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DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

10 December 1998

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The Assembly met at 10.30 am.

(Quorum formed)

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

STANDING ORDER 28

MR SPEAKER: I think it is appropriate that I draw members' attention to standing order 28. I thank those members who are in the chamber, but the fact is that each morning if a quorum is not present within five minutes of the bells having been rung the Assembly is adjourned.

GAMING AND RACING CONTROL BILL 1998

MS CARNELL (Chief Minister and Treasurer) (10.33): Mr Speaker, I present the Gaming and Racing Control Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

MS CARNELL: I move:

> That this Bill be agreed to in principle.

Mr Speaker, the Bill introduces the Gaming and Racing Control Act 1998. In introducing this Bill, the Government accepts the view of the Select Committee on Gambling that the legislation should not be passed without full consultation with the committee.

This legislation creates the ACT Gaming and Racing Commission. Mr Speaker, the Government believes that the control and regulation of all gaming and racing activities in the ACT should be centralised in one agency, namely, the ACT Gaming and Racing Commission. This would facilitate open and responsive administration of the ACT gaming industry. The commission will be responsible for controlling and regulating all gaming, racing and betting activities in the ACT to ensure that they are conducted honestly, with integrity, and free from criminal influence. The commission will assume the responsibilities and functions of the Casino Surveillance Authority, which will cease to exist.

Mr Speaker, members will be aware from the administrative arrangements implemented earlier this year that the Government began centralising some of the gaming and racing functions within the Office of Financial Management. Further consolidation of these functions is recommended by the Allen Consulting Group report that was released in June this year. In line with the recommendation of the report, the Government proposes that the commission be established as an independent regulator, at arm's length from the Government. The Gaming and Racing Control Bill 1998 does that.

The commission will be responsible for the administration of all of the Territory's gambling laws and one of the commission's foremost tasks will be the urgently needed review of most of those laws, much of which is outdated. For example, we have applying to the Territory New South Wales Acts of 1901 and 1906 which have been repealed in New South Wales.

The Government is pleased to have the in-principle support of the Select Committee on Gambling for the new regulatory body. The Government is cognisant of the committee's recommendation to defer the introduction of the Bill until after the committee has reported next year. Mr Speaker, first of all, I would like to assure the committee that the Government will be able to incorporate any recommendations of the select committee which are appropriate and relevant into the commission's functions. In other words, there is no reason to delay the establishment of the commission once the committee has had a look at it.

The Government is aware of some unwarranted concerns that stakeholders have not been consulted about the proposed establishment of the commission. Key stakeholders were consulted by the Allen Consulting Group and, by introducing the Bill now, stakeholders have a further opportunity to comment before the Bill is debated next year.

Mr Speaker, I note that the Independent Pricing and Regulatory Tribunal of New South Wales recently completed an inquiry into gaming in New South Wales. It has recommended that an independent gaming commission undertake the control functions of the gaming and liquor industry. It also recommends an enforcement and policy agency.

While the separation of regulation from policy is perceived as the most attractive theoretical model, it would be excessively costly and impractical for the ACT, given the small size of our industry and the ACT bureaucracy. Divorcing policy development from administration would require significant duplication of bureaucratic resources for possibly only marginally improved oversight. The Allen report noted this and commented that all matters which are presented to Cabinet would be scrutinised by central agencies, thereby providing the broader government input and coordination to policy issues on gambling.

The Government must take every opportunity to make administrative efficiencies. Any delay is a cost to the taxpayer and to the industry. The Gaming and Racing Commission will be best positioned to provide a more consistent and integrated approach to gambling regulation and related policy advice.

The Government would like to take this opportunity to express its appreciation to the past and present members of that authority for their roles in the proper supervision of Casino Canberra operations and in the administration of the authority. Mr Speaker, I am sure that all members agree that they have done a great job.

Mr Speaker, I commend the Gaming and Racing Control Bill 1998 to the Assembly and undertake not to bring the Bill forward for debate until the Select Committee on Gambling indicates its readiness.

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

RACING BILL 1998

MS CARNELL (Chief Minister and Treasurer) (10.39): Mr Speaker, I present the Racing Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

MS CARNELL: I move:

> That this Bill be agreed to in principle.

Mr Speaker, on 24 June 1998, I tabled an exposure draft of the Racing Bill 1998. On that day I said that development of legislation to control and administer racing in the Territory was a significant milestone in the history of the racing industry in the ACT.

The Racing Bill 1998 sets the framework for the day-to-day control and administration of racing in the Territory. It establishes the legal platform for ACT race clubs to become members of their peak national bodies, thereby giving the ACT racing industry an independent voice in the future direction of racing in Australia. The Bill ensures that the integrity and public confidence in the racing product will be maintained and upheld by appropriately empowered and responsible organisations. The Bill finally establishes, for the first time, a statute that specifically covers the ACT racing industry and sets the legislative framework for the control and conduct of racing in the Territory.

The Racing Bill 1998 has now been subjected to a public interest test under the provisions of the national competition policy agreements. In addition, there has been extensive consultation with ACT race clubs, the peak national controlling bodies and other industry stakeholders to develop a comprehensive and workable legislative framework. Mr Speaker, in June I outlined that it was feasible that changes may need to be made to the Bill as a result of the industry consultation and national competition policy review processes. I now advise the Assembly that, following industry consultation and the public interest test process, a number of changes have been made to the exposure draft of the Bill. These changes have resulted in the development of a more robust legislative framework, which is fully endorsed by the racing industry. The legislation will establish a controlling body structure for the three racing codes which will deliver a comprehensive and cost-effective administrative and regulatory regime for the local racing industry.

Mr Speaker, moving to the general provisions, the Racing Bill 1998 broadly: Establishes the boundaries of lawful racing and betting; provides that races and race meetings conducted by the controlling bodies are lawful and for the purposes of betting; establishes each individual ACT race club as the controlling body for its particular code of racing; establishes the ACT Racing Appeals Tribunal and sets its roles, powers and functions and operational arrangements; and repeals the existing Racecourses Act 1935.

I want to specifically address some of these provisions. The Bill makes provision for each ACT racing club to become a controlling body. It is recognised that the three race clubs in the ACT - the ACT Racing Club, the Canberra Harness Racing Club and the Canberra Greyhound Racing Club - are all at differing stages of development and progress towards attaining principal club status. Accordingly, as the clubs are ready to take the significant step to become a controlling body, the appropriate part of the Act will be commenced by notification in the *Gazette*. This process will ensure that all necessary systems and arrangements are in place before a club progresses or commences as a controlling body.

The Racing Appeals Tribunal has been established to provide an independent appeals body to consider appeals against decisions of stewards and controlling bodies. The Racing Appeals Tribunal structure and arrangements are entirely consistent with appeals mechanisms in all other jurisdictions.

The provisions of the Racecourses Act 1935 were examined under the national competition policy review processes and the required elements have been incorporated in the general racecourse licensing provisions of the Bill.

In addition, the national competition policy review process also recognised the provisions in the Bill which establish a regime for persons and bodies, other than the controlling bodies, to seek approval to conduct race meetings. In particular, the Racing Bill 1998 provides the approval process for the approved racing organisations - AROs - through the following: A controlling body may seek the approval of the Minister for betting to be allowed on races conducted by the controlling body on behalf of another person or body; or any other person or body to apply to the Minister to become an approved racing organisation to conduct other types of race meetings and have betting at such meetings.

It is recognised that these provisions go further than establishing a framework for the traditional racing codes alone. As the competition policy reviews of racing legislation in other Australian jurisdictions are at varying stages of progress, and we need to be cognisant of national trends, it is possible that these broader provisions may be reviewed at a later stage.

In addition, it is expected that the provisions of the Racing Bill 1998 will need to be amended to accommodate the possible establishment of an independent Gaming and Racing Commission for the Territory in the near future. The establishment of the commission, as recommended by the Allen Consulting Group, would enable many of the day-to-day administrative responsibilities to be placed with the commission rather than the responsible Minister. This would provide a more transparent regulatory framework for the racing industry.

