mode yet. Professor Pettit has a huge amount of information, and I am sure that the community will put in submissions to have a look at the whole issue of governance in the ACT.

Mr Speaker, I would like to thank the majority of this Assembly for support for this very important review of the way that we operate. I am confident that it will raise issues or approaches that may be able to be taken on by a future Assembly and may improve the way that we operate in this place.

Question put:

That the motion be agreed to.

The Assembly voted -

AYES, 11

NOES, 6

Mrs Carnell
Mr Cornwell
Mr Hird
Ms Horodny
Mr Humphries
Mr Kaine
Mrs Littlewood
Mr Moore
Mr Osborne
Mr Stefaniak
Ms Tucker

Mr Berry
Mr Corbell
Ms McRae
Ms Reilly
Mr Whitecross
Mr Wood

Question so resolved in the affirmative.

PERSONAL EXPLANATIONS

MR MOORE: Pursuant to standing order 46, Mr Speaker, I seek leave to make personal explanations. Can I do the four, one at a time, rather than sitting down and requesting leave each time?

MR SPEAKER: Yes. Proceed.

MR MOORE: The first issue on which I was misrepresented was where Mr Corbell suggested to the Assembly that my support for the review that we have just debated was a trade-off to have Professor Pettit there. This is the very slimiest of politicking. The depths to which Mr Corbell has dropped are extraordinary. And here is the proof. The reality is that I had announced my support long before I had even suggested Professor Pettit to the Chief Minister and certainly long before he was appointed. That is the first one, Mr Speaker. The second one is that whilst I have been barraged here by the Labor Party about not being prepared to negotiate with them at all, at the very time that was going on, my office and I were negotiating with Mr Whitecross about matters on the daily program.

Thirdly, Mr Speaker, Mr Berry suggested that I am responsible for futsal and the hospital tragedy, in so far as I am a member of the crossbenches who supported the Government. That also makes me responsible, of course, for the closure of Royal Canberra Hospital, completed by Mr Berry, whom I supported in government; for VITAB, which was the responsibility of Mr Berry, whom I supported into government; and for the constant budget blow-outs in the portfolios of Mr Berry when he was Minister, whom I supported in government.

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My fourth point, Mr Speaker, is about Independents having no policy platform. In my case, of course, I run into an election as Moore Independents, as a grouping. Indeed, Mr Corbell would be very aware that I do have an extensive policy platform. I am happy to provide him with a copy of it. That invitation is always open. It is there in my office. Whenever I am asked, I provide copies. I know that other members have had copies. Ms Tucker has had a copy recently. I have said many times in this chamber, Mr Corbell, before you arrived and since you have arrived, that all Labor has to do is look at my policy platform, look at your own, see where they match, put up the legislation, and I will support it. But, even if that was not the case, let me just say that, in respect of the philosophy that you talk about, you ought to go back and have a look at the fundamentals - - -

Mr Berry: Mr Speaker, this is debating Labor Party policies; it is not a personal explanation.

MR SPEAKER: That is a point, actually, under standing order 46.

MR MOORE: Where Mr Corbell has misrepresented the Independents - Mr Osborne and me - is in making suggestions that we would be unduly influenced. In fact, if you go back to the philosophy - - -

Mr Berry: Mr Speaker, on a point of order: Mr Moore is clearly debating an issue that was the subject of debate some time ago. The debate has concluded. He had his chance. Personal explanations are not a proper tool to reopen debate - - -

MR SPEAKER: Thank you, Mr Berry. I uphold that, and Mr Moore is asked to watch it.

MR MOORE: I will take that into account, Mr Speaker, as I complete my statement. Madison and other early American philosophers on democracy and so forth made it very clear that one perception of democracy is that people vote for people on whose judgment they want to rely. It is a very normal part of an understanding of political philosophy.

Sitting suspended from 12.26 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Advertisements - "Meet the Minister"

MR BERRY: My question is to the Chief Minister. Chief Minister, last week you and your deputy gave commitments that you would abide by your new regulations concerning promotion of members of the Government in the lead-up to an election. Chief Minister, are the "Meet the Minister" ads still paid for by the taxpayer or have you now moved to pay for them yourself?

MRS CARNELL: Mr Speaker, I understand that the “Meet the Minister” ads are now in line with the Electoral Act. We have run them past the Electoral Commissioner and he has approved them. There are no photographs. The Electoral Commissioner is happy with them. I think that is an appropriate approach.

MR BERRY: I have a supplementary question. Now that you have admitted that these “Meet the Minister” election ads are paid for by the Government, will you now meet the principles of your recent changes to the legislation and pay for this blatant political advertising yourself instead of forcing the ACT taxpayers to do it?

MRS CARNELL: Mr Speaker, what a joke. This mob opposite have got stuck into us for lack of community consultation. They have said we have not consulted with the community. Now they are trying to say that community consultation is blatant - - -

Mr Berry: Mr Speaker, I take a point of order. The Chief Minister seems to have confused consultation with electioneering.

MRS CARNELL: Excuse me, Mr Speaker, that is not a point order. Tell him to sit down.

Mr Berry: Mr Speaker, would she address the blatant political advertising which is being paid for by the taxpayer?

MR SPEAKER: The Chief Minister is answering the question.

MRS CARNELL: I think I am answering it very appropriately. Mr Speaker, “Meet the Minister” was one of our election commitments at the last election. We said that we would consult the community regularly in a number of ways, which we have done. In fact, one of the things that I launched this morning and will table a bit later is the consultation protocol, another part of that approach. One of those approaches, right from the last election, was that each Minister would put aside half a day or three hours every month to go out into various parts of the community and be available to speak to whoever turned up. It does not matter who they are. They get an opportunity to speak to each Minister for three hours every month. That three hours once a month is on top of all the rest of the community consultation that we do. We have a community consultation register, Mr Speaker, showing all the consultations that are currently going on, which are many hundreds. A community group - - -

Mr Berry: Mr Speaker, all that I asked the Chief Minister was whether she will pay for this in accordance with the principles of their recent changes to the Electoral Act.

MRS CARNELL: Mr Speaker, I am showing categorically that this is not electorally - - -

MR SPEAKER: All the Chief Minister is doing is answering the question.

Mr Berry: Is Mrs Carnell saying no? That will do.

MR SPEAKER: Mrs Carnell is answering the question as she sees fit.

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Mr Kaine: I take a point of order, Mr Speaker. Can you explain to me why the Leader of the Opposition keeps jumping to his feet? He is not taking points of order. When are you going to call him or order?

MR SPEAKER: There must be something wrong with the chair, Mr Kaine, I suspect.

MRS CARNELL: Mr Speaker, "Meet the Minister", as I have said, has been part of the Government's community consultation approach since the last election. In the run-up to the last election we promised we would do it and we have delivered, as we have delivered on so many of our election promises. If those opposite believe that consulting with the community is electioneering, then heaven help us if they get into government because it will mean that community consultation is right out the window until possibly a couple of weeks before the next election when they might then choose to do it.

Mr Speaker, the Electoral Commissioner is happy with the ads. The community has been very responsive to "Meet the Minister". If Mr Berry is right with this it means that we have been in blatant electioneering mode since straight after the last election, because that is how long we have been doing this. I believe very strongly that it is appropriate. I hope, if those opposite get elected - heaven help us - they take the same approach because it has been very successful.

Australian National University - Rates

MR HIRD: My question is to the Chief Minister. I recall reading in the media some time ago a story about the Australian National University owing the ACT Government a considerable sum in unpaid rates. Can you tell the parliament whether the ANU is paying its way in Canberra, as the rest of us have to?

MRS CARNELL: Thank you very much, Mr Hird, for the question. Mr Speaker, it is with some concern that I must inform members that, with regard to the Australian National University, the Commonwealth is not paying its way in Canberra. I say that again: The Commonwealth is not paying its way in Canberra. This has been the subject of long negotiations and disputes between ourselves and the Commonwealth. Indeed, those negotiations even predate this Government. They go back, I think, to 1994. The total amount now owing to the ACT in unpaid rates and land taxes is approximately \$1.8m. The ANU does not pay rates or land taxes on its on-campus properties and so on, and that is fine; but it has not been paying rates and land taxes on its off-campus properties. In total, these numbered some 130 properties in 1994-95. That number has been reduced over the past two years to 93 properties. These 93 properties consist of 77 individual houses, plus a number of multiunit complexes containing 256 units and flats - a not insignificant land holding or property holding. The ANU properties are situated in many inner suburbs, both north and south, and compete directly with other rental properties that are subject to all ACT taxes and charges. One would have to ask questions about national competition policy.

The ANU has not paid rates and land tax since 1994 but has continued to receive all the municipal services like everybody else, such as garbage collection, street lights, road maintenance and so on - all the sorts of services that our rates pay for. In other words, those vital services are being provided free of charge to the ANU while everyone else in Canberra picks up the tab. The ANU's rates and land tax bill is estimated at approximately \$600,000 per annum, and the amount now unpaid, as I mentioned earlier, is estimated at more than \$1.8m.

Mr Whitecross: What a beat-up.

Mr Berry: Anything for a headline. Just take it to the Grants Commission.

MRS CARNELL: I do not believe the subsidy to the ANU by the ACT, by the Canberra ratepayers, is acceptable. Mr Speaker, obviously those opposite believe it is all right for the ANU to go down this path. I do not believe it is. So, what are we doing about it? A service agreement has been negotiated with the ANU to address any legal constraints imposed by the ANU Act, clearing the way for this debt to be paid. However, this service agreement has not even been submitted to the University Council for consideration because the ANU is insisting that payment of this outstanding amount be linked to completely unrelated land and planning issues, mostly relating to boundaries between the ANU and Civic. These boundary issues include the land on which the Institute of Arts and the School of Music sit, part of section 21, an area next to the School of Music and the tunnel along Parkes Way. It is not as though the ACT Government is not willing to work cooperatively through these planning issues. Concerning the School of Music, the Territory is in a position to make an offer of a lease over the land. With regard to section 21, we are discussing with the ANU the impact on leases granted in perpetuity.

Mr Speaker, this boils down to the ANU using these land - - -

Mr Berry: What a cooperative bit of negotiation.

Mr Whitecross: I hope she cooperates with you like this.

MR SPEAKER: Order! This is an important matter.

Ms McRae: I am sure the ANU will thank you for letting this go on.

MR SPEAKER: I would imagine it is a matter of concern to anybody in this chamber that the money is outstanding.

Mr Stefaniak: I take a point of order, Mr Speaker. I am having great difficulty hearing the Chief Minister because of the cackling from over there.

MRS CARNELL: Mr Speaker, for the life of me, I cannot understand why everyone in this Assembly would not be really concerned about this. This boils down to the ANU using land and planning issues to stall on paying its own way in Canberra. We are not talking here about levying rates on the ANU campus itself. This is purely about the ANU paying rates and land taxes on its off-campus properties that it is renting in the open market.

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We have written to the National Competition Council because we believe that this is unfair competition for other land-holders or people who own houses in the ACT. The Prime Minister even agrees that these rates and land taxes should be paid. The Prime Minister has agreed in principle to amend the Australian National University Act to make the ANU legally liable, in the same way as other tertiary institutions, such as the University of Canberra, have to pay their share. The University of Canberra has to pay rates and land taxes on its properties. The ANU is refusing, Mr Speaker.

I think it is time that the ANU shouldered its responsibilities and agreed to pay its way with regard to rates and land taxes for its off-campus property. I can assure members that we will continue to argue the ACT's case and continue to pressure for the necessary amendments in the Federal Parliament.

Mr Berry: Would there be another side to this story?

MRS CARNELL: Mr Speaker, Mr Berry does not seem to think this is important. This Government will not be held to ransom. I do not believe that paying rates and land taxes has anything to do with planning and land issues. The ANU has been telling us that it has had the money available for as long as I have been in this job, but the people of Canberra continue to subsidise one of our largest, single, property-owners in the ACT when it rents its properties on the open market. I do not think that is acceptable and we will certainly be working hard to change it.

Mr Berry: Mr Speaker, in the spirit of cooperation and consultation, I wonder whether the Chief Minister would provide the Leader of the Opposition with all correspondence that has passed between the Government and the ANU?

MRS CARNELL: I am happy to provide a full briefing.

Mr Berry: No, I want all the correspondence.

Mr Kaine: I take a point of order, Mr Speaker. Could that be conditional upon the Leader of the Opposition telling us what action he will take after February to recover this money, if any?

Mr Berry: I can tell you this; I will not berate them here in the parliament.

MR SPEAKER: I cannot.

Electoral Advertising

MR WHITECROSS: The Chief Minister berates all sorts of people here in the parliament, does she not? Mr Speaker, my question is to Mr Humphries.

Mrs Carnell: He cannot answer.

MR WHITECROSS: Well, you can answer for him if you like. Shall I ask you, Mrs Carnell?

Mr Berry: Yes, ask Mrs Carnell.

MR WHITECROSS: I will ask Mrs Carnell, Mr Speaker. My question is to the Chief Minister. Chief Minister, before the last election, in the *Canberra Times* of Wednesday, 11 January, you were reported as being critical of the previous Government for publishing documents, namely, an information leaflet for big bins, the ACT Consumer Affairs bulletin *ACT Alert* which contained photos and ministerial messages, and ACTEW's future water strategy which was in fact published in June 1994, eight months before the election. This week, in the last days of the Carnell Government, the Minister for Housing launched "Canberra's Housing - Strategic Directions for Housing in the ACT", a very welcome and long overdue report, I might say, which included a message and signature from the Minister. Given that this is in breach of the electoral regulation which you and, I believe, Mr Stefaniak, signed a week or two ago, what action will you be taking against your colleague the Minister for Housing, who has failed to follow your Government's policy under this electoral regulation?

Mrs Carnell: Gary will whisper.

MR HUMPHRIES: Mr Speaker, the decision announced by the Government the other day was that there should be no photographs of MLAs appearing in the period before an election. That rule has been complied with, with the one exception that members are aware of. They are very quiet, are they not, Mr Speaker?

Mrs Carnell: This might be the way around the problem.

MR HUMPHRIES: This could be the way around it. Mr Speaker, we have complied fully with that amendment to the electoral regulation.

MR SPEAKER: Mr Humphries, you might have to write that out, for *Hansard*. I am not sure about that.

Mr Kaine: Mr Speaker, I think the Minister answered the question comprehensively.

MR WHITECROSS: Mr Speaker, Mr Kaine thinks the Minister answered the question comprehensively, but, I fear, not accurately. I have a supplementary question.

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MR SPEAKER: There is no need to shout, Mr Whitecross.

MR WHITECROSS: You are just attuned to Mr Humphries's very softly spoken words. Minister, if you consult the electoral regulation - it was not signed by you because you were out of the country at the time but it was, I believe, signed by Mrs Carnell and Mr Stefaniak - you will see that it makes reference to signatures. How can you say that Mr Stefaniak's signing a message in this document does not breach the electoral regulation when it includes his signature?

MR HUMPHRIES: Mr Speaker, the regulation that we signed touched on the use of photographs. It is photographs which are not to be used as from 1 December. I do not believe it makes reference to signatures, although I will not be dogmatic on that score. I believe it was a reference to photographs, Mr Speaker, and I believe we have complied with that.

Social Plan

MS McRAE: Mr Speaker, my question is to the Minister for Land and Planning. I am sorry, Mr Humphries. There have been a number of concerns raised about the absolute necessity for a social plan for the ACT. Probably the Chief Minister could answer this. Although the Chief Minister does not see the need for a social plan, one of the agencies for which you have responsibility, the ACT Planning Authority, as it was then called, started a process for the development of a social plan. Consultants, S & S Consultants and Focus Pty Ltd, were engaged to undertake this work. Various work was done, including regional meetings in the ACT and the surrounding areas. A first-phase report was published last year, in May 1996, to define the scope of the regional social plan. Minister, where is the final social plan for the ACT?

MR HUMPHRIES: Mr Speaker, I believe that earlier work on the social plan was part of the strategic plan presented in this Assembly earlier this year, which you will remember. However, to be sure, I will take the question on notice and advise Ms McRae as soon as I can.

MS McRAE: I have a supplementary question. Please do not answer this, but take it on notice. Could you add the cost of that work as well?

MR HUMPHRIES: Yes.

Injecting Rooms

MR MOORE: Mr Speaker, my question is to the Chief Minister in her capacity as Minister for Health. Chief Minister, are you aware that in the Parliament of Victoria a joint investigatory committee, the Drugs and Crime Prevention Committee, has brought down an interim report? That interim report, amongst other things, dealt with the issue of safe houses which, it indicated, are referred to sometimes "as 'safety clinics', 'injecting rooms' and (inappropriately) as 'shooting galleries' ". I will read a couple of paragraphs to clarify my question. They said this:

Reduction of deaths from overdose and from the spread of infectious diseases is the main aim of safe houses. Having all staff trained in resuscitation and at least one on every shift having expert medical training in relation to drug abuse would serve this aim. After many thousands of supervised injections, no-one has yet died in an official safe house.

Education in safer injecting methods is far more effective in an actual injecting environment than in the more abstract context of NSEPs [Needle exchanges]. This therefore reduces the spread of infection from injection.

Then they talk about inappropriate disposal of used needles and syringes. Chief Minister, considering this report, will your Government continue work on ways to ensure a reduction in the spread of infectious diseases and ways to reduce deaths that are associated with the advent of safe injecting rooms?

MRS CARNELL: Thank you, Mr Moore, for the question. Mr Moore would be aware, as would the Greens and Mr Osborne, that we have had round table discussions on this very important issue. The only people who would not be aware of that would be the Labor Party members because they refused to turn up. Mr Berry was disinterested in the issue.

Mr Speaker, with regard to safe houses, they have been brought up in a number of reports, I think, in New South Wales as well. The issue of safe houses has been discussed. It was as a result of those reports that we had the first round table discussion. Other people who turned up at that or who have been part of those discussions are the police. The police are attempting to come to grips with this really difficult issue as well. The reason the police were there, as they explained, is that it is their job, too, to minimise the harm associated with drugs; to ensure that young people are not injecting in unsafe circumstances, in back alleys, out the back of the theatre, or wherever it happens to be. I was very impressed that the police felt committed enough to an issue, which is difficult because of where it stands within the law, to be there and to be very active participants in these discussions. At this stage no decision has been taken, although the people at that particular round table discussion asked that ACT legislation be looked at to see how it fitted with the concepts that had been put forward in New South Wales at that time, and now in Victoria as well.

Mr Speaker, I have to say, from this side of the house, that it is a very hard one, but we are committed to minimising the harm associated with drugs. We are committed to saving the life of any young person in this area if it is possible to do so. Those discussions will continue. As Mr Moore knows, there is not a simple yes or no on this one. There are lots of legal hurdles to get over. Mr Berry has made it clear that he is not at all interested in this, to the extent that he even took on the issue in the Estimates Committee as well. Certainly, if we are the Government in the new Assembly, we will continue with those discussions. We will, in a new Assembly, present the legal work that has been done to that round table group. I am confident that the police will stay involved. I hope we can come up with some sort of an arrangement that does balance the competing interests in this very important area.

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MR MOORE: I have a supplementary question, Mr Speaker, which will not surprise you. I accept what the Chief Minister is saying about continuing those discussions in government. I also think it is just as important to get a similar assurance from her, particularly on the last part of my question in this last question time. Will she be prepared to continue those discussions if she is not in government?

MRS CARNELL: Yes, Mr Speaker, I would be very happy to continue them. I am just not sure that the Government will convene them if we are not in office. I was extraordinarily disappointed at the Labor Party's attitude to safe houses. Mr Osborne even had a representative at these meetings, and we all know that Mr Osborne has a very definite view on these things.

Mr Moore: Mr Osborne was there.

MRS CARNELL: He was there; that is right. The Greens were there, the police were there, people who have very fundamental problems with the use of drugs in our community were there; but who was not there? The Labor Party, Mr Speaker.

Mr Berry: Because I do not like secret meetings.

MRS CARNELL: Secret meetings with the police, Mr Osborne, the Greens, the Liberal Party, ADICT, everybody else. Everybody was invited, Mr Speaker, but the Labor Party refused to turn up. We even approached the Labor Party, saying, "Look, we know we cannot progress this unless it is absolutely non-partisan. This is a very difficult issue". Even then, Mr Speaker, there was absolutely no cooperation at all. I think it shows that that party, in terms of such difficult moral issues as safe houses, is simply not up to speed.

Industry Strategy

MR CORBELL: My question is to the Chief Minister and Minister for Business. Chief Minister, on 30 October this year your deputy, Mr Humphries, told the *Canberra Times* that there would be "sweeteners to attract and hold businesses, such as relief from government charges, in the industry strategy which is to be announced around late November". Chief Minister, today is 11 December. Where is that plan?

MRS CARNELL: I suspect it is with the printer at this moment. It has certainly been approved. It has certainly been signed off by me. It is in its final stage, so I assume we would be launching it next week. It must be very close to next week. At this stage it would be with the printer.

MR CORBELL: I have a supplementary question. Chief Minister, Labor has already launched its "Working Capital Plan". Today we have the highest ever unemployment figures in the Territory. I know the Government thinks it is funny to have the highest ever unemployment figures in the Territory. Is it not about time that your plan was released? Can you tell us exactly when it will be released?

MRS CARNELL: Sorry; you just asked me when I was going to release the industry policy. I answered that in reply to the first question. As I said when I answered the first question, I would assume it would be next week. It will certainly be before Christmas, so it will be in the next two weeks. It is with the printers at the moment.

I think it is very important to follow up on some of the other parts of that question that Mr Corbell brought forward. One of the things I can guarantee about our industry policy is that it will be funded, and it will not be funded from the cash line in the assets in the balance sheet. Mr Speaker, we will make sure that the approach we take is one that the ACT can afford, because we can actually understand balance sheets. We know that you cannot spend your cash line in your balance sheet because if you do that you cannot pay wages and other things. I am confident that those opposite are extraordinarily embarrassed about the working capital document, Mr Speaker. It did sink like a stone, as was said.

The other part of the question, I think, was with regard to the unemployment figures today. I think one person unemployed is too many, but I am very proud of the fact that the figures that came out today showed the highest ever level of full-time employment in the ACT; that is people who are working 35 hours or more a week. What has happened over the last few months is really interesting. Certainly, there has been a reduction in part-time employment.

Mr Corbell: Has unemployment gone up or down?

Mr Berry: Tell us about youth unemployment and the Youth500 scheme.

MRS CARNELL: I am very happy to do that. Would you like to ask a question? With regard to what has happened with employment over the last 12 months, we have had increases in the number of full-time jobs for a full 12 months now. What has happened is that there has been a reduction in part-time jobs. Those part-time jobs have become full-time jobs in all circumstances. With regard to that, remember that a part-time employee under the ABS statistics is somebody who works one hour a week or more. A full-time employee is somebody who works 35 hours or more. The fact is, Mr Speaker, that we have 6,400 more full-time jobs in the ACT now than was the case 12 months ago. Those extra full-time jobs are reflecting in retail figures. The increases in retail turnover have been quite remarkable. Also, they are reflecting in our - - -

Mr Whitecross: Talk about the unemployed.

Mr Corbell: Do you want to talk about the unemployed?

Mr Berry: There are 13,000 - - -

MR SPEAKER: One at a time. Interjections one at a time. Mrs Carnell is still to answer Mr Berry's interjection about Youth500, I think.

MRS CARNELL: I would be very happy to, but I will not answer interjections, Mr Speaker.

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MR SPEAKER: Please yourself.

Mr Kaine: Well, there were four interjections, one after another, just a minute ago.

MR SPEAKER: I know. This is the problem. I am asking, Mr Kaine, if they would mind spacing them so that the Chief Minister can answer them as they come up.

Mr Whitecross: Mr Speaker, as long as Mrs Carnell is answering the interjections, maybe she would like to tell us about unemployment going up.

MR SPEAKER: It is all right. She is doing a very good job, I think, at the moment. It is a comprehensive answer.

MRS CARNELL: Mr Speaker, it is also reflected in the private sector final consumption figures. We have now had three consecutive quarters of growth in the ACT, which means that the recession finished last year. So all of this year we have been back in growth. If those opposite want to use very selective statistics, I could go on for two hours now on retail figures, private sector consumption figures, motor vehicle registrations, house prices, housing funds.

Mr Corbell: What about the level of unemployment?

Mr Berry: What about jobs?

MRS CARNELL: And jobs, Mr Speaker; 6,400 more full-time jobs than was the case 12 months ago. Just at lunchtime today I launched or signed the documentation for a new company, EDS, who currently have 11 employees in Canberra. They will have 200 by the end of next year; and within five years, 700. That is getting off your hands and getting out there and doing it. Those opposite just whinge.

Commercial-in-confidence Contracts

MRS LITTLEWOOD: Mr Speaker, my question is to the Chief Minister. I refer to the recent report of the Estimates Committee which raised concerns about the issue of commercial-in-confidence as it relates to contracts between government and the private sector. Could the Chief Minister explain why the Government has been willing to participate in a review of the principles of commercial-in-confidence?

MRS CARNELL: Thank you very much, Mrs Littlewood. I appreciate the question today because this is the last question time and this has been, and is, a very important issue. Mr Speaker, there is no doubt that all of us here in this Assembly, or most of us, strive for a government that is as open and as accountable as possible. So, after more than eight years of self-government - in fact, we are going into our tenth year, I suppose - it is timely that we reflect on how much information should be disclosed when private companies enter into contracts with public sector agencies.

The principles of commercial-in-confidence are as complex as they are important. This Government believes that there must be some protection for commercially sensitive information. Indeed, our response to the Estimates Committee stated that if private companies could not rely on normal arrangements which protect commercially sensitive information there would be a real risk that many of these firms might not choose to deal within the Territory. However, I have to say that there have been some occasions, in fact, more than some occasions, when departments may have been unnecessarily oversensitive about the release of some information. I believe that that is one of the issues that we should take on in a new Assembly. That is why we told the Estimates Committee that we were happy to re-examine issues surrounding commercial-in-confidence, and I have asked the Chief Minister's Department to develop proposals along these lines. These proposals will be presented to the incoming Government after the next election and the Assembly at that stage may well choose to consider referring these matters to a committee for consideration.

Mr Speaker, I know that the Labor Party has tried to make much out of the issue of commercial-in-confidence. Indeed, who can forget Mr Berry coming in here and screaming blue murder about the contract for the National Capital Private Hospital. Do you not remember Mr Berry saying, "Table the contract, Mrs Carnell; table the contract". Mr Berry's demands back in May were interesting, to say the least. Indeed, he went so far as to say, on 15 May:

I do not accept that we are prohibited from finding out what little secrets are buried in those contracts.

I even received a letter from Mr Berry, as chair of a select committee, in which he threatened to take all sorts of action if I did not give him a copy of the contract. Indeed, in that letter he stated that it was a fundamental right of his committee to call for and examine any and every document that it wanted, and it did not matter what I said; he would get his hands on the contract.

Mr Speaker, there probably are two things that Mr Berry has a problem with in this Assembly, and they are consistency and credibility. Let us talk a little about commercial-in-confidence, consistency and credibility. Let me remind Mr Berry and members of the Assembly about the little matter of the VITAB contract, a contract that Mr Berry used to be so proud of when he was Minister for Sport. Just to refresh his memory and to give members a little bit of a laugh on the last sitting day, I am going to table for members - in fact, I will circulate it for members - the copy of the contract that we got when we sought the contract under freedom of information. By the way, I paid for that because Mr Berry said it was not in the public interest that the Opposition should have the information.

Mr Berry: Not for free. You should not get it for free.

MRS CARNELL: No, I did not get it for free. I paid for it.

Mr Berry: No, neither should you have.

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MRS CARNELL: I paid for it because you directed that I had to pay for it. Mr Speaker, the contract ran for 13 pages and when you have a look at this you will see what we got. It is fairly amusing. What we got was 1½ pages, the top bit and the bottom bit, and absolutely nothing in the middle. Even today, Mr Speaker, that is it. That is the lot. There is nothing in the middle, just the beginning and the end.

Mr Kaine: Did it cost you much?

MRS CARNELL: It was not cheap, I have to say. It took them a long time to black it all out, obviously.

MR SPEAKER: Like a sandwich that the centre has been eaten out of.

MRS CARNELL: That is right. Even today I have not seen the full contract. What is more interesting is what Mr Berry had to say about our request for him to release the VITAB contract. Let me quote some examples. On 25 November 1993 Mr Berry said this:

I am saying to you that I am not inclined to table the contract with VITAB because it is a commercial-in-confidence document.

I then interjected:

Show it to us in confidence.

I offered to Mr Berry that he could see the contract on the private hospital in confidence. Mr Berry then replied:

I cannot show you anything in confidence, Mrs Carnell. It is like pouring water into a colander; it just goes straight through.

Sound familiar? It does get better, Mr Speaker. On 1 March 1994 Mr Berry said this:

I have told you before that you are not getting a copy of the contract from me, no matter what means you choose to pursue.

Remember, this is the politician who wrote to me earlier this year saying that he believed in the supremacy of the Assembly over the Executive, and that elected representatives must have the right to examine anything and everything that they wanted. This phrase, “no matter what means you choose to pursue”, is interesting, is it not?

Mr Berry: No committee ever called for it and there was never a motion in the place.

MRS CARNELL: Yes, I would be embarrassed too, Mr Berry; I really would. How things change in three years, Mr Speaker, and how short some people’s memories seem to be. But it does get even better than that. On 12 March 1994 in an article in the *Canberra News* there was a real gem of a quote from Mr Berry, and I will finish with that, Mr Speaker.

Mr Berry: Why didn't you wait until the breathalyser arrived?

MRS CARNELL: I would be embarrassed as well, Mr Berry.

MR SPEAKER: Why do you not be quiet?

MRS CARNELL: I quote:

The Liberals have continuously called for the contract to be made public. How quickly these representatives of business - - -

Mr Berry: Why didn't you wait until the police arrived, Kate?

Mrs Littlewood: I take a point of order, Mr Speaker. I would like to hear this answer. I did ask the question and I would like to hear the answer.

MR SPEAKER: So would I. I must admit I find the attempt to divert attention rather pathetic. Please continue.

MRS CARNELL: I repeat:

The Liberals have continuously called for the contract to be made public. How quickly these representatives of business forget what is a normal code of conduct now they have entered politics and become excited about a good deal for the ACT.

Mr Hird: Money for jam.

MRS CARNELL: Money for jam, yes. He continued:

If the Government were to table quotes and tenders and contracts made with business, companies would stay away in droves as any commercial advantages would be destroyed.

That was Mr Berry saying that. Mr Speaker, remember those words from Mr Berry, "a normal code of conduct". On 18 March 1994 Mr Berry told the *Canberra Times*:

... the Vitab agreement is commercial-in-confidence. As a matter of principle, it is important that the territory respect the confidentiality of such agreements if we are not to lose the confidence of those individuals and companies contemplating doing business in the ACT.

Mr Speaker, when it comes to the issue of commercial-in-confidence, I think I have demonstrated beyond any doubt that Mr Berry is neither consistent nor credible in this area. But is anyone surprised?

Egg Production

MS HORODNY: My question is directed to the Chief Minister. You will recall that in September this Assembly passed my private members Bill to amend the Animal Welfare Act and the Food Act to phase out the production and sale in the ACT of eggs laid by hens kept in battery cages. One of the amendments to my Bill that was also passed was that the phase-out of the keeping of battery hens in the ACT would not commence until an exemption had been obtained under the Commonwealth Mutual Recognition Act for the banning in the ACT of sales of eggs produced by battery hens whether in the ACT or interstate. Chief Minister, could you tell us what action you have taken to get the agreement of the Commonwealth, State and Territory governments to an exemption under the Mutual Recognition Act?

MRS CARNELL: Mr Speaker, I understand that it will be discussed at a meeting next week in New Zealand.

MS HORODNY: I have a supplementary question. What action has been taken by the Government to implement the section of the Food (Amendment) Act requiring that eggs cannot be sold unless packaged with a label indicating the conditions under which the hens that produced the eggs are kept?

MRS CARNELL: I will have to take that question on notice, but I am happy to get the information back to Ms Horodny as quickly as possible.

Housing for Disabled People

MS REILLY: My question is to the Chief Minister in her capacity as Minister for Community Care. Chief Minister, yesterday, in response to a question on problems relating to the support hours for people with disabilities living in the COOOL houses at Macquarie, you made comments along the following lines: That the model that we end up with is something that respects their rights to live as independently as possible; that it ensures that they have access to the sorts of services that they need to maintain that independence; and that you believed everyone in those houses was happy with their arrangements. Minister, are you aware that, in the many meetings between the Department of Health and Community Care and the potential COOOL houses residents, people were assured that they would have control over their support hours. The residents have written to the Department of Health and Community Care to have this confirmed and the department has confirmed this in letters to the residents. The department, in October, was so concerned about the issues relating to the number of services offered but not delivered that they employed a consultant to resolve them. The consultant reported in early November proposing that the department should immediately negotiate with the residents to resolve the issues relating to the undertakings that were given to enable them to live independently. It is now five months since these people moved into the COOOL houses in Macquarie. You have a consultant's report that dodged resolving the issue and said you should negotiate, but the residents are no closer to having control over their support hours. These people are not happy with the current arrangements.

MR SPEAKER: Is this a question or a statement, Ms Reilly?

MS REILLY: It is important. Mr Speaker, it is important to have the whole background - I am sure you would agree with that - so that the question can be answered properly.

Ms McRae: Perhaps you had better read it again, Ms Reilly, so that he can listen.

MS REILLY: Do you want me to read it again, Mr Speaker?

MR SPEAKER: No. I was just thinking it is about as detailed as the Sistine Chapel so far. Go on.

MS REILLY: The people living in the COOL houses would like some answers to their questions. If you had been living somewhere for five months with no resolution you would be concerned too.

MR SPEAKER: Would you mind getting on with this question, please.

MS REILLY: Minister, how is it that you have taken such a close, personal and public interest in the needs of these people with a disability yet you are unaware of their major concerns? Now that you are aware of this issue, will you personally meet with the representatives of the COOL Housing Members Committee as soon as possible to resolve the issue?

MRS CARNELL: Mr Speaker, I am unaware of any request to meet. I am informed that in relation to the Macquarie house the residents of that place should now all have copies of their support plans and the house roster, which should include information on the banking of hours, which I understand was the question. To ensure that that is all completely clarified, a letter is being sent in the next couple of days to all residents and the service provider, which is Community Options, particularly in relation to the banking of hours.

There was also a meeting with intended residents of the Fisher house, I think, on 8 December - that was this week - where there were lengthy talks about things like support plans, moving in, a trial period, and all of those sorts of things. As soon as is practical for those particular residents, after the residents have reached an agreement with the support service provider about their support plans, they will receive a copy of their support plans showing individual and shared hours and the house roster, which is basically what a support plan is. It does have all of those things in it, Ms Reilly, the ones that you were talking about. Discussions have continued on the banking of hours. Obviously they are limited to the budget that we have, but I understand that discussions have continued quite well on those sorts of things.

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As far as I am aware, people at the Fisher house will not move in until the support plans are finalised, the house roster is available, essential equipment has been purchased, the house is properly furnished and all of those sorts of things. The department will provide financial assistance to intending residents for a trial period. All the discussions are continuing. I cannot, for the life of me, work out how Ms Reilly can believe that the COOOL house project is somehow a negative. Certainly, the discussions with regard - - -

Ms Reilly: I did not say that.

MRS CARNELL: Yes, you have. You have whinged about it for the last two days. As I understand it, negotiations are continuing. Yes, they have taken longer than we would have liked - there is no doubt about that - but I understand that copies of support plans and house rosters are now with the people involved.

MS REILLY: Mr Speaker, it is disappointing, when I raised an issue yesterday, that the Minister obviously has not been - - -

MR SPEAKER: I am not interested in your disappointment or otherwise. You may ask a supplementary question without preamble.

MS REILLY: Since the establishment of the Macquarie COOOL houses has been such a disaster for the people concerned, what strategies, not just meetings, are in place to ensure that the entry of the people into the Fisher houses is not too traumatic?

Mrs Carnell: I just gave them to you.

MS REILLY: You have outlined some issues around what you have done and you have had a meeting. The people who moved into the Macquarie houses also had - - -

MR SPEAKER: Order! Sit down. Resume your seat. You have asked your supplementary question. I will not have preambles or extra talk. You know the rules.

MS REILLY: Mrs Carnell interjected, Mr Speaker. I do apologise for responding to her.

Mr Kaine: I take a point of order, Mr Speaker. Everybody over there has been interjecting all afternoon and now she takes exception to someone interjecting, for heaven's sake.

MR SPEAKER: A question fully answered cannot be renewed.

MS REILLY: May I ask a supplementary?

MR SPEAKER: I have heard the question.

Mrs Carnell: Repeat it for me.

MS REILLY: All right. As the meetings are continuing with the people in the Fisher house, have they decided not to move in until it is all resolved, and when will that be?

MRS CARNELL: Mr Speaker, as I said, there was a meeting on 8 December at which a number of things were discussed - I have already answered this - including moving in, support plans, a trial period, reimbursement, all of those sorts of things. As I understand, they have been agreed. Support plans are very close to being finalised. The department certainly hopes to have the plans finalised before Christmas. Once the plans are finalised, the house rosters are available, the house is adequately furnished and equipment is there, the proposed residents will be able to move in. Ms Reilly said that she was not being negative, but in her supplementary question she said, "This has been such a disaster". I would like to know what being negative is. If saying something is a disaster is not being negative about it, I obviously have the wrong view on what negative means.

Mr Speaker, the COOOL project certainly has taken longer than I would have liked it to take, but it is a great model. It is fairly unique in Australia. I have not been asked by any of the residents to have a meeting, as far as I know, but I am always happy to. I think it is a great approach. I think it is wonderful to get these younger people with disabilities out of nursing homes, and I think the people who have been involved with negotiating this should be congratulated because it has been very difficult.