In conclusion, Mr Speaker, the Racing Bill 1998 is the culmination of a long process. It fulfils a commitment of this Government. This Bill will pave the way for the ACT Racing Club finally to achieve principal racing club status and become a member of the Australian Racing Board. The ARB has signified its agreement to the provisions of this Bill relating to the ACT Racing Club's application for membership. The Bill will provide the same opportunity to the Canberra Greyhound Racing Club and the Canberra Harness Racing Club, enabling those clubs to become members of their peak national bodies.

The Racing Bill 1998 finally establishes a legislative framework which provides for the proper conduct of racing in the ACT.

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

DUTIES BILL 1998

MS CARNELL (Chief Minister and Treasurer) (10.46): Mr Speaker, I present the Duties Bill 1998.

Title read by Clerk.

MS CARNELL: I move:

> That this Bill be agreed to in principle.

Mr Speaker, this is a Bill for an Act to replace the existing Stamp Duties and Taxes Act 1987. The introduction of this Bill will provide further opportunities for consultation with the ACT community before the debate scheduled for next year.

The Bill is the result of the stamp duties rewrite project undertaken by the State revenue offices of New South Wales, Victoria, South Australia, Tasmania and the ACT in the past few years. This project aimed to produce, as far as possible, stamp duty legislation which is contemporary in language and presentation, simple to administer and, wherever practicable, consistent across the participating jurisdictions.

The Duties Bill closely follows the New South Wales Duties Act 1997 by adopting the same structure and chapter, part and division headings, as well as the same definitions of terms. Most of the provisions contained within the Bill are also identical to those contained in the New South Wales Act. The exemptions arise mainly from the adoption of ACT specific exemptions or a different ACT policy position on a small number of issues.

The Bill also aims to close a number of loopholes which exist in the current Stamp Duties and Taxes Act, particularly in the areas of trusts and the transfer of interests in ACT land through companies and trust units. Adoption of the ACT approach will result in a wider range of transactions being brought to duty, although the range of properties subject to duty will not increase significantly.

The expanded list of dutiable transactions includes declarations of trust, the surrender of dutiable property and the vesting of property by statute or court order. Also of significance is the emphasis on "transaction" compared with the emphasis under the current Stamp Duties and Taxes Act on "documents".

Liability for duty also arises differently under the Duties Bill in respect of transfers of dutiable property, compared with the current Act. Under the current Act, in all but a small number of areas duty is document based and liability arises when documents are executed. Under the new Bill, it is a transaction rather than a document that is liable for duty and the important date is the date that the transaction occurred. Duty is therefore not dependent upon the execution of a document, which overcomes one of the ways duty could be avoided or deferred in the past.

The Bill also adopts the approach of clearly defining what property is to be charged with duty by providing a comprehensive property list, including a limited list of business assets. This approach differs from the current Act, which imposes duty on the sale of businesses without specifically listing the assets to be brought to duty.

Other property transfers subject to duty for the first time under the Duties Bill include a new form of marketable security traded on the Australian Stock Exchange called an instalment warrant, and the transfer of options to purchase crown leases.

A number of new concessions have been provided to duty payers. Under the Duties Bill, where an agreement to purchase a crown lease is in the name of one person, and subsequently the memorandum of transfer is in the name of his or her family company or trust, additional duty of only $20 will be imposed, instead of further ad valorem duty as is currently the case. This concession addresses many concerns by taxpayers about the current treatment of such transactions.

The Bill also exempts from duty transactions arising from a public company buying back its own shares, as well as eligible corporate restructures. Guidelines to provide exemptions for corporate restructures will be set by the Treasurer in the form of a disallowable instrument. This approach provides a clear message that the ACT is supportive of companies incorporated in the ACT taking measures to achieve corporate efficiency and to enhance competitiveness.

Mr Speaker, under the current law, transfers of shares and units in ACT private companies and private unit trusts which own land in the ACT are subject to duty at conveyance rates on the underlying value of the land. These provisions were introduced to overcome an avenue of stamp duty minimisation based on the difference between conveyance rates, which range from 1.5 per cent to 5.5 per cent, and the marketable security rate of 0.6 per cent. Duty at conveyance rates could be avoided by transferring land ownership through the sale and purchase of shares in the land-owning company or trust.

It has come to the attention of the Commissioner of ACT Revenue that our current provisions are now being circumvented by the use of non-ACT companies and unit trusts to hold the land. In the case of unit trusts, units are no longer being transferred but are redeemed and later reissued to circumvent duty being paid on their transfer. To overcome these problems the Duties Bill, in line with New South Wales, has extended the landholding provisions to private companies incorporated and unit trusts established outside the ACT that own ACT land. The dutiable acquisition of an interest in a landholding company or unit trust has also been extended to include the issue and redemption of shares and units and the variation of rights attached to shares and units.

Such provisions will operate when a person or group of associated persons acquire more than a 50 per cent interest in a private company or trust which owns ACT land. The move to a majority interest test should limit the operation of the provisions to persons who can control the private company and trust and thereby effectively own the land.

Chapter 3 of the Duties Bill also contains a number of other provisions adopted by New South Wales to overcome duty avoidance practices, particularly in relation to marketable securities. The lease duty base has been expanded to include licences to occupy land and franchise agreements, in line with New South Wales. Franchises, a growing form of business, are currently liable for duty under the sale of business provisions. The Duties Bill continues to impose duty at conveyance rates on long-term subleases for periods exceeding 30 years. It maintains the lessor as the person liable to pay the duty imposed on leases and licences to occupy land.

The chapters dealing with return-based duties in respect of sales and purchases of shares through sharebrokers, the hiring of goods and the issuing of insurance policies closely follow the New South Wales Act. In respect of motor vehicles, liability for duty on the sale of used motor vehicles will change from the licensed motor dealer to the purchaser. However, dealers who wish to continue to collect and pay duty by return on the purchaser's behalf will be able to do so under return provisions contained in the new Taxation Administration Bill, which will also be tabled today.

Mr Speaker, as mentioned earlier, the concept of a new, contemporary and uniform duties Bill arose from a working party of State and Territory revenue officers which included New South Wales, ACT, Victoria, South Australia and Tasmania. During its life, this project received the support of both Labor and Liberal ACT governments.

The ACT Duties Bill closely follows the New South Wales Duties Act, which, when introduced in 1997, had received full support from key national businesses and professional groups. The consultation process in respect of the ACT's Duties Bill has been very comprehensive. The ACT Revenue Office has been maintaining a continuous dialogue with professional legal and accounting groups. This will continue to ensure the appropriate amendments to the Duties Bill reflect community input and the smooth transition from the current Act to the new legislation in due course.

Copies of early drafts of the Bill have been provided to key industry and community bodies to ensure that they are aware of any changes that may affect their members and the community. Representations were received recently from local ACT business groups on the impact of the Bill and I would like to foreshadow some amendments to the Bill.

The first relates to the potential impact of the aggregation provisions on builders, in particular, the purchase of multiple blocks of land from a developer. If strictly applied, as in New South Wales, stamp duty would be assessed at a higher rate of duty on the total combined value of individual blocks rather than at a lower rate applied to each separate block purchased. I have asked the Commissioner for ACT Revenue to work with the industry to ensure that suitable administrative and legislative solutions are found before the Bill is debated to overcome any unintended effects on the building industry of this anti-avoidance provision.

The second issue relates to the rate of duty which is imposed on the transfer of business assets, being goodwill, intellectual property and statutory licences. The rate set in the Bill, in line with New South Wales, is the conveyance rate of duty. The current rate is the lower marketable security rate. Representations have been received that this will impact particularly on ACT small businesses. The ACT Government will continue to work with the business sector on appropriate amendments to the Bill to minimise this adverse impact.

To ensure that the ACT community is fully aware of this legislation, copies of the Duties Bill and the Duties (Consequential and Transitional Provisions) Bill, and contact numbers for the Revenue Office, are available on the Revenue Office's home page for perusal by interested persons. Public information seminars are also planned to take place closer to the date of commencement. While the tax reform focus is currently on the Commonwealth Government's proposed GST, this Bill is important for the ACT because uniform duties legislation will provide a significant benefit to taxpayers, particularly those who operate across State and Territory borders.

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

DUTIES (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 1998

MS CARNELL (Chief Minister and Treasurer) (10.59): Mr Speaker, I present the Duties (Consequential and Transitional Provisions) Bill 1998 together with its explanatory memorandum.

Title read by Clerk.

MS CARNELL: I move:

> That this Bill be agreed to in principle.

Mr Speaker, the Duties (Consequential and Transitional Provisions) Bill 1998 is to be read as one with the Duties Bill 1998 which has just been presented. The purpose of the Bill is to ensure the smooth transition from the Stamp Duties and Taxes Act 1987 to the new Duties Act, once passed. The old Act is scheduled to be repealed on the date of commencement of the Duties Bill.

The Bill contains provisions which will enable taxpayers and their representatives to be clear as to which of the Acts will govern their particular instrument or transaction. The provisions will also ensure that instruments and transactions do not become liable for duty under both Acts.

Mr Speaker, although the Stamp Duties and Taxes Act will be repealed as a whole, certain provisions will continue to apply so that documents executed and transactions occurring before the commencement date of the new Duties Act will remain liable for duty or tax under the old Act. The Bill also sets the rates of duty for most dutiable transactions under the Duties Bill as well as keeping in place rates for the purposes of the Stamp Duties and Taxes Act. The Bill also provides for the making of regulations to overcome any possible unexpected or unintended effect of the Duties Bill.

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

TAXATION ADMINISTRATION BILL 1998

MS CARNELL (Chief Minister and Treasurer) (11.01): Mr Speaker, I present the Taxation Administration Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

MS CARNELL: I move:

> That this Bill be agreed to in principle.

Mr Speaker, this is a Bill for an Act to replace the existing Taxation (Administration) Act 1987. This Bill is the result of extensive consultation with the State revenue offices of New South Wales, Victoria, South Australia and Tasmania to produce taxation administration legislation which is contemporary in language and presentation, simple to administer and, wherever practicable, consistent across the participating jurisdictions.

A common approach to the administration of State and Territory tax laws will provide clear benefits to taxpayers, particularly those with national businesses. The ACT, alone among the participating jurisdictions, has had a taxation administration Act for some years. Before the introduction of a single taxation administration Act in each of the other participating jurisdictions, such administrative provisions were contained within individual tax Acts and were often different for each tax.

The new Bill closely follows the same structure as the New South Wales Act, and continues to cover all the areas covered by the old Act, such as assessment and reassessment of tax liability and the payment of tax; refunds of overpaid tax; imposition of interest and penalties; record-keeping obligations of taxpayers; offences and prosecutions; tax officers' inspection and seizure powers and secrecy obligations; evidence for legal proceedings; grouping provisions; and objections and appeals.

Mr Speaker, the ACT has taken this opportunity to update a number of these provisions and to introduce new provisions, generally in line with New South Wales. The most important amendments and new provisions relate to assessments; refunds; interest and penalty on outstanding tax; arrangements for special tax returns; updated grouping provisions; and special anti-avoidance provisions. I will now explain each of these issues in more detail.

There are a number of new provisions which are related to the assessment process. The first is the provision which states that the acceptance of a return with payment attached is not regarded as an assessment. The current Act provides that the mere acceptance of a return is taken to be an assessment. The change in policy reflects the fact that the lodgment of a return by a taxpayer is based on information that, at the time of lodgment, is known only to the taxpayer. The Commissioner for ACT Revenue can make an assessment only after examining the taxpayer's books and records and verifying that such figures are correct.

The second change provides that the Commissioner for ACT Revenue can only make a reassessment within five years of an original assessment having been made, in line with New South Wales and the Australian Taxation Office. Under the old Act, reassessments could be made within six years. In line with this five-year limit, taxpayers are required to maintain relevant books and records for only five years, not six years. At the same time, requests for refunds must now be made within five years of the date that the liability arose.

The Bill enables the Commissioner for ACT Revenue, with the taxpayer's consent, to use a refund amount to offset a future tax liability. This would allow an overpayment of payroll tax, for example, to be offset against the following month's liability, an administrative saving for both the taxpayer and the Revenue Office.

Mr Speaker, under the old Act, failure to lodge a return by the due date automatically invoked a 200 per cent penalty, which could be wholly or partially remitted by the Commissioner for ACT Revenue. In addition, penalty for late payment arose when tax was not paid by the due date. Similar provisions were contained in most State tax laws and there was very little consistency of approach between jurisdictions. These have now been replaced by uniform interest and penalty provisions.

The Bill imposes an interest charge in all cases of late payment of tax which will comprise two components - a market rate and a premium. The market rate will either equate to the rate set out in section 214A(8) of the Commonwealth's Income Tax Assessment Act 1936 or, if considered appropriate, be a rate determined by the Minister, as in the current legislation. This component is designed to reflect the "opportunity cost" to the Government of not being able to use the revenue for the period that it remains unpaid.

The premium component will be 8 per cent per annum and is intended to act as a disincentive to a taxpayer using the Government as a de facto lending institution. The Commissioner for ACT Revenue is empowered to remit either or both components, depending upon the reasons behind the late payment.

In instances where the non-payment of a tax liability is detected, penalty tax may also be applied. The Bill proposes that this rate be 25 per cent of the unpaid tax, or 75 per cent in instances of deliberate non-payment. Lower penalty rates will apply where a taxpayer discloses a tax liability before either notification or commencement of an audit. No penalty tax will be payable where the Commissioner for ACT Revenue is satisfied that the non-payment was not deliberate or did not result from a failure of the taxpayer to take reasonable care to comply. There will be no liability for interest or penalty tax of less than $20. The rates for both interest and penalty tax adopt a realistic approach to ensuring timely compliance with taxation laws. The new penalties substantially reduce the current more severe imposts of up to 200 per cent, while reflecting a balance between cost recoupment and encouraging taxpayers to meet their obligations.

The Bill will also allow the Commissioner for ACT Revenue to approve special tax return arrangements in respect of specific taxpayers, groups of taxpayers or specified agents. New South Wales currently uses these provisions to allow solicitors to act as agents of both the Revenue Office and their clients by assessing certain documents for duty, stamping the document and sending the duty by way of weekly or monthly return. This provision will also provide government and business with greater flexibility in complying with tax legislation, allowing future developments in electronic communications to be harnessed.

The opportunity has been taken to amend the current grouping provisions in line with recent New South Wales amendments, to limit the grounds on which the commissioner may exclude a member from a group. Under the Bill, exemption is possible only where members are grouped through the common use of employees. Exclusion is no longer possible where members are commonly controlled through majority ownership. This would ensure, for payroll tax purposes, that commonly owned and controlled groups of companies can only claim a single tax threshold.

Mr Speaker, the Bill contains an important general anti-avoidance provision. The Bill provides that where a person uses a tax avoidance scheme, as defined in the provision, the Commissioner for ACT Revenue may determine the amount of tax that would have been payable had the scheme not been in place and may make such assessments as are necessary. Any such assessment would be subject to objection and appeal to the Administrative Appeals Tribunal. The Bill also subjects the Crown to the various administrative provisions of the Bill, for example, the imposition of penalties for late payment to which other taxpayers are subject.

In conclusion, Mr Speaker, this Bill will bring the administration of ACT tax laws more into line with that of New South Wales, providing benefits to taxpayers operating in both jurisdictions. The Bill provides a clear message that the Government is committed to reducing the compliance costs for businesses operating in the ACT.

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

TAXATION ADMINISTRATION (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 1998

MS CARNELL (Chief Minister and Treasurer) (11.11): Mr Speaker, I present the Taxation Administration (Consequential and Transitional Provisions) Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

MS CARNELL: I move:

That this Bill be agreed to in principle.