Housing Trust Homes - Improvements Made by Tenants

MR OSBORNE: Before I start, I know that Mrs Carnell has had a pretty rough week with the car accident and all that, and she is probably a bit worried about where the 12 pages of the VITAB contract are. I would just like to let her know that I have found them. My question, Mr Speaker, is to the Minister for Housing, Mr Stefaniak. Minister, 20 years ago a couple moved into a ramshackle Housing Trust home in Flynn. Over the ensuing years they improved the home, painted it, laid carpet, put new tiles and cupboards in the kitchen, put built-in robes in the bedrooms and built a carport. About two years ago the Housing Trust valued these improvements at \$12,000. Anyway, the house is now to be sold. The tenants do not want to buy it and are happy to take another house. However, they have been told by the Housing Trust that they will have to remove the improvements at their expense. Minister, my question is this: Is it an incentive for your tenants to look after their houses and properties if they are going to be faced with this situation?

MR STEFANIAK: I thank the member for the question. A lot of our tenants do make improvements. Basically, the rule is that improvements can either be taken away, because they are things that tenants have put in, or left in situ. On occasion I have in the past received comments from tenants who have made improvements. One tenant once wanted Housing to buy the garage they had erected. I think in that case they ultimately decided to take it away. If Mr Osborne could give me the details I will look into this further. I have a quick idea of the matter you ask about, Mr Osborne, having been notified about five minutes earlier. I understand that they have been very good tenants. I also understand that there are some other issues which I would need to satisfy myself about in relation to what they were told, which is also very important. I will chase that up.

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The basic rule is that whilst tenants can make improvements - indeed, they are encouraged to make improvements - normally they are able to take those improvements away, or leave them there if it is impractical to take them away. I will leave it at that, Mr Osborne. You might have a supplementary question but I want to chase up a couple of things in relation to this matter. If there are any more facts and figures you want to put to me, I will be happy to take those up.

MR OSBORNE: I have a supplementary question. If that is the case, if tenants are required to take away improvements, could you tell us why these particular improvements were included as a selling feature in the ad for the house?

MR STEFANIAK: I note from what you say, Mr Osborne, that it is quite clear these tenants have made considerable improvements. I think you might have asked earlier whether there is some question of them being asked to pay to have the improvements taken away. That is something I am happy to look at. I understand that in this case they have made considerable improvements.

Mr Osborne: I am talking about the ad.

MR STEFANIAK: We are certainly not going to make them pay to take improvements away, Mr Osborne.

Mr Osborne: I take a point of order, Mr Speaker. I do not know whether the Minister heard my supplementary question. If he did, he is certainly not attempting to answer it. My supplementary question was: If this is the case, if these people have to remove these improvements, why were the improvements used as a selling feature in the ad? That was the supplementary question.

MR STEFANIAK: I have not seen the ad, Mr Osborne. If you give me a copy of that I will chase that up with Housing and get back to you on it.

Disability Program - Consumer Provider Arrangements

MS TUCKER: My question is to Mrs Carnell, the Minister for Health and Community Care. Yesterday I asked whether the Minister would ensure that a copy of the legal advice from the Legal Aid Office regarding the consumer provider arrangements in the disability program would be provided to all parents and guardians concerned. I assume that Mrs Carnell has had a briefing since yesterday. In light of the seriousness of the concerns, I particularly note this point:

The document purports not to create legally enforceable obligations. While this may be stated it is clear that the document will have substantial legal ramifications particularly in circumstances, should they arise, where a disabled person is claiming damages for negligence. To that extent there appears to be a real prospect of this document being used to deny to disabled persons legal remedies available to the rest of the community.

So I ask, again: What are you going to do to ensure that all concerned parents and guardians will have access to this legal advice?

MRS CARNELL: Thank you very much. I have seen it and it does not look like a legal advice to me; it looks like a letter from Mr Staniforth to a couple of parents who asked for some feedback. I am happy to show any parents that letter. The approach that the department is taking is that if people do not want to sign these agreements they do not have to. We have not forced anybody down the path of signing it. I have to say the department does not agree with Mr Staniforth's views in this area. They believe he is wrong. It is that simple. If any of the parents want to see that advice, that is fine; but again I state really firmly that nobody is being made to sign these agreements. The agreements were put in place initially to guarantee rights of the clients rather than the opposite; so nobody is being made to sign anything. I am happy to show other parents the letter. Obviously, there would be other views as well, but my people in the department tell me that they do not think it is right.

MS TUCKER: I have a supplementary question, Mr Speaker. If this document is seriously flawed, rather than just say that people can see it if they want to, will you ensure that negotiation takes place to determine whether or not this document is legally flawed? Will you not just make this available to those who hear about it, but also ensure that all guardians and parents who are concerned have this advice before they sign the document?

MRS CARNELL: Mr Speaker, there is a legal issue here. The department believes that this advice is wrong. It is very interesting because this document says things like this, which is item 5:

Finally, all parents appeared to be dismayed by what they see as a reference by program managers to their family members as "consumers".

Yes, we do see them as consumers. I continue:

While those people involved in managing government funding programs may understand the etymology it is difficult to reconcile the characteristics of those receiving disability services with the prevalent dictionary definition of consumer ...

They are the sorts of things that are in this document. We do call our clients consumers. We do not call them patients. We attempt to achieve a - - -

Ms Tucker: I take a point of order. There are a number of very serious concerns. Mrs Carnell has chosen one. My question was: Is she prepared to move into a negotiating position with lawyers from Legal Aid? It is not good enough just to say her lawyers are right. I am asking for a negotiating position so that the welfare of these people and their guardians can be ensured.

MR SPEAKER: Very well.

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MRS CARNELL: Mr Speaker, we are negotiating with the parents. The problem we have is that - - -

Ms Tucker: To change the document?

MRS CARNELL: Yes. Absolutely. The negotiation is under way. As we have said, if people do not want to sign it that is fine. That is simply not an issue for us at all. Mr Speaker, the difficulty for the department is the sending out of a letter with a legal opinion, if that is what it is. Actually, what it does is list parents' concerns, and then there is a basic run-down of some reaction to that - - -

Ms Tucker: It lists legal concerns.

MRS CARNELL: Mr Speaker, there are real issues about the department distributing an opinion that they believe is wrong. Absolutely seriously, if you distribute an opinion that you believe is wrong, you give it a level of credibility that you do not believe is right. There is no problem with the parents, the carers, seeing this document, but it does not have any standing with regard to the department. It is that simple because the department simply does not agree with it.

Ms Tucker: Of course it does not. The agreement is the creature of the department.

MRS CARNELL: The department does not want to make problems for itself.

Ms Tucker: The department created the document.

MR SPEAKER: Order!

MRS CARNELL: Obviously it does not. It wants a situation where everybody can agree on these sorts of things. There is nothing to stop parents and carers having copies of this letter, but not under the imprimatur of the department.

Police Kiosk - Garema Place

MR WOOD: Mr Speaker, my question - I think it is the last of question time in this Assembly - is directed to the Minister for Planning, or for Police, whichever, and I will accept a written response if that is easier. Minister, what is planned as a substitute for the former police outpost in Garema Place that has been demolished, and what is the timetable for any new arrangements?

MR HUMPHRIES: Mr Speaker, the police kiosk was demolished some weeks ago. It has been replaced with a shopfront police station in the building where Sammy's Kitchen is. It faces into Garema Place. It will be opened some time in the next three or four weeks, I understand.

Mrs Carnell: I ask that all further questions be placed on the notice paper, and I would like to give some further information on some questions.

Electoral Advertising

MRS CARNELL: Mr Speaker, prior to the release of the housing strategy my office rang the Electoral Commissioner and spoke to the Deputy Electoral Commissioner to clarify the application of the regulations and to discuss the housing strategy in particular. My office explained to the Deputy Commissioner that the publication would contain no photos of MLAs but would include an introduction signed by the Minister. The Deputy Electoral Commissioner rang back some minutes later, after having consulted with the Electoral Commissioner, and advised that a document with the introduction signed by a Minister was acceptable. My office has been in contact with the Electoral Commissioner again today and the Deputy Electoral Commissioner has again confirmed that a document with an introduction signed by a Minister is acceptable under the regulations. So much for that.

ACTION - Temporary Bus Operators

MR KAINE: Mr Speaker, yesterday Mr Wood asked me a question in relation to several aspects of the recruitment of ACTION bus drivers and I would like to provide the answer. The situation is that there are a number of positions to be filled. The exact number depends upon retirements and resignations over the next few months, but it is likely to be about 20. Operators will be recruited for temporary, part-time or broken shift positions and 255 applications have been received for these positions. Only about 20 of them will be appointed. The information obtained from a police check is a necessary part of ACTION's assessment process and is a requirement from the Motor Vehicle Registry for the granting of a public vehicle driving licence. Applicants were encouraged to lodge a police check form and a \$25 fee with their application. However, it is not mandatory for them to do so, up front. As in any selection process, a number of applicants will be judged unsuitable at an early stage and it may not be necessary to complete a police check on these applicants. Candidates who progress further in the selection process will, however, need to undergo a police check at some stage if they have not done so already. The top applicants will be selected for the available positions. The remaining applicants who were ranked suitable will be placed on a register and will be considered for further positions should they become available in the near future.

Aboriginal Reconciliation

MRS CARNELL: I table an answer to a question asked by Mr Moore on 4 December with regard to Aboriginal reconciliation. I have sent him a copy of the answer.

Land (Planning and Environment) Act - Compliance Orders

MR HUMPHRIES: Mr Speaker, I table the answer to a question which I took on notice from Mr Moore on 5 November.

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AUDITOR-GENERAL - REPORT NO. 13 OF 1997
Management of Nursing Homes

MR SPEAKER: I present for the information of members Auditor-General's Report No. 13 of 1997, "Management of Nursing Services".

MR HUMPHRIES (Attorney-General) (3.34): I ask for leave to move a motion authorising the publication of the Auditor-General's Report.

Leave granted.

MR HUMPHRIES: I move:

That the Assembly authorises the publication of the Auditor-General's Report No. 13 of 1997.

Question resolved in the affirmative.

FINANCIAL MANAGEMENT REPORT AND INSTRUMENTS
Papers and Ministerial Statement

MRS CARNELL (Chief Minister and Treasurer): Mr Speaker, for the information of members, I present, pursuant to the Financial Management Act 1996, an instrument issued under section 14 and a statement of reasons for giving it; an instrument issued under section 16 and a statement of reasons for giving it; and a consolidated financial management report for the period ending 31 October 1997, pursuant to section 26. I ask for leave to make a short statement.

Leave granted.

MRS CARNELL: Mr Speaker, I am pleased to present to the Assembly the consolidated monthly financial management report for the month ending October 1997. As invited by Mr Whitecross in this place in the last sitting week, this report also provides details on the indicative year-end forecast as prepared by the Office of Financial Management, but more of that later. This report is presented under section 26 of the Financial Management Act and provides a clear comparison between last year's outcome, year-to-date actual versus budget, and an indicative forecast to the year end of the current year. Mr Speaker, the October year-to-date report shows that the Territory has achieved an operating surplus of \$1m against a budgeted operating loss of \$38m. This result has been achieved through improvements against budget for both revenue and expenses. To the end of October, revenue is better than budget by \$24m, while expenditure is under budget by \$15m. Keep up with me, Mr Berry. It is all right. The details of individual line items that these items comprise are shown at page 13 of the report.

Mr Speaker, I will now turn to the indicative year-end forecast, which has also been included in this report. The Office of Financial Management has provided an indicative year-end forecast of an operating loss of \$152m, potentially \$84m better than the 1997-98 budget and \$1m better than last year's outcome. This forecast is based on available information to the end of October, while also including known pressures and opportunities which have arisen or are foreseen for the remainder of the year. The year-to-date performance and the indicative forecast for 1997-98 demonstrate the continued achievement of improved financial management outcomes by this Government. I should point out to members that the actual outcome for 1997-98 could be expected to vary according to circumstances that arise after, or are unknown at the time of, the forecast being prepared. They could create a larger operating loss or a smaller one.

At this point, Mr Speaker, it is appropriate that I use a number of illustrations and examples of the Opposition's approach to financial management. When I presented the audited result for 1996-97 in the last sitting week, I was pleased to hear that at least Mr Whitecross had learnt something as a result of the financial management reforms. I recall that Mr Whitecross corrected himself to refer to the 1996-97 outcomes as an operating loss rather than a deficit. That is a big step in the right direction. Mr Whitecross also had the good grace to acknowledge the performance of this Government's financial management by referring to the 1996-97 outcome on more than one occasion as a "significant improvement". I could not agree more. In this regard Mr Whitecross could be considered to have taken a balanced approach to his analysis and representations. Here it is, Mr Berry, a balanced approach. I will make it simpler. In contrast with this balanced approach, Mr Berry on most occasions since becoming Shadow Treasurer has been silent on financial management; but unfortunately, when we do hear from him, it is usually a one-sided approach aimed at sensationalised headlines based on Berrynomics. We could call this one Berrynomics. This is simpler. This is Mr Berry being somewhat upset that his "Working Capital" report did not have any money to fund it. It was very unfortunate, but what can you do? That is the story.

Regardless of the established framework of financial management being applied in the ACT, which is consistent with Australian accounting standards, Mr Berry appears to be able to apply his own interpretation of the numbers. We have seen this very regularly. Perhaps I should simply illustrate the Government's financial management of the Territory for last year. Let us focus on the bottom line for last year, which clearly shows an improvement of \$78m. That is a huge improvement in one year. The question for those who do not understand financial management - here we are, Mr Berry - is: Which number is bigger? The big number on this side is the budget and the little one is the outcome. That is how much better we did. Maybe there are too many zeros there. Maybe we had better make it a bit easier by getting rid of the zeros. Here we are, Mr Berry. Here is the budget, \$231m; and the outcome, \$153m. Is it easier when the numbers are a bit smaller? Maybe not. Maybe we should go to apples. We thought it would be two apples and it was only one apple. We did not spend as much money as we thought, Mr Berry. The reality is that the outcome for this budget was significantly better than we believed it would be. In fact, it was \$78m better than we expected. I can only assume that if those opposite are elected at the next election we will see more from Professor Berry of the Berry University giving us more very interesting information on his underpinning Berrynomics. I think that would be Berry bad.

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Mr Moore: I raise a point of order, Mr Temporary Deputy Speaker, under standing order 213. I would hope that the papers that the Chief Minister referred to will be tabled.

MRS CARNELL: I table them. Can I have leave to incorporate them in *Hansard*?

Leave not granted.

MRS CARNELL: I move:

That the Assembly takes note of the instruments of transfer and the Consolidated Financial Management Report.

MR BERRY (Leader of the Opposition) (3.43): Mr Speaker, I note the changing dynamics in the Territory budget. I merely say that it is a typical election budget where underestimated revenue has made the books look better. That very clearly summarises the position. Mrs Carnell was quick to ridicule in her speech on this matter. It is okay to say that, on the numbers at least, the Government appears to be doing better. That is on the numbers in these documents, but when you look out in the community you can see how well they are doing - 8½ per cent unemployed, 14,500 people on unemployed lists, the highest number ever in the history of the ACT and higher than the national average. Never before have we been higher than the national average.

Mrs Carnell: Yes, we have.

MR BERRY: No, we have been equal to it. We are above it now, in your time. We also have 1,500 young people unemployed, 200 more since last month, even though the Chief Minister has been buying jobs with the Youth500 plan. All of this adds up to tragic circumstances. It is all right for the Chief Minister to come here and say that the financial outcome has been much better, mostly as a result of conservative estimates of revenue. That is an old trick that everybody understands. Anybody who is managing an election will make sure that the conservative estimates peak at a time most suited to the Government. But look at the unemployment. You have to keep swinging back to the unemployment and the tragic results of the activities of this Government. How much better would the budget look if Mrs Carnell had not bought herself popularity in the health system? How much better would the budget look if Mrs Carnell had not given CRA \$11m? If Mrs Carnell had not wasted that money, how much better would it look for the very small amount that was wasted on the futsal slab? It would look much better if things had been attended to in accordance with the promises of the Chief Minister when she came to office last time around.

It is very easy to stand up in this place and boast about some numbers which look much better, mostly as a result of conservative estimates of revenue. That is fine but you have to look at the background. It is the background that is extremely important - 8.5 per cent unemployment. Shame on you. Mr Temporary Deputy Speaker, 14,500 people are unemployed, the highest number ever. Youth unemployment is 37½ per cent or thereabouts, the highest in the country, even though you have just spent \$500,000

buying jobs. How does that make you feel? You are paying for jobs that might have happened anyway. Mrs Carnell will say that employment in the ACT has grown by 200. That is the same number as the population has grown by. Funny that! Unemployment has grown. Is that good too?

Mrs Carnell: No, that is not good.

MR BERRY: That is not good. Mrs Carnell recognises that 14,500 people unemployed is not good. Why did you not say that in question time and say how you failed the people of the ACT? Although you can boast about financial management because some conservative estimates of revenue have come home and demonstrated a nice neat picture in the lead-up to the election, you cannot boast about what you have done out there in the economy. Look at the empty shops. She does not see the empty shops; she just drives past them. Look at the buildings that are going to be knocked over because of the activities of you and your Liberal colleagues in the ACT. Think about the same percentage of people who were cut from your work force as were cut from John Howard's work force. Think about the savage impact that that has had on the ACT economy. Think about the small businesses that are having trouble because of your combined activities. Do not come in here boasting about a better financial result unless you can boast about other factors in the economy as well, the most important of which is the unemployment rate. That is why Labor has put forward a plan. We have ideas about how to deal with unemployment. Those ideas will culminate in a better ACT. Unquestionably, we are the only party in this place with any ideas in relation to unemployment. Your performance has been dismal. For six months unemployment has been rising in the ACT. Who has been the only party which has been drawing attention to these matters in the ACT? The Labor Party are the only people who have been concerned about the unemployed out there. The Michael Moore party has been almost silent. The Osborne party, a party for a moment, has been almost silent.

Mr Moore: How are you going to raise the money? I have told you how I will do it.

MR BERRY: Sorry, Michael, you have been silent. I am sorry that you feel sorry about saying nothing about the jobless. It is too late now. You have not done the work. While you have been worrying about other issues, this horse and cart has bolted. Mrs Carnell has led this Government, this community and this Assembly down a path of shame. Here we are in a situation where never before have we had such high numbers of unemployed.

Mrs Carnell: And such high numbers of employed.

MR BERRY: But look at the percentage, Mrs Carnell - 8.5 per cent. It tells you the truth. It is more than the national average. It is of your creation. You have no answers. For the last six months, despite all the thrashing around that we have seen from you, all the dancing around in front of the cameras, it has been rising - for six months in a row. Explain to me how you can be shameless when you have such facts in front of you - six months in a row of rising unemployment and 2,800 more people unemployed than when you came to office. They are all numbers that stack up against you. These numbers, with the help of some conservative budgeting on revenues, make a nice neat little package that would make a Treasurer feel good, but only a Treasurer who

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did not care about social justice issues in this town. Unemployment is one of the greatest unjust outcomes of an economy. You are responsible for the greatest unjust outcome in this economy since self-government. We have had the greatest unjust outcome for this economy ever. How dare you come into this place and not mention that.

MRS CARNELL (Chief Minister and Treasurer) (3.53), in reply: Mr Speaker, I was very pleased to hear Mr Berry say that unemployment is the most important issue. The Social Security figures for the people actually collecting unemployment benefits this month fell by nearly 100. They fell from 8,462 to 8,360. Those are the people picking up unemployment benefits, the people relying on unemployment benefits to live. I am not for a moment suggesting that any number of unemployed is acceptable. That is the reason that we have been out there in the community and out there in the business world with our business incentive packages making sure that there are new businesses coming to Canberra - - -

Mr Berry: You are looking more and more like a joke every day.

MRS CARNELL: We will see, Mr Berry. We have been out there with our business incentive packages attracting new businesses like EDS today, with 11 jobs now, 200 by the end of next year and possibly 700 in five years' time; and Fujitsu, with 900 full-time jobs over the next three years. More than 30 business incentive packages have now been given, resulting in \$60m worth of investment and over 2,000 jobs. Youth500 I am very proud of. I was very pleased that Mr Berry brought that up. Youth500 actually was not our idea, and I am the first to admit that. It came from the Youth Coalition and from a seminar that we organised to get community input into the answer. I believe very strongly that the proposal for Youth500 was a very good one. It brought together business and the Youth Coalition. I am very happy to give credit where credit is due. The credit goes to that seminar in February where business people, the Youth Coalition, the CES and regional interests got together and came up with Youth500 as one of their proposals. They worked very hard to ensure that it came about. We are over 500 now; that is 500 young people with full-time jobs. Mr Berry, to say that that is not all right or that somehow \$500,000 spent to ensure that 500 young people have full-time training jobs in the ACT absolutely stuns me. I believe it is the most successful employment scheme we have seen in the ACT since self-government.

There are fewer people picking up unemployment cheques or having them put into their accounts than there were a month ago, but even one is too many. That is the reason we will stay out there with business incentive packages, getting new businesses to come to Canberra, getting new jobs created in the ACT, keeping our retail figures as buoyant as they are, keeping our private sector consumption higher than the national average and keeping the growth in full-time jobs in the ACT up, with 6,400 new full-time jobs since last year. I do not think that is a bad result when you consider that our biggest single employer in the ACT has downsized by some 10,000. To have reduced the operating loss from \$349m to \$153m this year when we are tracking at a similar rate to that for last year and when we have more full-time jobs in the economy than when we came to power, I do not think is a bad effort over the last couple of years, but I certainly do not expect Mr Berry to agree.

Question resolved in the affirmative.

**PUBLIC SECTOR MANAGEMENT ACT
Papers and Ministerial Statement**

MRS CARNELL (Chief Minister): For the information of members, I present, pursuant to sections 31A and 79 of the Public Sector Management Act 1994, copies of contracts made with Brian Johnston (long-term contract), Andrew Clark (long-term contract), John Robertson (long-term contract), Phillip Thompson (both long- and short-term contracts), Alan Towill (both long- and short-term contracts), Miriam Jamieson (short-term contract and performance agreement), Elizabeth Fowler (Schedule D variation), Annabelle Pegrum (new performance agreement), Moiya Ford (new performance agreement), Hans Sommer (new performance agreement), Phil Sadler (new performance agreement) and Michael Tidball (new performance agreement). I ask for leave of the Assembly to make a short statement with regard to these contracts.

Leave granted.

MRS CARNELL: The important issue with these contracts is to respect the confidentiality of those people who have personal details in the contracts. I am confident that the Assembly will continue to respect that.

**PATIENT ACTIVITY DATA
Papers**

MRS CARNELL (Chief Minister and Minister for Health and Community Care): For the information of members, I present information bulletins relating to patient activity data for Calvary Public Hospital and the Canberra Hospital for October 1997.

**SOCIAL POLICY - STANDING COMMITTEE
Report on Inquiry into the Adequacy of Mental Health Services -
Government Response**

MRS CARNELL (Chief Minister and Minister for Health and Community Care) (3.59): Mr Speaker, for the information of members, I present the Government's response to the Standing Committee on Social Policy Report No. 6, entitled "Inquiry into the Adequacy of Mental Health Services", which was presented to the Assembly on 25 September 1997. I move:

That the Assembly takes note of the paper.

It is my pleasure to table the Government's response to the report of the Standing Committee on Social Policy on the inquiry into the adequacy of mental health services. The Social Policy Committee's report was tabled on 25 September. The report contains 20 recommendations, all of which the Government has addressed or soon will be addressing. I am disappointed that the committee did not give the Government sufficient

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credit for the significant reforms made in mental health services since the beginning of our term. In ACT Mental Health Services, the reforms include improvements to the crisis assessment and treatment team, the establishment of a preferred point of entry to the service, improved linkages with other key agencies, the regionalisation of services and the emphasis on a case management approach. These improvements alone are addressing many of the issues raised in the committee's report.

The response outlines the Government's directions for planning mental health services in the ACT, which will be outlined in more detail in the forthcoming whole-of-Territory strategic plan for mental health. The whole-of-Territory plan will be released for community consultation in January 1998. As I made a statement to the Assembly in September, on this occasion I would simply like to highlight four specific areas of action outlined in the response. First, services to people with a dual diagnosis have been under investigation. The Government intends to develop new service models for people with a dual diagnosis of mental illness and substance abuse, beginning with an investigation of interstate models of service delivery. Second, the Government has also identified partnerships between agencies providing services to people with a mental illness as a priority. For this reason, agreements are under way or planned between many key agencies providing services to people with a mental illness. These include ACT Mental Health Services and ACT Housing, and ACT Mental Health Services and non-government agencies providing services to people with a mental illness.

Third, the Government has decided that the development of a clubhouse-like model in the ACT will be considered in the context of a needs analysis. The analysis will identify which of the many models of clubhouse would best serve the needs of people with a mental illness in the ACT. Finally, the consultants examining secure care facilities in the ACT have presented a draft report to the Department of Health and Community Care. The department will soon be holding discussions with the consultants about the content of that report. These are just four of the areas of concern to the Social Policy Committee which the Government has addressed or will soon address.

I believe that the response presents a balanced and realistic view of the changes which can occur in mental health services in the ACT. It is important to realise that the Government will be addressing a number of these issues in the context of our next budget. The response outlines the proposed direction of this Government in meeting the diverse needs of those with a mental illness. In doing this, it describes the reforms already achieved and actions in train or planned. I commend the response to the Assembly and look forward to seeing the implementation of further reforms. The Social Policy Committee has shown its compassion in this area. It would be lovely to be able to make everything happen in one day, but I believe the efforts that have been made are certainly moving us in the right direction.

MS TUCKER (4.04): Obviously, I cannot have read the Government's response in detail but I have quickly skipped through it and can see that the Government has acknowledged most of the work of the committee and its recommendations, in spirit at least, although more than that in a number of cases, which I am pleased to see. As I will not have an opportunity to speak on this again, I would just like to make one or two comments about the issue of people with mental illness in the ACT.

I hope that whoever is in government in the next Assembly does pick this up and see it as a matter of urgency and as a very high priority. I acknowledge that the Government in this Assembly has tried to reform how we deliver mental health services. I am concerned that as we speak serious problems are still occurring in the delivery of services, that we are not adequately supporting people and that there are problems in the hospital, with people resigning and so on. There are a lot of issues still to be addressed. I guess why I want to stress the importance of it - and it has come up in every report the Social Policy Committee has done - is that if we do not acknowledge the plight of those people in our community who are vulnerable we are failing as a community and as a parliament. I look forward to seeing these comments by government being picked up in the next Assembly by whoever is in power.

MS REILLY (4.06): It is pleasing to get the Government's response to the report of the Standing Committee on Social Policy on the adequacy of mental health services before the Assembly finishes. This report did go through a number of discussions and various things happened, but there was no suggestion in the report that all recommended actions should be taken immediately, that all things should change at once.

The committee reported on the gaps in services that we heard about from people using those services. I think what this Government should take away from this report, no matter what, is how important it is to listen and take into account what the people who use services actually say. In most cases the issues they raise are not outrageous or unreasonable. They are just saying that the services are not always as effective as they could be; that there are times when they cannot get hold of the services when they want them, even though these services are supposed to be 24-hour services. These people should be listened to. They should not be dismissed as ungrateful or having unrealistic expectations. One of the important outcomes of this report and the other reports of the Social Policy Committee is the importance of listening to those who use the services whether they are part of the ACT government service or the non-government services. These are often the people who know what should be available. We raised this in several areas during question time today, but it is just as applicable to mental health services.

It was pleasing to hear Mrs Carnell say that the clubhouse model will be looked at in the budget. It is very pleasing that she will pick up that issue, because there are gaps in social services in this area. It is very difficult not to be gravely concerned by a report in the *Canberra Times* last Saturday about the number of resignations of psychiatrists from the government service. The fact is that the chair of psychiatry is still vacant. Even though an appointment has been imminent for months and months, still no-one has decided to take on that position. For more than 12 months now we have been trying to work out who will head up Mental Health Services in the ACT. We still have a difference between the person who is sitting in the position and the needs under the legislation. This issue of more than 12 months' standing has not been resolved. It has an influence on the delivery of services in the ACT and needs to be resolved. It is ridiculous to leave such an important position in limbo. We cannot go on with this situation, and the Government needs to address it as a matter of urgency.

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In conclusion, I hope that the findings of the report and the response from the Government do not get lost but that whoever is in government next year - and I know which government I would like to see - listens to the consumers who use the services and takes their views into account.

Question resolved in the affirmative.

**ESTABLISHMENT OF A NEW PRIVATE HOSPITAL -
SELECT COMMITTEE
Report - Government Response**

MRS CARNELL (Chief Minister and Minister for Health and Community Care) (4.10): For the information of members, I present the Government's response to the report of the Select Committee on the Establishment of a New Private Hospital, which was presented to the Assembly on 13 November 1997. I move:

That the Assembly takes note of the paper.

There are times when committees make a real contribution to analysis and policy development which substantially assists the Government in providing better services to the people of the ACT. These committees vindicate the time and effort members of this Assembly put into such endeavours. In these circumstances we rise above party politics and consider what is best for the ACT. The Social Policy Committee, in producing the report we have just commented on, is one example. I regret to say that the Select Committee on the Establishment of a New Private Hospital does not fit into this category. The report is in the category of time wasters, fuzzy thinking and biased conclusions resulting in a set of weak recommendations which either ask us to do what the committee was supposed to do in the first place or suggest action which has already occurred or is in the pipeline.

The chair, Mr Berry, made no secret of his personal philosophy - no more private hospitals. He seems to prefer that we use scarce public health dollars to support the private sector or that we continue to subsidise private patients' use of public health facilities. I find Mr Berry's hypocrisy on the development of this hospital absolutely breathtaking. The Government notes the numerous times that the chair has argued against the expansion of the private hospital care sector, including the time his opposition led to the quashing of a private hospital development in 1991. The Government questions his capacity to have objectively chaired this committee. Possibly, the most telling comments were made by Mr Berry on 8 May 1997, the day he introduced the terms of reference of this committee, when he should have been demonstrating some objectivity. He claimed, "We are better off", even though the ACT has 0.7 private beds per 1,000 patients, when the national average is 1.2. Minutes later, when I was explaining the impact of the private bed shortfall on the ACT population, he said:

Rubbish! We are better off than the rest of Australia already. We do not need any more of them.

They are definitely the words of somebody without a preconceived view! We have also seen his lack of economic acumen more than once. On the one hand, he is prepared to spend \$44m of non-existent government funds supposedly to create employment and roads in the ACT. On the other hand, he is prepared to scuttle the development of a private hospital which represents a \$25m capital injection with an annual turnover of \$15m. A large part of this will be for increased employment in the ACT.

In another extraordinary twist, Mr Berry has allied himself with John James Memorial Hospital, to the extent of attaching the hospital's submission to the report. Of the 17 submissions received, John James gets pride of place in being attached, I presume in full, even before the minority report of the Government member of the committee. The Government member, Harold Hird, had the guts to submit a minority report. I understand that he found the chair completely intractable and was unable to effect more than a few cosmetic changes. The Government fully supports Mr Hird's minority report. The committee was a beat-up from the beginning. As we get closer to 21 February, I assume we will see more of the same.

In respect of the recommendations of the committee's majority report, the Government makes the following response. Recommendation 1 asks for the establishment of another inquiry to monitor the impact of a 100-bed hospital on the public and private sectors. I thought that was what the committee was supposed to do. We certainly gave them pages and pages of information on service and bed number projections in our submission, which on my reading of the report it chose to totally ignore.

Recommendation 2 asks that the Assembly request the Public Accounts Committee to examine the principle of commercial-in-confidence. The Government supports the intent of this recommendation, in that much of the contracting between the ACT Government and the private sector is on a commercial-in-confidence basis. Without this security, business may be reluctant to deal with the ACT Government, as Mr Berry himself has said - I quoted him earlier today - especially if there is a risk of commercially confidential information becoming available to competitors through public disclosure. As such, the Government proposes that this issue be considered by the next Assembly, by all MLAs rather than through a committee process. However, if the Assembly chooses to refer this matter to a committee in the next Assembly, we will support that approach. As I mentioned when the committee's report was tabled in November, I note with some wry amusement the intransigence that Mr Berry displayed three years ago when we asked him for the VITAB papers. He hid behind the commercial-in-confidence principle and cost the taxpayer some \$5m. I will be interested to hear his comments on commercial-in-confidence if the next Assembly is graced by his presence. As I said earlier, we have referred the issue of commercial-in-confidence to the Chief Minister's Department to come forward with proposals which will go to the next Assembly. I believe very strongly that we do need to reduce the amount of commercial-in-confidence that is used by governments. I think at times it has been an excuse that has been used not to make papers available. We do have to sort this one out, and the next Assembly would be the time to do it.

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Recommendation 3 asks for the Attorney-General to request the Government Solicitor to examine the contract and other agreements to ensure that they comply with trade practices legislation. The Attorney-General's Department, through the ACT Government Solicitor, has been closely involved in the whole process right from the start. The Government Solicitor's Office has been actively represented in the negotiation of the agreement to lease and other agreements to ensure compliance with trade practices and other relevant ACT and Commonwealth legislation. The Government Solicitor is currently working with the Canberra Hospital to develop service level agreements and any other required contractual arrangements. I fail to see what else it is going to do.

The fourth recommendation seeks an examination by the Auditor-General of the arrangements between the Government and Health Care of Australia, to ensure that the ACT taxpayer is receiving a fair return on their investment. The recommendation also proposes that the Auditor-General continue to monitor these arrangements. The Government supports this recommendation, in that the Auditor-General is able, at his own discretion, to examine government contracts to ensure probity and an appropriate return to the ACT. I should point out that it is not in the Government's or the Canberra Hospital's interest to subsidise the new private hospital. I can promise you that that is not what is being planned.

Recommendation 5 is a longwinded statement that says that all private hospitals must have the same level of access to the Canberra Hospital Accident and Emergency Department and that procedures should be developed to ensure this. Of course we agree with this, but this must not interfere with the provision of emergency care to patients or the efficient operation of the A and E Department. We consider the collection of data on admissions to private hospitals from the Accident and Emergency Department to be an onerous burden on busy staff. However, we support the need for explicit protocols on the roles of public and private hospital staff in terms of informing patients of their options and arranging transfers.

Mr Berry, the recommendations are grasping at straws, because there is little else that you could do to criticise the Government in this area. Mr Berry made a play of accusing us of not consulting with the private hospital sector, somehow implying that we should have paid scarce public health funds to develop services which the private hospital will provide. It is hard for me to understand what he is talking about. In fact, the new hospital will put money into the coffers of the Canberra Hospital. Mr Hird has pointed out in his minority report that it would have been totally inappropriate for the Government to have colluded with hospitals which would have been in competition in the tender process. It is important to realise that John James was able to tender in this process.

The Government made this an open and even-handed process. It even had an independent probity auditor involved at every step of the way. We are squeaky clean. Not only that; we have brought real choice to privately insured patients in the ACT and surrounding region. I am pleased with the way the hospital is developing. More than 100 people have and will have jobs on the site during building and significantly more than that will have jobs when the hospital is operating.

MR BERRY (Leader of the Opposition) (4.21): If the vitriol directed at me personally had been taken out of the Government's response, it would have been a much thinner response and would have taken the Chief Minister a lot shorter time to deal with. As the vitriol has been included, one has to respond to that much of it which is worth responding to. The first thing I want to deal with in relation to this matter is the Government's and in particular the Chief Minister's approach to consultation. Earlier on in this place we heard the Chief Minister boasting about her Government's commitment to consultation and how all of her "Meet the Minister" programs, funded by the community in the lead-up to the election of course, are a signal of that commitment. She also made a point of raising with me a letter which she had sent to me in relation to the establishment of the Review of the Governance of the ACT, and she called that consultation. The real issue is: When is consultation real consultation? Mrs Carnell thinks, it appears, that consultation is a discussion which happens after the matter has been decided. I do not. Consultation is about talking with people as you form the idea, as you lead to the decision. That is proper consultation. It happens at the contemplative stage.

This is where the Government went wrong from the outset and cheated businesses in the ACT. This is a government that sings loudly about its connections with the business sector. They are slightly frayed as a result of their behaviour in relation to this hospital - more than slightly frayed. Mr Speaker, Mrs Carnell says, "We consulted and anyway the John James Hospital had the right to tender for the hospital if they wanted to". What a joke! This was a multimillion dollar establishment. Mrs Carnell says that it was fair because John James could have dug into its reserves and tendered for it and set the hospital up themselves. That just shows a complete misunderstanding or lack of understanding about business issues here in the ACT. The Chief Minister does not understand business issues in the ACT. She intends to promote herself in the lead-up to the next election as a person who does. I think this particular incident will demonstrate clearly to the business sector that this Chief Minister does not care much about other businesses in the ACT. She has clearly favoured one from outside of the ACT for this hospital, against the interests of existing businesses in the ACT. John James Hospital were not consulted about the - - -

Mrs Carnell: They could have tendered.

MR BERRY: There she goes again. She says, "They could have tendered". That is consultation! This lack of understanding of the consultative process is a clear demonstration of the inadequacies of the Chief Minister to deal with these sorts of issues. The same happened in relation to Calvary Hospital. Calvary Hospital invested something like \$6m in a medical centre at Calvary Hospital to cater for its future needs in the private sector. Would Calvary have invested that sort of money had they known that the Government was going to make this decision about the new private hospital? I suppose the Little Company of Mary were living in the mistaken view that they might be consulted if the Government was about to make some big decision about hospitals in the ACT. I am afraid that they were shocked by the reality that the Government did

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not consult with them either. Although \$6m or \$7m was invested in practices at Calvary, the Government was secretly making decisions about a new hospital for the ACT. There was not a breath of discussion with Calvary in the lead-up to the decision. The decision was made behind closed doors and then the Government decided to go on with it.

I have said in the past that there is no need for additional private beds in the ACT. Mrs Carnell relies on statistics which show that the ACT is in need of them because we have fewer private beds per head of population. I think a lot of people in other States would argue that they have far too many and that the private sector dominates the delivery of health services too much. We know about the commitment of this Government to the private sector and how they will do anything to privatise any aspect of government service. That is part of the Liberals' philosophy. We are about quality public services for all and in particular for those who cannot afford access to the private sector.

Let us have a look at the sorts of services that the private hospital will provide. I want to make it clear from the outset that I do not question the quality of the services that are going to be provided at the new private hospital. That is not an issue in question. For example, heart bypass surgery will cost about \$10,000 in the private hospital. Mrs Carnell and others will say, "Only if you are privately insured". Do you think private hospital insurance comes for nothing? No. Of course it costs. It will cost \$10,000. Whether that comes by way of a cash payment or by way of insurance, it is high-cost medical technology which could be available to the community through that hospital. It would cost not \$1 for a public patient in the public system.

Mrs Carnell goes crook about patients using the public system. She calls it "subsidising them". What difference will the new private hospital make to that? Probably none; if any, very slight, according to the evidence that the committee - Mr Hird and I - took in Sydney. They do not get much business out of the public hospital, Mrs Carnell. We received evidence to the effect that they expect to get plenty. That is not so. The fact of the matter is that the business is going to come from the existing private hospitals. In fact, any job that is created there will create shortages of qualified people in the other hospitals or will take jobs and services from those hospitals; so it will be at the expense of the other private hospitals, for the most part. Mrs Carnell does not seem to care about local businesses, but that is an important factor which was considered, and seen, by the committee.

The other aspect of patients going to the private hospital is coercion. It may well be in the interests of doctors to coerce patients to go to the private hospital, because there is more in it for them in a business sense if they do so. The closer the hospital is to the public system and the more cross-relationship there is, the more likelihood there is of that. What also concerns me is the likelihood that public services will be wound back in an effort to force people into the private sector and therefore save money in the public sector. I think this Government's philosophy would guarantee that that would happen.

Another issue of concern was cross-subsidisation. Mrs Carnell says, "We will never do that. It would not be in our interest to do that". I can tell you, Mrs Carnell, that Calvary pays \$87 per hour for work in biomedical engineering at the Canberra Hospital. And guess what? The new private hospital is to be charged only \$47 per hour, by direction.

Mrs Carnell: By whom?

MR BERRY: By direction. No subsidies? Here is a subsidy, a very clear one. It will be \$87 per hour for Calvary and \$47 per hour for the new private hospital for biomedical services. This private hospital was unnecessary in the health landscape in the ACT. It is a big ticket item that Mrs Carnell has seized upon. It is the same ideology that drove Gary Humphries when he decided upon a private hospital adjacent to Calvary some years ago, which I happily blocked. This private hospital will change the way services are delivered in the ACT in the future. As a result of this new hospital, I predict that health services to ACT residents will cost a lot more, because that is the nature of the business. It is about attracting people and coercing people into the business in order that the organisation can profit as a result of the services.

The Chief Minister goes to great lengths to criticise my understanding, which she calls bias, of health care services in the ACT. It is not bias; it is understanding that I have in relation to health care service, and I have a commitment to the public sector. To you, that might show itself as bias, because you cannot break me on it. I am not going to change. That commitment will remain. It is the same commitment, Mrs Carnell, as you had to providing methadone in private pharmacies when you sat on a committee considering the matter.

Mrs Carnell: You told me that was a conflict of interest.

MR BERRY: It was a conflict of interest, in my view.

Mrs Carnell: Do you have a conflict of interest on this one, if it is the same thing?

MR BERRY: I do not own a health business; you do. There are some differences that most people could work out.

Mrs Carnell: You just said it was the same thing.

MR BERRY: If you want to raise a conflict of interest issue, we can discuss that. You are saying that I have a bias because I had a particular view about health care when I sat on this committee. I say to you that I am no different to you. You had a particular bias when you sat on a committee concerned with the provision of methadone from private pharmacies. Other members in this place suffer the same problem. They have views. You cannot be viewless in relation to service in this Territory when you sit on a committee. It is the same for somebody who lives here and pays rates or rent. It is a bit hard to avoid having a view.

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Those barbs which are contained in the Government response do not enhance the standing of the Chief Minister or the Government. They are merely distractions from the main issue. The main issue is that this hospital will provide some jobs in its construction stage. The cost of the hospital will have to be retrieved from business in the ACT. That will come from other hospitals. The jobs that are created within the new hospital will come from other hospitals. In fact, they may indeed create shortages in skilled staff which may affect our public hospital.

The other matter which struck me during the inquiry was the seemingly absolute commitment by officers from the Territory's health area to a joint and shared facility with the new private hospital for the provision of cardiac bypass surgery and those sorts of things. We were most surprised that this agreement had not been stitched up. When the private sector person came before us, he said, "Oh, no, I am not going to have a bar of that. We are going to be totally independent. We are not going to have anything to do with the public sector. It is not going to be shared at all". We have all heard for aeons how it takes about 300 people to make a satisfactory unit in a public system. We know that for ages there has been some question about whether that number could be achieved here in the ACT. The private hospital says, "We are going to do about 150". That is what they think anyway. That leaves about 150. What does that do to our public system? That is the question that is still nagging at me. Does it make it too inefficient to operate in the public context? Does it mean that we are going to contract at \$10,000 a throw to the private hospital to get it done? What does it mean? I do not think you know. It means that we are going to contract for the private hospital, does it not? That is what it sounds like to me. It will cost buckets. If it does not, the efficiency of our own unit will be affected. I would like to hear some more in relation to that.

Mr Speaker, this has been a sad and sorry enterprise embarked upon by the Government. It has angered businessmen in the ACT and created a great deal of suspicion about the Government's motives. It seems that the Government was playing favourites in relation to the matter and making sure that they discriminated against local businesses. I find that most surprising from a Liberal Government here in the ACT. This hospital will provide quality services, I am sure. But, as I said, it will not come cheaply. It will be expensive for everybody who uses it. It will force up health care costs in the ACT.

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

MS TUCKER (4.36): I spoke to a lot of these arguments when we tabled the report, but I feel I need to respond again now, because I think I have been caught in the middle a bit here. I did not have a fixed view at the beginning of this inquiry. I have already said that. I was not prepared to support it unless a number of my concerns were acknowledged by Mr Berry, and he did acknowledge them. I think we had a quick inquiry in a very political environment. It was different to any other committee inquiry I have been involved in here. I think that the recommendations are reasonable. The tendering process, obviously, is not a consultation process. What I am concerned about is that no real needs assessment was done beforehand. I think that should have been done. That is why John James and Calvary are justifiably concerned about the process that occurred.

They are two businesses that have invested a lot of money in the ACT. It is a bit like the discussion we are having on retail space in the ACT. Let us work out what a population of this size is able to support in terms of private medical care. I was not able to see that that had been undertaken.

The argument that John James could have tendered had they so wished is a spurious argument. They made it quite clear that they did not do that because they did not believe that the need for such a hospital existed in the ACT. Why would they tender to start a new facility which they believed that demand would not be able to keep viable? Obviously, it would not have been sensible for the business to do that. It would have meant that they would have had to close the facility they were already running, which would have cost them a lot of money and not been sensible.

The first recommendation is that we have an independent review to work out the impact of the additional beds. It is just about getting information. The Government has accepted the commercial-in-confidence recommendation. That recommendation has come out of a number of committees in this place recently. There is a lot of support for a review of what we regard as commercial-in-confidence.

The next recommendation is about the Attorney-General requesting the Government Solicitor to examine the contract and other agreements to ensure they comply with trade practices legislation. I do not see how a Liberal government or a Labor government could object to that. Everyone is very keen on ensuring that competition is free, open and fair. There appear to be some concerns that there may be unfair support for this particular business. The other recommendations are mainly about checking on how accountable this is and whether the ACT is actually benefiting from this move.

In respect of recommendation 5, Mrs Carnell said, "Yes, of course, as long as it does not interfere". That is fine.

My main concern from this inquiry was that we did not have enough assessment of the need before it started. It does look to me as though we are now oversupplied and there could be some unfortunate consequences.

MR BERRY (Leader of the Opposition): I seek leave to speak again for a little extra time, just a couple of minutes.

Leave granted.

MR BERRY: Mrs Carnell railed against me in relation to commercial-in-confidence. How I overlooked that in my response I do not know. That was a lapse that I hope is not repeated today. The commercial-in-confidence issue is one of concern, particularly because, in my view, the decision to sign the contracts with the hospital was taken when it was to prevent access to contracts. That was the first time I had ever experienced that happening. There was a motion on the notice paper to consider this issue, and the contracts were signed off that morning to prevent access to them.

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Mrs Carnell: I told you that I would give you access.

MR BERRY: I will not tolerate conditional access in a committee. It is up to committees to make decisions about what happens to documents once they receive them. Documents should not be taken conditionally. That was the view of the committee. I am saying to you that this commercial-in-confidence document was signed to put a blanket over the conditions of the deal with commercial-in-confidence. It was signed on the morning to prevent access to it. That was why I was so concerned. It was a bit sneaky, Mrs Carnell, in my view.

Question resolved in the affirmative.

LEGAL AFFAIRS - STANDING COMMITTEE
Report on Voluntary Codes of Practice for Liquor Licensees -
Government Response

MR STEFANIAK (Minister for Education and Training) (4.42): For the information of members, I present the Government's response to Report No. 5 of 1997 of the Standing Committee on Legal Affairs, entitled "Inquiry into the Voluntary Codes of Practice for Liquor Licensees", which was presented to the Assembly on 23 September 1997. I move:

That the Assembly takes note of the paper.

I seek leave to have the tabling statement incorporated in *Hansard*.

Leave granted.

Statement incorporated at Appendix 2.

Question resolved in the affirmative.

PAPERS

MR STEFANIAK (Minister for Education and Training): Mr Temporary Deputy Speaker, for the information of members, I present the following papers:

Legal Aid Act - Direction to the Legal Aid Commission (ACT) relating to a funding agreement between the Commonwealth and the ACT, together with a copy of the agreement and an explanatory statement, dated 9 December 1997.

Nature Conservation Act - Approval of the draft strategy entitled "The ACT Nature Conservation Strategy", together with the strategy and an explanatory statement - No. 263 of 1997 (S397, dated 9 December 1997).

Draft plans of management for:

Belconnen's urban parks, sportsgrounds and Lake Ginninderra, dated December 1997; and

Woden and Weston Creek's urban parks and sportsgrounds, dated December 1997.

SUBORDINATE LEGISLATION Papers

MR STEFANIAK (Minister for Education and Training): Mr Temporary Deputy Speaker, I present, pursuant to section 6 of the Subordinate Laws Act 1989, subordinate laws in accordance with the list circulated in the chamber.

The list read as follows:

Bookmakers Act - Instrument of appointment to the Bookmakers Licensing Committee - No. 254 of 1997 (S363, dated 21 November 1997).

Consumer Credit (Administration) Act - Determination of Fees - No. 270 of 1997 (S402, dated 10 December 1997).

Motor Traffic Act - Motor Traffic Regulations - Declaration of declared holiday period - No. 264 of 1997 (S404, dated 10 December 1997).

Sale of Motor Vehicles Act - Determination of fees - No. 272 of 1997 (S402, dated 10 December 1997).

Supreme Court Act - Supreme Court Rules (Amendment) - No. 38 of 1997 (S403, dated 10 December 1997).

Trade Measurement (Administration) Act - Determination of fees - No. 271 of 1997 (S402, dated 10 December 1997).

PURCHASE AGREEMENT Paper

MR STEFANIAK (Minister for Education and Training): I present the revised 1997-98 purchase agreement between the Minister for the Environment, Land and Planning and the Chief Executive of the Department of Urban Services.

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PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Report on Protection of Amenity Rights of Residents -
Government Response

MR STEFANIAK (Minister for Education and Training): I present the Government's response to Report No. 34 of the Standing Committee on Planning and Environment, entitled "The Protection of Amenity Rights (such as sunlight and views) of Residents from the Impact of Satellite Dishes and Cables which are associated with Pay Television", which was presented to the Assembly on 4 November 1997.

STATE OF THE ENVIRONMENT REPORT 1997
Government Response

MR STEFANIAK (Minister for Education and Training) (4.44): Mr Temporary Deputy Speaker, for the information of members, I present the Government's response to the ACT State of the Environment Report 1997, which was presented to the Assembly on 25 September 1997. I move:

That the Assembly takes note of the paper.

In September, Mr Humphries had the pleasure of tabling the 1997 ACT State of the Environment Report, prepared by Dr Joe Baker. The Government has now considered his recommendations and prepared a response. The response adds weight to the Government's commitment to ecologically sustainable development. In the report Dr Baker makes 19 recommendations concerning environmental management of the ACT, all of which are supported either wholly or in principle by the Government. Where the Government's response is qualified, it is chiefly because the issues are already being addressed. Of the remainder, agreement is qualified because the matter is subject to the outcome of other processes or simply because of the resource implications.

I welcome the commissioner's ranking of his recommendations in order of priority, which was an issue on which the Government commented in its response to the 1995 report. This measure assists the Government to strategically deploy its limited resources. As members are aware, the commissioner is producing a regional report, which will be available later this month in an interactive compact disk format. I am particularly looking forward to the setting of the ACT state of the environment in an appropriate regional context and to the improved utility and access to be gained from the report's electronic format.

Question resolved in the affirmative.

**PETROL PRICING - SELECT COMMITTEE
Report - Government Response**

MR STEFANIAK (Minister for Education and Training) (4.46): For the information of members, I present the Government's response to the report of the Select Committee on Petrol Pricing, which was presented to the Assembly on 25 September 1997. I move:

That the Assembly takes note of the paper.

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

Leave granted.

Speech incorporated at Appendix 3.

Question resolved in the affirmative.

**EMERGENCY MANAGEMENT LEGISLATION
Papers**

MR STEFANIAK (Minister for Education and Training) (4.46): For the information of members, I present an exposure draft of the emergency management legislation, together with the explanatory memorandum. I move:

That the Assembly takes note of the papers.

I seek leave to have the tabling statement incorporated in *Hansard*.

Leave granted.

Statement incorporated at Appendix 4.

Question resolved in the affirmative.

PAPERS

MR KAINE (Minister for Urban Services): For the information of members, I present the revised 1997-98 purchase agreement between the Minister for Urban Services and the chief executive of the Department of Urban Services. I also present, pursuant to subsection 9(1) of the Territory Owned Corporations Act 1990, a copy of the memorandum and articles of association of ACTEW China Pty Ltd, a subsidiary of ACTEW Corporation Ltd.

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CONSULTATION PROTOCOL Ministerial Statement and Papers

MRS CARNELL (Chief Minister): I seek leave of the Assembly to make a ministerial statement on the ACT Government's consultation protocol.

Leave granted.

MRS CARNELL: Mr Temporary Deputy Speaker, I am pleased to announce that the final consultation protocol is now complete and ready to be distributed to the ACT Government's staff and to the community.

Mr Berry: We will let you incorporate this one in *Hansard*.

Mr Whitecross: Please!

MR TEMPORARY DEPUTY SPEAKER: Order!

MRS CARNELL: Do you want it incorporated?

MR TEMPORARY DEPUTY SPEAKER: Is leave granted to have the speech incorporated in *Hansard*?

Ms McRae: We are just teasing.

MRS CARNELL: No; it is okay. In making this announcement, I reaffirm my Government's commitment to undertaking comprehensive and broad-ranging consultation on issues of importance to the Canberra community. Our aim has been to ensure that the Government is made more accountable to Canberrans by involving them in decision-making processes and by listening directly to their views. Since self-government was instituted in the ACT, there has been a cry for more and better consultation in the ACT by a community that boasts a greater number of community groups per capita than anywhere else in Australia. Canberra is, by and large, a very vocal community that has grown to expect a high level of involvement in government decision-making. The high level of participation in decision-making by community groups actively demonstrates democracy at work. I believe that it demonstrates a very healthy relationship between the Government and the community.

Over the past two years, my Government has made a very strong commitment to the development and improvement of community consultation in the ACT. I have been only too well aware that there is always room for improvement, especially in complicated areas such as those that involve consultation with the ACT community. As you are aware, in February this year the Customer Involvement Unit was established in my department. The unit has been charged with liaising with both the community and government agencies, with a focus on improving government consultation processes. I am pleased to see that this initiative has been recognised by the committee in its statement. To date, the unit has met with over 140 community groups and provided advice and assistance to a number of government agencies. It is now embarking on a strategic approach to ensure

that ongoing improvements are made in the consultation process right across all of our government programs. The development of this protocol is one of the steps in that process. This protocol has been agreed to by members of the community and senior government staff that are involved, and represents a commitment by the Government to open and consultative decision-making.

On 23 September 1997, Ms Tucker made a statement to this Assembly which arose from the conclusion of the inquiry into community consultation by the Standing Committee on Social Policy. I must say that most of the statement is completely out of date and might have been more appropriate if delivered three years ago. In fact, at one stage I thought that Ms Tucker was quoting from parts of the draft consultation protocol, which has been out for final comments for the past two months. Indeed, there is not much that the committee raised that has not been addressed by the Community Liaison Section in my department over the last eight months. In fact, if the committee was fully aware of the extent to which this section has gone to ensure major improvements in the consultation process, it would have had nothing much at all to say in its statement.

The Customer Involvement Unit is in the process of revising the consultation manual, which will be used in conjunction with the protocol, the consultation register and the database to make major and lasting improvements in the Government's consultation processes. Having compared the statement made by the Social Policy Committee with the consultation protocol, I felt that I had to bring to the attention of the Assembly the areas of concern that the committee expressed in its statement regarding the Government's consultation processes. I believe that they were misplaced. I will refer only to those parts of the protocol that relate to the recommendations and suggestions made by the committee.

The protocol states what government staff will need to consider when planning a protocol. They will be required to ensure that consultation occurs with specialist and specific groups when necessary. Indeed, the protocol states:

The stakeholders identified at the beginning of the process will assist in developing a more comprehensive list of citizens who will be, or could be, affected by decisions to be made as a result of the consultation.

The committee had recommended minimum consultation with peak groups and broader consultation with specialist and specific groups as necessary.

Government staff must now plan to use consultation techniques which not only relate to the consultation's objectives but allow maximum participation by the target groups by employing a range of appropriate mechanisms. The protocol states:

Consultation methods need to be appropriate to the outcome, the various stages of consultation and the target groups. The choice of methods should be made early in the process in collaboration with the initial small groups of stakeholders and be based on clear expectations of why particular groups are involved.

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In this case, the committee recommended that techniques used should relate to the consultation objectives.

A further committee recommendation is that plain English be used in all government communication. The protocol states:

Information should be written in plain English, be concise and be in an appropriate format and language.

The following statements in the protocol, I believe, address many of the remaining recommendations of the committee. Under the heading of “Using strategies that maximise people’s ability to participate”, the following statements are made:

... the consultation process aims at allowing maximum opportunity for citizens to make their concerns heard and be taken into account before a final decision is made by Government. Skilled communication techniques are essential elements of consultation. These include:

... encouragement of continual dialogue;

... ensuring that all parties feel ... that they have been adequately heard and will not be disadvantaged by their involvement in consultation;

... providing resources to enable citizens to participate;

... consultation also involves a process of feedback, which informs everyone involved in the consultation about the outcomes, decisions and timelines for implementation.

Another key aspect of maximising participation includes allowing sufficient time for consumer groups and peak bodies to contact and gain feedback from their members.

The protocol states:

Timeframes should be developed in the initial planning process which has been agreed to by all participants.

It should ensure that consultation plans provide adequate time for all stakeholders to participate in an informed way. It also makes a commitment to “honest and transparent” parameters, which include an understanding of:

... the aims of the consultation;
methods of consultation;
steps in the process;
who will ultimately make the decisions as a result of the consultation;
the timelines.

This protocol recognises that consultation is a central principle of good management practice and an integral component of good planning and decision-making. Over the next six months, training will be provided to all program managers in understanding and implementing the principles of the consultation protocol and the manual. The use of the consultation register, which is updated quarterly, will avoid duplication and minimise the possibility of community groups being overloaded with consultation. For the information of members, I would now like to table the register of community consultation.

A comprehensive database of community organisations is also being developed to maximise participation. It is intended that all consultations are to be evaluated during and after the process to ensure that lasting improvements are being made. I do not believe that any government could do more to improve consultation processes or to demonstrate its commitment to maximising the participation of the community in the decision-making process.

Mr Speaker, I would like to use this opportunity to thank Tina van Raay and her staff for a great job in producing this protocol and also for the huge amount of consultation that has led up to this tabling today. I present the protocol and statement and move:

That the Assembly takes note of the papers.

MS TUCKER (4.58): This looks like a really great document. I have just realised that you were having a go at the committee, and I am trying to work out what you were saying. You said that the statement was out of date and that we should have made it three years ago. What we did was, three years ago, produce a discussion paper. We did have a lot of community input to the production of that discussion paper, which actually outlined what the community, academics and so on thought was best practice. There were basic principles outlined there. We made that concluding statement in September. I did not realise that there was competition to produce a document. I realised that we were working in tandem; but I did not think that was a problem.

In this statement, we came out with what we saw as best practice and what we thought was important. We did point out where certain consultations had been disastrous, in the view of the committee. I still think they were, and I do not think you could really argue with that. You might be able to argue with it; but, anyway, obviously we thought that some rather bad processes had occurred.

There is one thing I have not found in here - I do not know whether or not it is in here, because I have not had time to look at it carefully. We did ask that the coordinating role be taken over by the Customer Commitment Unit. What we said in our statement was that the responsibilities should be expanded to include responsibility for instigating recommendations as to where community consultation should occur in overall government activity; ensuring that duplication does not occur; acting as a resource for advice on consultation processes; the development of whole-of-government accountability measures; and evaluation of individual consultations as well as of its own coordination function.

Debate interrupted.

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ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

CONSULTATION PROTOCOL Ministerial Statement and Papers

Debate resumed.

MS TUCKER: I think that was very important. If that is addressed in here - and I do not know whether it is - I would appreciate - - -

Mrs Carnell: It has already happened.

MS TUCKER: The Chief Minister says that it has already happened. I would quite like to see how that has happened and how that is spelt out. Perhaps you can give me more information later, or perhaps I will talk to Ms van Raay about that, because I do think that having that included is very important, as well as having these basic principles outlined. As I said, from the short time I have had to look at it, this looks like a really excellent document. Actually ensuring that it is coordinated - so that we do not have best-practice consultation occurring on one issue from four different departments, which has happened in the past, or things like that - is obviously really important, as is ensuring that the expertise for running consultations will lie in that group. You cannot really expect that that expertise will be to the same degree across all government agencies who may want to run a consultation. So, if indeed that is happening, then I am very happy to see it, and I congratulate the Government on it.

MS REILLY (5.02): I would just like to congratulate Mrs Carnell, as well.

Mrs Carnell: No; congratulate - - -

MS REILLY: May I finish what I was going to say, Mrs Carnell?

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order!

Mr Berry: Marion, she wants to throw you out of work.

Ms McRae: It is your job she wants.

MS REILLY: Maybe we could come to an arrangement. We could job-share. I just want to congratulate Mrs Carnell on bringing forward this document at this time. Here we are, sitting for the last day - the last gasp - of this Assembly, and we have a consultation protocol produced now. I can remember, before the 1995 election, a lot of discussion, a lot of community dissent and a lot of words said by those opposite when they were in opposition about community consultation and consultation protocols. But it has taken them three years to get this together. I think it is interesting that this happens at the last gasp before the Government finishes.

Mr Stefaniak: We have done a hell of a lot of consulting in the meantime.

MS REILLY: The other boast all the way through, as Mr Stefaniak has just carefully reminded us all, has been about how much consultation has happened. We keep hearing these amazing figures. We keep seeing the appropriately paid for advertisements in the paper to "Meet the Minister", showing that the Ministers are out there running community consultations. But, at times, it does not seem to deliver anything. This is what my concern is, that it does not appear to deliver anything.

Just by accident, I opened up at a list in the Register of Community Consultation. On page 13 it refers to No. 30, Bureau of Sport, Recreation and Racing, ACT Academy of Sport, 1997 individual scholarship program. The target group is prospective elite athletes. It talks about applications being called for and people being selected. That is not consultation; it is a selection process. So, is this really consultation, or is it just a huge list to show that you are being active? That is what a lot of the consultation appears to be - a lot of activity. Of course, a lot of people will tell you that there is a lot of activity going on, and quite often one agency does not know what another agency is doing. So, you can be consulted on a number of issues but get no resolution and have different agencies turning up on different days to consult.

We had a discussion earlier today - there was a question and a response - about the community care issues around the setting up of the COOL houses at Macquarie and Fisher. There has been lots of consultation on that; but the issues that have been raised by the residents have not been resolved in any way at all. So, it is difficult to see consultation as an answer to anything. This is what concerns me.

Another issue concerning people that has been in the papers for a number of weeks is the Downer Oval. This is another example of consultation gone very badly wrong. We do not have a situation where the Ministers are ensuring that people know what is going on. Let us look at the criteria for good consultation. In the document there is a heading "What is consultation?". Then it talks about when the consultation should take place. It says:

Appropriate consultation needs to commence early in any decision making process.

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I am sure that the people who live around the Downer Oval would be interested to know that this is part of the Government's consultation protocol, because in no way were they consulted about what was happening on the Downer Oval. The excuse given by Mr Stefaniak to date has been: "Because we are putting in those change sheds, we do not need to notify anybody about it".

Under the heading "When to consult", the protocol makes various points about timing and consultation. The first is that "the issue directly affects a significant group in the community". These are the people who live around Downer Oval.

Mr Stefaniak: I talked to them several times.

MS REILLY: But when did you talk to them, Mr Stefaniak? And did you give them information that they could understand and that answered their questions?

Mr Stefaniak: In the end, they probably would have been the most consulted-with group that you could think of.

MS REILLY: Right. The second point is that "the proposal will significantly affect the rights and entitlements of ACT citizens". A significant number of people or particular groups are likely to have strong views on the issue. Other points in the list are that "the change or issue is likely to directly affect the quality of life for people of the ACT" and that "the Government has insufficient information on which to make a decision about an issue affecting a smaller number of people". None of these criteria appear to have been followed in Downer, because the issue was discussed at a public meeting, which you did not attend, Mr Stefaniak, but which I did attend - - -

Mr Stefaniak: I think you are probably a bit wrong there, actually. There is also a planning process, Ms Reilly.

MS REILLY: I have not got to that yet, Mr Stefaniak. You are not the only one involved in this. There was a public meeting held with the Downer Residents Association. There were 30 people present. They raised a number of issues with an official from the Bureau of Sport, Recreation and Racing. At that time, he did not answer a lot of the questions. At that time, he did not tell people when the facilities were being built on their oval. This is an oval that is well used by the community.

So, there is little point in having a consultation protocol if it has no meaning and if the Government is not following its own protocol. You have spent this money. Hard work has been put in by the people in the Chief Minister's Department, and you just ignore it. So, what is the point of having a protocol that nobody bothers to worry about? It suits you to say, "We have a protocol"; but it does not suit you to actually follow it in any way at all, to answer the questions that people ask. It is the same situation in relation to Downer and an even graver situation in relation to those people living in the houses at Macquarie. So, why do we have all these bits of paper if Government Ministers are not going to provide leadership and follow their own consultation protocol? It makes it rather meaningless.

There are some other aspects of the consultation protocol that have to be considered. How can you have an openness of discussion and consultation when there is fear within the community sector that, if they say the wrong thing, they will be defunded? With competitive tendering, there is fear that, if you share some of your information, somebody else might pinch your idea. It does not provide openness of working when people are frightened of some of the possible outcomes.

The first sentences in the protocol give some indication of the issues surrounding consultation. It says that consultation is a process which “allows Government to make informed decisions”, and it goes on to say what the Government will do in this process. It is a very top-down process; and that is another issue that needs to be looked at. To get the best answer, we need to be looking at a consultative process that is a meeting of equal partners.

Some of the issues that have arisen in the last two years, when I have been here, and some of the responses that community organisations and various individuals have received from this Government indicate that it is not terribly interested in a true process of consultation. This is extremely rude and devalues the work done by the people in the Customer Commitment Unit. I think they should be congratulated for the amount of work they have done. They came and spoke to the Social Policy Committee about how many meetings they were having with different community groups. They have done a wonderful job to pull this together. But what they have to put up with is Government Ministers who are not interested in following this protocol. I think that is very unfortunate.

It is important that the community have the opportunity to have input into decisions that affect their lives. It is important that their needs are met and recognised by the Government before action is taken that affects the quality of life of those people. So, let us hope that we can see a consultation protocol that works in an open and fair manner, a consultation protocol that goes beyond just being a booklet. We want to see that it is put to use and that the work that is done by those people is recognised.

Question resolved in the affirmative.

SOCIAL POLICY - STANDING COMMITTEE
Inquiry - Early Intervention Centre - Proposed Feasibility Study -
Statement by Chair

MS TUCKER: Pursuant to standing order 246A, I wish to inform the Assembly that the Standing Committee on Social Policy agreed that the following statement on the committee’s inquiry into the feasibility of the establishment of an early intervention centre modelled on the Stimulus Early Intervention Centre be made. On 12 November 1997 the Assembly asked the Social Policy Committee to conduct an inquiry into the feasibility of the establishment of an early intervention centre modelled on the Stimulus Early Intervention Centre. The committee was asked to do a feasibility study on the possible establishment of an early intervention centre in the ACT modelled on the Stimulus Early Intervention Centre located at South Windsor in New South Wales, and to table the study

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with recommendations either for or against such a centre as soon as possible. Given the Assembly's sitting pattern, the committee had effectively two weeks to undertake this inquiry - an impossible task. An inquiry as important as this one needs time - time to advertise and call for submissions; time to visit the current early intervention services in the ACT; time to visit the Stimulus Early Intervention Centre in South Windsor, New South Wales; time to hold public hearings; and time to consider any evidence. Mr Temporary Deputy Speaker, that time was simply not available.

The committee did seek information from the Government on what it had done. As members may recall, when this issue was debated in the Assembly on 12 November, Mr Stefaniak told the Assembly that his department had conducted a study. According to Mr Stefaniak's correspondence of 25 November 1997, that study involved the Minister and Ms Jill Farrelly meeting with Mr Kevin Rozzoli, MP, on 17 June 1996 to discuss the proposal; and the manager of the Child Health and Development Service speaking at length with the president of the Stimulus Early Intervention Centre at South Windsor, New South Wales, and reviewing a promotional video. Mr Stefaniak also provided the committee with copies of correspondence between the Stimulus Early Intervention Centre and himself, and copies of the constitution, the corporate plan and policies of the Stimulus Early Intervention Centre. However, the information provided to the committee offers no analysis of the feasibility of establishing such a centre in the ACT. Furthermore, in his letter to the committee, Mr Stefaniak reported:

A team of early intervention staff will arrange a visit to the Stimulus Centre in South Windsor in early December to assess the program.

It seems from this that Mr Stefaniak's department is still doing work on the matter.

Mr Speaker, the committee was disappointed with the information it received from the Minister. That information indicates that any study that was undertaken was very superficial. Maybe once the team of early intervention staff has visited the program at South Windsor this month the Minister will then be in a position to provide a more comprehensive analysis. The committee calls on the Minister responsible for these matters in the Fourth Assembly to table in the Assembly a full and comprehensive report on the feasibility of the establishment of an early intervention centre in the ACT modelled on the Stimulus Early Intervention Centre.

MS REILLY: I seek leave to make a statement, Mr Speaker.

Leave granted.

MS REILLY: As I put up the original motion to undertake a feasibility study into the Stimulus Early Intervention Centre at Windsor, I want to add to what Ms Tucker has said. When I first put the proposal the immediate response from the Government was that this was a criticism. In fact, I was not criticising the current system in the ACT at all.

I was suggesting that here is another type of service; why do we not have a look at it and see whether we can add, in any way, to the services already in the ACT. That was my thought when I put up the motion. In fact, I congratulated the Government on finalising their draft discussion paper on the early intervention services which had been commenced by the Labor Government in December 1994 and had been published by this Government in August 1996.

What we got was an immediate defensive reaction on the part of the Minister in relation to the proposal to consider examining this service. When he was speaking to the motion he made a number of statements objecting to any examination of this centre. He said:

However, for a number of reasons, I do not share her view that the Government undertake a study to determine the feasibility of operating an early intervention centre such as the one operating in New South Wales.

Then he went on to talk about various services that are available in the ACT. Mr Stefaniak went on to say:

... last year we, in fact, investigated the Stimulus Centre that Ms Reilly is asking the Government to implement a feasibility study of.

All well and good. Then he went on to say:

Devoting resources to undertaking a further study - and I stress that it would be a further study because work was done on this over a period of a couple of months last year - would be a waste. Any funds that might be spent there would be better devoted to assessing the effectiveness of our existing service provision.

Well, that is fine. In summary, the Minister was saying, "We have done it already. Do not waste the time or the funds".

In a letter to the Social Policy Committee dated 25 November, the Minister has said that there is going to be an early intervention team from the ACT visiting this centre in Windsor in early December. This seems to be totally contradictory. When the matter came up before the Assembly on 12 November the Minister vaguely indicated that they had done all the work and there was no need to do any more - do not spend the money. When we made some further inquiries after the information that Ms Tucker spoke about was provided by the department - there was no problem with that - we found that in fact they are going to continue to review this centre. The actions of this Minister in these circumstances seem to be contradictory. You are left wondering why, if they were going to look at it further, there was a referral to the Social Policy Committee when the department was still doing the work. Why was there such a defensive reaction to the suggestion that we look at another service that is available in another State? You are left wondering whether the Minister knows what his public servants are up to at times.

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I am pleased that the Minister has decided to continue to investigate the centre and see what it has to offer, but you are left wondering why he did not say this was going to happen in the first place. When I put up the proposal through the motion to the Assembly, why did he not just take it on board and say that he would undertake the feasibility study, as I suggested, rather than be left with the device put up by Mrs Carnell of referring it to the Social Policy Committee? I assume that the next Assembly will want to hear the results of the further visit in December. I am sure they will want to know whether it was decided it was good, bad or indifferent, and what the results are. Why did we not just go through this process simply and have the Minister, on behalf of his department, take on board a feasibility study rather than use the slightly weird and unnecessary mechanism of referring it to the Social Policy Committee?

MR STEFANIAK (Minister for Education and Training and Minister for Children's and Youth Services): I am not quite sure what Ms Reilly is on about because once an Assembly committee looks at something - - -

MR SPEAKER: You need leave, Mr Stefaniak.

MR STEFANIAK: I seek leave, Mr Speaker.

MR SPEAKER: A puzzled Mr Stefaniak seeks leave. Is leave granted? There being no objection, leave is granted.

Mrs Carnell: He can have leave any time he likes.

MR SPEAKER: He is puzzled, though, is he not?

MR STEFANIAK: No. Ms Reilly, once a matter is referred to the Social Policy Committee I think it is very important - - -

Ms Reilly: I did not refer it. You did.

MR STEFANIAK: Shut up. Once it is referred to the Social Policy Committee I think the Government needs to - - -

Ms Reilly: Mr Speaker, a point of order.

MR SPEAKER: A point of order? Why?

Ms Reilly: I think the language used by the Minister was totally unnecessary.

MR STEFANIAK: I am sorry. I withdraw telling you to shut up.

MR SPEAKER: Oh, the language used in this place is appalling.

Mrs Carnell: You do not hear the Minister normally. That was very nice.

MR STEFANIAK: That is actually right.

MR SPEAKER: Would you two like to go outside and talk this over or something?

MR STEFANIAK: Ha, ha! Anyway, this matter was referred to the Social Policy Committee. Given that we did investigate it in 1996, as members grudgingly concede, and formed an opinion then, I thought it important that we have another look at it. A team of four people from CHADS is going down, I am told, next Wednesday, Ms Reilly. Logically, as a result, this Government will be happy, if we are back here after February, to table in the Assembly a report in relation to the feasibility of the establishment of that centre.

**SOCIAL POLICY - STANDING COMMITTEE
Committee's Activities During the Third Assembly -
Statement by Chair**

MS TUCKER: Pursuant to standing order 246A, I wish to inform the Assembly that the Standing Committee on Social Policy agreed that the following statement on the committee's activities during the Third Assembly be made. Mr Speaker, I wish to make a statement outlining the work of the Social Policy Committee over the last three years. The committee's resolution of appointment gives it a very broad brief. Under this resolution of appointment the committee can examine matters related to health, education, welfare, housing, social security, people with a disability, Aboriginal people, the status of women, multicultural affairs, industrial relations, occupational health and safety, the arts, and sport and recreation.

During the Third Assembly the committee has undertaken a very heavy workload. It held 137 formal meetings - that is, on average, one a week. The committee has produced seven reports, one discussion paper and four statements. It received a total of 203 submissions to its inquiries, held 52 public hearings over 134 hours during which it heard from 387 witnesses and took 2,337 pages of evidence, visited 41 programs, both in the ACT and interstate, and to date has considered 225 statutory appointments under the Statutory Appointments Act 1994.

The committee's inquiries have covered a wide range of subjects and have produced substantial reports. Social policy issues are usually complex and require extensive research, investigation and analysis. Two inquiries related to education, namely, "Prevention of Violence in Schools" and "The implications of the proposed restructure of the School Without Walls for the alternative education needs of secondary students in the ACT". Another related to the Commonwealth/Territory Disability Agreement, which involved lengthy deliberations over a period of 14 months and required the committee to research the complicated issues of Commonwealth-State agreements. It was a complex inquiry which raised a number of management and care issues which were not appropriate for the committee to deal with under the inquiry's terms of reference. In the case of complaints about the standard of care, witnesses were encouraged to take their complaints to the Commissioner for Health Complaints, who investigated them and handed down a report. Complaints about the management of a government service provider were referred to the Auditor-General for investigation.

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In September this year the committee finalised its inquiry into “The Adequacy of Mental Health Services”, another complex inquiry and one which involved extensive community consultation. As part of this inquiry the committee visited South Australia and Victoria. This gave the committee the opportunity to gain a broader perspective and become familiar with the progressive changes in other States. This week the committee tabled its final report, “Services for Children at Risk in the ACT”, another substantial report dealing with many sensitive and complex issues.

Throughout the Third Assembly the committee focused on new ways to become more accessible to the community and make its work and activities better known. As part of the inquiry concerning skateboards, the committee made a concerted effort to reach young people and give them opportunities to put their views. The committee invited schools and youth organisations to participate. A public hearing was held at Lake Tuggeranong College, which was organised by the Student Representative Council. This not only gave students an opportunity to have a say but also provided an opportunity for many students to observe an aspect of the committee process.

A forum involving 120 young people was held in the Chess Pit in Garema Place. The forum was organised and facilitated by Pathways Information Service for Young People and proved most effective. During the SWOW inquiry, the School Without Walls inquiry, the committee held a public hearing at the school, giving many students an opportunity to express their views in a less formal setting.