Mr Speaker, the Taxation Administration (Consequential and Transitional Provisions) Bill 1998 is to be read as one with the Taxation Administration Bill 1998 which has just been presented. The purpose of the Bill is to ensure the smooth transition from the Taxation (Administration) Act 1987 to the new Taxation Administration Act, once passed. The old Act is scheduled to be repealed on the date of commencement of the Taxation Administration Bill.

The Bill contains provisions which will enable taxpayers and their representatives to be clear as to which of the Acts will govern their particular liability to tax. The provisions preserve certain decisions and appointments and give details of exceptions to section 38 of the Interpretation Act 1967, which otherwise would determine the effect of the repeal of the old Act. Mr Speaker, the Bill also provides for the making of regulations to overcome any possible unexpected or unintended effect of the Taxation Administration Bill.

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

EMERGENCY MANAGEMENT BILL 1998

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.12): Mr Speaker, I ask for leave to amend the notice standing in my name.

Leave granted.

MR HUMPHRIES: I amend notice No. 7 by adding "and for related purposes", and I now present the Emergency Management Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

MR HUMPHRIES: I move:

That this Bill be agreed to in principle.

I am pleased to present this Bill today. It is the first stage of legislation designed to completely modernise the ACT's statutory response to emergencies and disasters. This Bill will codify the existing emergency management committee arrangements and provisions for disaster plans.

The ACT and Western Australia are the only Australian mainland jurisdictions without some form of emergency management legislation, although I am advised that Western Australia is also moving to enact legislation to cover responses to major emergencies and natural disasters. The interim ACT disaster plan was last updated in 1994 to take account of changes due to self-government arrangements and the establishment of the Emergency Services Bureau. There is a continuing need to upgrade these arrangements to provide a formal basis for counterdisaster action and coordination, while also ensuring that our practices and procedures are at the cutting edge of best practice.

Specifically, this Bill will formally support disaster countermeasure planning, interservice and multiservice organisational arrangements, preparedness measures, response action and recovery arrangements. The Bill allocates major responsibilities and powers which will help to ensure that such responsibilities will be properly and clearly implemented and potential conflict with some existing legislation and assumed responsibilities will be minimised. In particular, this Bill gives wide-ranging powers to the Territory controller in the event of a declared emergency - powers which, under everyday circumstances, I am sure all members would agree would not be acceptable. But the reality is, Mr Speaker, that combating a disaster requires lawful authority for the exercise of powers which are designed to preserve life, mitigate damage to property and aid in the recovery of infrastructure, community services and health. The Bill will assist in providing a uniform national approach, thus ensuring that all levels of the national counterdisaster structure receive the full benefit of ACT support, including the provision of cross-border arrangements.

The ACT is an island in southern New South Wales surrounded by rural and regional communities. The region depends on Canberra's size in many areas of its day-to-day existence - the transport of goods and the provision of services. But, in addition, Canberra depends on the region for its good environment and other produce. Hence, an emergency here will affect people over the border and an emergency in New South Wales will affect this community.

As members will appreciate, coordination of the response to and recovery from emergencies is essential for the wellbeing and safety of persons adversely affected by such events or the community generally. That is not to say that multi-agency response to significant emergencies has not been evident in the past - the ACT has a well-established public safety capability. However, members will appreciate that legislation that permits overall management of the various facets of large-scale or complex emergencies will be a valuable aid to the Territory agencies and this community generally.

Mr Speaker, members may well remember the genesis of Australia's awareness of the need for disaster arrangements in the days after Cyclone Tracy. Just prior to that disaster the Natural Disasters Organisation was formed in the Department of Defence and has evolved today to become Emergency Management Australia, which provides interstate coordination and Commonwealth support to the States and Territories for emergency matters. However, emergencies are generally a State or Territory responsibility under the provisions of the Constitution and this Bill seeks to formalise the emergency management arrangements appropriate for this Territory.

In December 1997 an exposure draft of the present Bill was presented to the Assembly, with the opportunity for all to comment and participate in the development of the final Bill. A number of constructive comments were received, and in light of those comments some rewording and restructuring of the Bill has been made. This structuring clarifies the relationship between the pre-emergency management arrangements and the actual management of emergencies.

In addition, officers have used this time to add new provisions giving coverage to the operations of the ACT Ambulance Service, a service which has never had statutory protection for its functions. In particular, arrangements which currently exist in the Ambulance Service Levy Act 1990 are wrapped into this legislation and the old Act will be repealed. Further, the Bill provides protection to ensure that standards offered by private providers of ambulance services, which are being established all over Australia to assist with non-urgent patient care, are approved prior to anyone using the term "ambulance" to describe their service.

A number of other changes have been to the earlier draft of the Bill, such that today's Bill bears little resemblance to that earlier exposure draft. The Emergency Management Bill is now presented to the Assembly.

The object of this Bill is to make provision for the organisation, management and planning necessary to enhance capability, reduce vulnerability and improve community awareness of the effects of an emergency. Should a serious emergency occur, and we hope that it will not, the Bill provides for the declaration by the Chief Minister of an emergency. At the time of declaration, the responsible Minister shall appoint a Territory controller, who gains extraordinary but necessary powers to manage the emergency. Those powers can be delegated to members of an emergency service agency, including police, and can be limited to be exercised in part by officers of an agency. But the Bill provides, necessarily, for that decision to rest with the controller.

Members will be aware of instances in our neighbouring State where emergencies have been declared because of a serious situation which required significant multi-agency coordination and management to deal with the crisis. The Sydney bushfires in 1994, the Thredbo landslip in 1997 and the Newcastle earthquake are examples of such disastrous events. The Bill also includes a definition of emergency risk which provides for emergencies arising from technological problems, which would cater for emergency planning for, for example, potential significant public safety events arising from the millennium bug.

The Bill formally provides for a position of executive director, who is responsible for emergency management arrangements, which are defined as the establishment of plans, structures and arrangements so as to coordinate the resources of agencies, organisations and others in a comprehensive approach to facilitate prevention, preparedness, response and recovery. The Bill provides for the preparation and maintenance of the emergency plan, currently referred to as the ACT disaster plan, and making arrangements for cooperation with the Commonwealth and the States. The Bill formally establishes an emergency management committee that is charged with liaison, providing advice and supporting the executive director in maintaining emergency management arrangements.

In the event of the declaration of a state of emergency in the Territory, the Bill provides for a Territory controller to be appointed and charged with the responsibility of managing the emergency in accordance with the emergency plan. The Territory controller may be, but does not need to be, a dormant appointment made before the declaration of an emergency.

While it is envisaged that the senior police officer responsible for the ACT shall be the Territory controller for most emergencies, the Bill provides sufficient flexibility for the Minister to appoint an appropriate expert should the nature of the emergency require this. There are two reasons for this, Mr Speaker. First, members will recall some recent significant interstate emergencies, such as the Sydney water contamination, the outbreak of the Newcastle animal disease and the Victorian gas crisis, where specific expertise in controlling such events was not the natural responsibility of the police, but was rather the direct responsibility of another agency, such as the public health officer. Secondly, and most significantly, a standing appointment of the senior police officer may create a significant issue about the accountability process.

I know that all members of this place share my concern at the fact that the ACT legislature has no capacity to provide statutory direction to the police, because they are an agency of the Commonwealth. If a standing appointment of an AFP officer was made and that officer received one direction from the Territory Government but another, different and contradictory, direction from his or her Commonwealth masters, which would he or she follow? Mr Speaker, as an issue of principle, the Government maintains the need for a flexible appointment in case issues of direction should arise. In the case that the ACT Government was empowered to give directions, to the exclusion of the Commonwealth Government, in matters affecting the ACT or in the case that the ACT does one day move to establish its own police force, it may be appropriate to revisit this principle. The Territory controller's powers cease when the declaration of the state of emergency ceases.