An important aspect of accessibility is the availability to the community of information about committee procedures. This is considered an important part of the work of the committee secretariat, and a great deal of effort is put into providing information and explaining committee procedures to participants. An issues paper was provided to schools to assist them in developing views about the skateboard inquiry. A paper outlining public hearing procedures and processes was developed to assist Lake Tuggeranong College students. In addition, the information brochure developed by the committee office has been most useful for this purpose.

As well as the usual avenues such as local newspapers, the committee has used community newsletters to advertise its inquiries. This has been successful and the committee secretariat intends to further develop ties with community organisations for this purpose in the next Assembly.

The committee has attended several national conferences, including the National Social Policy Conference in 1995 and 1997, and the Australian and New Zealand Conference on Mental Health Services in 1996. The biannual national social policy conferences have been particularly valuable in offering the committee an opportunity to gain a broader perspective on research on important social policy and social welfare issues.

In statements to the Assembly, some other committee chairs have commented on the level of resourcing for committees. There is no doubt that committees would benefit from additional research staff and access to external consultancy on complex technical matters. The Social Policy Committee has been very fortunate to have had the assistance of the research officer who has provided extensive assistance for two inquiries. Without this assistance the committee would not have been able to complete its last inquiry.

I would like to thank my committee colleagues for their contributions to our work - the present members, Ms Reilly and Mrs Littlewood, and former members, Mr Hird and Ms McRae. I would again like to thank very much our secretary, Judith Henderson, who consistently has worked incredibly hard, with very good faith, under sometimes quite difficult situations.

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MS TUCKER: Mr Speaker, I seek your indulgence to raise another matter.

MR SPEAKER: Yes. Proceed.

MS TUCKER: Thank you. I sought your indulgence in order to raise a question about the operation of standing orders, in particular standing order 241 which relates to reports of a committee not being divulged before a report is presented to the Assembly. This is a matter which has been of some concern to the Social Policy Committee on a couple of occasions during this Assembly. Standing order 241 is, in my view, very unclear, and I recommend that it be reviewed early in the Fourth Assembly.

MR SPEAKER: Thank you, Ms Tucker. I can but suggest that the clerks might make a note of that for the Fourth Assembly, and the relevant committee, which would be the Administration and Procedure Committee, might like to examine it.

ECONOMIC DEVELOPMENT AND TOURISM - STANDING COMMITTEE Statement by Chair

MR HIRD: Mr Speaker, I ask for leave of the Assembly to present a statement on my recent visit to Sydney as Chairman of the Standing Committee on Economic Development and Tourism, and to have that statement incorporated in *Hansard*.

Leave granted.

Statement incorporated at Appendix 5.

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

MR WOOD: Mr Speaker, I present Report No. 19 of 1997 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. I seek leave to make a brief statement on this report.

Leave granted.

MR WOOD: Mr Speaker, in its first comment on the Health Records (Privacy and Access) Bill 1997 the committee queried how the legislation in relation to privacy and access arrangements for health records would be enforced. We thank the Chief Minister for her elaboration on a number of points. The committee, however, remains uncertain about the application of the privacy principles in the Act. Clause 18(1) states:

A complaint may be made to the Commissioner about an act or omission that is alleged to contravene the Privacy Principles in relation to a consumer.

It seems fairly broad. The Chief Minister responded that the only privacy offence will be the obtaining of access to a health record by threat, intimidation or false representation. The Bill, however, is heavily based on its privacy principles, 12 in all, and the committee believes that a clearer response on this issue is required. If this Bill proceeds today, and I understand it may, the next Scrutiny of Bills Committee and the next Assembly should further examine the Bill and its operations.

**FINANCIAL MANAGEMENT (AMENDMENT) BILL 1997
Suspension of Standing Orders**

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

That so much of the standing orders be suspended as would prevent a motion being moved to rescind the resolution of the Assembly of 2 December 1997 relating to the agreement of the Financial Management (Amendment) Bill 1997, as amended, and to reconsider clause 5 of the Bill in the detail stage forthwith.

MR BERRY (Leader of the Opposition) (5.32): Mr Speaker, I move:

After clause 5 add “ and 8”.

This amendment is influenced by the amendment which I will propose to the Bill and which I have already circulated.

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

Rescission of Resolution and Reconsideration of Clauses

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

That:

- (1) the resolution of the Assembly of 2 December 1997, relating to the agreement of the Financial Management (Amendment) Bill 1997, as amended, be rescinded;
- (2) clauses 5 and 8 be reconsidered in the detail stage, pursuant to standing order 187; and
- (3) reconsideration of clauses 5 and 8 in the detail stage commence forthwith.

Detail Stage

Clauses 5 and 8

MR BERRY (Leader of the Opposition) (5.34): Mr Speaker, I move:

Page 3, line 6, clause 5, paragraph (b), proposed subparagraphs (1)(d)(i), (ii) and (iii), omit the proposed subparagraphs, substitute the following subparagraphs:

- “(i) the General Government Sector; and
- (ii) the Public Trading Enterprise Sector.”.

The amendment seeks to reinsert the words “the General Government Sector” and “the Public Trading Enterprise Sector” proposed in the first place by Mr Whitecross. It seeks to include those words in clause 5 in place of subparagraphs (d)(i), (ii) and (iii). It will include “the General Government Sector” in subparagraph (d)(i) and “the Public Trading Enterprise Sector” in subparagraph (d)(ii). This is a bipartisan agreement. In fact, it is a tripartisan agreement.

Mr Moore: Quinpartisan probably.

MR BERRY: Quinpartisan or whatever - it is a mouthful - the five of us. The amendment seeks to widen the coverage of the legislation in respect of financial management statements.

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MRS CARNELL (Chief Minister and Treasurer) (5.36): Mr Speaker, we will be supporting Mr Berry's amendment. It is actually what the Government is doing at the moment. The amendment just makes the legislation more descriptive. We are happy to run with Mr Berry's amendment because we are interested in cooperation.

Amendment agreed to.

MR BERRY (Leader of the Opposition) (5.36): It may be worth putting a comment on the record so that anybody researching this in the future can understand what has happened. Including clause 8 in the motion which was moved by Minister Stefaniak earlier restores the words "Public Trading Enterprise" as they appear in clause 12A.

Clause 5, as amended, and clause 8 agreed to.

Bill, as amended, agreed to.

**INDEPENDENT PRICING AND REGULATORY COMMISSION ACT -
INSTRUMENT NO. 267 OF 1997
Suspension of Standing Orders**

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

That so much of the standing orders be suspended as would prevent Mr Moore from moving the motion to amend Instrument No. 267 of 1997 (in accordance with the Subordinate Laws Act 1989) that he has delivered to the Clerk, forthwith, and that this motion have precedence over all other business until any question relating to the motion has been resolved by the Assembly.

Motion for Amendment

MR MOORE (5.38): I move:

That, pursuant to the Subordinate Laws Act 1989, the term of reference by the Minister for Urban Services for the Independent Pricing and Regulatory Commission to determine ACTEW Corporation's charges to apply from 1 July 1998 (Instrument No. 267 of 1997) made under the Independent Pricing and Regulatory Commission Act 1997 be amended by -

(a) omitting Requirement No. 1(b) in relation to the conduct of the investigation specified under section 16(1) of that Act;

and

(b) omitting Requirement No. 3 in relation to the conduct of the investigation specified under section 16(1) of that Act.

There has been quite a deal of negotiation on this issue since lunchtime, when I indicated to other members that I would be moving this motion. If it is the will of the Assembly, I will have no problem in complying with the question being divided under standing order 133. It is my understanding that members generally oppose paragraph (a) but will support paragraph (b), although I am now going to seek to be so persuasive that members will support the whole motion.

The first issue, covered by paragraph (a), is that the independent pricing commissioner be asked to report on pricing matters for not only the period 1 July 1998 to 30 June 1999, but also the period 1999 to 2001. The argument put by Mr Kaine and the officer from his department - once again, I have to thank Mr Kaine for making that officer available at such very short notice - was that it is appropriate for the commissioner to put a protocol into place so that there is a known system of how the commissioner is working. I think I am presenting that fairly. I would argue that the commissioner is able to put that into place and demonstrate that as part of his earlier report. I will stick to the amendment that I have moved. However, I must also emphasise that I do not see it as a major issue. If it had been the only issue, I would not have sought to amend the instrument. I would have worn it.

I said to my staff member yesterday, "We need to look at those subordinate laws because if ever a government is going to try to sneak one through this will be the time". We then got particularly busy on other issues and unfortunately did not get back to the subordinate laws until today. When we saw this one we thought, "Yes, this is one that they are trying to sneak through". I am sure that Mr Kaine is going to argue differently, and I will be interested to hear him.

The concern I have is that I believe paragraph 3 of Instrument No. 267 of 1997 effectively undermines what this Assembly decided only a couple of months ago when we passed the Independent Pricing and Regulatory Commission Act. We set out in section 20(2) a series of issues that the commissioner should take into account when making a decision on ACTEW pricing. What the Minister has done is consistent with the Act. I do not say that the action is not consistent with the Act. It clearly is legal. I am not suggesting that it is not. But the Minister has added a whole series of other things. The instrument says that the commissioner should "consider the desirability of the following matters". Section 20(2) says that the commission shall have regard to:

- (a) the protection of consumers from abuses of monopoly power in terms of prices, pricing policies (including policies relating to the level or structure of prices for services) and standard of regulated services;
- (b) standards of quality, reliability and safety of the regulated services;
- (c) the need for greater efficiency in the supply of regulated services to reduce costs to consumers and taxpayers;

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- (d) an appropriate rate of return on any investment in the regulated industry;
- (e) the cost of providing the regulated services;
- (f) the principles of ecologically sustainable development referred to in subsection 7(2) of the Territory Owned Corporations Act 1990 as modified by virtue of subsection 4(1) of that Act, whether or not -
 - (i) the regulated industry is the electricity or water industry; or
 - (ii) the provider of the regulated services is ACTEW Corporation Ltd.;
- (g) the social impacts of the decision;
- (h) considerations of demand management and least cost planning;
- (i) the borrowing, capital and cash flow requirements of persons providing regulated services and the need to renew or increase relevant assets in the regulated industry;
- (j) the effect on general price inflation over the medium term; and
- (k) any arrangements that a person providing regulated services has entered into for the exercise of its functions by some other person.

You will notice, Mr Speaker, that there are not any other matters in that. In that legislation, we set out a very balanced approach. We said, "The pricing commissioner has to look at a very balanced approach and, as priority one, they have to look at the protection of consumers from abuse". That was priority one. That is what we put in paragraph (2)(a). The Minister has suggested that what the commission should do is consider the desirability of the following matters:

- (a) achieving full cost recovery for services; -

at whose expense? -

- (b) maintaining the viability of the Corporation and generating an appropriate return to the owner (the Government) in proportion to the risks involved;
-

after all, this is incredibly subjective; who is going to judge that? -

- (c) elimination of cross subsidies between classes of customers and between the Corporation's different businesses -

whose business is that after all? -

- (d) providing incentives to the Corporation to improve its efficiency;
- (e) efficient resource allocation -

I do not mind that -

- (f) structuring the final determination so as to enable the Corporation sufficient flexibility to adjust to market fluctuations ...

In other words, let us please have a loose ruling so that we can move around and set the price as we like. Paragraph (g), which to me is one of the most insidious, states:

appropriate implementation strategies to manage any adverse impact on the community in reaching any of the above objectives.

It assumes that the objectives have been reached. What is wrong with that? On the surface, probably nothing. But it changes the emphasis from the pricing commissioner protecting the consumer from abuses of monopoly and puts the emphasis on what is in the best interests of the monopoly. That is what is wrong with it, Mr Speaker. It inherently biases and undermines the catalogue of issues that we wanted and put in the Act. It is crafted to create a preconceived outcome, and that is to look after ACTEW Corporation as priority one. That is not what we wanted when we set up the Independent Pricing and Regulatory Commission.

Mr Berry: Tuck your shirt in, Michael.

MR MOORE: Thank you, Mr Berry, for the kind comment. I have taken the interjection and acted on it. My enthusiasm in throwing my arm around has loosened my shirt but not my brain. It seems to me that it is a case of ACTEW and the Minister trying to see what they can do to get the shirt off our backs. This Assembly has to assess whether or not this is a sensible idea. To me, it shifts the emphasis in such a way as to undermine what we are on about in this Assembly when we support an Independent Pricing and Regulatory Commission. I hope my colleague Mr Osborne will say a few words, because after all this pricing commission was his idea and is something that I think is particularly important. Anyway, a pricing commission like this must be established as part of the competition policy agreements that this Government is committed to, because we have a monopoly in place, but it is appropriate for us to check and double-check.

One of the most important powers that this parliament has adopted is the power to double-check subordinate legislation. In almost any other parliament in Australia - in fact, I think in all other parliaments in Australia - this matter would simply go through and there would be nothing that any member could do about it. In our Assembly,

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which I believe works better than any other parliament in Australia and better than any other council that I have been able to observe - and I have observed quite a number of them - we have a much more effective system of dealing with such issues and ensuring that the Assembly as a whole maintains a watching brief.

Mr Speaker, this is an important matter because it goes to the very basis of each and every individual member of our community paying a fair price for their electricity and a fair price for their water. Therefore, this is a worthwhile exercise. We have to get it right, and that is why I draw this matter to members' attention and seek support for both parts of my motion.

MR KAINE (Minister for Urban Services) (5.49): I must say that I am a little surprised that Mr Moore and Mr Osborne would look through a disallowable instrument with my name on it and immediately assume that somehow I am being devious and trying to slip one through. I think those were the words that Mr Moore used. I think Mr Moore knows me well enough after all the years to know that I am not a devious person and that that is not a game I play. All that this instrument intended to do was to empower our prices commissioner to look at prices, and I believed that it was necessary for him to do that beyond the immediate next financial year. There are a couple of very good reasons why it is necessary for the commissioner to do that. We are moving into a period of some uncertainty and risk, particularly in electrical energy supply, with the opening up of the market, with other providers coming into the market and with ACTEW having to compete and guarantee to supply those people resident in the ACT who want to continue to buy their electrical energy through ACTEW. Unless we look further ahead than the next year, there will remain a good deal of uncertainty as to just what happens beyond June 1999. I do not think that we should leave our consumers with that feeling of uncertainty as to whether they are going to be guaranteed supply and, if so, at what price.

All this was intended to do was to have the commissioner undertake a study in two parts. First of all, we need to know fairly quickly what the pricing regime recommended by the commissioner for the next financial year is going to be, because the Government and ACTEW have to act upon that. The aim is to have the final report on the table by May of next year, and an interim report a couple of months before that so that we can get a feel for which way the commissioner is going and know before we get to 1 July next year what pricing regime is going to apply for the following year. We could have asked him to report on the whole period, right through to the year 2001, by May next year, but I think logic would tell you that it would have been placing an impossible task on the commissioner to have asked him to report for a four-year period by that date; so we broke the task up into two parts. We gave him until 15 May to complete the first part and until 15 October next year to complete the second part. There is nothing devious in that. It is merely asking the commissioner to do the job in two parts in such a way that he is capable of complying with the requirement. If the Assembly chooses to delete the second date it will leave the commissioner free to report whenever he feels like it. I would think that we would want to set a reporting date that is reasonable so that we get the information as to what the commissioner intends to recommend as early as we possibly can rather than at some time beyond that. I am uncertain what the objective is in trying to remove that reporting date.

The second part of Mr Moore's motion is far more substantive. He seems to have some concerns about what the Government's intentions are. I just point out that section 20 subsection (2) of the Act merely prescribes certain things that the Assembly thought that the commissioner should look at. It does not say that he should not look at other things as well. It does not preclude the commissioner from looking at other things. I suspect that he would look at other things, whether we specifically spell them out here or whether we do not. The particular things that it is suggested be added are all about the point that Mr Moore concluded on. They are all about ensuring that at the end of the day the consumer pays a fair price, whether it is for electricity, water supply or any other service that ACTEW provides. I refer specifically to paragraph (c), in which we ask the commissioner to consider the desirability - that is all we are asking him to do - of removing cross-subsidies. If we do not ask him to do that, he could well come up with a pricing regime that allows the electricity and water authority to charge more for electricity than was really justified so that they can cross-subsidise water supply or sewerage. The people who buy the other services could be subsidised at the expense of people who use electrical energy.

Mr Moore propounded the concept of fairness. I do not see how the commissioner can come up with fair prices without looking at the elimination of such cross-subsidies as currently exist. When the commissioner looks at it, there may well be cross-subsidies between classes of ACTEW customers, but there may also be cross-subsidies between other business entities within ACTEW. In other words, the electrical and water supply business may be generating surpluses that are used to fund some of the other business activities that ACTEW carries on and that may have nothing to do with water or electricity supply. I would submit that, unless the commissioner looks at that cross-subsidy problem, the consumers at the end of the day could well be paying unfair prices to maintain some form of cross-subsidy either internal to ACTEW or between the various customers ACTEW supplies. I do not see that there is any great difficulty. In fact, I would be most concerned if I thought that the commissioner was not going to look at the impacts of possible cross-subsidies.

Paragraph (a) asks the commissioner to consider the desirability of full cost recovery. If ACTEW does not operate on a policy of full cost recovery for the services it provides, eventually the taxpayer may well be asked to cover the shortfall. If they are not recovering enough through their pricing regime to cover the actual costs of delivering the service, where is the money going to come from to cover it? I would have thought that we would really want the commissioner to have a look and make sure that ACTEW is in a state of full cost recovery or, if it is not, consider the consequences of that.

I could go through them all one by one, but the final one Mr Moore referred to, paragraph (g), asks the commissioner to consider the desirability of appropriate implementation strategies to manage any adverse impact on the community. The commissioner may well discover that, in arriving at pricing regimes, there is an adverse impact on some consumers that needs to be dealt with. If there are any adverse impacts on some classes of consumers, I would prefer the commissioner to report back to me on his proposed strategy for dealing with them. If he does not come back with some strategy for dealing with them, somebody else has to develop one. We would have to commission somebody else to suggest how we might deal with these adverse consequences.

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While I can understand that Mr Moore might look at some of these with some suspicion, I can assure him and Mr Osborne that the intention was merely to make sure that all of the serious ramifications of pricing were in fact taken into account by the commissioner. If we are not going to ask him to do that, what are we going to ask him to do? Are we going to ask him to do a half-baked job and come back with some half-baked policy on pricing that, under closer analysis, proves to have left out some very vital matters that are of great interest to the end consumer and what they pay for the services they get?

I very much suspect that if the Assembly deletes these matters from the commissioner's terms of reference he will probably look at most of them anyway, whether we state them or whether we do not. If he did so, he would be acting very prudently. Why would the people in this chamber not want him to act prudently? Why would we exclude from the purview of the commissioner matters that could well be very significant in the consideration of the pricing outcomes? I do not understand why we would want to do that.

I come back to the point that I made at the beginning. Section 20 subsection (2) includes some specific matters that the Assembly wanted the commissioner to deal with but it does not preclude the commissioner from dealing with other matters as well. If we thought that those were the only matters that should be dealt with, then we should have said on the bottom, "And you will consider no other matters". That would have been imprudent and it would have confined the commissioner in ways which I think are unnecessary, unproductive and not necessarily in the interests of the principle that Mr Moore enunciated, of arriving at fair and equitable prices for ACTEW's customers for the commodities that they buy from ACTEW.

Mr Speaker, there is nothing devious about these terms of reference. They were put in place to get a response at the earliest possible time. We could not afford to wait until after next March to ask the commissioner to take on the establishment of a pricing regime starting on 1 July. That it is going through the Assembly now is merely to enable the commissioner to get on with the job while the rest of us have a holiday or maybe even prosecute an election, whichever you find more enjoyable. I will get a lot of fun out of prosecuting the election. I do not know about you, Mr Whitecross. You probably will, too.

There is nothing devious about it. There is nothing hidden. There are no ulterior motives. It is simply a matter of enabling the commissioner to get on with the job and seeking that he examine all matters of relevance to the question of pricing, not only those we happen to specify in the Act. I simply say to members of the Assembly: Delete them by all means, but I do not think it is going to add anything to the terms of reference. I do not think it is going to clarify what we are asking the commissioner to do. I cannot see how it is going to improve the product at the end of the day.

MR WHITECROSS (6.02): Mr Speaker, I move:

That the words “(a) omitting Requirement No. 1(b) in relation to the conduct of the investigation specified under section 16(1) of that Act; and (b)” be omitted.

Mr Speaker, the amendment is to delete the reference to deleting the timetable from Mr Kaine’s instrument but leaves in the omission of requirement No. 3, relating to the terms of reference.

Mr Moore: Which will omit those from the regulation?

MR WHITECROSS: I go first to what I am omitting from your motion. Mr Moore and others, including me, came up against a difficulty in reviewing this regulation. We appear not to be permitted to change the reference made under subsection 15(1), which covers the succeeding three years, although we can change the details of how the commission might pursue the terms of reference under subsection 16(1) of the Act. Even though we cannot stop the Minister from making a reference for three years, we can change the timetables. I suppose that Mr Moore, in deleting the reference to a timetable for the two outyears of the reference, was making a point about the outyears of that reference. I understand the point he is making and I understand and share his frustration in relation to the fact that we cannot review the decision to make a three-year reference. Given that we cannot review that decision, I believe that we ought to stick with the timetable which the Minister has specified in his regulation, and that is why I am moving this amendment.

However, I will be supporting Mr Moore’s amendment to delete requirement No. 3. I believe that Mr Moore is correct to want to delete requirement No. 3. The Minister has tried to portray this in a fairly innocent light as just being about giving the commissioner some things to think about, but requirement No. 3 and the explanation given by officials lead me to the conclusion which I think Mr Moore came to, which is that requirement No. 3 is basically a direction to the commissioner as to how he should interpret the requirements of subsection 20(2) of the Act; that is, that in considering the requirements of subsection 20(2) of the Act, which we all agreed to, the interpretation should be slanted towards the interests of ACTEW Corporation and that our major concerns should be to ensure the profitability of ACTEW Corporation rather than the interests of consumers, whereas the requirements of subsection 20(2) of the principal Act provide a much more balanced view of how these things should be handled.

In large part, the requirements of requirement No. 3 overlap the requirements of subsection 20(2) of the principal Act. “Achieving full cost recovery of services” is not dissimilar to the commission taking account of “the cost of providing the regulated services”. “Maintaining the viability of the Corporation and generating an appropriate return to the owner ... in proportion to the risks involved” is not terribly dissimilar to requirement (d) of subsection 20(2), which is “an appropriate rate of return on any investment in the regulated industry”. “Providing incentives to the Corporation to improve its efficiency” is not greatly dissimilar to paragraph (c) of subsection 20(2), “the need for greater efficiency in the supply of regulated services to reduce costs to consumers and taxpayers”. I could go on. The main difference is that requirement No. 3

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is all about the needs of the corporation, all about the problems faced by the corporation, all about looking after the interests of the corporation but not about looking after the interests of the consumer. It seems to me and it seems to other Labor members that these requirements ought not be specified in the Minister's terms of reference.

ACTEW Corporation are perfectly capable, in their submission to the commission, of looking after their own interests. ACTEW is a very big corporation and is perfectly capable of going to the commission and saying, "We think you should set prices in this way for these reasons". They can deal with all these issues. They can deal with all the issues of cross-subsidies, full cost recovery and the viability of the corporation, and I am sure they will. I am sure that the directors and the executives of ACTEW would want to do that because that would be consistent with their obligations under the Corporations Law. But I think the pricing commissioner should not be guided by the Government to give precedence to the interests of the corporation over the interests of the consumers and the other interests outlined in subsection 20(2) of the principal Act.

That is why I will be supporting Mr Moore's proposal to delete requirement No. 3. I think the Independent Pricing and Regulatory Commission ought to be given the opportunity to approach this in a balanced way, taking account of all the requirements of subsection 20(2), and not be guided to give precedence to the interests of the corporation over other interests as the Government have sought to do with requirement No. 3.

MR OSBORNE (6.09): I will be supporting Mr Moore's motion and Mr Whitecross's amendment. Quite obviously, the Government thinks that Mr Baxter is not up to the job. That is the only way I can justify what they have done here. I hope you apologise, Mr Kaine, to Mr Baxter for doing this. I would like to thank Mr Moore for digging up this low attempt to try to sneak through a change to the role of the Independent Pricing and Regulatory Commission at the death-knock of this Assembly. To the Government and to you, Mr Kaine, all I can say is shame, shame, shame. You were sprung. If the Government had tried this without the shenanigans of ACTEW when the pricing commissioner handed down his last decision, we may well have been fooled. Quite obviously, ACTEW are not happy with the fact that they have a commissioner in place. They do not like the fact that they are not able to do as they wish. The Government is trying to draft the terms of reference for the pricing commissioner in such a way as to tie his hands. Quite clearly, the Government wants to put the interests of ACTEW above those of the people of the ACT.

Let me remind you, Minister, why it was that I pushed for the pricing commissioner when the ACTEW corporatisation Bill was before this house in 1995. Before I do, I might say that the Government and ACTEW were steadfastly opposed to the role of the commissioner. The former Minister told my staff that including a pricing commissioner would wreck the Bill. This is despite the fact that the role was included in the legislation when the first attempt was made to corporatise ACTEW, under the Alliance Government. Did you think people would forget what was in your first corporatisation Bill proposed by your previous Government, Minister? Shame on you. Shame, shame, shame!

The Government opposed my call for a pricing authority even though the role of the pricing commissioner is central to the nationwide push towards competition policy. Mr Speaker, it seems that the Minister is happy to take on those aspects of competition policy which suit him and ignore those which do not. Shame on you, Mr Kaine. You were sprung.

Those matters aside, the pricing commissioner was established to look after the interests of consumers. The role is crucial because ACTEW at the moment is a monopoly. The commissioner has already proved his worth, knocking back some outrageous attempts by ACTEW to hike prices. Without the commissioner, we would be at the mercy of the corporation, and I am afraid I have no confidence that it would behave like a benevolent dictator. The commissioner was not set up to go in to bat for ACTEW as the Government is attempting to make it do. I am sure that ACTEW can look after itself.

Mr Speaker, I am finding it hard to contain my disappointment and my anger on this one. The Minister must bear responsibility for this. In saying that, I do realise who is pushing the agenda on this. Let me say to those people at ACTEW that if I return to this Assembly next year I will be paying much closer attention to every regulation, as Mr Moore has done, every piece of legislation and anything that comes through this place with ACTEW's fingerprints on it. This whole situation has come up as a result of what Mr Baxter did last time and as a result of ACTEW's disappointment at not being able to get the money that they wanted.

In summing up, I would like to thank Mr Moore for bringing this to the Assembly's attention. I think it was a great job on his part. I will be supporting his motion and supporting Mr Whitecross's amendment. Shame on you, Mr Kaine, and better luck next time.

MS TUCKER (6.14): I am going to be supporting Mr Whitecross's amendment and Mr Moore's motion. I am pretty concerned about this. I noticed in the Liberal Party's policy statement - - -

Mr Moore: The Liberal Party's policy statement?

MS TUCKER: That is right. I will quote it. It actually has scales on it. We have already had pictures of scales today, have we not? Here are some more scales. These scales are balanced, giving the impression that we have a really strong, balanced statement. The statement is:

Subordinate instruments such as regulations, orders, manuals and the like shall only prescribe the most mechanical of operations and in no circumstance should a subordinate instrument create a criminal offence, effect a fundamental change in the law, or redefine rights, obligations or liabilities.

I find this worrying because I do believe that this regulation is significant. I do believe that it could easily impact on rights, obligations or liabilities. I am pretty concerned also by the timing of it, and I am very glad that Mr Moore, or his office, picked it up.

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Mr Moore: Mr Moore did.

MS TUCKER: Mr Moore did, because he is very experienced. He was frightened that something like this might happen at the last minute; so he wisely checked the regulation. I am very grateful that he did. I certainly share his concerns. There is time for us to discuss implications of pricing and I hope that we will do that again in the next Assembly, but this is not the way to do it.

Amendment agreed to.

MR MOORE (6.16): I now speak to the motion as amended. The serious issues raised here, as Mr Kaine calls them, will indeed be dealt with by the prices commissioner but in a different context. The prices commissioner will not be dealing with them as part of what is driving him. He will be dealing with them when they are submitted to him by ACTEW. ACTEW will come to him and say, "These are all the things that suit ACTEW" and they can be balanced against all the things that suit the consumer.

Let us look at the outcomes and the future price path that the commissioner announced in his press release of 2 May 1997:

Prices beyond 1997/98 have not been determined. However, the Commission has indicated that:

- . There is scope for future price reductions although this will depend upon market developments and environmental standards.

I can see why ACTEW got frightened by that and why pressure has been put on the Liberals and the Government to say, "Let us make sure the prices commissioner is looking at these things the way we want him to look at them, not the way he has been looking at them". The press release continues:

- . Future electricity charges will be subject to variations in the wholesale price of electricity and the extent to which the retail market is opened up to competition. -

we know that -

- . Water usage charges should be rationalised with a common usage fee charged for all water consumed. This would replace the current inclining block tariff. A transition step would be the adoption of ACTEW's proposal to reduce the consumption allowed under the lower priced first block from 350 kilolitres to 175 kilolitres a year.
- . The bases for setting water and sewerage fixed charges for non residential customers need to be reviewed to better reflect potential demands on the system.

It is not what is best for ACTEW but what the demands on the system are. It is quite clear that this is the thinking of the commissioner. I am delighted by it. That is the way I want him to continue thinking. I know that some of these things Mr Kaine would agree with; some of them he has doubts about. Quite clearly, somebody in the system has looked at this and said, "Good heavens, the commissioner is thinking about what is in the best interests of the people, not what is in the best interests of ACTEW. Let us turn it around. Let us change the emphasis". Fortunately, it would appear that this parliament is saying, "Commissioner, you are doing a good job. Keep at it". The press release goes on:

- . Developer charges should reflect the cost of developments in different locations and avoid double counting in upfront and periodic charges.

I think we would all agree with that. Here is an interesting one:

- . Special levies (eg environmental works charge) should be phased out. The division of works between normal business operations and special "environmental" works may be artificial and the accounting for special levies and related expenditure creates additional administrative expense.

It was always designed as an excuse just to put the charges up. We know that. Remember, we talked about an environmental levy to avoid having another dam built - as if there was going to be another dam built in this Territory in the foreseeable future. After all, we have not touched water from the Cotter Dam for the last 30 years. What are the chances of needing to build a dam in the foreseeable future? They are minimal.

Mr Speaker, this exercise was about moving the emphasis on the way the commissioner for independent pricing operates. Fortunately, Mr Baxter will get the support of this Assembly, I believe, and will be able to continue his role, as this parliament wanted it to be, in the very best interests of the people in Canberra rather than in supporting a sectional interest, the interest of the monopoly group of ACTEW.

Most of us recognise that ACTEW is doing some fine work and that the people in ACTEW are working very hard to ensure that these issues are dealt with properly. I had the good fortune to speak to ACTEW on the matter of electricity services when there was a problem recently. They did not know me other than as one of their customers, but the way they dealt with me over the phone was an absolute delight. I thought they did very well. When they were looking at problems that one of my neighbours had recently, they were efficient and tried very hard to resolve the problem as fast as possible.

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This is not in any way an attack on ACTEW, and I am sure other members do not see it as an attack on ACTEW, but it is about making sure that the consumers are appropriately protected and that their ideas are taken into account when decisions are made on pricing regulation. It is the role of ACTEW to put to the pricing commissioner the sorts of issues in this regulation. If the Minister wishes to or the Minister's department wishes to, they can also emphasise them. Then it is up the commissioner to decide not to be driven in a certain direction as this regulation attempted to drive him.

Motion, as amended, agreed to.

**CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES)
(ENFORCEMENT) (AMENDMENT) BILL 1997**

Debate resumed from 4 December 1997, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR WOOD (6.23): Mr Speaker, the issues around X-rated videos have been much debated in the three Assemblies since the first days of self-government.

Mr Moore: What a shame we do not have Dennis Stevenson here.

MR WOOD: He would add to the debate. He would certainly add to the length of the debate. This Bill is not just about X-rated videos in legislative terms but that is really what it is about. I participated in some of those debates in the past. I have seen the public vigils and the prayer groups and attended to the arguments that were put forward. I have also been aware of some of the hype around the issue. I think tonight this will be dealt with a little more expeditiously and without the contention that has appeared before. The X-rated video industry is not universally accepted but this Assembly, in its nine years of operation, has undertaken a long process of establishing and then refining legislation.

This latest amendment is designed to close a loophole. It seems that some operators do not seek a classification for some films, and there can be a large number of copies of those films. The Act currently contains a defence to a prosecution for possessing an unclassified film if the film has been classified after the alleged offence. This means that some people can elect not to have films classified unless they are prosecuted. That is the loophole that does need to be closed. It is quite undesirable, and the Opposition supports this amendment to close that loophole. We support also the other amendments about the return, the destruction and, in some cases, the retention of seized films.

MR MOORE (6.25): I rise to support the legislation, which, as I read it, is primarily about the seizure and destruction of unclassified film material. It is quite interesting how we make Freudian slips in the way we deal with things. Mr Humphries's introductory speech appears to try to hook Mr Osborne in for support. The paragraph starting on the bottom of page 2 reads:

The Bill amends section 24 of the Act by repealing subsection 24(3). That subsection currently contains a defence to a prosecution for possessing a film classified RC or an unclassified film ...

When I read that, I thought to myself, "This is definitely there just to hook Mr Osborne in. There is obviously some kind of film specifically designed to suit people of Mr Osborne's religion and they are going to hook him in on this". Either I have missed something in the legislation or something that Mr Humphries said or there is just a possibility that this is a typo. We must not forget that it is not just Mr Osborne; Mr Humphries himself may well be communicating with Mr Osborne in a way that the rest of us do not understand. Those of us who have had a background in that religion, as indeed I have, are sometimes tuned in, although after 25 years out of that religious environment we sometimes miss the nuance that carries between people, particularly when they no longer speak in Latin, which I consider has been a great loss to their ability to communicate with each other without letting the rest of us in on it.

After that interesting little diversion, I would like to add that I think it is appropriate that we classify our films. We may have differences on how we classify them, and it is appropriate that those differences be debated in this Assembly; but in the long term, once our classifications are made, once we agree on the system we want, then we should ensure that we police it in the appropriate way. It seems to me that this method will operate to allow that.

It is important that we understand that a significant power of seizure and destruction is being used here. The Scrutiny of Bills Committee, under their term of reference about undue trespass on personal rights and liberties, drew it to our attention that we have to be particularly careful about justifying seizure and destruction of property. The committee noted that there is no provision for compensation to be paid to a person from whom a film is seized. It is quite an extraordinary power, and for that reason I will certainly be monitoring it and will certainly be asking people involved in the industry, people such as the Eros Foundation, to let me know whether in their opinion this power has been abused. Often the worst decisions are made for the best motives. I think we have to monitor this very carefully. That being said, though, I will be supporting the legislation.

MR STEFANIAK (Minister for Education and Training) (6.30) In closing the debate, I present a revised explanatory memorandum and thank members for their comments.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Sitting suspended from 6.31 pm to 8.00 pm

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HEALTH RECORDS (PRIVACY AND ACCESS) BILL 1997

Debate resumed from 13 November 1997, on motion by **Mrs Carnell**:

That this Bill be agreed to in principle.

MR BERRY (Leader of the Opposition) (8.02): Labor will be supporting the Health Records (Privacy and Access) Bill. It is a Bill which will be welcomed by most quarters of the community and will assist in the provision of health care in the community. There have been some reservations raised in respect of the Bill by the Scrutiny of Bills Committee and those reservations have been responded to by the Government. The Government's response is rather typical of its response to committees in the Assembly. It seems to wipe all of the suggestions which have been made as if it were an affront for anybody to criticise anything that the Government has done. Well, that seems to be quite common.

Mrs Carnell: We are happy not to deal with the Bill if you would rather not deal with it.

MR BERRY: Mr Speaker, I see that Mrs Carnell has circulated a couple of amendments to the Bill. They are amendments which seem to sort out some omissions in the language in the Bill and need no further comment from me. They relate to machinery matters which do not go to the policy issues in the Bill, and they will be supported.

For a long time there have been concerns about access to records in the community. One of the issues which have been raised as a concern is the breadth of coverage of the legislation. I think there is a provision to allow the Minister to strike out certain health services from coverage of the Bill. It will be interesting to see whether that, in fact, is called upon. I think it is presumed that there may not be many instances where that will occur.

Mr Speaker, I think this Bill will be welcomed in the community. When you look at it you wonder why it has not been around for a long time. I think it boils down to the fact that nobody has ever got around to it. The issue, of course, is a big one. Many practitioners would feel it was an impingement on their rights in the first place if they were not consulted adequately. It appears on the face of it that it will receive broad acceptance and, therefore, it will be supported by the Labor Party.

MR MOORE (8.05): I support this Bill and I have to say congratulations to the Chief Minister and Minister for Health. This is indeed a fantastic achievement. I think anybody who looks at this legislation recognises its landmark nature and what has been managed by this Minister for Health on this issue. Mr Speaker, this is an interesting piece of legislation. I cannot think of any other piece of legislation that sets out principles in the way this piece of legislation does. Part II, Privacy Provisions, contains a series of principles. I think it is quite interesting reading. It is very easily read, unlike a great number of other pieces of legislation, particularly for such a complex area.

For a long time, Mr Speaker - certainly from the time I came into this Assembly in 1989, and I am sure for a long time before that - there have been concerns expressed by individual members of our community that they wanted access to their own private records and they have not been able to get it. Equally, there has been concern on the part of medical practitioners to protect what they considered as their own private information. It seems to me that the principles that are set out here are particularly important.

As I read it, the legislation applies as of the date it is passed and gazetted and goes forward, so it does not undermine, in most cases anyway, what medical practitioners believe they have written in good faith, something that would do more harm than good. The 12 principles set out in the Bill are principles that I think anybody looking at this legislation would agree with, and I heard Mr Berry, on behalf of the Labor Party, agree that it is entirely appropriate. At the same time, it is important that there is a series of other protections in the Bill. I believe they are there, and it is with enthusiasm that I support this legislation.

It seems to me, Mr Speaker, that the consultation process the Government has been through to get this Bill to this stage has been effective. Whilst there are still some people and some medical practitioners who will be dismayed, at the least, when this legislation passes through this Assembly, I believe it is important for us to recognise that consultation does not mean that everybody gets their own way. Consultation means that the decision-makers, and that includes each and every person here, understand the full range of concerns that people have. We do understand those concerns. We understand what it is that doctors are concerned about. The decision is made on balance and their concerns are outweighed by the concerns of people who are seeking access to their health records.

This legislation has that balance in about the right place. I say "about" because it also seems to me that what we are doing in this Assembly, once again, is leading Australia in terms of this sort of innovative legislation. This is legislation of the social laboratory type. It is new. It is innovative. I think that makes it more exciting. We can actually contribute to a healthier society. We can contribute to a time when people feel more empowered. I think this is a really important piece of legislation. I am delighted to be able to stand in this Assembly to support such an innovative piece of legislation.

MS TUCKER (8.11): The Greens will be supporting this Bill which is about giving consumers access to their own health information. The issue of consumer access to health records is a very important one for all health care consumers. While there have been many recommendations in published reports and consumer proposals which have been made, getting to where we are now has been a long process, and I would like to commend the Government for pursuing this legislation. The background to this legislation is quite interesting, so I will speak briefly on how we have got to this point. There had been proposals for years that the Commonwealth legislate to give consumers access to their health records. A significant number of reviews recommended this, including the Allars report on Creutzfeldt-Jakob disease and human pituitary hormone use in Australia, the Tito report on professional indemnity arrangements, and the Australian Law Reform Commission's report on freedom of information.

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All action on these reports was put on hold when the High Court was asked to consider whether a consumer had a non-statutory right to access their health record in the case of *Breen v. Williams*. This case involved a woman seeking access to her health record in relation to potential breast implant litigation. This case had come through the New South Wales Supreme Court, and the judgments and attitudes to health consumers implicit in them make fascinating reading. The High Court handed down its decision in 1996. Judges unanimously confirmed that health care consumers had no common law right of access to their own health records and that it was up to the legislature to introduce such rights if they were considered appropriate. While freedom of information laws have provided a vehicle for access to medical records to a certain degree, as the Chief Minister pointed out in her tabling speech, there has been an anomaly in the ACT because the Freedom of Information Act covers only government agencies; so there is no guarantee of access for public patients at Calvary Hospital to FOI.

Once the High Court handed down its decision the Commonwealth had a number of choices to address this issue. One was to act just in relation to health records. Carmen Lawrence had been keen to pursue this route when she was Minister for Health. The Government decided to wait until the High Court decision had been handed down and by then, of course, the Government had changed. The second option was to act more broadly by extending the operation of the Privacy Act to the private sector. One of the information privacy principles in that legislation specifies that a consumer must be provided with access to personal information held about them except in exceptional circumstances. This broad approach was looking the most likely until the Commonwealth Government, in March, announced that it would not be seeking to extend the Privacy Act to the private sector because it wanted to reduce regulation on business. It is hard to see the justification for this in the health records area, even if there were valid broader concerns in relation to other areas of business. Sacrificing privacy protection of personal health information and refusing to allow health care consumers a right of access to that most personal of all information, that about their own health, on the basis of free market rhetoric is most inappropriate.

The Minister for Health and Family Services, Dr Wooldridge, announced immediately after the Prime Minister's do-nothing strategy was released that he would develop a voluntary code for patient access to medical records. Given that there has been a voluntary code in place for several years, the AMA guidelines for doctors on patient access to medical records, it is unclear how the Minister thinks that this new process will improve the position for health consumers. Some of the public discussion on the issue has focused on enforcement measures for a voluntary code - rather a contradiction in terms, one might think. There have been a few other developments in the Federal arena, but the short story is that the ACT Government, quite rightly, I believe, has decided to lead the way.

As members are aware, this legislation follows on from a public position paper on privacy of consumer health information and consumer access to their own health information. Significantly, the legislation applies to both private and public sectors. The Bill establishes a set of privacy principles covering collection, storage and security of information, individual access and correction and disclosure of information.

The legislation is based on the existing information privacy principles in the Commonwealth Privacy Act 1988, with some modification to have regard to special health-related situations. The Commissioner for Health Complaints has found that privacy issues are of great concern in the community. Establishing clearer guidelines which cover both the private and public sectors is an important step forward.

Mr Speaker, this Bill also establishes a regime of access rights for consumers to their own personal health information, including special rules for the records of children, people under a legal disability and deceased people. It provides for a general right of access by a health care consumer to her or his own personal health information, with some limited exceptions relating to statements made in confidence by third parties and access having a reasonable likelihood of resulting in harm to the consumer or someone else. While there is a provision for health services to be exempted, the Bill is intended to have as wide an application as possible.

As I said on Tuesday, health consumers have been kept in the dark for too long about many aspects of their health care. They have often been poorly informed by health service providers about their own health and health care options, the claim being that most patients do not want to know. Giving people the right to access their health records is also an important step in empowering people about their health which will lead to better health outcomes, I believe. It will also provide a vehicle for people to discuss their health and treatment more openly. Too many aspects of treatment and care are mystified by the health professions, leaving people feeling scared, confused and intimidated. We all have stories of coming out of a doctor's surgery with more questions than answers.

Obviously, there are many excellent health professionals who are keen to see consumers have such access. They see it as an important step in enhancing the health care partnership. However, giving better information to consumers is strongly resisted by some health care providers. In fact, much important information is often not even collected by them. This leaves not only consumers but also health care institutions and individual providers with no real measures of their performance. Many doctors have opposed this legislation, arguing that the status quo should remain.

Finally, I know there were some issues raised in the Scrutiny of Bills Committee report about this legislation. I have seen a response from the Government which I believe adequately addresses the concerns. In particular, there was a concern raised about the possibility that the legislation might be a vehicle for action in negligence or breach of statutory duty. While this is obviously possible, I do not believe we will see a flood of court actions as a result of this legislation. On the contrary, I concur that this Bill introduces more certainty and a level playing field for all health providers in the ACT. As I said earlier, many health providers already provide access to health records, and they would not be doing so if they greatly feared litigation or if it increased their costs significantly.

As Mrs Carnell said in her conclusion, there are further issues that should be dealt with, including the standard of health records and the availability of health status reports prepared about a person's health or disability on both sides in litigation. I look forward to seeing support for this Bill, and I look forward to dealing with these other issues in the next Assembly.

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MRS CARNELL (Chief Minister and Minister for Health and Community Care) (8.19), in reply: Mr Speaker, I have a couple of amendments to move in the detail stage. They are quite simple amendments. I would like to thank members of the Assembly for their support for this Bill. It has had, shall we say, a very long evolution from its initial stages. It is quite interesting legislation and, in some circumstances, quite difficult legislation. The way it has been handled by Ken Patterson - Ken is in the gallery - and his team has been very impressive. Also, Fiona Tito, one of the Greens' candidates, did a lot of work on this as well. I would like to congratulate Fiona for it as well. They and all of the other people worked very hard to achieve what is unique legislation, which means that Canberra, again, will be leading Australia in areas of difficult basic reform in government.

The little old ACT Assembly does arouse a certain level of derision, I suppose, from some areas of Australia in terms of our political approaches to things, but yesterday there was some trendsetting greenhouse gas legislation passed. It was the Greens' legislation. Mr Moore had legislation with regard to making sure that members of the Assembly, and that means members of the community, are aware of the sorts of negotiations that are happening at the Federal level. Our financial management reforms are state of the art. We are now hosting more delegations from other States and overseas to have a look at how we manage our financial reforms, or to look at our financial management approach. They are so transparent that we almost cannot cope at times. Then there is information technology for teachers and students, and the InTACT strategic partnership approach to outsourcing. Mr Humphries tonight is flying to Hobart to, I hope, this time convince his Federal ministerial colleagues that the approach we have put forward with regard to X-rated videos is the appropriate approach.

Ms McRae: With the current state of his voice he has not much chance, Mrs Carnell.

MRS CARNELL: Mr Speaker, he will be extraordinarily sexy when he puts the position. I am fascinated that those opposite find the comments that I am making unacceptable.

MR SPEAKER: Chief Minister, I think you are misleading the Assembly.

MRS CARNELL: Yes, well, that is true. Well, you know, it is all right; it is a matter of perception. Mr Speaker, I think we sometimes do not appreciate the level of innovation that this Assembly does bring about and how regularly the approaches that we take are taken on by other parliaments in Australia when they realise the world as they know it will not fall over. Our smoking legislation is now being looked at by a very large percentage of other States. When we brought it in the world as we know it was about to fall over, but it did not fall over. I am confident that the same thing will occur with regard to greenhouse gases. I am also sure that our financial management approach will be taken up by other States.

I am confident that Mr Humphries will be successful with regard to X-rated videos. I am sure our approach to outsourcing and strategic partnershiping will be regarded as the norm in a few years. I am confident that our coordinated care approach in health will be the approach that other States will take. Our approach with regard to consumer rights and equalling the power base in the health arena by passing this Bill will also become the norm rather than something unusual over time. I suspect that it will not take all that long, Mr Speaker.

It is fascinating that when the freedom of information legislation was brought in and patient information was available from our public system, the doctors and other people believed that it simply was impossible to organise. The fact is that it really has not caused any real problems. It has just ensured that our patients, our customers, our consumers, have appropriate rights in a system. This, of course, is not just about doctors. It is also about a whole lot of other health service providers, shall we say. Complementary health service providers, too, are part of this whole approach. I am proud of it, Mr Speaker, but I have to say it is not my legislation. It was something that mattered to me, but a lot of other people have made it happen. I am really pleased that today, it would appear, the Bill will go through this Assembly. I am confident that this legislation will become part of the norm in terms of the rights of customers, patients and clients in the future, not just in the ACT but throughout Australia.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MRS CARNELL (Chief Minister and Minister for Health and Community Care) (8.26): I seek leave to move amendments Nos 1 and 2 circulated in my name together.

Leave granted.

MRS CARNELL: I move:

Page 16, line 26, clause 7, subparagraph (3)(c)(ii): Omit "it", substitute "the person".

Page 34, line 1, clause 32, paragraph (1)(b): Omit "an order", substitute "a declaration or order".

Mr Speaker, amendment No. 1 is a minor amendment to ensure that the Bill reads better. Amendment No. 2 is somewhat more definite. We are changing "an order" to "a declaration or order" to ensure that there are adequate rights of appeal to the Supreme Court on the basis that possibly a patient or a client is not happy with a Magistrates Court decision. This just ensures that both patients or consumers have the same rights in our system as medical practitioners or other complementary health providers.

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MR MOORE (8.27): I take this opportunity to say that even as late as last night, when I was at my children's bush dance at school, I was lobbied on this very issue. The lobbying was very enthusiastically for, I have to say.

MR SPEAKER: Relevance, Mr Moore.

MR MOORE: It is totally relevant, Mr Speaker. These amendments will ensure that this is a significant Bill and a successful Bill. The very thing that I was being lobbied on was to have a successful Bill and to get it through.

Amendments agreed to.

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

Bill, as amended, agreed to.

**ACTTAB AND VITAB CONTRACTUAL ARRANGEMENTS -
BOARD OF INQUIRY REPORT
Paper**

Debate resumed from 9 December 1997, on motion by **Mrs Carnell**:

That the Assembly takes note of the paper.

MR KAINE (Minister for Urban Services) (8.28): Mr Speaker, I have to say that the tabling of the Burbidge report was not one of the happiest days for me in my many years as a member of this Assembly and its preceding bodies because it has brought home to me most forcefully how careful in public life one has to be. I do not only mean as an elected member, as a politician if you like, but also as a public servant. When you read this report of a matter that has been in abeyance, I suppose, for three years, the thing that strikes you about it is the words that are scattered through it - "fraud", "deception", "obfuscation", "incompetence", "maladministration". It is of great concern to me that the administration of this city and this Territory has been so badly misled and deceived. Mr Burbidge uses the word "deception" in his report. What we now know, after three years, is that as a result of fraud, deception, obfuscation, incompetence and maladministration, the taxpayers of the ACT have had to carry a very large financial burden. The Chief Minister put the total cost as something of the order of \$5m. We know that there was a payout of \$3.3m, which makes up a very large part of that sum. Then there are all of the costs since then in trying to determine just what happened and how it was that we came to have to make that payout of \$3.3m and to incur all of the other costs that have flowed from that. We now have a report which seems, on the face of it, to tell the complete story. We will never know, of course, whether or not we do have the complete story, but at least I think we have enough information now to know the essentials of what happened three years ago.

I think the most significant thing that Mr Burbidge brought out in his report was the fact that at least four of the promoters of VITAB were involved in fraudulent conduct in a number of ways, both in formulating the contract with ACTTAB in the first place and then later on in accepting \$3.3m "compensation" - that is in inverted commas - as a settlement that was eventually reached after ACTTAB was ejected from the Victorian TAB's superpool. So we, at the official level, were confronted with a group of fraudulent people who, clearly, deliberately set out to make some money at the expense of the ACT taxpayers.

Mr Burbidge has found that the principals of VITAB deliberately misrepresented the company's position. They knew exactly what they were doing. They were not playing a game; they were playing for keeps. They represented this as a business for channelling Asian bets into the Australian TAB system. That was far from the purpose for which the VITAB company was formed. It was in fact created, according to Mr Burbidge, to take advantage of the low tax regime in Vanuatu, and through that to retain the bulk of the 15 per cent commission betting turnover which in Australia is retained by the totalisator agency boards for government taxes to support the local racing industry and to cover their operating expenses.

Mr Burbidge tells us that the great bulk of VITAB's betting turnover was, and was always intended to be, sourced from two particular bookmaking agencies. One of those was the Numbawan Betting Shop in Port Vila. We now know that that betting shop was run for the benefit of one man, Mr Alan Tripp, who has a long history of convictions for gaming offences in Victoria, at least in connection with racing. So we have this corporation that was set up with the deliberate purpose of defrauding somebody. Well, we happen to be the victims.

That company concealed the true ownership of VITAB from ACTTAB through the execution of a shareholder's agreement which was not disclosed. There were, apparently, six parties identified as the major beneficiaries under that agreement, and one of those major stakeholders was Mr Peter Bartholomew. When you look through the names of the people involved with VITAB and who were to be the beneficiaries of it, it is quite clear that they set out to defraud, and, in the end, it was the ACT taxpayers who were defrauded. I mentioned earlier that the word "deception" is used throughout the report. I quote from the report:

... the deception as to the actual promoters in VITAB Limited was brought about by the belief that some of their number at least would not pass probity tests, and the whole arrangement might thereby be jeopardised.

So there was a deliberate deception. The interests of the shareholders were concealed from the people at our end who were negotiating, and the reasons for that deception are now made clear by Mr Burbidge.

That question of probity tests is a crucial one because the inquiry found that no probity checks were ever undertaken by ACTTAB prior to the signing of the VITAB agreement. There seems to have been some confusion amongst the players in the game as to who should have conducted these probity tests. I think it is pretty clear that everybody

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thought that somebody else was doing it. That, of course, is no excuse at the end of the day for the fact that those probity tests were not undertaken. Had they been done the deception may well have been brought to light and we might never have suffered the problems that we have suffered since. Not only was there a deliberate deception, but there seems to have been some incompetence, some lack of skill, some lack of understanding at the ACTTAB end of what was going on around them. ACTTAB was, we are told, prepared to accept, on numerous occasions, assurances from VITAB without further investigation. VITAB repeatedly said that everything was okay, and we seem to have accepted that as being the truth.

Madam Deputy Speaker, I think it is a sad and sorry affair. Some of the employees of ACTTAB seem to have been driven by overenthusiasm, I suspect. The report goes at some length to make this point about the most criticised of the members, Mr Neck, in connection with the affair:

... there is no direct evidence of any corrupt involvement by Mr Neck in the VITAB scheme.

I can assume only that there was a certain enthusiasm about all of this that drove people to go too far and to neglect their duties in the process.

As a result of all of this the Minister of the day has suffered severely. He has expressed his regret that all this has happened, but I think it is a salutary lesson for all of us that in our day-to-day business we have to be so very meticulous, and we have to make sure that our advisers are meticulous. It is so very easy for any one of us to accept advice from people we trust and in whose competence we believe and on whom we rely, and, at the end of the day, we can be led astray. I would hope that not only has Mr Berry learnt something from the experience, but also that the rest of us who hold positions of authority and responsibility do not fail to learn from the lessons of this experience. I would hope that we are not in the position, at some future time, of again having to pay somebody money out of taxpayers' reserves which the recipients should not receive.

MR MOORE (8.38): Madam Deputy Speaker, on 12 April 1994 I, along with my colleague Helen Szuty, made one of the most difficult decisions that I have ever made in my 8½ years in this Assembly and that was to support a no-confidence motion moved against Mr Berry for misleading the Assembly. Mr Burbidge, in his report, has made it even clearer to me that, when Mr Berry was telling this Assembly that everything was okay, it clearly was not. It has verified for me my decision on that day.

MRS CARNELL (Chief Minister) (8.39), in reply: There are only a couple of things I would like to say because it is late and it is the last sitting day of this parliament. There are a couple of things that I think it is essential to say on this issue. Yes, it has caused an enormous amount of work, and an enormous amount of pain, suffering and difficulty for lots of people. It has also meant that a lot of people who did not deserve to profit have profited.

Madam Deputy Speaker, the first comment I would like to make relates to Roger Smeed. Yesterday Mr Berry indicated in this place that Roger Smeed should be sacked. I feel very strongly about this. Roger Smeed is a member of the ACTTAB board. I think he was appointed by David Lamont, not by us. I know that he is not close to the Liberal Party. He is a public servant who has been on a board that a report has just suggested did a great job.

Mr Berry: He is the chief executive officer.

MRS CARNELL: He is also on the board. I think that is what the Burbidge report said about the new ACTTAB board - that they have managed to turn ACTTAB around from having a significant financial problem to doing extraordinarily well over the last couple of years, particularly over the last year. In fact, the Burbidge report indicated that the current board had acted appropriately and had done the right thing. Madam Deputy Speaker, I do not think it is terribly fair to suggest that somebody who is on a board that has just been regarded as doing a pretty good job through a pretty tough time - - -

Mr Berry: That is not what Burbidge said about him.

MRS CARNELL: He did say that the current board had done a good job and had reacted appropriately under pretty difficult circumstances. From my perspective, even though Mr Smeed is not an appointee of this Government, I think that is something that needs to be said. The current ACTTAB board, not predominantly appointed by us but put in place under the previous Government, at least for a little while, have done a great job and have been through a really very tough time. I think it is important to make that comment.

Madam Deputy Speaker, the other thing I would like to make a comment about is inducements generally. I think this shows just how important it is in a unicameral parliament to react and to investigate issues that are brought forward, no matter who brings them forward. It has certainly been a lesson I have learnt. There will never be a time, if I ever have another day in this job, which I may not, when I will not make sure that comments or concerns that are brought forward by any member of this Assembly are not properly investigated. Certainly, there are times when the adversarial nature of this place can make you think that everything the other side says is necessarily rubbish. This was not rubbish, Madam Deputy Speaker; it was right. If Mr Berry had reacted and investigated when we first brought this forward - the group that came to see me went to see Mr Berry first - this \$5.3m cost may never have happened.

The other thing that I think is really important is that we must make sure in this Assembly that we never again appoint mates to boards. It is absolutely essential and it is a lesson that we all need to learn. Members of a board running significant ACT finances need to have very real - - -

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Mr Moore: Unless they have the right skills. Unless they are the right person for the job.

MRS CARNELL: Spot on. That is the point I was going to make. If they are mates, fair enough; but they must have the skills that you need to run the particular entity. It is not all right to appoint people as chairs of boards that have significant taxpayers' dollars at their fingertips if they do not have the skills required. In this case there is no doubt, according to Mr Burbidge, that both the chair and the deputy chair of the then VITAB board simply did not have the expertise to handle this entity. Madam Deputy Speaker, if it teaches us anything, it suggests that we do need board members who are accountable and who are good people who understand the business that they are involved in from a Territory perspective. I think it is also important that we do not go down the path of creating or attempting to create scapegoats for our own mistakes. I believe that yesterday the current ACTTAB board and Mr Smeed were being used as scapegoats. I do not believe that that brings any sort of credit to this place, particularly when the scapegoats simply are not in a position to defend themselves.

I know I have not spoken a whole lot about the VITAB deal, but I feel as though I have spoken about it for the last three years consistently. It was a rotten deal for the ACT. It was a deal with people who really did not have the personal credibility or the financial credibility for any government to do a deal with of any sort. It has cost the ACT Government a lot of money. It has shown that having the wrong people on boards can be very expensive. It has shown that we must have Ministers in this place who understand what a good deal is. If it is money for jam, then, on the whole, it will not be real. The fact is that there is no such thing as easy money. I think this has been a pretty rotten time for the ACT.

Having spoken to the Northern Territory Ministers yesterday, I know that they are not terribly pleased either because it was not only us who lost money. The Northern Territory TAB lost money as well because, when our TAB was cut from Victoria, theirs was too, and it cost them significant dollars. I am very pleased, though, that negotiations are well advanced and hopefully the Northern Territory might come back on track with us, but they might not as well.

Madam Deputy Speaker, this is the end, hopefully, of what has been a pretty sordid business. I hope that Mr Berry and those who were involved have learnt a lot of lessons about who you do business with and who you do not do business with.

Mr Berry: Why do you not apologise for the hospital then? Apologise for the hospital.

MRS CARNELL: Mr Berry is making a comment about the hospital. There is nobody with a list of criminal charges as long as your arm involved in the hospital. The reality is that we did a deal with people we should not have done deals with, people who had criminal records. As Mr Burbidge said, even the most cursory probity check would have picked that up. Madam Deputy Speaker, I think the bottom line here is this: Has Mr Berry learnt? What would happen if Mr Berry had total control over the treasury and total control over this Territory? Next time would he be able to tell the difference?

Question resolved in the affirmative.

**MOTOR TRAFFIC ACT -
MOTOR TRAFFIC REGULATIONS (AMENDMENT)
Suspension of Standing Orders**

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

That so much of the standing orders be suspended as would prevent Mr Whitecross from moving the motion to disallow Subordinate Law No. 26 of 1997 (in accordance with the Subordinate Laws Act 1989) that he has delivered to the Clerk, forthwith, and that this motion have precedence over all other business until any question relating to the motion has been resolved by the Assembly.

Motion for Disallowance

MR WHITECROSS (8.49): Madam Deputy Speaker, I move:

That, pursuant to the Subordinate Laws Act 1989, Motor Traffic Regulations (Amendment) (Subordinate Law No. 26 of 1997) be disallowed.

I apologise to members for the lateness of moving this motion; but this motion was prompted by a regulation which was tabled by the Minister at about 4 o'clock today. So, unfortunately, there was not a whole lot we could do about it. The regulation concerned relates to the practice of penalising motorists with double demerit points if they commit an offence under the Motor Traffic Act during a prescribed holiday season.

Mr Hird: That is what your mates do in New South Wales.

MR WHITECROSS: I will come to that in a minute, Mr Hird; have no fear. The practice relates mainly to speeding offences, although additional demerit points are deducted from motorists in relation to other offences under the Motor Traffic Act if the offences occur at a particular time. Today, at around 4 o'clock - it might have been a little after that - the relevant Minister tabled a regulation to declare a period of something like two weeks over Christmas and new year as a holiday period for the purposes of this subordinate law. The subordinate law itself was actually tabled only last Tuesday, although it was applied at the October long weekend. So, even though it was used in October, it was not actually tabled until the December sittings.

Madam Deputy Speaker, put simply, the Labor Party does not believe that this is an appropriate approach to law-making. The Labor Party does not believe that a given offence ought to be penalised in a different way according to the time of the year when it is committed. If exceeding the speed limit by 30 kilometres an hour is an offence - and, of course, it should be an offence - then it should be punished in the same way whether it is committed in October, in December or in February. It is just as dangerous

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an offence and it is just as serious an offence regardless of the time of year in which it is committed, and it ought to be treated accordingly. Moreover, Mr Speaker, it has been the view of this Assembly in relation to past matters that offences ought to be treated in a consistent way. Only a few weeks ago, we were considering and voting on a proposition by the Government that certain offences be treated more seriously because of some judgment about the prevalence of the offences. Similarly, it was proposed that certain matters be treated more seriously if it was a second offence and that certain rights that might apply to people be taken away as some sort of deterrent. That is really at the heart of this.

Rather than having a moral which says that the punishment should fit the crime, this regulation, which imposes double demerit points in relation to certain offences at certain times of the year, is saying that deterrence is the issue. The Labor Party just does not accept deterrence as the basis on which these laws should be obeyed. An appropriate penalty should be determined for an appropriate offence, and it should be applied consistently, rather than having a situation where a particular offence is penalised more harshly because of an arbitrary decision by the Minister. That is what the Government is proposing - that a particular offence should be treated more harshly at certain times of the year than at others because the Minister says so.

Mr Speaker, it is my view that we ought to be trying to discourage dangerous behaviour on our roads, whether it is drink-driving, speeding, driving without due care and attention, or driving when you are fatigued and fall asleep at the wheel. Whatever it is, we think that there ought to be laws which deal with these kinds of issues and which ensure that our roads are as safe as possible to drive on. We believe that it is the responsibility of governments to ensure that the community is properly educated about the dangers of dangerous behaviour, speeding, drink-driving and driving without due care and attention, and that the message gets out that those things are dangerous. It ought to be backed up by appropriate police presence to ensure that people understand that, if you break the law, you will be caught. That is the appropriate approach. What is not appropriate is to bring in arbitrary punishments which are designed only as cheap and easy ways of getting around the basic principles of law and order and the rule of law, and which are designed really to get around the Government's responsibility to properly educate the community in relation to the dangers of breaching the Motor Traffic Acts.

Mr Speaker, the other thing which I think ought to be considered by members in this place when considering this law is the Liberal Party's own policy in relation to subordinate legislation. The Liberal Party said in its election manifesto at the last election:

Subordinate instruments such as regulations ... shall only prescribe the most mechanical of operations and in no circumstance should a subordinate instrument create a criminal offence, effect a fundamental change in the law, or redefine rights, obligations or liabilities.

Yet that is what the Government has done in this case. It has arbitrarily changed the penalties in relation to certain offences by regulation, without the benefit of a debate in this place. Not too long ago, we were discussing amendments to the motor traffic laws in the Motor Traffic (Alcohol and Drugs) Act. Of course, those things were in the form of

substantive legislation. The point about that substantive legislation is that it ensured that there was a proper debate in this place about the rights and wrongs of that legislation. That was the appropriate way to deal with it. But in this case the Government has chosen to go by way of regulation. We simply do not think that that is an appropriate way to deal with this matter of subordinate legislation.

Mr Speaker, the final thing I want to say about this, in response to Mr Hird's interjection, is that it will be argued by the Minister that this keeps us consistent with New South Wales. Also, we hear the tired, old argument from the Government that the Labor Party in New South Wales has done it; therefore, we should do it. We do not accept that. The Labor Party in the ACT and the ACT Legislative Assembly as a whole are entitled to make laws for the ACT which we think are right. I am not going to make a law in this place just because Bob Carr says that it is a good idea. Bob Carr and I disagree on a range of things. This is just one of them. I am perfectly comfortable standing up in this place - - -

A member: You have met him.

MR WHITECROSS: Yes, I have met Bob Carr; so, I am qualified to say this.

Mr Moore: In a room?

Mr Berry: I am going to, soon.

MR WHITECROSS: I have met Mr Egan, too, for what that is worth.

Mrs Carnell: He was never, ever, ever, ever, going to sell his electricity.

MR WHITECROSS: Yes, unlike me; I am definitely not selling it. Mr Speaker, I do not feel at all uncomfortable about taking a different position from my colleagues in New South Wales on the matter of double demerits. The Labor Party in New South Wales, for its own reasons, has decided that running a sort of law and order campaign with lots of onerous penalties is a way to win votes. It is not my idea of the correct way of handling things. I do not believe that it is appropriate to increase penalties arbitrarily to send messages. You have penalties which fit the offence that has been committed. You do not have penalties just to send messages.

If you want to send a message, then it is up to the Minister and it is up to the Government to go out and send a message. For what it is worth, I, for one, am happy to send messages about the dangers of drink-driving, lack of care and attention on our roads, or speeding on our roads. I am happy to send those messages, too; but not by way of arbitrary decisions by the Minister that, on a given day of the year, the penalty shall be twice what it would otherwise be. That is not what I call just, and that is why we have moved this disallowance motion.

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MR KAINE (Minister for Urban Services) (8.59): I am astonished at the duplicity of the people opposite. This is not the first time that we have implemented the double demerit points system. It has been highly publicised on the occasions that we have done it, and we have never heard one peep out of Mr Whitecross until now. It is obvious that today, at the death knell, those opposite have to make a big issue out of something and try to get a point or two for the election, because they have not done too well this year yet. They are making a last-ditch stand on this issue. By resisting what we are doing, they are putting public safety at risk.

I have spent almost a year now working assiduously on trying to develop an awareness of a system in which people can drive safely on our roads. The competency-based driving test is designed to convince our young people that when they go out on the roads they need to be aware of where they are, they need to be competent and they need to know what they are doing. We changed the penalty regime so that when people lose their licence because of drink-driving, irresponsible driving, excessive speed and the like they do not get their licence back easily.

I have put in place a series of things to attempt to convince people on the roads that they have a responsibility to drive safely and to have some regard for the other people on the road with them. This is just one more piece in that mosaic. It is to drive home to people more strongly than on normal days on the year that if at periods of high risk, when there are higher than usual traffic densities on the highways, when people have a tendency to drive faster because they have further to go for Christmas and family meetings and the like, when they are inclined to drink and drive because it is the festive season, they do these things and place other people's lives at risk an additional penalty will apply. That is what it is about.

I take that very seriously, Mr Speaker. This is not just a political toy to kick around whenever the Labor Party feels that it is a good free kick. I am concerned about the safety and wellbeing of Canberra drivers when they get out on the road over the holiday period. Mr Whitecross may think that is a bit of joke. He comes here and tries to knock something off the books without a moment's thought, because it suddenly strikes him: "Boy, have I found a gem here". If that is his "responsible" approach to dealing with the catastrophe that occurs on our roads and the trauma that occurs on our roads at holiday periods, then all I can say is that I feel very sorry for him.

It is not something that I take lightly, and it is not something I do just on whim. It is not something I do because Mr Carr says I should do it. It is something that I have done under the power that I have under the Motor Traffic Act to forcefully bring home to people that they do have responsibilities and that if they transgress not only will they pay the normal penalties but at these special times of the year, as a special deterrent measure, they will pay double. I have no qualms about that. I do not feel guilty about it. I am going to be out there driving on the roads during that period, and I do not want some drunken sot writing me and my family off. I do not want somebody driving at 140 kilometres an hour and writing me and my family off. If Mr Whitecross wants to take the risk, good luck to him. I do not want to do that, and I do not want any of my friends to do that. I do not want anybody in Canberra to come home after the holiday period

having lost friends or relatives because drunken or stupid drivers think that they can get away with it. I assert that they should not be allowed to get away with it. What we are doing is a very responsible thing to do. I hope that crossbench members are not going to be persuaded by this gimmick dragged on by the Labor Party at the last minute but will think seriously about the issues here.

This is not fun. This is not just a game. We are talking about people's lives and people's safety. I can only ask people on the crossbenches not to fall for this. It is a stupid trick brought on by Mr Whitecross. I take the matter seriously and I send a signal very forcefully to people: "If you drink and drive over Christmas, you will cop it. If you drive at excessive speeds over Christmas, you will cop it". I have no reservations about this whatsoever. Mr Whitecross, I think that you ought to get your mind back into gear instead of leaving it in neutral.

MR WOOD (9.05): Mr Speaker, I refute the claims that Mr Kaine made about Mr Whitecross and the Opposition dragging this up at the last minute, bringing it up out of the blue. For heaven's sake, the regulation was tabled only a few hours ago. This has happened one time before. That was on the October long weekend and we were not advised - - -

Mr Stefaniak: It worked very well.

MR WOOD: I am not sure that it did work very well. We were only advised by notice in the newspaper on that occasion. We did not have a chance to debate it here. This is the first real opportunity we have had to debate the proposal that you put forward. I want to make only one comment. On the October weekend, when double demerit points were announced and enforced, there were no police from the traffic squads out on the roads. We were talking about heavy enforcement and double demerit points, saying, "We are really watching you, folks", but the police were not out there to do it.

The response I got at the time was: "There are police routinely on duty and they will cover any speeding and the like". I was unkind enough at the time to say that it was administration by bluff. I hinted that it was a deliberate measure to save money on police by trying to bluff the ACT community. On calmer reflection, I might not make that claim, because two quite different departments were involved and I do not think there would be that sort of contact between them. If the Minister wins this case tonight, he should tell us publicly whether police from the traffic squad will be out there to police it. That was not the case last time. That must throw some doubt on the seriousness of what the Government is about.

MR STEFANIAK (Minister for Education and Training) (9.08): I am amazed that the Opposition are opposing these regulations. As Mr Kaine has said, they did go through the Scrutiny of Bills Committee. That committee's report No. 19 of 1997, under the heading "Subordinate Legislation - No Comment", states:

The Committee has examined the following subordinate legislation and offers no comment:

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It lists a number of subordinate laws and says:

Subordinate Law No. 26 of 1997 being the Motor Traffic Regulations (Amendment) made under section 218 of the Motor Traffic Act 1936 amends the Motor Traffic Regulations by the insertion of a new regulation 33 which concerns demerit points during a holiday period.

Mr Whitecross prattled on about educating people. He prattled on also about Mr Carr being wrong in introducing double demerit points. Mr Carr is right. We tried this in October of last year. You did not have a problem then. You now have a problem. Mr Whitecross, deterrence does work with a lot of people. It is one of the basic tenets of human nature.

Mr Whitecross: You believe in move-on powers.

MR STEFANIAK: I certainly do and I have no qualms about that. Because of your stupidity, you got rid of them in 1993. They were a very sensible, commonsense measure. Mr Whitecross, you are pathetic. You are running the same arguments you ran in defeating our attempt to bring in prevalence of offence in sentencing, something that three out of the four judges in the ACT want. Your pathetic idea that if you do not have any deterrence, if you have weak penalties, you are somehow going to deter people and ensure that people obey the law is absolute garbage. It defies the very tenets of human nature.

You can have all the police you like out on the road but if the penalties are not particularly severe it is not going to have much effect.

Mr Whitecross: You do not know what you are talking about.

MR STEFANIAK: You do not either, Mr Whitecross. You are a little bit young, Mr Whitecross. You were born in 1961 and maybe you do not realise the extent of carnage on the roads before governments started getting serious about enforcing traffic laws. Cast your mind back to the late 1960s and early 1970s - you might remember this - and some of the crazy acts of driving one might have seen then. Compare that with now. Since those times, governments have become more serious about prosecuting. Putting police out on the road and having sensible, strong penalties is about the most effective form of education you can have with some people, Mr Whitecross. That is something you forget.

Just have a think about it. The concerted measures governments have taken in the form of stronger traffic penalties for drink-driving, greater police presence and more sensible legislation have resulted in a drop in fatalities. These measures work. You should pay a little bit of attention at what happens over the border in a Labor State. Mr Whitecross, if it is good enough for Mr Carr, it should be good enough for you people. In this instance, he has a much greater appreciation of what is appropriate than you do.

MR SPEAKER: I call Mr Moore.

MR MOORE (9.11): Thank you, Mr Speaker, for your kind invitation to me to speak.

MR SPEAKER: It was not a kind invitation; it was just out of sheer boredom.

MR MOORE: Mr Speaker, allow me to entertain you. We are debating two determinations this evening. One was tabled today and the other was tabled last week, on 2 December. Mr Whitecross has moved for disallowance of the latter one. The one tabled today, which is empowered by the one in respect of which Mr Whitecross has moved his motion, is about the declaration of the holiday period. This evening we are talking primarily about Subordinate Law No. 26 of 1997, the one gazetted on 2 October and tabled on 2 December.

The doubling of demerit points, on the face of it, provides significant advantages. When I put on my population and health hat and look at this, I say to myself, "In taking this action what is the Minister trying to do?". I can see the side of the argument that says that he is trying to reduce fatalities; that he is trying to reduce the number of accidents and to protect our citizens. I think there is some merit in that argument. However, the merit for that argument would apply right across the system at any given time. If doubling demerit points does provide a disincentive, then why do we not double demerit points right across the system all the time?

Mr Osborne: Because holidays have a high accident rate.

MR MOORE: Mr Osborne interjects that holidays have a high accident rate and therefore we want to be seen to be making an effective response to that. We do not know whether or not it is an effective response because it has been operating for only a short while in New South Wales. Experience has taught us that the sort of shock tactics that this applies are usually effective for only a short while. The first couple of times you use them they are very effective. Then people get used to them. Used a couple of times, they may have some impact.

If we are going to use this system, we ought to decide the very best time to use it, to decide when the highest proportion of accidents is likely to occur in the ACT. We ought not to waste the system by using it at inappropriate times. The highest accident rate is normally at Easter. This system is not being applied at that time. It may well be that we are wasting it at Christmas. But we do not even know whether this system works. To test whether it works, we are going to have to look at how it operates. We know that it is operating across the border in New South Wales. Mr Osborne, from his experience as a police officer, might be able to tell us whether an ACT resident with an ACT drivers licence booked in New South Wales loses double demerit points.

Mr Osborne: Yes.

MR MOORE: That is my understanding too. We can test how well this system works. There is something else particularly interesting about the inadequate way in which these regulations were drawn up. Paragraph (a) of proposed regulation 33(1) applies double demerit points to items 106, 108, 109, 110, 111, 112 and 113 of Part II of the schedule.

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Item 112 relates to driving in a school zone at a speed of 70 kilometres an hour or more but less than 85 kilometres an hour. For driving at between 70 and 85 kilometres an hour in a school zone, the current penalty is \$292 and four demerit points. That is going to eight demerit points.

Item 113 relates to driving in a school zone at above 85 kilometres an hour, for which the penalty is \$573 and six demerit points. That is doubling to 12 demerit points. But we are talking about a school zone in a declared holiday period. Oops! Whoops-a-daisy! Even if we were to pass these regulations, we would at least have to take out items 112 and 113 so as not to make ourselves look ridiculous. Why was item 107 left out? Item 107 is about exceeding the speed limit by less than 15 kilometres an hour, for which the penalty is \$102 and one demerit point. You may have the cruise control set a bit above the limit.