As I said, this Bill provides that the Territory controller may, during a declared emergency, exercise some extraordinary powers to reduce the risk to life and property and to coordinate any continuing response and the immediate recovery requirements in order to restore the Territory to normal operations. I have no doubt that these powers will be the subject of some comment by the Standing Committee on Justice and Community Safety in its role as the scrutiny of Bills committee, because the powers do trespass on the rights and liberties of individuals, but I ask members to consider the circumstances in which that trespass occurs.

In the event of an earthquake, major flood or the like, it is of critical importance that the management of the emergency to preserve life, property and public health be the crucial factor under which those decisions are made. The Bill seeks to give the controller whatever necessary powers, in addition to other legislation, such as the Public Health Act or the Environment Protection Act, that he or she requires to achieve the restoration of essential services, the recovery from the emergency and the prevention of further damage or loss of life. There is provision for a system of compensation for persons who suffer loss as a result of the exercise of the Territory controller's powers. This strengthens the accountability provisions and ensures that our obligations to provide compensation on fair and just terms under the self-government Act are preserved.

Some members of the Assembly may recall that in my speech covering the Government's response to the Legal Affairs Committee inquiry into the ACT Emergency Service restructure, I foreshadowed that the Emergency Management Bill would formally establish the ACT Emergency Service and provide for its roles and functions. This Bill carries this into effect. It establishes the ACT Emergency Service and gives statutory direction and protection to all its members in relation to their activities.

There is also provision for the appointment of a director of the ACT Emergency Service and members of the service, for the maintenance of an operations manual, and for the direction of members and casual volunteers. As with many of the provisions of this Bill, they operate on the basis that the overarching framework must be provided for, but the operations and duties of emergency service workers must be managed with a degree of flexibility and responsiveness which can only be dealt with by service heads. It should not be necessary for the parliament to unduly restrict the activities of emergency services, because it is often not practicable to return to parliament for the widening of powers in the event of a major emergency.

As I outlined above, Mr Speaker, in discussion of the changes to this Bill, there is statutory provision for the establishment of the ACT Ambulance Service and for the appointment of a chief officer and members to that service, including the provision for the direction of members and casual volunteers supporting the Ambulance Service.

The Bill also makes provision for the establishment of a trust fund for emergency relief funds and for the payment of compensation from this fund to persons suffering loss as a result of an emergency.

The Bill prohibits victimisation by employers of employees who volunteer their services during emergency operations, but does provide for an employer to request the release of an employee from the chief officer of the service in the event that undue hardship is caused to the business. The Bill also provides for a penalty in the event of the obstruction of a person undertaking duties during a declared emergency. Mr Speaker, the penalties are significant for such an event. I am sure that members will agree that the obstruction of emergency recovery operations by anyone or any corporation is a most serious offence, and the penalties involving fines of up to $1m are appropriate.

Mr Speaker, I believe that the Territory is very fortunate in the professional level of members of its police and emergency services, as evidenced by the multi-agency task force that supported the New South Wales response to the Thredbo landslide emergency. As I envisaged in my presentation speech to the Assembly in relation to the exposure draft, the Emergency Management Bill will formalise existing arrangements, but also provide for a higher level of preparedness and response coordination in the event of an emergency. I commend the Bill to the Assembly.

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

DRUGS OF DEPENDENCE (AMENDMENT) BILL (NO. 2) 1998

MR MOORE (Minister for Health and Community Care) (11.26): Mr Speaker, I present the Drugs of Dependence (Amendment) Bill (No. 2) 1998, together with its explanatory memorandum.

Title read by Clerk.

MR MOORE: I move:

> That this Bill be agreed to in principle.

Mr Speaker, before I make the formal presentation speech on this piece of legislation, I would like to make some informal comments. Since the beginning of time, elders have gathered around their campfires and in their log cabins and their lodges. More recently, elders of tribes have gathered in their parliaments. Since time immemorial, elders have been faced with the sort of challenge that faces this Assembly. Imagine tribesmen sitting around their fire, saying, "Our young people are dying, disease is spreading. Will we stick with the old ways, the ways which protected our tribe, or will we risk the ire of some of our people so that we can protect our young people?".

This is probably the sort of thing that has led in the past to certain decisions, for example, the decision to prohibit certain types of food in some societies, and it is the sort of question that led to widespread vaccination. It is the challenge which will face our Assembly in February; but for the moment, through the Bill that has just been tabled, and the motion for debate this afternoon on safe injecting places, we will have the opportunity to open the debate and to consult with the community. Today should be about raising these issues rather than debating them. It is the debate that we ought to have in February when we have looked at those issues and we have looked at the method proposed by the Government.

However, we should do that in light of the knowledge that this year more of our young people have died from overdoses than have died on our roads, and in the knowledge that the spread of hepatitis C is increasing, with over 300 notifications this year alone. I know that most, if not all, members here have significant concerns over this proposal, and over the next few months I hope to be able to address many of those concerns, as many as possible. Mr Speaker, I now move to the formal part of my presentation speech.

The impetus for these amendments arose as a result of the development of work to undertake a scientific trial of a safe injecting place in the ACT. These amendments will afford protection against acts of good faith or omission to the operators and staff of a safe injecting place and immunity to the Territory in respect of drug-related injuries or death for users of the facility if, indeed, this Assembly gives approval in February for a safe injecting place. The proposed scientific trial will enable clients to access clean injecting equipment, to inject in a clean, supervised environment and to dispose of equipment safely. The facility will also provide emergency assistance in the case of an overdose. It would act as a point of referral to a range of related services, such as health promotion, counselling, medical treatment, housing or sexual assault services. The facility could also act as an entry point for injecting drug users to access detoxification services or to be linked with methadone or other treatment programs.

In the course of the development of the proposal for the scientific trial, a committee comprising representatives of the Department of Justice and Community Safety, the Director of Public Prosecutions and the Australian Federal Police was charged with considering the legal and law enforcement issues associated with the trial. This committee identified significant issues of criminal and civil liability that would arise. I will be discussing the Government's intention with respect to criminal issues when we debate the motion on the notice paper later today. The civil liability issues are dealt with in the Bill before you.

The committee advised that the majority of these risks should be managed by legislation to afford safe injecting place operators and staff protection for acts of good faith or omission in the course of operating the safe injecting place and to provide immunity to the Territory in respect of claims by safe injecting place users for drug-related injuries or death. The Intoxicated Persons (Care and Protection) Act 1994 currently provides protection for the operators and staff involved in the care of intoxicated persons.

While protection is given to the operators and staff of a safe injecting place for acts of good faith or omission against claims by third parties, no such protection is afforded to the Territory. This is because third parties - for example, someone who is injured in a car accident caused by an intoxicated person who has injected at a safe injecting place - should have some capacity to make a claim. This, of course, implies that the Territory will be involved in running the safe injecting place, and at this time, Mr Speaker, that would be my intention. Both types of immunity that are being conferred are being done so on the basis that the activities conducted at the safe injecting place will be technically illegal as well as high risk.

The purpose of the safe injecting place is to provide a clean environment for injecting drug users, not to regulate what is injected. The operators and staff of the facility will have no way of knowing what substances or combination of substances are being injected or the quantities injected. It will not be possible to know what other substances a person has consumed or their medical history. Because of the nature of the safe injecting place, insurance will be virtually impossible to obtain for either the operator of the safe injecting place or the Territory.

Only a safe injecting place declared by the Minister for Health and Community Care to be a safe injecting place will be entitled to receive immunity against the civil liability set out in the Bill. In order to declare a facility a safe injecting place, the Minister must be satisfied that the facility is a hygienic environment suitable for use as a place which will provide clean injecting equipment to enable a person to self-administer a drug of dependence and to facilitate safe disposal of injecting equipment. Mr Speaker, I commend the Bill to the house.

MR KAINE: Mr Speaker, I would like to put on record here and now that I oppose this Bill.

Mr Moore: On a point of order, Mr Speaker: I believe that the standing orders require the debate to be adjourned.

MR SPEAKER: That is true.

Mr Moore: If you wish, we can adjourn it and then you can seek leave to make a comment, but there is to be a debate this afternoon. This very issue is up for debate this afternoon.