Mr Osborne: They do not book you.

MR MOORE: Mr Osborne says that they do not book you. Even so, we are not going to worry about giving people double demerit points for that infringement, even though it is speeding. What is the intention of the legislation? I thought the intention of the legislation was to discourage people from speeding. Mr Kaine said that he does not want some drunken sot speeding and causing him damage.

Proposed regulation 33(2) relates to the Motor Traffic (Alcohol and Drugs) Act and the prescribed alcohol level of .05 being exceeded by not more than .03. I would be interested to know why double demerit points are restricted to that level. Perhaps it is because at higher levels you lose your licence. For drink-driving we do not double the demerit points. We add only one demerit point. I cannot quite see the logic in that. I see a very ill thought out procedure. I imagine this procedure came about because someone said, "Hey, they are doing double demerit points over in New South Wales. It looks like good law and order stuff. As we are getting close to an election, we need a bit of good strong law and order stuff too. Let us put a bit of fire in our belly and go for it". Even if we just looked at how the subordinate law was put together, that in itself would be enough for us to disallow it. The fundamental question on which we have to make an on-balance decision is whether we believe that in the ACT double demerit points will really resolve the problem or whether they will just allow us to puff fire. In fact, it would not be fire; it would be more like smoke.

Mr Whitecross has left his motion somewhat late, but he said to me earlier, "I have been inspired to go back and double-check things after your earlier motion to amend a subordinate law". It demonstrates that it is important for this Assembly, and for the future Assembly, to look at subordinate laws. We all have to do that. It is really hard to do, of course. One of the tasks that we have is to look at subordinate laws and make sure that, where necessary, we exercise our power of disallowance or our power of amendment.

MR OSBORNE (9.20): Mr Whitecross raising this so late today was a little disconcerting. However, I think the debate is well worth it. I am not convinced that double demerit points are the answer, but I am not convinced that they are not. We are approaching school holidays. They may have even started today. The reality is that far more accidents occur over that period, when people are travelling away on their Christmas break. They relax and do not focus on the road as much as they should. The threat of double demerit points may well be a deterrent. I do not know that.

As Mr Moore said, this program is very much in its infancy in New South Wales. It has been up and running only for the last 12 months. From all accounts, it has been quite successful. If we as an Assembly change this subordinate law today, we are going to send a terrible message out to everybody in the lead-up to Christmas, which is only two weeks away. I think that we should let it go through and assess it when the Assembly comes back next year. The two periods we are talking about are one week over Christmas and the long weekend in January. The way it has been set up is sloppy. As Mr Moore said, it provides that if you speed in a school zone you will lose double points, when the reality is that the schools will be closed and it does not really matter. It is sloppy, but I would argue that it is worth giving it a go and seeing how well it works. We can look at the police data when the next Assembly returns and assess whether we want to pursue it long term.

I agree with the argument that if it is effective why not do it full time, 52 weeks of the year. But I would argue that there is a case to sit back and leave it in place as a deterrent over the Christmas holiday period and the long weekend period in January. I would encourage the Greens to sit back, and when we come back in the next Assembly - if we come back in the next Assembly - we can sit down and have a really good look at it and decide whether we adopt it over Easter, as Mr Moore said, or over the full 52 weeks of the year. I think that far more damage will be done if we as an Assembly say no to it tonight than will be done if we trial it.

It is pretty pathetic of Mr Whitecross to move this motion today. We all know his views on the police. In one of the first questions he asked, he stood up here and bagged the police about police communications. He will be condemned for that. He and his ilk have constantly eroded police powers.

I think that double demerit points can be a great deterrent. I do not know whether they will be, but let us sit back and see. I would encourage the Greens to at least sit back and assess whether that week period over Christmas and new year and those couple of days in January are worth the effort. They may not be. We can judge that next year.

MS TUCKER (9.24): The Greens are still listening to the argument on this. There are very strong arguments on both sides and it is not very easy for us. I can see very valuable points being made by Labor and also by the Liberals. We will listen to the wrap-up by Mr Whitecross, and I would be happy to give Mr Kaine leave if he wants to speak again so that we can listen to both arguments.

Mr Kaine: I have said everything I have to say.

MS TUCKER: That is a pity.

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MR SPEAKER: He will have to get leave, Ms Tucker. This is not a Christmas party.

MS TUCKER: It appears that Mr Kaine does not want leave, so I will just have to listen to Mr Whitecross, though they might imagine that it is a Christmas party.

Mr Moore: The rest of us are enjoying it.

MS TUCKER: I am just speaking about the issue.

MR SPEAKER: You are. The others are interjecting, Ms Tucker. Please continue.

MS TUCKER: Protect me, Mr Speaker. Obviously there are some difficulties. Mr Whitecross has rightly pointed out that this is slightly dubious in terms of law enforcement. The Greens were not prepared to support sentencing being influenced by prevalence. We believed that that was not just. You could equally argue that it is not just to change a penalty because of the time of year. On the other hand, we are interested in public safety. Mr Kaine has claimed that in a particularly high-risk period this will reduce some of the accidents that can occur. Mr Kaine says that he has spoken as much as he wishes to speak, but I would like to know how much promotion would be given to this. What sort of evaluation would there be? I am interested in the possibility of seeing it as a trial. Of course, the Liberals would not support the 50-kilometre-an-hour trial, which is really disappointing.

Mr Moore: What would the 50-kilometre-an-hour trial do?

MS TUCKER: It was about reducing injury on the road, but we did not get cooperation from the Liberals on that one. I would be interested to hear Mr Kaine address those particular matters about promotion and evaluation. I can see some merit in this being a trial in the interests of public safety on the roads.

MR WHITECROSS (9.27), in reply: I am sorry that you have not enjoyed the debate, Mr Speaker. I think it is an important debate.

Ms McRae: And it is the last time he will be in here.

MR WHITECROSS: So you say. The debate raises an important issue of principle. I think all members in this place recognise the importance of road safety measures and appropriate motor traffic laws to set standards of behaviour on the roads. We have an extensive Motor Traffic Act which is designed to do just that and we have an extensive schedule of penalties for offences under that Act. More than 150 penalties are mentioned in the Motor Traffic Act and the Motor Traffic (Alcohol and Drugs) Act. Yet this Government is making regulations which override considered decisions about appropriate penalties for particular offences by arbitrarily deciding that on a particular day of the year a higher penalty should apply. That is what this debate is about. It is about whether penalties are going to be decided in a considered way according to the nature of the offences or whether the Minister can, at his whim, decide that a different penalty should apply on a particular day of the year.

Mr Osborne: It is about trying to save lives. Sit down, you goose.

MR WHITECROSS: Mr Speaker, I know that it is late and I know that you are tired and impatient, but I would have thought that you would still uphold the standing orders about interjections.

MR SPEAKER: You are all behaving as though you are waiting for Santa Claus, so I do not see any reason - - -

MR WHITECROSS: I am sure Santa Claus is not going to bring you a Christmas present, Mr Speaker.

MR SPEAKER: I wish your constituents could see you all now.

MR WHITECROSS: At least we will still have constituents. Mr Speaker, a couple of arguments have been raised in debate tonight which I think ought to be considered. First of all, there is the argument about deterrence, the argument that the Minister out of the blue deciding that a different penalty should apply on a particular day of the year magically provides a deterrence against breaking the law which is not important at any other time of the year. As Mr Moore said, the problem with using increases in penalties as a deterrence measure is that it has only a short-term effect. It is good for a couple of days. Usually it has more to do with the press release put out by the Minister than it has to do with any substantial increase in fear. Again and again criminologists will tell you that what really acts as a deterrent is not the size of the penalty; it is the risk of being caught. Yet what did we find on the October long weekend? We put up the penalties, but we did not put any police on the road; so there were not any police to catch anybody. I would be much more impressed if the Government focused their attention on education - in other words, persuading people to absorb into their minds, into their consciousness, the importance of abiding by the motor traffic laws and to absorb into their consciousness the notion that if they break the law they will be caught. They are the two most important things.

Mr Stefaniak: And punished severely. They go hand in hand.

MR WHITECROSS: Mr Stefaniak keeps interjecting about punishment. We all know Mr Stefaniak's position on punishment. Mr Stefaniak is the man who believes in move-on powers. He believes in punishing people before they have committed an offence. Mr Stefaniak believes that you ought to be able to hand out fines to people because someone thinks that they might be going to commit an offence. That is Mr Stefaniak for you. When we hear Mr Stefaniak's opinion on law and order, we have to understand it in the context of Mr Stefaniak's total philosophy. Mr Stefaniak's total philosophy is to punish people before they have even committed an offence, let alone afterwards. Mr Stefaniak would probably like us to cancel everyone's licence if they are picked up by the police, not just institute double demerit points. I am not sure, Mr Stefaniak, that your arguments carry much weight with the majority. The fact is that no evidence has been produced by the Government in the debate tonight, or at any time in the past, that double demerits make any difference. It is a simple case of thumping the law and order drum.

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The New South Wales Government thump the law and order drum and Mr Humphries says, "Gee, that sounds like a good idea. I am always into thumping the law and order drum. I will jump on the back of this one and I will thump it a bit myself". That is what has happened. It has nothing to do with safety on our roads. It is about Ministers in the Liberal Party wanting to thump the law and order drum just like Ministers in the New South Wales Government. That is the reality.

The Motor Traffic Regulations already prescribe a punishment. If we believe that a particular offence deserves a particular punishment and we want to change the existing penalty, we can change the Motor Traffic Regulations, but we should not at the whim of the Minister increase the penalty on a particular day of the year. Again and again this year this parliament has voted on Government legislation proposing an approach which is about thumping the law and order drum, whether it is saying that people should get a longer sentence because of some perception by the magistrate that an offence is particularly prevalent or whether it is saying that people should not be able to go back to court and apply for a probationary licence if it is their second offence. These are the provisions we have seen again and again from this Government. Are we going to give in to the law and order tub-thumpers or are we going to say that we are going to have a rule of law under which punishments are appropriate to the crimes and applied equally, without fear or favour, regardless of what day of the year it is and regardless of the mood of the Minister? That is what it is about.

There are a couple of other things that I want to touch on briefly. One of them was touched on by Mr Moore. Mr Kaine, in his remarks, went on at great length about drink-driving but this is not about drink-driving. These laws relate principally to speeding. It is speeding which earns double demerit points, not drink-driving. For all that Mr Kaine has talked about double demerits, his own regulation gives out double demerits only for speeding offences. What about negligent driving? Should driving without due care and attention when there are so many cars on the road earn double demerits? According to the Minister, it should not. According to the Minister it is not serious. According to the Minister that should not earn double demerits but speeding should.

When you look at the road toll in holiday periods and at the number of occasions when fatigue has played a part in road accidents, you would have thought negligent driving, an offence to do with driving without due care and attention, would have attracted double demerits if the Minister was serious about road safety, but that is not his concern on this occasion. I am not saying that he is not concerned about road safety, but on this occasion his motivation is thumping the law and order drum, jumping on the back of a New South Wales law and order tub-thumping initiative, not making good law in the ACT.

The Government and Mr Osborne have said that the Labor Party does not take road safety seriously and that the Labor Party does not take law and order seriously. That is just nonsense.

Mr Osborne: Your record on the police speaks for itself.

MR WHITECROSS: We just have a different way of approaching these things, Mr Osborne, and it is not by arbitrarily doubling penalties. Speeding is a serious offence. Driving without due care and attention is a serious offence. Driving when you are so tired that you fall asleep at the wheel is a serious offence. Negligent driving is a serious offence. Drink-driving is a serious offence. These things are all serious offences, but we should prescribe appropriate penalties and apply those penalties in a consistent way, not arbitrarily change the penalties. That is what my disallowance is about.

Mr Osborne says that the Labor Party have some hang-up about the police. He repeated a Liberal lie that my first question in this place attacked the police.

Mr Osborne: You did, too. Your record speaks for itself.

Mr Kaine: I take a point of order on that.

MR WHITECROSS: It is not true, but I believe that we have to have decent law and order - - -

MR SPEAKER: There is a point of order. Sit down, Mr Whitecross.

MR WHITECROSS: I ask for an extension.

MR SPEAKER: Sit down and do as you are told.

Mr Kaine: Mr Whitecross made some remark about a Liberal lie. I would like him to withdraw that.

MR SPEAKER: I would like you to withdraw it, Mr Whitecross.

MR WHITECROSS: I withdraw.

MR SPEAKER: Your time has expired.

MR WHITECROSS: I ask for an extension of time since Mr Kaine interrupted me when I was near the end of my speech. (*Extension of time not granted*)

Mrs Carnell: Mr Speaker, I seek leave to make a brief comment on this.

Leave not granted.

Question put:

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

A vote having been called for and the bells being rung -

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Ms Tucker: Mr Speaker, I seek leave to allow Mr Whitecross to have time to finish the debate. Some people here think this is important and have to vote. Mrs Littlewood has said nothing, and she has no right to stop this debate.

MR SPEAKER: Is it the wish of the Assembly to suspend voting so that we may return to the debate? It will be on condition from the Chair that people behave themselves and stop shouting. The Greens wish to listen to the debate. They do not want you screaming and shouting like young children. Is it the wish of the Assembly to stop the bells? There being no objection, the bells can be stopped.

MR WHITECROSS (9.40): Mr Speaker, I seek an extension of time. (*Extension of time granted*) I was concluding when Mr Kaine interrupted with his point of order. I was saying in conclusion that in this debate the Government had not advanced any evidence that double demerits had any effect. The experience and the opinion of criminologists is that the key element of deterrence is the risk of being caught, not the size of the penalty. There is plenty of legal history of people jacking up penalties and having death penalties or whatever they like, but it is the risk of being caught and the seriousness with which people take the prospect of the penalty being applied which matter.

It is the educational approach which this Government takes to persuading people that drink-driving, speeding, negligent driving and driving when you are tired are dangerous things to do that will make the difference this Christmas. They are the things we would like the Government to concentrate on. They will have our full support if they concentrate on those matters. They are much harder things to do than just thumping the drum about double demerit points and law and order. That is what we want to see this Government focusing its energies on, because that is what is going to make a real difference.

I believe that this law is ill conceived. I do not believe that the appropriate approach is to have an arbitrary system where on days of the Minister's choosing a different penalty will apply. That is not a prescription for a just rule of law and a sensible rule of law. We all know that at holiday times like Christmas more people are killed and injured on our roads. That is because there are a lot more people on our roads. Because there are more people on our roads, the risks are higher and the need for people to pay attention and to be cautious in their driving habits is very real. At any time you are on the road you have to be cautious about your driving habits. It might just be an ordinary weekend. You still have to be cautious about your driving habits, because there is a real risk of putting lives at risk and putting yourself and others at risk of injury any time you go on the road. That is why these things ought to be taken seriously and that is why the Labor Party will support any efforts by the Government to persuade people to drive carefully, to stay under the speed limit and not to drink and drive this holiday season or at any other time. We will not support arbitrary changes to penalties according to the whim of the Minister. That is why we have moved this motion today.

I urge the Greens and the crossbenches to support this motion. We are quite serious about consistency in the application of law, not arbitrary decisions about the application of law according to externalities. If I drive at speed, I should be punished according to the law, not because it is a particular day of the year and there are a lot of other people

on the road on that particular day. Just as we ruled on prevalence before, just as we ruled in relation to the amendments on alcohol and drugs which the Minister brought forward before, so we should today insist that the law should be fair, even-handed and not hedged around with arbitrary decisions by Ministers.

MR OSBORNE: I seek leave to speak again.

Leave granted.

Mr Berry: Mr Speaker, can I just raise a point of clarification? Those speakers who are speaking after the close of the debate should also acknowledge that the mover of the motion should be able to respond to any new material that he wishes so to do.

MR SPEAKER: There is no point of order.

MR OSBORNE : Mr Speaker, I might wait for Ms Tucker. Do you want to hear this?

MR SPEAKER: Mr Osborne, you are addressing the Assembly. You are not addressing the gallery.

MR OSBORNE: There are a couple of important points that I want to make. The first is about public perception. If we do a turnaround on the issue of double demerit points so close to when they are to kick in, it will be very damaging. There is no doubt in my mind that when people get booked they are more concerned about losing points than they are about paying the fine. This is not about revenue raising. It is about points. There is a huge education factor here. We are educating people about the dangers of speeding and about the dangers on the road. If we can make them more aware by making them realise that if they speed, drink and drive or do any of the things mentioned here they will lose double the points. As I said earlier, when I have discussions with people who have been booked, very rarely does the issue of cost come up. The issue is how many points they have lost and how many they have left before they lose their licence.

There is no doubt that Christmas is a dangerous period. Mr Whitecross, the hero of the police, said that that is because there are more cars on the road. No doubt that is true. If we have more cars on the road but all the people in the cars are aware that, if they do something wrong they will lose double the points, then I think the exercise is well worth it. I do not know whether this is the answer. Road safety is multifaceted and this is only one facet that we need to explore.

When I worked in the police, we hated Christmas and holiday weekends. I was on the ground, unlike the champion of the police over there, Mr Whitecross. I have worked as a policeman and I know what it is like. I used to hate Christmas. There were more cars on the road and there were more accidents. I recall a Christmas Day when I had to go and tell someone that someone had died in an accident. It was terrible. I do not know whether this is going to work. I do not think there is one answer to anything. You need to take different approaches.

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I am happy to give an undertaking to the Greens to look at this week over Christmas and the weekend in January as nothing more than a trial. When we come back we can assess the information and see whether it was worth the effort. When we come back there will still be room to move disallowance. There will still be enough sitting days. I do not think that this is going to be the whole answer - there is no one answer - but it is worth a try. If we do not do it, we are going to send a terrible message. What are the downsides if we do it? There are not many. If we do it, we could save lives. It is worth the effort to trial it and see whether it works. I am quite happy to come back, if I come back, in the next Assembly and have a look at the police data and see whether it has been effective.

The attitude of the Labor Party on this issue has been pathetic. People are more relaxed at Christmas time. If we can make them focus a little better on their driving, then I think it is well worth the effort. Mr Whitecross has been a disgrace on police matters in the last three years. He has reared his ugly head here again.

MRS CARNELL (Chief Minister): I seek leave to speak briefly on behalf of the Government, Mr Speaker.

Leave granted.

MRS CARNELL: I agree that more data needs to be collected with regard to this trial. Some data was collected in October but it was for only one weekend. Obviously, more data needs to be collected to determine whether this does any good.

Ms McRae: Why do you not put some coppers on the road? That would help.

MRS CARNELL: I will answer that in a moment. Mr Osborne hit the nail on the head. We have one weekend of data. If we are to show whether or not this is beneficial, we need more data. As a government, we are more than willing to provide data to a new Assembly on what happens in this period. I come back to an important question. What harm can be done by allowing another period when we use double demerit points?

Those opposite are a bit light on for consistency. We know that reintroducing annual checks for car registrations would cost something like \$14m. Those opposite have told us that \$14m would be worth it if we saved one life. That is an exact quote. We know that 5 per cent of accidents happen as a result of car defects. Three per cent involve tyres, so 2 per cent of accidents are a result of other defects in cars. A whole lot more accidents happen as a result of speeding. We have a chance here of saving a life. What is the cost? It is zero. We have an opportunity for no dollars, apart from promotion, to save potentially one life, and those opposite are not willing to do it. But they were willing to spend \$14m to prevent potentially 2 per cent of accidents. Mr Speaker, the consistency - - -

Mr Whitecross: It is down to 2 per cent now, is it?

MRS CARNELL: No, it is 5 per cent - 3 per cent tyres and 2 per cent other defects. They are NRMA figures. Today the police launched the Christmas road safety campaign. They do have a road safety campaign over Christmas. More police are on the road over Christmas. There is a significant public relations campaign promoting road safety over Christmas. The double demerit points are part of the road safety campaign.

The question that everyone has to ask themselves is: Do we need more data? The answer is yes. We do need more data on outcomes. Are we going to cause any harm to anybody if we go down this path? There is no harm to anybody. I come back to the initial point. Those opposite have argued this week, certainly in this sitting period, that it would be worth spending \$14m if there was a chance of saving one life, but today they are not willing to do this very small thing that will cost nobody anything but will get more data and potentially save a life.

MR WHITECROSS: If no-one else is going to seek leave to speak, then I seek leave to speak again to respond to some of the remarks that have been made.

Leave granted.

MR WHITECROSS: Mr Speaker, given the length of this debate, I will try very hard to be brief. The Chief Minister demonstrated by her comments in this debate that she is more interested in playing politics than she is in engaging in the issue. She spent most of her speech peddling a fiction about the Labor Party's policy on vehicle testing. We do not need to get into the vehicle testing debate now. I am sorry that Mrs Carnell wasted so much time on it. Mrs Carnell said that the Labor Party were proposing to spend \$14m on its vehicle testing policy. That is simply not true.

Mrs Carnell also said that only 2 per cent of accidents are attributable to vehicle defects. It is now down from 5 per cent to 2 per cent. Every time we hear the Government speak, the number of accidents caused by vehicle defects seems to have fallen. The point is that this has nothing to do with vehicle defects; so Mrs Carnell's entire speech was a waste. It was a political attack to try to discredit the Labor Party instead of addressing the issue that we raised.

Mr Osborne did the same thing. He tried to smear the Labor Party and me in particular by saying that we are anti-police. Of course we are not anti-police. Mr Osborne, the fact that we think for ourselves rather than unthinkingly promoting police policy does not mean that we are anti-police. I get on very well with a whole range of police officers. I listen to them and learn from them. That does not mean that I subscribe to the proposition that doubling the penalties for any range of offences will improve the law and order situation. I do not believe that. Mr Osborne is quite right to bring home with his comments some of the discomfort felt by police officers and some of the tragedy experienced by the community as a result of road trauma. I think it is a very hard job, Mr Osborne, to be a police officer and to have to turn up on someone's doorstep and tell them that someone they care about has been injured or has died. I know that that is hard, but that does not take away one little bit from the issue that we are debating today, Mr Osborne.

This is not about whether a motor accident is a serious event. It is not about vehicle testing laws. This is about whether we are going to have a rule of law which is consistent. That is what is missing from the subordinate law which we are proposing to disallow. It does not provide for a consistency in the rule of law. It provides for arbitrary changes to the rule of law according to the whim of the Minister. Voting for this motion does not have to send a negative message to anybody unless people choose to go out of this place and promote the suggestion - the lie, in fact - that anybody in this place does not take

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seriously abiding by the motor traffic laws, the dangers of driving on the roads or the dangers of drink-driving, speeding or driving without due care and attention. As long as everybody in this place acknowledges that everybody else in this place thinks those things are dangerous, then there is no reason why any message should go out to the community at large that these things are not dangerous. It will happen only if some people in this place choose to say that other people in this place do not take those issues seriously.

This is about the rule of law. It is about whether the offences which are prescribed in the Motor Traffic Regulations, in a considered way, are going to be applied according to that schedule or whether, at the Minister's whim, different penalties should apply. That is exactly what it is about, nothing more complicated than that. It is about consistency in the rule of law. Mr Osborne can talk all he likes. He can thump the law and order drum, as the Minister does, but the situation does not change. The majority of road users have no idea what penalty is going to apply for a motor traffic offence. They all know that they should not speed, but they do not know what the penalty is until the police officer pulls them over and writes out the ticket. That is the case for the vast majority of road users.

If we are serious about this, we have to focus on things that work. The thing that works is educating people about the dangers of breaking the motor traffic laws, educating people about the importance of abiding by motor traffic regulations, especially at times when there are a lot of other road users, and having a significant police presence which persuades people that it is not worth taking the risk. People who do not believe in the rules will be persuaded. They will know that it is not worth taking the risk, because they will be caught. They are the key elements of an effective policy. Arbitrarily changing the rules will not make a difference.

Mrs Carnell said, and I think this sums up Mrs Carnell's position, "It does not make any difference. We hurt nobody by having double demerit points. It does not matter. Why not do it?". That is not true. The Motor Traffic Act sets out penalties according to the seriousness of offences. If on a given day of the year we unfairly, arbitrarily and unjustly impose a more onerous penalty on people it could result in some people's licence being disqualified, not because of the seriousness of their offence but because the Minister thinks that today is a particularly bad day and they should get double points. That is the law that we are talking about. Fairness is about a given offence being punished in a consistent way. It is not about unjustly imposing a higher penalty because of the particular day of the year. It is just wrong for the Chief Minister to say that no injustice is done by this law. Of course an injustice is done by this law. It arbitrarily changes the penalty without regard to the seriousness of the offence. That takes me back to the Liberal Party's promise at the last election, a promise which I think we ought to take seriously. The Liberal Party said at the last election:

Subordinate instruments such as regulations ... shall only prescribe the most mechanical of operations and in no circumstance should a subordinate instrument create a criminal offence, effect a fundamental change in the law, or redefine rights, obligations or liabilities.

That is the Liberal Party's policy. Yet on this occasion they have chosen to use subordinate legislation to introduce a new policy which changes rights and imposes additional liabilities on people without the benefit of the debate which we have seen in relation to legislation on the motor traffic law several times this year. It is not appropriate for them to impose this in this way. They have used regulation for one reason and one reason only - because Mr Humphries and Mr Kaine were in a big hurry to jump on the bandwagon with Mr Carr and the Labor Government in New South Wales, tub-thumping law and order. The Carr Government came up with the idea and announced it before the October long weekend. The Liberals in the ACT said, "Gee, that is a good idea". They rushed through a regulation to do the same thing. That is what has happened. We should not allow that to be the basis for making these decisions.

Mr Osborne: Why did you not stop it then?

MR WHITECROSS: Mr Osborne asks why we did we not stop it then. Mr Osborne, we could not stop it then. Do you know why? It was not until this sitting of parliament that the Government tabled the regulation. The regulation was made over two months ago, Mr Osborne. He does not want to hear the answer. He does not mind throwing in the interjection, but he does not want to hear the answer. The regulation was made over two months ago. It took them over two months to get it into parliament. That is why we are having a debate now at the death of the parliament. It took them that long to get the regulation here. We should not allow an unjust regulation to stand. We should vote against it.

Question put:

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

The Assembly voted -

AYES, 6

Mr Berry
Ms McRae
Mr Moore
Ms Reilly
Mr Whitecross
Mr Wood

NOES, 9

Mrs Carnell
Mr Cornwell
Mr Hird
Ms Horodny
Mr Kaine
Mrs Littlewood
Mr Osborne
Mr Stefaniak
Ms Tucker

Question so resolved in the negative.

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POISONS AND DRUGS (AMENDMENT) BILL 1997

Debate resumed 6 November 1997, on motion by **Mrs Carnell**:

That this Bill be agreed to in principle.

MR BERRY (Leader of the Opposition) (10.06): The Poisons and Drugs (Amendment) Bill 1997 is about adopting the scheduling of drugs and poisons in accordance with the standard, and adopts by reference schedules 1 to 8 of the Standard for the Uniform Scheduling of Drugs and Poisons. It is a matter which was agreed to between States and Territories initially at the Australian Health Ministers Conference in June 1990. This Bill is a machinery matter and will be supported by the Labor Party.

MR MOORE (10.07): Mr Speaker, I take some interest in both this Bill and the next one. I think this is a very sensible and fairly mechanical amendment, so I will be supporting the Bill.

MS TUCKER (10.08): I would like to make a couple of comments generally about labelling. I think there are some issues that need to be addressed much more than they are at the moment in terms of labelling. For example, the issue of genetically modified food is an interesting one. Genetically modified soy beans are actually modified so that as they are growing they can tolerate a much higher level of herbicides. So there is a much greater level of herbicides in some of the soy products now. There are some pretty serious issues that need to be addressed in terms of what is put on food labels, particularly in view of the increasing sensitivity of some members of our community to chemicals.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

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

Debate resumed from 6 November 1997, on motion by **Mrs Carnell**:

That this Bill be agreed to in principle.

MR BERRY (Leader of the Opposition) (10.09): According to the explanatory memorandum, this Bill is to make the operation of the Act more flexible in that it removes certain restrictions on the range of officers who can act in the position of analyst. It seems to make the legislation easier to manage and therefore will be supported.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

SUSPENSION OF STANDING ORDERS

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

That so much of the standing orders be suspended as would prevent the adjournment debate extending beyond the 30 minute time limit.

ADJOURNMENT

Valedictory

MRS CARNELL (Chief Minister) (10.12): I move:

That the Assembly do now adjourn.

On this final night of sittings of the Third Assembly it is worth recalling what was being said in the corridors of this building in March 1995 when we took government. I well recall staffers of the Opposition leader of the day, Rosemary Follett, telling anyone who would care to listen that they would be back on the top floor by Christmas. There was no way, they said, that a seven-member Liberal Government could survive relying on the votes of a gaggle of Independents and Greens. Well, it is enormously satisfying not only to have survived but also to have seen two leaders of the Opposition pass through during that time.

Mr Berry: Three. I am the third one.

MRS CARNELL: Well, they have not passed three. He is still here, at least temporarily. The past 2½ years have not been easy, Mr Speaker, but we on this side of the chamber have learnt a lot - I am sure all of us would agree with that - about ourselves, about our responsibilities and about trying to provide the best possible government that we can for the people of Canberra. We have not always got it right but, then again, who has? But every time we have not got it right we have learnt, Mr Speaker.

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If there is one thing that I think everyone agrees with it is that we have not let grass grow under our feet. I have to say that we have probably achieved more in the past 2½ or nearly three years than was achieved in quite a few years before that, probably since self-government. At the end of this term there are still new and exciting ideas being developed and implemented, like Youth500, the scheme that Mr Berry does not like, which probably has been the most successful employment program ever undertaken in the ACT.

It has been wonderful to be part of that reform process which has seen enthusiasm, fresh ideas and innovation rewarded and encouraged. A lot of water has gone under the bridge since 1995 but in that time we have modernised our Public Service to the point where we are regarded as the leaders in this country. We have also put in place a system of financial accountability that is the best in Australia. That has taken a lot out of us, I suspect, Mr Speaker, particularly the thousands of very hardworking public servants who have made the ACT such a great place in which to live and work. They have worked remarkably hard.

Mr Speaker, everyone is wary of change, and I know that this is even more so in a large organisation such as the Public Service. The transition from the miniature, 1970s-style, Commonwealth Public Service clone that we inherited in 1995 to the customer-focused organisation we have now has meant an enormous upheaval for every agency and every employee.

Mr Berry: To a politicised one now.

MRS CARNELL: He says it is politicised, Mr Speaker. So, in recognising that reform is never easy, I would like to place on record my thanks to the 17,000 or so ACT public servants who have been part of the exciting changes that have happened. Everyone, whether it be casual teachers, police, CityScape workers, nurses, shopfront employees, our switchboard staff, you name it, has been part of it, and I know that all of my colleagues here would like to thank them a lot. Our agency heads have been absolutely stunning, Mr Speaker. I have to say that you cannot help but love them all.

We have proved that the critics were wrong when they said that this Government would not work efficiently with the crossbenchers. We may not have always seen eye to eye, but we have learnt to work together, and I think we have learnt to work together very efficiently. I remember well David Lamont, a former Minister in this place, coming up to me shortly after I became Chief Minister and saying that he wished me well in trying to govern with only seven out of 17 and that I would need all the luck that we could get. Well, David, we survived.

Mr Speaker, it is appropriate on this final day of sitting to pass on my thanks to a lot of people who have made my life a lot brighter as Chief Minister. I thank my colleagues on this side of the house, my staff, who have worked harder than anyone could ever expect staff to work, and my departmental liaison officers - in fact all of our departmental liaison officers - particularly Chris Roberts and Graeme Slater-Shields. They have been remarkable, Mr Speaker. I would like to thank those on the crossbenches for helping us to achieve the things we needed to achieve.
(Extension of time granted)

Mr Speaker, I would also like to thank Paul Osborne and Michael Moore for having a sense of humour. It often does help, and I am sure we are going to see a bit more of that in a little while. My thanks also go to Michael Moore and his staff. I would like to particularly thank Michael Moore and his staff for generating some ideas and enthusiasm, and even more Bills than the Labor Party all put together.

Lucy and Kerrie, the Greens, thank you for coming to the realisation that the Liberal Party does not concrete everything and paint it green - most things, just not everything. I am sure that we on this side of the house would like to wish Lucy particularly well in whatever she chooses to do in the future. I am sure that her time as a mum and other things will be very useful. To the members on the other side of the house, a big thank you for making the past 90 or so question times so easy.

To the Clerk and the Deputy Clerk, Mark McRae and Tom Duncan, and not forgetting whom my staff call the 2.20 pm maniac, Maureen, for running up into the office at 2.20 every day, my thanks for making this place a much easier place to work in. To Tom and Mark, "Up the Magpies"; and Barry, thank you for all your help and humour in making this place work much easier. I would like to thank the Assembly liaison crew, Vicki Bates and Laurine Teakle, for the wonderful service that they have given to us. I would also like to thank Toyota for making small cars that are not made of tissue paper, otherwise I would not be standing here today.

Mr Speaker, I have always said that we were surprised to be in government, and we were. I have always believed that we were not going to be here for a long time, but we had a job to do and we were willing to do it, and to do our absolute best. Mr Speaker, we have done that. I do not know whether we will get another term. I did not expect a first one, so we certainly do not expect a second one. I do not see myself necessarily as a career politician who will drop off the twig in 30 years or so, but I have really enjoyed the last three years. As I said before, I have learnt an enormous amount during that time.

I know that my colleagues on this side of the house believe that this Assembly is now working better than it was before. We have given the job a good shake-up, a shake-up that I believe it needed. I suppose that our job is one of the toughest jobs there is in the ACT. I have enjoyed getting out there and selling Canberra, and not just in Australia. It is great now that Canberra is significantly better known as a good place to do business and as a good place to employ people than it was three years ago. It has been an extremely tough couple of years, but it has been a challenge. Enough of politics. I would like to wish everybody a happy Christmas, a great new year, good luck in February for everybody, and drive carefully.

Valedictory

MR BERRY (Leader of the Opposition) (10.21): Unlike the Chief Minister, I have not enjoyed this period in this Assembly. I have not enjoyed the damage that has been done to the ACT by the Liberals opposite. Neither have I enjoyed the damage done by their Federal colleagues.

Mr Speaker, as this Third Assembly draws to a close, I would like to place on the record my appreciation of the many people who assist us in our work in this place and those who support us personally and professionally. Firstly, I would like to thank my colleagues in the Labor caucus who, over the last three years, have been hardworking and loyal - my deputy, Andrew Whitecross, Simon Corbell, Roberta McRae, Bill Wood, Marion Reilly, and my former colleagues Rosemary Follett and Terry Connolly. I have always appreciated their support, their hard work and commitment. It has been a good, solid team all the way along.

Behind these members are those that keep them going, their families and their staff. For most of us the two intermingle so greatly that our staff are more part of our families than simply employees. I thank all the present and former Labor staff who have worked with us over the past three years. I appreciate their commitment to the Labor Party's ideals and principles, their commitment to our party members and our party's supporters. Politicians expect a lot from their staff. They often apply themselves beyond the call of duty. Labor's work in the Assembly and in the community over the past three years has been a partnership with common goals and aspirations. For their sakes, I hope our goals are realised on 21 February. I thank the families and friends of my colleagues. It is a thankless task to be the family of a politician. They deserve thanks for allowing their spouse or parent or partner to be part of the Labor caucus, as we could not function quite as effectively without their contribution as well.

On behalf of the Labor caucus, I would like to thank Clerk McRae and the Secretariat staff. They have at all times been professional, discreet and helpful. They often need to respond to some of the most simple and sometimes the most complex requests, and they have always tried to fulfil them as efficiently and effectively as possible. This is an apolitical mob, but now and then you can just catch a little glimpse, if you search it out when there is a debate in the chamber which is amusing or unusual, and the professional stony face sometimes changes just a wee bit. It is good to see that we have a bunch of strong, professional human beings working for us here in this Assembly.

I wish to thank the committee staff. The committee office performs the most difficult political juggling act in this building. They need to draw together the divergent political views in a way that will attract cross-partisan support, and I believe they do this very successfully. I would also like to thank the attendants and those corporate staff around the place who make up all the wages and work out the holidays and all those sorts of things for staff around the place. They do it in a very professional way. Of course, I also thank Barry, who makes the whistles and bells around the place continue to whistle and jingle. My appreciation is also extended to our Assembly library staff. They all make us feel that we have a personal librarian.

Finally, I would like to acknowledge and thank the people who represent the events in the Assembly to the public outside, the media. They play an important role in our democracy; there is no doubt about that. Without them, we would not be able to represent our constituency so well. I respect that role, and I hope that they at all times do as well. We have a small media gallery - we disagree with some from time to time - and it places enormous pressure on them because we are a demanding lot in many ways. I trust that they will keep in their hearts the need to be honest and fair at all times.

I wish all those I have mentioned this evening a safe and happy holiday season, and I look forward to working with you all again in the next Assembly.

This Third Assembly was an experience for the people of Canberra. They experienced a Liberal Territory Government for the first time and it is an experience that they do not deserve to have repeated. (*Extension of time granted*) We have seen new lows in accountability, new lows in ministerial responsibility and new lows in service to the community. I see that Mrs Carnell is wearing a badge on the front of her garment this evening saying "Business Is Great". Well, it is not great for those among the all-time high in unemployment that was announced today, nor for those on the increasing waiting lists. Business is not great, Mrs Carnell.

Canberrans have seen their city go to rack and ruin due to the Liberals' pursuit of small government. Services, from health to housing, from ACTION to the maintenance of our parks and roads, have been savagely cut. Residents' amenity has also suffered. We have seen the expenditure of millions of taxpayer dollars not able to be scrutinised as the Government hides behind convenient commercial-in-confidence claims. We have given millions to or forsaken millions from large multinational companies like Fujitsu and CRI for nothing more than promises from the Chief Minister. We cannot judge these deals ourselves because the Chief Minister refuses to allow them to be public. I believe that if one is unwilling to make deals public there must be something one wishes to hide. Maybe the Chief Minister has learnt from the Unisys promises of 1,000 jobs. They have never appeared. Mrs Carnell simply makes the promise but does not release any of her details. This makes it harder for people to judge her promises at a later date. We have seen them all; we have heard them all.

We have seen new lows in the Territory Government's responsiveness to the Assembly's committee system. Subsequent Estimates Committee reports have been ignored, and Public Accounts Committee reports have been ignored. While the committee system already plays an integral and successful role in our legislative procedures, it would be more successful and influential had the Carnell Government been prepared to respect committee decisions and recommendations.

We have also seen lows in ministerial responsibility. While the Liberals have attempted to dine out on yet another episode of VITAB, the fact is that at least I am prepared to accept my responsibility as a Minister regardless of the circumstances. This is in stark contrast to the Chief Minister. Let me raise just two examples of the Chief Minister's inability to cop responsibility squarely on the chin. The first had financial repercussions; the second is more serious. Firstly, I remind the Assembly of the Auditor-General's report on the salaried medical officers. When the Auditor found that Mrs Carnell had overseen abuses

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which really should have been referred to the Director of Public Prosecutions, abuses that were first identified in late 1994 but were never addressed despite further evidence over the following two years, what was the Chief Minister's response? "No-one told me so; it is not my fault".

Mr Moore: Merry Christmas.

Members interjected.

MR BERRY: I would be embarrassed too, boys and girls; I would be embarrassed about this Government. You are the ones who put them there. Chief Minister, no-one told me when I was Minister that the VITAB deal was no good, but I still accept the responsibility. But not the Liberal leader; she dances to a different set of standards. Despite the Auditor-General - - -

MR SPEAKER: The member's tacky time has expired.

MR BERRY: I would like to finish my speech, Mr Speaker. That is customary. (*Extension of time granted*) This was despite the Auditor finding that Mrs Carnell had kept her salaried specialists well fed, despite the Auditor finding that the salaried specialists' average incomes from outside private practice were seven times higher than a self-employed part-time specialist's average salary, despite the fact that up to one-third of salaried specialists were performing a level of outside private practice which severely impacted on their ability to perform their contracts, and that many were performing outside private practice without approval. Although an accumulation of evidence was available indicating inefficiencies in the delivery of radiology services by salaried specialists, hospital management had not taken action to ensure that the inefficiencies were addressed. Despite all of these findings and this outrageous incompetence, all with Mrs Carnell at the helm, this Minister refuses to accept responsibility. We will, and we do.

I remind the Assembly of another sad episode in the history of the Carnell Government, one that is probably its most tragic and one that the Chief Minister is still unwilling to acknowledge, and that is the former Canberra Hospital implosion. This is despite actively promoting the implosion as a family day out, encouraging people to attend and pointing out the best spots to view the event.

Mr Stefaniak: That is tacky.

MR BERRY: It is true, Bill. You do not like it but it is true. This is despite her being one of the only two shareholders of the project managers of the event, Totalcare, a privilege that she shares with the Minister for Urban Services, Mr Kaine; despite acknowledging that she intended to implode the buildings as early as mid-1995; and despite the implosion event being managed through her own department, the Chief Minister's Department. We needed an apology and we never got one. Mr Speaker, it is probably of little surprise that there are some in the community who believe that the ACT Legislative Assembly does not serve them well. I regret this, but I am not surprised by it.

I cannot finish my last speech in this Assembly without acknowledging the other members who collectively are Labor's political opponents in this place, all 11 of them. It is a political reality that one must try to work with people who ultimately wish to throw you out of office. That is the reality of this place. The conflict that occurs in this place may upset the sensibilities of some people, but the fact is that we are all jostling for a limited number of seats and are all vying to increase our membership in this place. I can assure my opponents that I will be working towards decreasing the number of my political opponents in the next Assembly. Whilst I cannot wish you a successful campaign over the next few months, I do wish you a safe one.

Mr Temporary Deputy Speaker, this parliament has always been a tough parliament, but it is not one where you should run away from the realities. The reality is that there will soon be a choice for the community of the ACT, a choice of a Liberal government or a Labor government. We will be working very hard to make sure that their choice is a Labor government and that they choose people who would ensure that there will be a Labor government.

Mrs Carnell: You are supposed to have a sense of humour.

MR BERRY: Somebody interjected that I was supposed to have a sense of humour. I have a sense of humour but I cannot laugh about the damage that has been done to the ACT, and neither should any of you. Anybody who makes a joke about this, in my view, is quite sick. The fact of the matter is that this Assembly has been one that many in the ACT will not forget. As I said, it has not been an enjoyable one for me because I have seen the damage done to the fabric of the ACT by two Liberal governments, and one in particular that never won in its own right. They did not have a right to do to this Territory what they did. It is my intention that we do our very best to ensure that it never happens again.

Mr Temporary Deputy Speaker, again I say to all of my colleagues within the Labor caucus, my personal colleagues in my own party and to the rest of you who oppose us that I wish you all a very safe campaign. I cannot in good faith wish you a successful one. What I would say to you is that it is much better to drive safely. Just drive safely.

Valedictory

MR MOORE (10.35): Mr Temporary Deputy Speaker, I seek leave to speak for as long as it takes to complete my prepared speech.

Leave granted.

MR MOORE: I am reading this speech for two reasons. The first is that Gary Humphries is unable to deliver his usual outrageous Christmas message in the adjournment debate, and I agreed to do a joint effort with him.

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MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Mr Moore, so long as it is within standing orders you will be permitted to do so.

MR MOORE: Thank you.

MR TEMPORARY DEPUTY SPEAKER: I just heard that Santa Claus has turned up with no toys for the children. I hope I do not have to remind you of standing orders, Mr Moore.

MR MOORE: I know my standing orders. The second reason is this: People outside this chamber might not be aware that each and every one of us has spent sleepless nights waiting for the phone call that never came - the phone call from Gary Humphries, the phone call with a job offer. Terry Connolly and Rosemary Follett might laugh. They got their phone call, their invitation to a job, but what about the rest of us? We have been waiting and waiting, and now it is almost too late. But wait, I have good news.

I have come across a leaked document from Gary Humphries's office - the secret list of Gary's impending appointments. My understanding is that the appointments would have been made this afternoon had he not been called away to Hobart. Remember, Rosemary Follett's appointment was made on the last sitting day of the year. This list reveals that, as usual, Gary has attempted to pick off Labor's better performers. This has, after all, been Gary's preferred method in the past.

My reading of the leaked document is that Andrew Whitecross has been tempted away to become the new manager of the ACT Cemeteries Trust. The new trust will be incredibly high tech, with new cremation and burial facilities all over Canberra, and will be able to cope with political as well as mortal remains.

The career of the new kid on the block, Simon Corbell, has been cut off even before he has been able to make his political mark with an offer of appointment to a new investigatory authority, along the lines of Queensland's CJC or the New South Wales ICAC. The body will specialise in pursuing issues which will be of great interest to both Ian Warden and Dear Madge of the *Canberra Times*, particularly issues to deal with the credulists and sceptics as well as witchcraft and wizardry, which Gary's sources have led him to believe are of special interest to Simon.

In a move that will no doubt deprive Labor of its lingering conscience, Bill Wood, thanks to Gary's contacts and manipulation, will be lured into resigning to become campaign manager for the upcoming election campaign of Ms Jacqui Rees, in which position he will be able to give her advice on both psychological tactics and planning matters.

To limit Labor's philosophical foundations, Roberta McRae is to become the manager of a new Territory-owned theatre company. Her talent for Shakespearian drama no doubt will serve her well during the opening performances of *The Merchant of Venice*, *Julius Caesar*, and *The Taming of the Shrew*.

The last remaining shred of Labor values and sincerity are to be plucked away by appointing Ms Reilly to the new position of director of quality assurance in non-SES Public Service positions. She will have special responsibility to ensure that all ACT Public Service phones are answered 24 hours a day, seven days a week, 365 days a year.

Mr Humphries had intended to appoint Mr Berry as legal adviser to ACTTAB, but that proposal has fallen through. I shall come back to Mr Berry later.

Now for the crossbenchers. Ms Horodny has already been removed from the game, although, so subtle was Gary, that no-one even noticed that he had appointed her to become a very private citizen who puts family ahead of politics - a rare exit indeed.

Ms Tucker is also to be lured out of the way by appointing her as the ACT Community Advocate, a position to which she is well suited, despite its lack of statutory independence. Members may be aware that she will need to share lodgings with a past member of this house, someone who has previously fallen to one of Gary's plans.

Mr Osborne is to become a publicity officer for James Hird, the new captain of the Essendon football team, chaplain for the Australian Rules football teams, and marriage counsellor to all football players in all football codes as well as all members and staff in this place. Paul is going to have to spend some time in the theological college to learn Latin and theology, rather than relying on the ability of his staff members in matters theological. Paulus meus amicus. He will eventually learn what that means.

I apparently am to be offered the position of commissioner for aged persons care, with a special job of overseeing a new hospice which has a goal of setting a national benchmark for turning over patients as quickly as possible. Apparently my colleague Mr Humphries believes I have some personal expertise in ensuring that the elderly live long and productive lives.

It has been arranged that the Speaker, Greg Cornwell, is leaving us to become leader of the ACT branch of Australians for a constitutional monarchy. He intends to protest outside the constitutional convention at Old Parliament House in February. He is not expected to be waving an Aboriginal flag whilst doing so.

Louis Littlewood will be appointed ACT commissioner for dispute resolution.

Trevor Kaine, finally, after the manipulations of Mr Humphries through many of his business contacts which have resulted in so many earlier offers, has decided to bow out and to accept appointment as manager of the newly privatised Canberra Airport where he will be able to test the facilities and the skies above Canberra to his heart's content.

Minister Bill Stefaniak will soon be appointed as the ACT's next Director of Public Prosecutions, where his reputation as the hanging prosecutor will set the tone for a long period of crime deterrence and, no doubt, increased public safety on our streets and sporting fields.

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The leaked documents indicate two other masterstrokes. Our Chief Minister, Kate Carnell, will be leaving the Assembly to become chairman of the National Competition Council where she will be able to direct the policies of the ACT Government without needing to trouble herself with the Assembly or Cabinet. Because the position is not available until late next year, she will be taking temporary work to pay the rent and to keep the ACT job figures up. She has accepted an offer from the ACT Labor Party to be Wayne Berry's driver through the coming election campaign. If she, and he, survive that task, she will also drive for Rob Borbidge during the Queensland election next year, and later for John Howard in the anticipated mid-1998 election. If still available in early 1999, she will drive for Bob Carr in his campaign. Mr Speaker, it is obviously a sign of her deep and abiding admiration and concern for these national leaders that she knows and loves that she should take such a personal interest in their safety.

Finally, Gary has contrived a remarkable amendment to the ACT (Self-Government) Act which apparently will be passed by the Federal Parliament as a consequential amendment to the ACT (Land and Planning) (99-Year Leases) Act in the new year. Never let it be said that Gary is not adept at complicated amendments. Mr Humphries is apparently to be appointed to the new position of administrator of the Australian Capital Territory. I congratulate him on his well-deserved appointment, although I am uncomfortable at the idea that he will have to sign the laws which I wanted passed before they became law.

So the current Assembly will be almost entirely swept away, but not completely. Wayne Berry no doubt will attempt to govern alone after the next election, as he is obviously capable of making all policy decisions for his entire team anyway. Mr Berry will finally have his long-cherished dream of becoming Chief Minister with no opposition to question him, and no party colleagues to plot against him. It will indeed be a barren victory for Wayne "Ozymandias" Berry.

Finally, of course, Mr Hird also will have his own even longer-held dream come true. After all these years he will finally have a wish fulfilled when he is unanimously elected as Speaker of the Legislative Assembly. We wish him and Mr Berry well in their coming debates.

A merry, happy Christmas and a safe and a happy new year to you all from Gary and Michael.

Valedictory

MRS LITTLEWOOD (10.44): Mr Speaker, trying to speak after that will be rather difficult. I have no idea whether or not I shall return to this place. In fact, in view of some of the things that have happened this week I wonder whether I really want to return to this place. I would just like to say that in my time here I have enjoyed it. Mr Berry mentioned power and glory. I am afraid that has never been my aim in being here. I have been here to work for my community and I have enjoyed doing that, and I believe that in a small way I have made a difference to the lives of some people. They may not be things that are very broad, and on the world scale they certainly would not come to a 10, but for those people they are important and I have enjoyed doing that.

There are a number of people I also would like to thank. Firstly, there is my staff. I would like to thank the attendants here and the Secretariat for what they have done. They have always been very approachable and very helpful, and I have appreciated that. I would also like to thank my team. Being here has been an interesting exercise. I thank my committee colleagues. Committee work has also been an interesting exercise. I would also like to thank my staff who have supported me. They have been great.

Mr Osborne: All of them.

MRS LITTLEWOOD: All of them, Mr Osborne. In conclusion, as I said, I do not know whether or not I will be here next time, but I have enjoyed being here and I hope that I get the chance to continue doing my work in the community.

Valedictory

MR CORBELL (10.45): Mr Speaker, at the end of this Third Assembly and my own first year in this place, I thought it would be appropriate to place a few of my brief thoughts on the record. I would firstly like to place on the record my very sincere thanks to the wide range of people who have assisted me in my first year here. I refer first to my colleagues. I have greatly appreciated their warm acceptance of me in joining Labor's Assembly ranks, their knowledge and their counsel throughout the year. The assistance and counsel of my own staff and the staff of the other Labor members have been deeply appreciated also. Their steadfastness and their persistence with the continual and unceasing range of issues and tasks which need to be addressed by all members has been deeply appreciated, and I look forward to working with them all in the coming campaign.

Finally, Mr Speaker, speaking as a newer member in this place, the assistance of all the Assembly staff has been extremely valuable. I express my thanks to the Clerk, Mark McRae, his deputy, Tom Duncan, the principal attendant, Alex Fyfe, and all the other attendants and all the other Secretariat staff who have assisted me from time to time in getting used to being in this place in the first couple of months. They were always helpful and efficient. Whenever I raised a query they were always willing to help. I have no doubt that without their assistance in my first year in this place I would not have been as effective as I hope I have been.

Needless to say, Mr Speaker, I will be working hard to earn the endorsement of the people of the electorate of Molonglo in the coming year, and I hope to return to this place. In the coming year we will face important challenges, with the exception of Ms Horodny who has perhaps more enjoyable challenges ahead of her. We will be challenged to present the best policies and ideas which will lead our city and our community forward; to present ideas on building a fairer and more just community; to present ideas on how our society will continue to change in the coming year and how we will adapt to that change. How will we adapt to the enormous impact of the information technology age and the consequent changes in how we work and live? How will we learn to adapt to the issues of the environment and the changes that we are seeing being wrought there from our own activities and how will we adapt to those things? These are all challenges that we face.

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Being a member of this place, I have become more acutely aware of them than I was before. As I said when I was sworn in at the beginning of this year, the challenge is to understand that there is no one way to govern a society; there is no one way to govern a Territory such as ours; there is no one way of viewing the economy; and there is no one way of addressing issues such as unemployment.

Economic rationalism, the dominance of its fundamentalist belief, is not the only choice we have in running our community. Mr Speaker, understanding that the consumer is not the ultimate measure of our worth in a society and that above consumers we are citizens is a principle that I hold dear. That we are all of equal worth and value is another principle that I also hold dear. That is something I think all members should reflect on as we go into this season of holidaying and hopefully a chance to spend time with our friends and family. I think the challenge for all of us in the coming year is to reflect on those principles and those values, and strive to promote those ideas for the benefit of all the people of the Territory in the coming campaign and in the coming Assembly.

Valedictory

MR STEFANIAK (Minister for Education and Training) (10.49): I would like to wish members a safe Christmas. It will not be much of a festive season because I suspect that all of us will be very busy campaigning, with one exception, and that is Ms Horodny. I sincerely wish her all the very best in her newfound career. I have spoken to her privately in relation to that and I admire her decision. I would like to thank you, Lucy, for your contributions over the last three years. It is a shame that you are not standing again, but I probably cannot think of a better reason to leave than yours. I wish you specifically all the very best. The rest of us, of course, will all be trying to get back here.

Mrs Carnell: Why?

MR STEFANIAK: Yes, why? You wonder. Lucy, you probably are very sensible and the rest of us are crazy, but all the best to the rest of my Assembly colleagues. I would like to thank the Assembly staff. They are an incredibly professional and dedicated bunch. They are always helpful and I have greatly appreciated working with them in this Assembly, just as I did in the other two Assemblies.

To my own personal staff, I extend my sincere thanks for their efforts over the last three years. I think Mr Berry and the Chief Minister were accurate in what they said about what personal staff do for a member. I also thank my DLOs, especially the last three, whom I have had for most of the time - Tracy Giuretto, who has been there all the time and who has served me very well as Minister for Sport, as he did David Lamont and Wayne Berry before me; Helen Uhe from Housing, a most experienced person; and Jenni Campbell from Education. Both Helen and Jenni are long-serving DLOs who have done an excellent job. Finally, I thank the various hardworking staff in the various departments I am responsible for. I have been highly impressed with their dedication to the people of Canberra and to their task since I became their Minister, and I wish them and their families all the very best for Christmas and the new year.

Valedictory

MR OSBORNE (10.51): I congratulate Mr Moore and Mr Humphries for that wonderful speech. It was terrific. I want to say a few words in the final adjournment debate of this Assembly. I would like to wish everybody a happy, safe and, to some, a holy Christmas. To Mr Moore and the other non-Christians in here, I can only assume you are taking time off to celebrate the pagan feast that Christmas once was. So, I hope you do not get into too much trouble.

When I first entered politics, Mr Speaker, I had no idea whatsoever about politics and how it worked. Some people will say that nothing has changed.

MR SPEAKER: Has that changed, Mr Osborne?

MR OSBORNE: I like to think that my staff have changed at least, Mr Speaker. There have been times in this place when I have been bitterly disappointed, and there have been times when I have been very happy. I suppose the first lesson that I had to learn on coming into politics is that you do not always win. It is very hard when you come from the Canberra Raiders, Mr Speaker, when we used to win every week.

Mrs Carnell: When you are a grand final hero.

MR OSBORNE: A grand final hero. I would like to thank a few people who have helped me along this interesting walk, Mr Speaker, people who have worked behind the scenes, people whom I have used as sounding boards and people who have just been there. I would like to thank my staff, first of all, and the huge tally of people who have worked for me for three years. I think we have three or four. Firstly, and most importantly, Mr David Moore has been with me since day one. He has not resigned. He has been very loyal at times, and has been tempted at times. I have given him the most pathetic jobs to do and he has never once argued with me. That is why I like him so much. At all times I have had complete faith in him. He, like I, had no experience in politics prior to coming in here and he has certainly been the real brains in the office. So, to you, David, I say thank you very much and do not worry. If we get back next year I will keep giving you the crappy jobs. I would also like to say thanks to Debbie, David's wife, who worked in the office for the first 18 months. She was the only person who had any idea where anything was and was the only person who kept the place in order. She has been sadly missed in the last 18 months, let me tell you.

I would also like to thank the other people who have worked in there at various times, and, most importantly, Chris Uhlmann who has just started full time with us. I think all members will agree that few people know this place as well as Chris does, and he has certainly been a great bonus to the team. The only criticism I have of Chris is that he is a pathetic cricketer, having seen him last week. He scored one run off three overs and had none for about 30, I think, so it was a great effort by him. Just as an aside to all members and all staff, I would suggest that you listen to FM 104.7 tomorrow when you will hear him on a crazy call. It will be at about 8.10, if anyone is interested. Marty Haynes got him. He has his wedding on Saturday, so I wish him the best.

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I would like to thank the Secretariat for their help and assistance over the last three years. I see Mr McRae covering his mouth. It has been quite a challenge for him this evening. I have seen it get out of the horizontal on the odd occasion, no matter how hard he tries. Both Tom and Maureen have been terrific, and on behalf of myself and my staff I thank you for that. I think all members will agree that the other people in this building have been terrific over the last three years.

The last and most important people that I would like to thank are my wife, Sally, and my four children, Sabella, Jacob, Joshua and little George. When I first arrived in this place I had only two children, Mr Speaker. In three years we have doubled that number. I can only hope that if I return next time Sally and I do not do the same thing again. I do not know whether we could afford to have eight children and I think in three years' time we might be pushing it. There have been times when I have not been able to be at home, but I am pleased to say, Mr Speaker, that those occasions have been few and far between because I will never allow politics to become more important than my family. (*Extension of time granted*) So, to my best friend Sally, I say thank you. I love you for being my rock. You have been an inspiration and your faith in God has been truly beautiful to share.

Mr Speaker, I would like to thank all members for the good times that have been shared, and to thank the friends that I have made, Michael especially. Although we have disagreed on some pretty important things to me, he has always been very helpful. He made my life in here, although at times very painful, certainly a lot easier. His advice has been terrific and I thank him for that.

I would like to finish with what I started with in this place, Mr Speaker, and it is a paragraph from my first speech in the Assembly. I quote:

For myself, Mr Speaker, I can see no point in being a member of parliament should remaining one require the sacrifice of my Christian principles and convictions. I do not intend to make any such sacrifice. I am confident that the people of Brindabella, even those with different values from mine, will have enough wisdom in three years' time to reward my honesty and decide that one good term deserves another.

Well, we will see. I continue:

I am conscious of the responsibility that has been entrusted to me. I am conscious, too, of the difficulty of the task of government. I know that not all decisions made here in the Assembly will turn out to be the right ones. As the Mayor of Chicago, Richard Daley, once said:

Look at my Lord's disciples. One denied him, one doubted him and one betrayed him. If our Lord couldn't have perfection, how are you going to have it in city government?

Mr Speaker, I, like you, can but promise to strive to get as close to perfection as a humble disciple can.

Merry Christmas.

Valedictory

MS TUCKER (10.58): As a new member too, obviously I have had a very steep learning curve in this place. In the election campaign in 1995 there was always something new to learn at the various community meetings. I think the first time I became aware of one of the local politicians was through my daughter when, on polling day, she was handing out how-to-vote cards. Being a teenager and it was a long day, she kept wandering in front of this picture behind her which was saying, "Vote for me". The person whose picture it was was Deputy Chief Minister here at one point and he was getting really annoyed about my daughter standing in front of the poster. He kept coming up and saying, "You are standing in front of my picture; will you move?". She would move, but she kept wandering back. Finally, he came up and said, "If you don't move, when I'm in government I'm going to cut down all the trees", which was really interesting. When I was elected and my daughter was looking at the television showing all the people who were successfully elected, she said, "Who is that?". I heard that story.

Mr Osborne: Who was it?

MS TUCKER: It was De Domenico. Then, when we got into this place, we were told by Mr Cornwell, the Speaker, that we could expect to not have interjections only in our first speech. After that we would be able to look forward to that, and that has been the case. I think Mr Berry or someone else was saying that some of us were sensitive to conflict. I wonder whether he was implying it was us. I was not quite sure about that. We have had that debate a couple of times in this place and I can assure members that I am not sensitive at all to the interjections, and neither is Ms Horodny anymore. They are often tedious and we tend to ignore them. I am sorry but I have to say something serious here. I do think it is unnecessary a lot of the time.

Mr Moore: But it is fun.

MS TUCKER: Mr Moore thinks it is fun. Yes, sometimes it is; mostly it is boring. There are interesting sorts of protocols that we had to learn quickly. For example, during the memorable first Carnell budget we learnt it is apparently okay to get drunk in the lobby but not okay to eat chocolate in the chamber. Also, on that night we learnt how to put up a censure motion. I can remember putting up a censure motion which I wrote by hand and just dropped in front of Mrs Carnell and Rosemary Follett at the time, suggesting that we should censure Mr Moore for wearing such a terrible tie and that it was causing me great distress.

Mrs Carnell: I thought that was fair.

MS TUCKER: Yes. I could see I would have got Mrs Carnell's support for that.

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Mr Moore: And you still did not get the numbers. You did not even get the numbers on that.

MS TUCKER: I did not know how to do the numbers then. I have learnt that since.

MR SPEAKER: Ms Tucker, would you like to move that now?

MS TUCKER: No, I quite like that one. On the whole I have enjoyed working with other members in this Assembly. It is a small place and we do have to work together quite often. It takes a bit of getting used to to begin with when you are in here. You are being abused in the chamber and then you go outside and you can share a joke with the person who was abusing you five minutes before. I think it is a really important lesson that you do learn to do that, otherwise it would be a very unpleasant experience working here.

I am pleased with what we have achieved in our first term. I think we have put a number of very important issues on the agenda, especially in relation to integrating environmental and social concerns into economic systems. We are very happy to have had legislation passed on battery hens, domestic violence, gambling, energy ratings and the Auditor-General. The planning Bill was passed, of course, but it was gutted by Labor and the Liberals. There are many ways you can contribute apart from legislation, as we all know, and it is often the more subtle work here that does not grab headlines that delivers the greatest results for the Canberra community. I also have particularly enjoyed my work as chair of the Social Policy Committee. I believe that through that experience I have learnt an incredible lot and met a lot of really fantastic people in the community. I feel very privileged to have had that experience.

There are a couple of more endearing moments I can remember. I remember one day Michael Moore being so furiously angry here that I was getting wet by the spit, and Ms Horodny saying "Michael, get a valium". Last night I was amused too by Mr Cornwell. (*Extension of time granted*) I bumped into the Speaker last night and he made the comment that he would rather slit his wrists than live in a world ruled by the Greens. I was surprised, but when I reflected on that I thought I had seen the Speaker leave his chair three times and I think it was our fault each time. It was over the prayer, God, the Queen and the flag.

MR SPEAKER: And I have not changed my decision, by the way.

Mr Moore: I take a point of order, Mr Speaker. I do have a razor blade.

MS TUCKER: I think that is probably all. No, there was one other one that was really funny. When we were debating the tabletop dancing it was all quite hurried and stressful. We had 10 things to look at. I had had a briefing with Gary Humphries. I came back downstairs and I was looking at the Act again. I rang him up quickly because I was trying to understand the definitions, and I said, "Is that you, Gary?". He said, "Yes". I said, "Are breasts classified as genitalia?", and he said, "Is this an obscene phone call?".

I would like to thank a few people. I really want to thank the people who work with us in the offices here. Natasha has been with us from the beginning. Jonathan is here tonight, and he was here at the beginning. We have had other people move through. We could not have achieved what we have without them and they have been fantastic. I also want to thank the Secretariat staff, chamber support, the attendants, Barry, Mardie, the *Hansard* people, the corporate staff, the library staff and the media. Even though the relationship with the media is an uneasy one sometimes, mostly they do work with us in very good spirit. I think that is the really lovely thing about working here, that mostly people are working together very well. Finally, I would like to thank my husband and my children because I am so grateful for the support they have given me over the last three years.

Valedictory

MR HIRD (11.06): Mr Speaker, I rise also to say thank you to the people who have supported me as the Government Whip. I took on the job just after the declaration of the polls, at the insistence of the Chief Minister who used a few descriptive adjectives about me and thrust the job upon me. I thought I would not be able to handle it and that it was a nonsense job in any case. However, that has been proven wrong. It is one of the important jobs in this chamber and in the parliament. It involves the working relationship, particularly in a minority government, with the Opposition and the crossbenches and it is a very important role. You are kept very busy. I apologise to the Chief Minister for the words that I uttered when she said, "Do not be stupid. You have the job. Take it". Well, I have to say she was right.

The road that we have travelled in the last three years has been an interesting one for me. You, Mr Speaker, Mr Kaine and I were the class of 1974 in the House of Assembly and we have met some characters along that journey. Certainly, in this chamber, the names may have changed but the characters are the same.

I am disappointed that Mr Berry is not here for me to remind him of the fact that when this Government came to office there was a deficit of \$300m. That has been reduced. We found little pearls on the way through, another \$52.5m. I will not talk about that because we are in the festive season. There was Harcourt Hill, international hospitality, VITAB and those sorts of things. When the Alliance Government went out they left \$84m in the tin, in the bank. If you tally that all up it comes to \$436m. That was when we came into office. We found that it was a mammoth task. Being a minority Government, with the help of the crossbenches, and sometimes, Mr Speaker, with the help of those opposite, the Opposition, we put our shoulders to the wheel on behalf of our constituents. We have done a magnificent job. I recall that in 1985, when I was deputy chair of the self-government committee, it was said that when self-government finally comes two things will happen. Self-government would not be given to us in the Territory because of politicians, it would be given because of the Treasury. Mr Osborne was talking about that in an earlier speech. Treasury gave us self-government. The other thing was that when self-government came it would take at least three parliaments for it to settle down. That has been proven, this being the third parliament.

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Let me now address the help that I have received. I have to say to Sir Humphrey, that is Greg Bowler, and to Ron Norton, Lorraine Taylor and those other people, thank you from day one. Ron joined me two years ago. I had known Ron as a professional journalist and a dear friend. Also, I thank the people in the media. I have not always agreed with them but at least they have been professional and courteous. I have to thank them for their assistance over the years. I dare say that everyone in this chamber could say to the media, "You did not give me a fair enough go", but I think that they are fair, well balanced, and they call the shots reasonably. I have not always agreed with them, and I do not think that in the future I will agree with them every day.

I will remember all you members. You are all individual characters with individual spirits. I wish you and your families a very merry Christmas and a safe journey during this holiday festive season. (*Extension of time granted*) With the exception of Lucy, I wish you all well in the coming campaign in February. Just do your best. Some will win and some will lose.

In closing, I would like to thank my family. I will not mention my auntie, Mr Speaker, but I would like to thank my wife and my three children for the support they have given me, not just during these three years but in the previous years since 1974. It has not been easy. Mr Osborne is sitting up there, smiling. An old gentleman who joined the First Assembly, Mr Allan Fraser, an Independent, said, "Once the bug bites you on the bum, son, you never get rid of that bite mark". That is true in politics. You will not get rid of it. You feel as though you are doing a good job, and, in your own way, if you do that you will do a good job. Once again, I wish each and every one of you a very merry Christmas and a prosperous 1998. Thank you for your friendship.

Valedictory

MR WHITECROSS (11.12): I also rise to thank some people at the end of the three years of this term of the Assembly for which I have served as an elected member. Mr Speaker, I think being a member of the Legislative Assembly, an elected representative, is indeed a very humbling experience. It is often portrayed in the media and elsewhere as being a job for big egos who do not care much about other people and are fairly self-obsessed, but I have to say that I have always found the task of being an elected representative a humbling one. It is humbling not because of the insults or criticisms that are thrown at us, which I, like most members in this place, have learnt to deal with fairly well; it is humbling because you have the trust of thousands of people bestowed on you to exercise your judgment, to work hard day by day, and to properly represent their interests to ensure that you can deliver for them the best outcomes in the circumstances of their lives.

People in this city have diverse experiences. Many of them suffer a great deal of hardship, but they have lives that they want to get on with and they delegate to us the responsibility for ensuring that they can live those lives to the fullest that they can. They expect us to ensure that the laws are just, and that the programs and the policies of government are just and take proper account of their interests. I think it is a humbling experience to have bestowed on you their trust to do your best as a law-maker.

Mr Speaker, I thank very much the people of my electorate of Brindabella who bestowed their trust on me. I hope they believe that I have exercised that trust well. I am certainly looking forward to seeking their endorsement to return to this place after the election and again work for their interests. Of course, that is what we are elected to do.

Mr Speaker, I would also like to thank the many people who have worked for me in my office over the last three years. I do not propose to name them all because there are quite a number, but I will just say this: I think being a member of a politician's political staff is one of the hardest jobs imaginable. You have to work just as hard as the elected member; you have to think just as smartly as the elected member; you have the same long hours and you probably have a higher risk of vulnerability in terms of your employment than an elected member; and yet at the end of the day you do not have that much control. You can work as hard as you like, but in the end the elected member goes out. They either mash what you have done or they do it well. You just do not have that control over the outcomes. I think being a staffer can be a very demoralising experience, and sometimes a very exhilarating one. I think the people who do it have very unique qualities of courage, fortitude, and determination to go on with the business of supporting an elected member.

I am constantly honoured and in awe of the people who have worked for me, for the faith they have shown in me, for the way they have worked to further my interests and the interests of the Labor Party and the interests of the people of Canberra. Whether they are my staff or other people's staff, they deserve our utmost respect for the dedication that they show to public service without any of the recognition that elected members in this place get. So, Mr Speaker, I would like to put on the record my very sincere thanks and my very sincere admiration for all those people. (*Extension of time granted*)

Mr Speaker, I would like to thank my partner, my wife, Lisa Foreman, who has been with me through the last three years - the high times and the low times that I have experienced in the last three years - and has been a strong supporter and a strong and wise adviser to me over that time. As some other members have said, it is no easy task being the partner of a politician. You lose a great deal of privacy and you lose some of the attention of your partner. I think that it requires, once again, unique character to endure the experience of being a partner of a politician. I want to place on record my thanks to Lisa for putting up with the experience of being the wife of a politician. It has been all the harder for her because she has suffered personally in her professional life as a result of being my partner. She had a very significant setback in her own career as a result of being my partner. She lost her job and endured a great period of uncertainty about her career future. That was a very difficult experience for her to endure, and a very unfair one in my view. She suffered specifically because she was my partner. That is a pain that I will always carry with me - that she suffered in that way for being my partner. It is a source of great admiration to me that she has borne that pain and has stood by me in spite of it.

Finally, Mr Speaker, as it is Christmas time, we should remember the importance of the ideals that are always talked about at Christmas time, peace and goodwill. It is my belief, as a person of the Christian faith, that Christmas is a special time. It is a time when those of us who are of that faith remember what I believe are key tenets of the Christian faith -

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that we should love and respect all people we come in contact with as equals for their humanity, as people made in the image of God; that we should take that love and use that as the motivation to act with justice at all times towards all people; and that, in all things that we do, we should walk humbly before our God because we are all required to try to strive for the divine even though we all, in our ways, are very imperfect. Mr Speaker, I think that is the important thing for us to reflect on every day in this place, especially as we approach the Christmas season.

Valedictory

MS TUCKER (11.21) I seek leave to make one short comment.

Leave granted.

MS TUCKER: I want to say thank you to my colleague Lucy Horodny. I believe she is a woman who has shown incredible courage over the last three years.

Ms Horodny: Don't make me cry.

MS TUCKER: I cannot make her cry. She has displayed great courage over the last three years. We were thrown into those two offices and they were empty. The way she has worked through that time and has supported me is something that I am very grateful for. I just wanted to get that on the record.

Valedictory

MS HORODNY (11.21): It has been a really great time for me in this Assembly. There has been lots of stress, lots of drama and lots of panic. I do not know how I will survive at home for a year. I have a few more wrinkles and a few grey hairs. I have lost weight. I think I am even going bald.

Ms Tucker: But it was fun, was it?

MS HORODNY: But it was fun. I loved it.

Mr Osborne: How did you lose the weight? Tell me how you did that.

MS HORODNY: I did; I lost weight. I cannot read my own writing. Yes, I want to say that I am taking a year off from my working life. I have been in hectic jobs for the last eight years and I want to stay at home and spend time with my precious little girl. It is interesting that when I first got back from Ethiopia I got a few congratulatory cards from various people in the community as well as my friends and family of course. One of the cards that I got from someone in the media said, "Congratulations, Lucy, and good luck because parenting is the greatest leadership challenge you will ever face". I thought that was very true. So, yes, I am being promoted to a much more difficult job, and I am looking forward to it.

I have a few words to say about my time here in the Assembly. It has been a good mix of debate and argument here in the chamber and also in committees, but there has also been lots of good collaboration. That is the bit that I have really enjoyed because, obviously, it is easier working with people than working against them. It is obviously easier to have affirmation from people and to believe that you are building something good with other people than to be constantly battling to pull each other down; so I have really enjoyed the collaborative work.

I really want to thank the committee secretaries, the Assembly Secretariat, the clerical staff and the library staff. Someone said earlier that the library makes you feel that you have your own personal librarian, and that is true. I also thank the *Hansard* staff, the security staff, the media and our own fabulous staff. We have had a few people on our staff over the three years and they have all been great. I would really like to thank Ms Tucker who has been a real inspiration for me to work with.

All I can say is that I am glad to have been part of this Assembly. I know it is a cliché to say that you feel honoured to have represented the ACT community, but I say it from the heart. I really do feel honoured. Canberra has been my home. I was born in Queanbeyan and I grew up in Canberra. Canberra is a city that I love and I am very happy to have represented Canberrans for even a short while.

I am glad to have brought some green language to this Assembly too, and I am very grateful that some of this language has rubbed off. I recall the cartoon in the *Canberra Times* just after Kerrie and I were elected. It showed members of the Assembly, as I recall, in a cave and they were strapped to seats with their hands tied. They were being forced to watch a television set that was spurting out “ESD”, “endangered species”, “energy efficiency” and all this green rhetoric, and it was very painful for the other members.

I know that initially members here groaned a lot when they listened to the Greens and when they heard our policies. Some people still groan, but I am happy to say that on the whole there has been a reasonably good spirit here and a general willingness to listen. There has been a good sense of cooperation, and for that I am grateful to the Hare-Clark system because that has always meant that people are forced to work together more. I think knowing that sort of puts in place a culture of cooperation. (*Extension of time granted*) We do have a culture of cooperation. It is not as good as it could be, but nonetheless it is much better than parliaments in other jurisdictions where there is majority government.

I have thanked everyone. I do want to say to everyone, “Have a joyful and a peaceful Christmas”. I hope people take care of themselves during the election campaign because I know Ms Tucker and I were very exhausted after the last election.

To end, I would like to tell you all a joke. This is to dispel once and for all the belief that Greens have no sense of humour. Okay. This came from the Phillip Adams book of politically incorrect jokes and I had to look very hard to find one that was not racist, sexist or crude, and something that did not offend someone. I found one. I found a joke.

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It should not offend anyone. It is a Bill and Hillary Clinton joke. If you have heard it already, then excuse me. Bill and Hillary Clinton are reminiscing about how they met and Bill says to Hillary, "Remember how you used to go out with a butcher? Aren't you lucky you married me because, if you'd married the butcher, you'd now just be a butcher's wife". Hillary says, "No, Bill, if I'd married the butcher, he'd be the President".

Valedictory

MRS CARNELL (Chief Minister) (11.28), in reply: I forgot to thank the most important people and that is the attendants who run those messages up to me during question time and save me all the time. Thank you very much to the attendants and, of course, to *Hansard* as well. Merry Christmas to everyone. Most importantly, Mr Speaker, merry Christmas to you.