MR KAINE: There might be, but not on this Bill. Mr Speaker, I seek leave to speak to this Bill.

Leave granted.

MR KAINE: Mr Speaker, I want to put on record right from the outset that I oppose this Bill, and I do so because the concept of a safe injecting house is a contradiction in terms under the conditions that the Minister has just outlined. He makes the point in his own tabling papers that what will be happening in this place is illegal activity. How, then, can a government, how then can a legislature, enact legislation that somehow gives respectability to illegal activities? It is a contradiction in terms and I do not think that anybody in this place ought to accept the glib proposition put forward by this Minister.

The Minister talks about a safe injecting house. He acknowledges that he will have no control whatsoever over the substances injected in this place. How on earth can he call it a safe injecting place? These people might as well go out, like they do now, and hide behind a hedge and stick the same garbage into themselves, because all they are going to be doing is doing it in premises that the Minister declares to be a safe injecting house.

I notice he makes some reference to the question of protection against civil litigation. What about the criminal? If somebody comes into this place and injects themselves with an unknown substance and dies on the premises, who is responsible? The Minister? He will be scuttling for cover so fast we will not see him for the dust.

Mr Speaker, this is an outrageous proposition to put forward to a legislature. We would have to be a bunch of morons even to consider it. This has been put forward by a Minister for health. You have to be joking! I have to ask the members of the Government sitting on either side of this Minister: Are you supporting this legislation?

Mr Smyth: Yes, I will be.

MR KAINE: You are mad.

Mr Smyth: No, I am not.

MR KAINE: If you do not mind my saying so, you are mad. I do not think I need to say much more. I think my position is now quite clear. It will not change, no matter how the Minister tries to whitewash the issue in a motion that he intends to put to this place this afternoon to anticipate the debate on the Bill itself, to give it some additional credibility. No matter what he says, it will not alter the basic fact that this is a Bill that purports somehow to make legal something that is illegal, and it carries a title of safe when, in fact, it is not. It can only appeal to the ill, to the gullible. I would suggest that nobody in this place should be fooled by this, nobody should give it 10 seconds' worth of consideration.

We should vote on the Bill now and vote it out here and now before it goes any further, before it gets any more credibility in this community. Mr Speaker, I must say that I am astonished, absolutely astonished, that a Minister in the Executive of this place should put this kind of Bill on the table and expect it to be taken seriously. It is quite clear: I will not support it under any circumstances.

Mr Moore: No, you will let our children die, Trevor Kaine.

MR KAINE: You look after your kids and I will look after mine, Mr Moore.

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

REPORT OF THE REVIEW OF GOVERNANCE - SELECT COMMITTEE
Alteration to Reporting Date

MR OSBORNE (11.37): I move:

> That the resolution of the Assembly of 28 April 1998, as amended on 25 June 1998, appointing a Select Committee on the Report of the Review of Governance be amended by omitting from paragraph (3) "first sitting day of 1999" and substituting "first sitting day of March 1999".

With the formation of the superannuation committee, the other committee that I am involved in has had to take a back seat, Mr Speaker. This is just a motion to extend the reporting date while we sort out the issue over ACTEW.

Question resolved in the affirmative.

GAMBLING - SELECT COMMITTEE
Alteration to Reporting Date

MR KAINE (11.38): Mr Speaker, I move:

> That the resolution of the Assembly of 20 May 1998, as amended on 23 June 1998, appointing a Select Committee on Gambling be amended by omitting from paragraph (1)(aa) "the first sitting day of 1999" and substituting "16 February 1999".

Mr Speaker, the motion is pretty straightforward. The original terms of reference of the Select Committee on Gambling required the committee to report on the first sitting day of 1999. Under the agreed sitting arrangements for 1999, that was to be 16 February. As of the agreement that we made only this week, the first sitting day is now 2 February. I think that it puts an unfair load, an unfair burden, on the secretary of this committee, who already has a considerable workload, not only in connection with this committee but also in connection with other committees, to expect her to produce a report two weeks before the date on which it was originally due. I think it is only reasonable that we allow the committee to meet its original reporting date, which is, in fact, 16 February.

Question resolved in the affirmative.

DISCHARGE OF ORDER OF THE DAY

MR OSBORNE (11.39): In accordance with standing order 152, I move:

> That order of the day No. 1, Assembly business, relating to the discharge of a Member for the Select Committee on the Territory's Superannuation Commitments be discharged from the *Notice Paper*.

Question resolved in the affirmative.

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Report No. 1 - Children's Services (Amendment) Bill 1998

MR OSBORNE (11.39): I present Report No. 1 of the Standing Committee on Justice and Community Safety, entitled "Report on the Inquiry into the Children's Services (Amendment) Bill 1998", including a dissenting report, together with a copy of the extracts of the minutes of proceedings, and I move:

> That the report be noted.

Mr Speaker, I thank all members of the committee for their input to this report. As chair of the committee, I have to register my displeasure at the way the dissenting report was handled in relation to this inquiry, but I will get to that a little later.

At present the ACT has a Children's Court but does not have a specialist Children's Court magistrate. Instead, each of the eight magistrates rotate through the Children's Court every two weeks. In recent years there have been repeated calls for a separate Children's Court magistrate from bodies such as the Community Advocate, the Law Society, and the Assembly's own Social Policy Committee. In response to those calls, I tabled legislation earlier this year which would formally establish this position and the committee has been considering the content of that legislation over the past few months.

In considering whether the ACT ought to have a specialist Children's Court magistrate, the committee recognised that this decision must be taken completely within the context of what is in the best interests of the children involved. The opinions and experience of those who work in the daily affairs of children were widely drawn upon for this inquiry. Naturally, not all of those who made representations to the committee will agree with each of the recommendations that the committee has made in this report. However, almost all recognised in their submissions the potential benefits of greater uniformity of sentencing and being able to provide more meaningful assistance for those children who come before the court with the appointment of a specialist magistrate. Included in that group were the Chief Magistrate, the Community Advocate, the Minister for Education, the Law Society, the Children's Services Council and a retired New South Wales Children's Court magistrate.

The committee believes that the appointment of a designated specialist should result in more consistency in court decisions, greater application of expertise, improved efficiency within the court, reduced waiting times, and better coordination of ACT children's services. It was recognised that many of the children who go through the Territory's care and protection system end up, unfortunately, in the juvenile justice system. Having one magistrate who dealt with a child from day one should improve that situation and, hopefully, reduce that trend. It should also raise the standard of care, with the incumbent investing a lot of energy, commitment and pride in the job.

Mr Speaker, it was very disappointing for me to learn of the low regard which is held in some circles for Children's Court work in general. The Community Advocate noted that the Children's Court is sometimes perceived by the judiciary as the "lowest desirable jurisdiction to be sitting in", while the Chief Magistrate characterised working in the Children's Court as being seen as something of a "sentence". The committee endorses the view that presiding over the Children's Court should not be considered in any way as a "backwater" but, rather, an opportunity to assist the young people of our community, and believes that the appointment of a specialist magistrate should improve the status of the court.

Mr Speaker, the committee made five recommendations in the report, to which the government member formally expressed reservations about Nos 1 and 2 and dissented from No. 3. Recommendation No. 1 confirmed the need to appoint a specialist Children's Court magistrate and considered that a minimum three-year appointment would be the most suitable. While the whole committee did not believe that the alleged

practical disadvantages of specialisation justified not having a specialist magistrate, there was some disagreement over the length of that appointment. There was considerable variation in the time periods suggested to the committee, ranging from nine months by the Government to seven years. I supported a longer timeframe because I felt that the people who presented and supported the longer timeframes consistently presented a convincing argument that a generous term would be in the best interests of the children who came before the court.

While the Children's Court sits daily and matters are heard by the allocated or duty magistrate, at present some children's cases will be presided over by more than one magistrate. However, in most cases, the Chief Magistrate advised the committee, magistrates usually defer the case until the particular magistrate is again sitting in the Children's Court and there is enough time to hear the whole matter. This practice does have some benefits for the magistrate, but produces unnecessary and lengthy delays for the child involved and creates the potential for inconsistency.

The committee believes that the introduction of a specialist would speed up court processes and provide a more effective justice and support system for our young people. It would also allow the magistrate to build up a deep understanding of children's affairs and provide the time to develop an appropriate level of expertise and experience of particular children and ACT children's services in general. The committee carefully considered the reservations expressed by the Chief Magistrate and the Bar Association about a three-year appointment. However, the majority of members found their arguments unconvincing. Their reservations were based mainly on practical problems of implementation, rather than a philosophical objection to the principle, and did not seem particularly difficult to overcome. On balance, the majority of the committee accepted the evidence put before it, especially that of Barbara Holborrow, a former children's magistrate in New South Wales for nearly 13 years, and the Children's Services Council, which argued that children often had to remain in care far longer than necessary due to the length of time it took for their case to be heard.

Recommendation No. 2 addresses one of the practical problems of implementation and endorses the provision of a deputy children's magistrate. This deputy would fill in while the designated magistrate is away from the Children's Court - perhaps on holiday or sick leave - so that the business of that court could continue without unnecessary delays.

Recommendation No. 3, if implemented, would require the Government to appoint a ninth magistrate, with the position being advertised as an ACT Children's Court magistrate. I feel I need to point out to members that my Bill did not require the Government to appoint an additional magistrate but, rather, to make an appointment from within its own ranks. I think that the Government should do that initially, but when the number of magistrates is next increased - and the committee does not stipulate a timeframe - we believe that one of those extra magistrates needs to be a specialist appointed to the Children's Court.

Recommendation No. 4 requires that the Chief Magistrate develop a training program in Children's Court affairs for all of the magistrates. The committee did not make a criticism of the training which is currently provided for magistrates. However, there did not appear to be any specific programs in place. The committee did not make a comment regarding this practice in general. However, it did find this situation unacceptable in regard to the Children's Court and felt that it was important that this be addressed as soon as possible.

The final recommendation calls for certain data and performance information on Children's Court matters in the form of an annual report. The committee was interested in testing anecdotal complaints about court delays and the number of magistrates which were hearing each case. However, it was unable to do so as no data was available. The committee believes that this data would be of benefit to the wider community and needs to be more easily accessible. I do not believe that the production of this report would be particularly onerous for those involved, nor should it prove unnecessarily complex.

Mr Speaker, there are many benefits for our young people and the community as a whole in having this magistrate, and I give my support to amending my Bill to include the appropriate recommendations from this report. I would like to quote from the United Nations Convention on the Rights of the Child, which requires that:

> ... in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be the primary consideration.

I believe that my legislation and this report reinforce that, Mr Speaker, and I hope that members will see fit to support it.

I have to say, in summary, that I was a little disappointed with the way the dissenting report came about. This report was agreed to in principle, with a number of recommendations. However, after a lengthy period of time, we were advised that the government member on the committee was to put in a dissenting report. I have to say that the other members of the committee were very disappointed with the way that it was handled.

If that is going to continue in future, perhaps there really is not any need for a government appointment to these committees. We can just send a report to the Government and they can let us know what they think when they are replying. The way that this matter was handled was very disappointing. Convention in this place in the time that I have been here is that you try as hard as possible to find some sort of common ground. The other three members of the committee thought we had found that, but it appears that the government member had got his riding instructions wrong.

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

HEALTH AND COMMUNITY CARE - STANDING COMMITTEE
Inquiry - Respite Care Services in the ACT

MR WOOD: Mr Speaker, I ask for leave to make a statement regarding a new inquiry to be undertaken by the Standing Committee on Health and Community Care.

Leave granted.

MR WOOD: Mr Speaker, I wish to inform the Assembly that on 4 December 1998, after some consideration of the issues, the Standing Committee on Health and Community Care resolved to inquire into and report on the provision of respite care services in the ACT, with particular reference to:

(1) the needs of people and their carers;

(2) the availability of services;

(3) the extent of unmet need;

(4) the coordination of services, the continuity of care and the choice and type of services (including post school options); and

(5) any other related matter.

Mr Speaker, I am sure that all members, as we move around the community, come across many people in Canberra who live in the most difficult circumstances. Yesterday we discussed the needs of the disabled - the physically disabled, the intellectually disabled or the physically and intellectually disabled - the frail aged, dysfunctional families and so on. Government agencies provide much good support to these people, whether directly through their own services or through community bodies. Of course, this assistance is essential.

Respite care is just one area of that assistance, addressed by care being given both to affected people and to their carers. Yet, as I move around, I hear people who provide these services and people who receive these services talking of confusion, difficulty and the like. This inquiry will focus on the provision of respite care.

I do not expect to come back to this Assembly with a shopping list. I realise the realities of the situation. I want to explore the difficulties and see what options there are, but I do not anticipate a long list of recommendations that may not be possible of being met. I am confident that members will be interested in the report.

I want to make one further statement, and it is about the role of committees. The way the committees will operate is not resolved finally as the recommendations of the Pettit inquiry are still being examined. There was one claim, one suggestion, that committees should mirror portfolios. It is my view that they should not be restricted.

For example, respite care is very much a function of Mr Moore, but respite care is also provided through Mr Stefaniak's ministry, so I am sure that the committee will be asking Mr Stefaniak and expecting support from Mr Stefaniak for us to look at the aspects of respite care provided through his department. I give notice of that. I do not think that there will be any problems. I thank the Minister for his indication of support. I look forward to bringing down the report some time in the future.

EXECUTIVE BUSINESS - PRECEDENCE

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

> That Executive business be called on.

UNIVERSAL DECLARATION OF HUMAN RIGHTS - FIFTIETH ANNIVERSARY

MS CARNELL (Chief Minister and Treasurer) (11.54): Mr Speaker, I move:

> That this Assembly, on the occasion of the fiftieth Anniversary of the United Nations Declaration of Human Rights, affirms its commitment to uphold the principles enunciated in that Declaration.

Today, 10 December 1998, we celebrate the fact that 50 years ago on this day in 1948 the Universal Declaration of Human Rights was adopted by the United Nations. The declaration was one of the first major achievements of the United Nations and after 50 years remains a powerful instrument which continues to exert an enormous effect on people's lives all over the world. This was the first time in history that a document considered to have universal value was adopted by an international organisation. It was also the first time that human rights and fundamental freedoms were set forth in detail. There was broad-based international support for the declaration when it was adopted.

The adoption of the universal declaration stems in large part from the strong desire for peace in the aftermath of the Second World War. Although the 58 member states which formed the United Nations at that time varied in their ideologies, political systems, religious and cultural backgrounds and had different socioeconomic development, the Universal Declaration of Human Rights represented a common statement of goals and aspirations - a vision of the world as the international community would want it to become. As the UN Secretary-General, Mr Kofi Annan stated, "Human rights are foreign to no culture and are native to all nations".

The theme of the fiftieth anniversary of this Magna Carta for all humanity is "All Human Rights for All". The theme highlights the universality, indivisibility and the interrelationship of all human rights. It reinforces the idea that human rights, civil, cultural, economic, political and social, should be taken in their totality and not dissociated from one another.

Although the declaration, which comprises a broad range of rights, is not a legally binding document, it has inspired more than 60 human rights instruments which together constitute an international standard of human rights. These instruments include the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, both of which are legally binding treaties. Together with the Universal Declaration of Human Rights, they constitute the International Bill of Rights.

The rights contained in the declaration and the two covenants were further elaborated in such documents as the Universal Convention on the Elimination of All Forms of Racial Discrimination, which declares dissemination of ideas based on racial superiority or hatred as punishable by law; the Convention on the Elimination of All Forms of Discrimination Against Women, covering measures to be taken for eliminating discrimination against women in political and public life, education, employment, health, marriage and family; and the Convention on the Rights of the Child, which lays down guarantees in terms of the child's human rights.