Valedictory

MRS LITTLEWOOD (11.29): Mr Speaker, with your indulgence, I forgot to thank someone too, and that is my dear husband who is at home now. At least the cricket is on now and he will be able to amuse himself. All the best to you.

Valedictory

MR SPEAKER: Before we adjourn, I would like to thank, on behalf of you all, my private staff, Sue Whittaker and Brian Lowe. I would also particularly like to thank Mark McRae, Tom Duncan, Maureen Weeks, and the entire Assembly Secretariat, the attendants and the people who work in various cubbyholes, if you like, in this building and who make this place run effectively and efficiently. Without them we could not operate as an Assembly.

I would also like to say that, in the event that we meet again after 21 February, first of all it would be the delight of my life if you would all stick to the time limits, please. Secondly, apart from wishing Ms Horodny all the best in her newfound life, and there is a life out of this Assembly, it is my wish that if I do see you all back here you are all in the same place. The Assembly stands adjourned to a day and hour to be fixed by the Speaker in accordance with the resolution agreed to earlier this day. Merry Christmas and a successful new year.

Assembly adjourned at 11.30 pm to a day and hour to be fixed by the Speaker

ANSWERS TO QUESTIONS
MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NUMBER 476

Schools - After-school Care Centres

MS TUCKER: Asked the Minister for Children's and Youth Services on notice on 5 November 1997:

In relation to After School Care Centres-

- 1) Can you provide a list of each After School Care Centre in Canberra, including information about who manages each centre.
- 2) What are the responsibilities of (a) the Department of Education and Training and (b) the Principal of each school concerning the management and operation of the centres.
- 3) What are the standards used by the Department to ensure quality care at the centres.
- 4) What documentation does the Minister or the Department require from the centres (for example audited financial statements, child care policies, centre documentation etc).
- 5) How does the Government ensure that any organisation managing an After School Care Centre has sufficient information to ensure quality care is provided.
- 6) What are the legal implications for the licensee concerning duty of care.
- 7) Is the Minister or your Department aware of any instances where inadequate standards of care were provided to either an individual child or several children at these Centres and can you please provide details, including what the Government did to rectify the situation.
- 8) Does the Minister or your Department see any problems with the present pay scales and employment conditions for staff employed at After School Care Centres in maintaining good quality care for children.
- 9) Are there any proposals to amend the legislation governing the licensing of After School Care Centres.

MR STEFANIAK - the answer to Ms Tucker's questions is:

All school age care programs including vacation care are licensed under the *Children's Services Act 1986*. Licence conditions and regulations attached to the Act cover specific standards which all services must meet. Licences are issued by the Director of Children's Services who is the Delegate of the Minister. A copy of the Act and Regulations is attached.

The answers to the specific questions are:

- 1) A list of all school age care programs in the ACT and their management may be found in the booklet "Child Care Facilities in the ACT" which has been provided to the Member and is available from the Children's Services Branch of the Department of Education & Training and Children's, Youth & Family Services Bureau.
- 2) School age care programs are non-government programs and may be operated by a non-profit organisation or a private person. All operators must be able to meet the requirements for operating school age care under the *Children's Services Act 1986*. Where programs

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operate in schools the Parents and Citizens Association takes responsibility for the operation of the program or alternatively may seek an outside operator to manage the program. The principal is expected to sign a licence agreement with the P & C for the program to use part of the school premises to operate the program. Rental is payable by the program for the use of the premises. The Department is responsible for the maintenance of schools in which the program operates.

- 3) All school age care programs must meet the licence conditions attached to the Act.
- 4) Documentation required is that demanded under licence conditions.
- 5) Management committees must meet responsibilities as employers and as licensees. Some assistance such as information and training is provided by the Commonwealth Department of Health and Family Services and resources are available from the ACT Children's Services Resource and Advisory Program. Children's Day Care Services also provides some management advice and support as well as their licensing role.
- 6) The licensee is responsible for the duty of care. Legal implications are the same as for any situation where children are cared for.
- 7) Breaches of licence conditions do occur and are dealt with by Children's Day Care Services under the requirements of the *Children's Services Act 1986*. Details of any particular breaches cannot be divulged however the number of breaches for all child care services investigated by Children's Day Care Services in 1996/97 was 134. This compares with 135 complaints and breaches in the previous year 1995/96.
- 8) Pay scales are set under the ACT Child Care Award or under Enterprise Bargaining Agreements. The Department has no jurisdiction over the pay or conditions of child care workers.
- 9) A review of licence conditions with extensive consultation of service providers has just been completed. The new licence conditions which incorporate national standards and accompanying handbook was launched on 20 November 1997. A copy of the licence handbook has been provided to Ms Tucker. In addition legislative changes to the *Children's Services Act 1986* are proposed and a discussion paper is available outlining the proposed changes for child care services.



AUSTRALIAN CAPITAL TERRITORY

CHILDREN'S SERVICES ACT 1986

&

CHILDREN'S SERVICES REGULATIONS

PART VII - CHILDREN'S DAY CARE SERVICES

Reprinted as at 4 June 1992

Interpretation

117.

- (1) In this Part, unless the contrary intention appears-
“licence” means a licence under this Part;
“licensee” means the holder of a licence;
“service to the community” includes service to a section of the community.
- (2) Subject to subsection (3), for the purposes of this Part a person is providing child care if the person provides care for a child or a number of children-
 - (a) where-
 - (i) the care is provided on a business basis or on a community service basis; and
 - (ii) the care is provided at a place which is not the place of living for the time being of any of the children being cared for on that basis; and
 - (b) of all the children for whom care is being provided at that place at any one time (including those not being cared for on a business basis or on a community service basis)-
 - (i) the number of children who have not enrolled in primary school exceeds 4; or
 - (ii) the number of children who have not attained the age of 12 years exceeds 8.
- (3) This Part does not apply to or in relation to-
 - (a) foster care;
 - (b) care provided in a place under the control of the Chief Executive;
 - (c) care provided, whether during school hours or not, by the Australian Capital Territory Schools Authority;
 - (d) care provided by a person in the course of conducting a school that is registered under the *Education Act 1937*; or
 - (e) care provided for children as patients in a hospital.
- (4) For the purposes of subsection (2)-
 - (a) care is provided for children on a business basis if it is provided in the course of carrying on a business of caring for children or it is provided incidentally to the carrying on of some other business;
 - (b) care is provided for children on a community service basis if it is provided as a service to the community or it is provided incidentally to providing some other service to the community;
 - (c) a child who is received at a place in an emergency or in unexpected circumstances shall not be taken into account unless and until the child has been cared for at the premises for 2 consecutive days; and
 - (d) a child is being cared for at a place notwithstanding that the child is temporarily absent from that place.

Licensing of child care

118.

- (1) Subject to section 119, a person shall not provide child care, whether for reward or otherwise, at any premises unless a licence is in force in respect of those premises.
Penalty:
 - (a) **in the case of a body corporate - 250 penalty units; and**
 - (b) **in the case of a natural person - 50 penalty units.**
- (2) Subject to section 119, a person who provides child care at premises in respect of which a licence is in force shall not fail to comply with a condition to which the licence is subject.
Penalty:
 - (a) **in the case of a body corporate - 250 penalty units; and**
 - (b) **in the case of a natural person - 50 penalty units.**

Exemptions

119.

- (1) The Minister may, by instrument in writing, exempt specified child care or child care of a specified class from the application of this Part where the Minister considers it desirable to do so, having regard to any one or more of the following:
 - (a) the circumstances in which the child care is being or is to be provided;
 - (b) the number of children cared for or likely to be cared for;
 - (c) the nature of the premises at which the child care is being or is to be provided;
 - (d) the days on which and the times at which the child care is being or is to be provided.
- (2) An exemption under subsection (1) shall, unless sooner revoked, remain in force for the period specified in the instrument.
- (3) The Minister may, by instrument in writing, revoke or vary an exemption.
- (4) The Minister shall not revoke or vary an exemption which relates to specified child care unless the Minister has, at least 28 days before doing so, given to the person providing the child care an opportunity of stating reasons why the exemption should not be revoked.
- (5) An instrument made under this section is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

Licences

120.

- (1) The Minister may, upon application by a person for a licence in respect of premises-
 - (a) grant the licence; or
 - (b) by notice in writing served on the applicant, refuse to grant the licence.
- (2) An application under this section shall-
 - (a) be in writing;
 - (b) contain the prescribed particulars; and
 - (c) be accompanied by the determined fee.
- (3) The Minister shall determine the period, being a period not exceeding 2 years, for which a licence under this section is to be granted.
- (4) A licence shall-
 - (a) specify the period for which the licence is to remain in force; and
 - (b) include conditions as to-
 - (i) the maximum number of children for whom care may be provided under the licence; and
 - (ii) the ages of the children for whom care may be provided under the licence.
- (5) A licence is subject to such other conditions as the Minister thinks fit and specifies in the licence, including but not limited to conditions as to:
 - (a) the number of the persons under whose control the children for whom care is provided will be placed;
 - (b) the qualifications of the persons mentioned in paragraph (a);
 - (c) the measures to be taken for the health and safety of the children;
 - (d) the buildings and facilities to be used at the premises at which the care is provided;
 - (e) the insurance of the licensee in respect of any liability of the licensee arising out of or relating to the provision of the care at those premises;
 - (f) the activities to be provided for the benefit of the children; and
 - (g) the management of those premises.
- (6) Subject to this Act, a licence remains in force for the period specified in the licence as the period for which the licence is granted.

Emergency suspension of licences

121.

Where the Minister is satisfied that there exists an emergency by reason of which it is desirable to suspend a licence immediately, the Minister may, by notice in writing served on the licensee, suspend the licence for such period, being a period that does not exceed 14 days, as is specified in the notice.

Direction to comply with conditions

122.

- (1) Where the Minister is satisfied that a condition to which a licence is subject has not been complied with, the Minister may, by notice in writing served on the licensee, inform the licensee that the Minister is so satisfied and that, if the licensee does not forthwith comply with the condition, steps may be taken for the revocation or suspension of the licence.
- (2) The Minister may, having regard to an explanation so furnished, vary or revoke a condition to which the licence is subject.

Cancellation etc. of licences

123.

- (1) The Minister may, upon application by a licensee-
 - (a) cancel the licence;
 - (b) suspend the licence for the period specified in the application;
 - (c) vary, in the manner specified in the application, a condition to which the licence is subject; or
 - (d) revoke a condition to which the licence is subject, being a condition specified in the application.
- (2) Where a licensee is convicted of an offence under subsection 118 (2), the Minister may by notice in writing cancel the licence.
- (3) The Minister may, by notice in writing served on a licensee, require the licensee to show cause why-
 - (a) the licence should not be-
 - (i) cancelled; or
 - (ii) suspended for the period specified in the notice;
 - (b) a condition to which the licence is subject should not be varied in the manner specified in the notice;
 - (c) the licence should not be made subject to a condition specified in the notice; or
 - (d) a condition specified in the notice and to which the licence is subject should not be revoked.
- (4) The Minister may, not less than 28 days after the date of service of a notice under subsection (3), by notice in writing served on the licensee-
 - (a) cancel the licence;
 - (b) suspend the licence for the period specified in the first-mentioned notice or for some other period to which the licensee consents;
 - (c) vary a condition of the licence in the manner specified in the first-mentioned notice or in some other manner to which the licensee consents;
 - (d) include in the licence the condition specified in the first-mentioned notice or some other condition to the inclusion of which the licensee consents; or
 - (e) revoke the condition specified in the first-mentioned notice or some other condition to the revocation of which the licensee consents.
- (5) A notice under subsection (4) has effect from and including the date on which it is served or such later date as is specified in the notice.

Removal of child from unlicensed care

124.

- (1) If a person is providing child care for a child at premises in respect of which a licence is not, for the time being, in force, the Director or an officer may-
 - (a) request a parent of the child to remove the child from the premises; or
 - (b) remove the child from the premises and-
 - (i) place the child in the custody of a parent or of a relative of the child; or
 - (ii) if the Director or officer considers it more appropriate to do so, deliver the child to a suitable person who is prepared to care for the child.
- (2) A request under paragraph (1) (a) may be made by any appropriate means of communication, including by telephone.
- (2A) Before removing a child from premises, the Director or officer shall notify in writing the person providing care for the child and, where practicable, a parent of the child of the proposed removal of the child.
- (3) Where, in pursuance of paragraph (1) (b), a child is placed in the custody of a person other than a parent of the child, the Director or an officer shall notify a parent of the child forthwith of the child's whereabouts.

Inspection of licensed premises

125.

- (1) The Director or an officer may, at any reasonable time, enter and inspect premises specified in a licence.
- (2) The Director or an officer is not entitled to remain in or on premises referred to in subsection (1) unless the Director or officer, on request by the occupier of the premises, produces evidence of his or her appointment as Director or officer, as the case requires.

CHILDREN'S SERVICES REGULATIONS

Updated as at 22 March 1996

TABLE OF PROVISIONS

Regulation

1. Citation
2. Interpretation
3. Prescribed particulars - application for Children's Day Care Licence
4. Display of certificate
5. Licence on premises
6. Admission register
7. Medical records
8. Excursion book
9. Agreements - prescribed States

1. CITATION

These Regulations may be cited as the Children's Services Regulations.

2. INTERPRETATION

In these Regulations:

"child care centre" means premises in respect of which a licence is in force under section 120 of the Act;

"infectious disease" and "notifiable disease" have the same respective meanings as in the Public Health (Infectious and Notifiable Diseases) Regulations;

"licence" and "licensee" have the same respective meanings as in Part VII of the Act;

"member of staff", in relation to a child care centre, means a person engaged in the provision of child care at the centre, whether as an employee or otherwise;

"the Act" means the *Children's Services Act 1986*.

3. PRESCRIBED PARTICULARS - Application for Children's Day Care Licence

For the purposes of paragraph 120 (2) (b) of the Act, the following particulars are prescribed:

- (a) the full name and address of the applicant;
- (b) the address and telephone number (if any) of the premises to which the application relates;
- (c) the name (if any) by which the premises will be publicly known;
- (d) a floor plan to scale and structural details of the premises or that part of the premises proposed to be used for child care;
- (e) the nature of the child care services to be provided at the premises;
- (f) the times during which it is proposed to use the premises for child care;
- (g) the maximum number of children for whom, at any time, it is proposed care may be provided at the premises;
- (h) the minimum and maximum ages of children for whom it is proposed care may be provided at the premises;
- (i) whether it is proposed that a parent should be on the premises for the period during which care is to be provided for any child;
- (j) in the case of a person who is a member of staff of the centre:
 - (i) the person's name;
 - (ii) the person's educational qualifications and experience in child care;
 - (iii) the hours during which it is proposed the person will work at the centre;
 - (iv) the age group of the children for which the person is to be primarily responsible; and
 - (v) if the person is under 18 years of age - his or her age;

- (k) in the case of any other person who is not a member of staff but who is otherwise employed at the centre:
 - (i) the person's name and address; and
 - (ii) the hours it is proposed the person will work at the centre;
- (l) the daily routines and daily activities that are proposed for children in each age group at the centre.

4. DISPLAY OF CERTIFICATE

Where the Minister issues to a person a certificate signed by the Minister stating:

- (a) that the person is the holder of a licence;
- (b) the period for which, subject to the Act, the licence is to remain in force;
- (c) the maximum number of children for whom care may be provided;
- (d) the ages of the children for whom care may be provided; and
- (e) the number of the persons under whose control the children for whom care is provided will be placed;

the person shall cause the certificate to be prominently displayed at all times at the premises to which the licence relates.

Penalty: \$500.

5. LICENCE ON PREMISES

A licensee shall at all times keep a copy of the licence on the premises to which the licence relates.

Penalty: \$500.

6. ADMISSION REGISTER

- (1) A licensee shall keep an admission register in which he or she shall enter the prescribed particulars in relation to each child for whom care is being provided at the child care centre and any change in those particulars.
- (2) For the purposes of subregulation (1), the prescribed particulars are-
 - (a) the child's full name and address;
 - (b) his or her date of birth and sex;
 - (c) the telephone number or numbers (if any) of a parent;
 - (d) a statement relating to the child's general health and well-being, including immunisation particulars;
 - (e) the telephone number of a person who may be contacted in the event of an emergency concerning the child if a parent cannot be contacted;
 - (f) the name, address and telephone number of a medical practitioner who may attend the child.
- (3) It shall be sufficient compliance with the requirements of subregulation (1), if the licensee-
 - (a) enters in the register the prescribed particulars in relation to a child that have been supplied by a parent of that child and which the licensee reasonably believes to be correct;
 - (b) enters in the register any change in a prescribed particular which he or she reasonably believes to have occurred, whether on information supplied by a parent of the relevant child or otherwise; and
 - (c) corrects any error in the particulars entered in the register of which he or she becomes aware.

Penalty: \$200.

7. MEDICAL RECORDS

- (1) A licensee of a child care centre shall keep a medical history record and a medication record.
- (2) If a child, while at a child care centre or otherwise under the care of a member of staff of the centre for whom care is provided at a child care centre:
- (a) sustains injury; or
 - (b) is suffering from an illness;

the licensee shall enter in the medical history record the following particulars in relation to that child:

- (a) his or her name;
- (b) in the case of an injury - the date on which, the time at which, and the circumstances in which, the injury was sustained;
- (c) the nature of the injury sustained or the symptoms of the illness being suffered, as the case requires;
- (d) if the child is found to be suffering from an infectious disease or a notifiable disease - the name of the disease.

- (3) Where medication is administered to a child at a child care centre the licensee shall enter in the medication record the following particulars in relation to that child:

- (a) his or her name;
- (b) the name and dosage of the medication;
- (c) the date on which and the time at which the medication was administered;
- (d) where the consent, in writing, of a parent to the administration of the medication has been obtained - that fact.

Penalty: S200.

8. EXCURSION BOOK

- (1) A licensee of a child care centre shall keep an excursion book.
- (2) Where a child is removed from a child care centre for the purpose of taking part in an activity organised by the licensee of that centre, the licensee shall enter in the excursion book the following particulars in relation to that child:
- (a) his or her name;
 - (b) the date, time, place and nature of the activity;
 - (c) where the consent, in writing, of a parent to the child being removed from the premises for the purpose of taking part in the activity has been obtained - that fact.

Penalty: S200.

APPENDIX 1: Incorporated in Hansard on 10 December 1997 at page 4849

THE LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL TERRITORY

TENANCY TRIBUNAL (AMENDMENT) BILL 1997

Speech when moving Government Amendments

**Circulated by authority of
Gary Humphries MLA
Minister for Fair Trading**

11 December 1997

In moving these Government Amendments, I should emphasise at the outset, that Mr Moore's amendments do not provide the answers for small businesses in dispute with property owners; nor do they strengthen the substantive legal rights of small businesses against unfair business conduct in commercial and retail leasing relationships. Indeed, the widening of the Act to catch big businesses would frustrate the fundamental purpose of the Act which is to assist small businesses resolve disputes in their retail and commercial leasing relationships.

In contrast, the Government's amendments will put in place strong legislative protections that seek to maintain a balance between the bargaining power of owners and tenants.

No Government can determine the bargain that needs to be struck between an owner and a tenant. The Government can only provide an appropriate legislative framework that balances rights and ensures that there are appropriate remedies available that have regard to the relative bargaining strength of owners and tenants. The test to be applied in the Government's major amendment to clarify and expand the meaning of unconscionable conduct in the Act goes to the heart of this issue.

Government Amendment 1 will give consistency to the Act and the Code by including a licence in the definition of a lease.

Government Amendment 2 will allow the Tribunal to adopt a wider interpretation of the term conduct, particularly in relation to the harsh and oppressive and unconscionable conduct provisions in the Act.

This amendment will also clarify the commencement date of the Act which is critical to its application.

Government Amendment 6 to section 16 of the Act will help clarify the meaning of this section as presumably there has not, at the time of mediation, been a hearing before the Registrar or the Tribunal.

The Government's major amendment will see section 36 of the Act repealed and replaced with a new section which will expand the factors which the Tenancy Tribunal may take into account in determining a dispute on the ground of unconscionable conduct in commercial and retail lease transactions.

The test under the existing unconscionable conduct provision in the Act was hard to meet. For example, you had to prove that a party to a transaction was under a 'special disability' in dealing with the other party and that there was an absence of any reasonable degree of equality between them. You also had to prove that the

stronger party was aware of the disability and took unfair advantage of it.

Under the new Government amendment, you can show that conduct is unconscionable by demonstrating any or all of the enumerated factors in the new section, some of which include the Tribunal being able to take into account the relative bargaining strengths of the parties to a lease; whether the tenant is being required to comply with conditions which are not reasonably necessary for the protection of the owner's legitimate interests; whether the tenant was able to understand relevant documents; whether unfair tactics were used; and whether and on what terms the tenant was able to acquire similar premises.

The Tribunal may also consider the extent to which the owner's conduct was consistent with their conduct towards like tenants in similar circumstances, and other factors which will assist the Tribunal determine the existence of unconscionable conduct in a dispute about a lease.

Importantly, section 53 of the Act will be amended to allow the Tribunal to make interim orders at any time and for the benefit of any party to a dispute not just to a hearing. Section 54 of the Act will

also be amended to give certainty to the amount of money the Tribunal may order in granting relief under the section.

I am confident that the Government Amendments will preserve if not improve the balance of bargaining strength between the parties to a lease so that both parties can deal confidently in the knowledge that the Government has in place an appropriate legislative framework that balances the rights between the parties.

I commend these Government Amendments to the Assembly.

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APPENDIX 2: Incorporated in Hansard on 11 December 1997 at page 4966

Attachment B

TABLING STATEMENT

TO THE

STANDING COMMITTEE ON LEGAL AFFAIRS

ON REPORT NO. 5, 1997 - INQUIRY INTO THE VOLUNTARY

CODES OF PRACTICE FOR LIQUOR LICENSEES

Presented by
Gary Humphries
Attorney-General
Recommendations of the Standing Committee on Legal Affairs Report No. 5 -
Inquiry into the voluntary codes of practice for liquor licensees

TABLING STATEMENT

STANDING COMMITTEE ON LEGAL AFFAIRS
REPORT NO. 5 ON
INQUIRY INTO THE VOLUNTARY CODES OF PRACTICE FOR LIQUOR
LICENSEES

GOVERNMENT RESPONSE

I am pleased to table the Government response to Report No. 5 of the Standing Committee on Legal Affairs inquiry into the voluntary codes of practice for liquor licensees.

The principal recommendation of the report is that material in the Voluntary Codes of Practice be included in the Licensing Standards Manual contained in the Liquor Act with accompanying penalties for non-compliance. The Committee made this recommendation having accepted evidence that the Voluntary Codes of Practice have not been effective.

Voluntary Codes of Practice were first launched in August 1994 in Civic with most licensees involved. The Codes provided the liquor industry with the opportunity to foster and develop self regulation and the project had the support of Government, the police, the Liquor Licensing Board and the community. Unfortunately, the industry failed to meet the standards of the codes of practice and therefore failed the test of self regulation.

Necessarily then it becomes the responsibility of Government to further regulate the liquor industry to ensure compliance with standards expected by government and the community.

Therefore, as recommended by the Committee, and in consultation with interested parties and stakeholders, the Government will develop a package of amendments to the Standards Manual. The amendments will incorporate relevant parts of the Voluntary Codes of Practice, to more accurately reflect the object of the Liquor Act which is to promote and encourage the responsible sale and consumption of liquor. Currently the Standards Manual sets out the standards to be met in relation to the construction and fitment of licensed premises. It is appropriate that the Manual be updated to set standards for the control and conduct of licensed premises as well as retaining relevant standards relating to construction and fitment.

In respect of construction and fitment issues, matters which will continue to be addressed include toilet facilities, fitment of bars, lighting and outside areas and beer gardens.

In respect of standards for the responsible sale and consumption of liquor, matters to be addressed include practices which promote irresponsible consumption of liquor, drink driving initiatives, venue safety, underage drinking and underage functions, the provision of food, the display of notices, entertainment and training.

The Government supports the introduction of a scheme regulating security staff employed in the liquor industry. The Government has prepared the Crowd Marshals Industry Code of Practice, which will shortly be prescribed as subordinate legislation under the Fair Trading Act 1992. The Code, to be administered by the Consumer Affairs Bureau, regulates those persons providing crowd marshal services and prohibits participation in the industry by persons who are not appropriate for or capable of providing a crowd marshal service - for example, persons who have insufficient training or experience and persons who have convictions involving fraud, violence drugs or weapons, for which a custodial sentence could have been imposed. While some allowance has been made for a transitional period, full compliance will be mandatory by 1 July 1998.

The Government supports the recommendation that consumers be educated in the responsible consumption of alcohol. The Government currently has in place the Alcohol Go Easy Campaign addressing adult alcohol education and other programs addressing issues such as health and drink driving. The Government is committed to the continuation of such programs and is currently undertaking an evaluation of the ACT Drug Strategy 1995-97.

The Government supports the recommendation to establish a Liquor Industry Advisory Council and has commenced steps to formally establish such a group.

The Government also supports the restriction of trading hours for Off licences and, as the Assembly is aware, from 1 October 1997 the sale of liquor for consumption off licensed premises was restricted to the hours of 8am to 11pm.

Recommendations in the report that are not supported by the Government are recommendations 7 and 12.

The Government does not propose to undertake a review of the Proof of Age Card scheme. The scheme was introduced in December 1994 and approximately 7,500 cards have been issued. To combat the problem of persons under the age of 18 illegally obtaining cards, the application process was tightened in December 1995. In addition, the Liquor and Adult Services Regulation Branch of my Department has in place a stringent process of checking applications. I am advised that these initiatives have resulted in a significant reduction in the number of false applications and it is believed that the vast majority of false applications is being detected. My Department will continue to oversee the administration of the scheme in liaison with the police and any issues that arise in the future will be quickly addressed.

The Government does not support Recommendation 12 which recommends that an averment provision be included in the Liquor Act to presume a beverage is liquor for the purpose of public drinking offences. There is sufficient capacity for regulatory authorities to deal with public drinking currently in the Liquor Act and

it would be unfair to have the onus of proof placed on defendants who are less likely to have the resources or capacity to adequately address the presumption.

On other recommendations contained in the report, I offer the following brief comments in summary of the detailed Government response.

The Government agrees with the principle of educating licensees and their staff about patron care and the responsible sale and consumption of alcohol. However the introduction of compulsory training of staff is an issue requiring careful examination. The Government will examine this issue and view with particular interest the experience of other jurisdictions which are currently considering such an approach.

The Department of Education is in the process of establishing a working party to re-examine drug education strategies in our schools. The working party will have broad membership and will examine current approaches to identify and promote good practices for schools.

As the Assembly is aware, the Liquor Act has undergone significant amendment in recent years with particular focus on responsible serving of alcohol issues such as underage drinking and serving intoxicated persons as well as on occupancy loadings, loss of amenity in the vicinity of licensed premises and the enhancement of

the Liquor Licensing Board's powers to discipline licensees. As a result of these changes and others the underlying philosophy of the Act to encourage the responsible sale and consumption of alcohol has been strengthened significantly. The proposed amendment of the Standards Manual to include matters addressed in the Voluntary Codes of Practice will further strengthen the legislation to effectively regulate the industry. The Government believes the current legislation is effective and that regulatory authorities are well placed to ensure compliance by licensees.

The Government is not aware of any particular problems associated with the sale of liquor by persons under the age of 18. Therefore the Government does not intend to jeopardize employment opportunities for young persons by prohibiting them from working in the hospitality industry.

The Government favours the segregation of liquor sales in general supermarkets but does believe blanket legislation is appropriate. Where licensees are found to be selling liquor illegally the segregation of liquor sales in general supermarkets can be ordered by the Liquor Board through its powers of directions.

In respect of the recommendation relating to corporate penalties, a penalty applies only to the particular licence in respect of which the breach occurred and not to other licences held by a company. However, in circumstances where a company licensee is found to be

not a fit and proper person to hold a licence, grounds would exist for the cancellation of all licences held by that company.

The Government does not favour the introduction of late night trading permits. Restricted trading hours for the sale of liquor commenced on a permanent basis on 1 October 1997 and the Government will continue to monitor the impact of this initiative on the level of anti-social behaviour.

In closing, I would like to reaffirm the Government's commitment to the regulation of the liquor industry to ensure liquor is sold and consumed responsibly. I would also like to take this opportunity to extend my appreciation to the Committee for its time and effort and to thank those people who made submissions to the Committee and appeared at the public hearings.

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APPENDIX 3: Incorporated in Hansard on 11 December 1997 at page 4969

TABLING STATEMENT

GOVERNMENT RESPONSE

TO THE

REPORT OF THE

SELECT COMMITTEE ON PETROL PRICING

GARY HUMPHRIES MLA

MINISTER FOR FAIR TRADING

Mister Speaker, I would like to say a few words about the Government's response to the Report of the Select Committee on Petrol Pricing.

As is noted in the Report it does not contain anything new nor offer dramatic solutions to what has been a perennial complaint that people pay too much for the price of petrol. This is not a complaint made only by ACT consumers but one that has been echoed throughout Australia.

It is also the changes that have been taking place nationally that are being felt locally. Oil companies are rationalising their operations but where people buy their petrol and what people expect to find at a service station is changing.

The Committee has recommended that the planning policies for service stations be reviewed and this is supported by the Government. As is pointed out in the response service stations are a permitted use within a variety of land use policies but given the changes that I have just referred to it seems appropriate to reconsider the planning policies

That review will also consider the recommendation of the Committee that restrictions be eased on the amount of retail space available in service stations. I should make clear that this is only a review of the policy. Quite clearly, the recent moratorium imposed on retailing expansion in town and local centres would come into play if an application was received.

The Government is also willing to look at the relationship between oil companies and their franchisees and distributors and is considering the arrangements which relate to multi-site franchising.

The Government has sought to facilitate the entry of independents, such as Woolworths, into the market in an attempt to introduce price competition. However,

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the entry of Woolworths has been on fair terms to ensure that there would be no unfair concessions that put them at an advantage to existing operators.

Mr Speaker, I believe the Government's response to the Committee's report confirms the Government's commitment to a competitive petrol retailing industry. As my last point, I should say that while the Government is trying to bring petrol at a competitive price to people in the ACT, the oil companies also have a role to play. It could very well be argued that the companies themselves have structured the market to avoid competition and maintain high prices. Perhaps they should look at their commitment to their consumers.

APPENDIX 4: Incorporated in Hansard on 11 December 1997 at page 4969

1997

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

EMERGENCY MANAGEMENT BILL 1997

EXPOSURE DRAFT

TABLING STATEMENT

Circulated by authority of

Gary Humphries MLA

Minister for Police and Emergency Services

December 1997

EXPOSURE DRAFT

EMERGENCY MANAGEMENT BILL 1997

Mr Speaker, I present for the information of members an Exposure Draft of an Emergency Management Bill and I move that the Assembly takes note of the paper.

The ACT's current Emergency Management arrangements comprise a number of administrative provisions including the ACT DISPLAN (or Disaster Plan). The ACT and Western Australia are the only Territory and State respectively to not have Emergency Management Legislation, although I am advised that Western Australia is moving also to enact legislation to cover responses to major emergencies and natural disasters.

The ACT DISPLAN was last updated in 1994 to account for self-government arrangements. The introduction of Emergency Management legislation implements what I believe to be bi-partisan commitment to formalise the management, control, and coordination arrangements inherent in the existing administrative processes for managing emergencies.

While some individual emergency response agencies have particular legislated responsibilities to deal with everyday emergencies there is no specific legislation that provides overall management in the event of major emergencies (commonly referred to as disasters) where coordination of response and recovery effort for the community is essential.

This is not to say that multi-agency response to significant emergencies in the Territory has not been evident in the past, however members will appreciate that there may be some extraordinary measures or coordination necessary in major emergencies that is not provided for, nor appropriate for a single agency to contain in their specific legislation.

Mr Speaker, members may remember the genesis of Australia's disaster arrangements in the days after Cyclone Tracey. Following that disaster the Natural Disasters Organisation was formed in the Department of Defence and this has evolved today to become Emergency Management Australia. However, dealing with major emergencies is a State/Territory responsibility and this draft bill seeks to formalise the Emergency Management arrangements appropriate for the ACT.

The objective of the Bill is to make provision for the organisation, management and planning necessary to ensure the prevention or mitigation of the effects of emergencies; the state of preparedness of both the community and emergency agencies for emergencies; and the response to and recovery from emergencies.

The Bill establishes a structure where, in a serious emergency, the Chief Minister would be able to declare a State of Emergency. Members will be aware of instances in other states where Emergencies have been declared in parts of other States to deal with the seriousness of the situations. For example the Nyngan floods, the 1994 bushfires, the Charleville floods all had requirements for significant, multi-agency coordination and management to deal with those crises.

In addition parts of the State emergency plan were implemented in dealing with the tragic Port Arthur massacre.

In the event of such a declaration in the ACT, the Bill provides for a Territory Controller to be appointed and charged with the responsibility of managing the emergency in accordance with the Territory's Emergency Plan. The Territory Controller does not need to be a standing appointment and whilst it is envisaged that, for most emergencies, it will be the Chief Police Officer for the ACT, the Bill provides flexibility for the Minister to appoint an appropriate expert should the nature of the emergency so dictate.

For example it may be appropriate to appoint the Chief Veterinary Officer in the case of an exotic animal disease emergency.

The Bill provides for the Territory Controller, when appointed, to exercise some extraordinary powers to reduce the risk to life and property, and to coordinate the immediate recovery requirements to restore the Territory to normal operations. The Bill also formalises an Emergency Management Executive that is charged with the responsibility of ensuring the Emergency Plan (current DISPLAN) is prepared and that same Emergency Management Executive is there to support the Territory Controller during an emergency.

Members of the Assembly will recall that in my speech covering the Government Response to the ACT Emergency Service Restructure Inquiry that I foreshadowed that the Emergency Management Bill would formally establish that Service and provide for roles and functions. There are provisions for the appointment of members, command of units and clauses that prevent victimisation by employers in the event of volunteers providing support over lengthy periods - something that many other jurisdictions have addressed in recent times. The Bill also provides for coverage of compensation for volunteers in the event of injury in performing their tasks. It also provides for cross-border coverage for volunteers which is something that all jurisdictions are being asked to address.

Mr Speaker I believe that the Territory is very fortunate in the professional level of its police and emergency services staff and volunteers as evidenced recently in the multi agency taskforce that supported NSW in the Thredbo landslide emergency. This Bill will formalise most of the existing arrangements and provide for a higher level of preparedness and response coordination in the event of a major emergency.

I am presenting an exposure draft of the Emergency Management Bill so that it can be carefully considered by members and the community over the course of the next few months.

The Bill does delegate exceptional powers, some of which will be viewed with some concern by Assembly members, but only to be

used in the most exceptional circumstances. I expect these powers will be the subject of some considerable community discussion in the course of the consultation process on this legislation.

I commend the paper to the Assembly.

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APPENDIX 5: Incorporated in Hansard on 11 December 1997 at page 4983

**STATEMENT BY THE CHAIRMAN OF THE STANDING
COMMITTEE ON ECONOMIC DEVELOPMENT AND
TOURISM**

VISIT TO SYDNEY

I wish to make a statement as Chairman of the Standing Committee on Economic Development and Tourism following my visit to Sydney on 18 and 19 November 1997.

The purpose of the trip was learn about tourism matters, discuss matters of mutual interest and gain an insight into how New South Wales and Australia have dealt with tourism during difficult economic times.

My two colleagues on the Committee, Mr Corbell and Mr Osborne, were unable to attend because of urgent and unforeseen circumstances.

However, the Secretary of the Committee Ms Beth Irvin and Mr Graeme Chambers, an officer from the Canberra Tourism and Events Corporation, accompanied me.

We visited the Olympic Games Site at Homebush; met with representatives from the Sydney Visitor Centre and Tourism New South Wales; attended an exhibition at the Country Embassy featuring Canberra and the Australian Capital Region; and met with officers from the Australian Tourist Commission.

We were impressed with the progress made to date in the construction of the sporting, transport and other facilities at the Olympic site where our party received a thorough briefing.

We later met with Ms Jane Turner, Manager of the Sydney Visitor Centre at The Rocks, who provided an overview of the management of the Centre and agreed to consider stocking A.C.T. tourism brochures. I was also able to compare our Visitor Information Centre on Northbourne Avenue with another Visitor Information Centre and I found this exercise useful.

Mr John Allen, Manager, Special Events, Tourism New South Wales also explained the New South Wales Events Strategy which consists of three programs - Major Events, Regional Flagship Events and Sydney Hallmark Events.

We also discussed the fact that the A.C.T. is an "island" within New South Wales so the vast majority of visitors to Canberra travel through New South Wales. This situation means that New South Wales benefits from A.C.T. tourism efforts. The A.C.T. also benefits from tourists travelling through New South Wales but to a much lesser extent.

For this reason Mr Allen expressed an interest in working with the Canberra Tourism and Events Corporation.

I met with representatives from the Australian Capital Region Development Council, Canberra Tourism and Events Corporation, many of the councils in the Australian Capital Region and business people at the exhibition at the Country Embassy.

My last meeting was with officials from the Australian Tourist Commission where the latest trends in overseas marketing were discussed as well as the recent rationalisation of the Commission and the Aussie Specialist Program.

Under the Aussie Specialist Program, the Australian Tourist Commission conducts seminars for travel agents to educate them about Australia with a view to generating more international tourists to Australia through better informed travel agents.

In the past these seminars have been conducted overseas but next year the travel agents in the program will be brought to Australia in May for a seminar in Brisbane. The states and territories will be given an opportunity to conduct tours before and after the seminar.

All the meetings and inspections were stimulating and worthwhile. We came back to Canberra with many ideas and a much broader perspective on tourism issues in NSW in general and the Australian Capital Region in particular.

I would like to put on the public record the Committee's appreciation to Mr Graeme Chambers from the Canberra Tourism and Events Corporation for arranging an interesting and informative program of meetings and inspections and provided helpful background information between appointments.

Finally, I would like to comment on the value of the Standing Committee on Economic Development and Tourism. Members may not realise just how much we have done because most of the work of this Committee is done behind the scenes. The Committee has undertaken a number of visits.....within Canberra, interstate and overseas.....and briefings which have been invaluable. The work of this Committee should not be assessed by the number of reports it has completed.