The universal declaration is a living document. To commemorate it in the coming years of this millennium, the debate will need to focus on the current complex human rights issues that we all understand exist. They include the right to development, the recognition of the rights of indigenous people, the rights and empowerment of people with disabilities, gender mainstreaming and issues of benchmarks and accountability in furtherance of these and other rights.

The enactment of the principles of the declaration has been furthered globally by the fact that member states willingly subject their legislation and policy to international monitoring, which is based on dialogue and cooperation between the relevant United Nations committee and the participating member state. This relationship has proven to be an important factor in the advancement of human rights on an international and national level. The United Nations committees guide the member states over the long term in the revision of law and policy which impacts on human rights, especially as international debate focuses on more and more broadly defined rights.

Mr Speaker, in September this year many members signed the Amnesty International Pledge, as did many other Canberrans. We, as parliamentarians, are charged with the responsibility of ensuring that we honour that pledge. It is an important time to reaffirm the values of the universal declaration and to act accordingly. We must consistently walk the talk if we are to safeguard and progress those principles.

The Beijing Declaration at the World Conference of Women in 1995 declared that "women's rights are human rights". This Government recognises that, Mr Speaker. The legislation that this Assembly passed on domestic violence issues was guided by the United Nations universal declaration. The development of an action plan for women came directly out of the Convention for the Elimination of All Forms of Discrimination Against Women. The Government will assess, through an audit, all current government programs to see how well they are meeting the current needs of all women. This is walking the talk, Mr Speaker, when we put into action our pledge to uphold these principles.

After hundreds of years of struggle against oppression, indigenous people's rights are slowly being acknowledged. Last year Assembly members were very moved by the stories from ACT indigenous people who were part of the stolen generation. We have been more than moved; we are taking action. This acknowledgment and subsequent action have been, and will continue to be, guided by the Convention on the Elimination of Racial Discrimination, adopted as early as 1969.

When the Universal Declaration was adopted 50 years ago, it had, and continues to have, a tremendous impact on debate at the international level as well as the national and local levels. In this Assembly, as in some other parliaments, the declaration is still cited in the enactment of new legislation. Now, as then, the United Nations is critical in providing an environment for debate, negotiation and study. It has been most effective in incorporating human rights into national law, in giving voice to non-governmental organisations and in elevating universal awareness about human rights.

Mr Speaker, the Universal Declaration of Human Rights is more than a piece of paper or a wish list; it is a fundamental instrument of what it means to be human.

MR STEFANIAK (Minister for Education) (12.02): Mr Speaker, first of all I want to apologise to Mr Wood for not being present yesterday to support his motion which was passed by the Assembly. I rise to support the Chief Minister in relation to the Universal Declaration of Human Rights 50 years ago. I think much progress has been made in recent years in relation to that, Mr Speaker, and I will come back to that shortly. Historically, Australia has been at the forefront since the United Nations was formed, and we were one of the original member states in terms of our support for human rights. In some areas where we might have been a bit tardy in our own backyard, as the Chief Minister indicated in her speech, we are largely making amends. In terms of the world, Australia, per head of population, probably has contributed more than other countries.

In terms of human rights over the last 50 or so years, I would like to congratulate and commend the work of Amnesty International, an organisation that has been around now for many decades. Despite the incredibly oppressive nature of a number of regimes, it manages to look after some of the rudimentary rights of some political prisoners. In some quite atrocious regimes which have absolutely no compunction about bumping people off, some political prisoners, through the amazing efforts of Amnesty International, at least have been kept alive. In many instances their freedom has been achieved as a result of Amnesty International.

The third part of Mr Wood's motion yesterday was important because it specifically referred to us supporting human rights in practical terms. We have done so since the United Nations started through our commitments to its peacekeeping efforts and peacemaking efforts. In relation to that, I must disagree with the statement I think Ms Tucker made in the debate yesterday. She was outraged at how much Australia spent on defence. I think there are many people in our community who might be outraged

at how little we spend. It has come down from 3 per cent of GDP in the mid-1980s to about 1.9 per cent and there are serious concerns as to whether that is adequate as we approach the twenty-first century in a very uncertain world. It is at about the same level as in 1938 and we entered World War II very much unprepared.

I think it is important in terms of the United Nations to look at what actually does, effectively, at the end of the day, enforce basic human rights. The United Nations has a much better record than the League of Nations which did not have any states prepared to give the military backup to confront an aggressor, to confront a bully, and enforce basic human rights. The UN has a much better record. I think of Korea and the effort made in the Gulf War when Iraq invaded a member state of the United Nations, Kuwait. The effort in Bosnia perhaps has been tardy, but the threat of utilising UN forces for peacemaking - they are largely NATO forces - has been effective in stopping an aggressor from committing further atrocities against the people there. Individual countries too, by standing up to aggression, have also ensured basic human rights. In recent times events like the Falklands War come to mind.

Mr Speaker, it is important to recognise the need for democratic powers to have the means to protect themselves and to contribute to peacemaking. It is a fairly recent phenomenon. Only in the nineteenth century have liberal-minded regimes gone out and tried to enforce basic human rights. I think the first world policeman in the nineteenth century was the Royal Navy. Through their efforts the practices of slavery were very largely curtailed. They had a significant effect too in curtailing piracy.

I make those points, Mr Speaker, because when you look at the lessons of history there are always people and states in this world who are more aggressive, more totalitarian and basically a lot nastier. They do not have the same civilised conventions as more liberal-minded states such as Australia have. There is always a need, I think, for like-minded countries such as Australia. The world has benefited since World War II by the United States, Britain and countries like that maintaining a very strong deterrent to real and potential aggressors. The fact that people like Gorbachev were able to come to power in the Soviet Union would not have occurred if the West had been weak-kneed. That largely occurred simply because President Reagan in the United States and his colleague Margaret Thatcher in Britain, and Chancellor Kohl, too, in Germany, stood up to Soviet aggression. They stood up to abuses of human rights.

There is a real need for like-minded countries to band together to stop aggression and to stop people who would infringe upon fundamental human rights. We are never going to completely overcome that in our lifetime, sadly, but I think a number of steps have been taken which greatly assist a number of people around the world who otherwise would be very much deprived of their basic human rights.

MR STANHOPE (Leader of the Opposition) (12.07): Mr Speaker, I am very pleased to join in this debate and to support the motion proposed by the Chief Minister. Today is a very significant day. I note that Amnesty International, the organisation which Mr Stefaniak referred to, in its recognition of this anniversary has titled its significant publication "50 Years - The Celebration and The Challenge". I think that is quite appropriate.

It is appropriate that we celebrate the passage of the Universal Declaration of Human Rights. It was a significant milestone in the development of an ordered and peaceful world. It is 50 years. It was a significant achievement at the time. It has achieved a lot along the way but, of course, there is an awful lot left to be achieved, as Amnesty International indicates in its report. As the Chief Minister and Mr Stefaniak have mentioned, the length of the road yet to travel is sobering.

Amnesty International indicates that half of the world's countries gaol people because of their beliefs, race, ethnic origin, sex or religion, and a third of the world's governments torture their prisoners. Governments fail to enforce the principles of the declaration or frequently make laws that ignore human rights standards. Individual defenders of human rights and human rights organisations are sometimes the only ones to speak against human rights violations and campaign to ensure fundamental rights are respected. The truth of that cannot be gainsaid. It is something that assails us every day as we read the newspapers. There is enormous abuse of human rights throughout the world. There is for us nationally, sadly, still a range of areas in which the national and State and Territorial governments in Australia do not fully meet their obligations to respect absolutely the human rights of all Australian citizens.

The international situation is, I think, still quite extreme. As we face the next millennium we face other than the dawning of a new golden age. We face a new century which, in the context of today's news and the situation in countries around the world, will be ushered in by extreme hunger, extreme poverty, extreme intolerance and violence on scales perhaps as great now as they have been since the Second World War when the Universal Declaration was entered into, the catalyst being the devastation of the Second World War. These are the situations that the world is facing. Situations at the bottom end signify the extent to which human rights throughout the world are ignored on an enormous scale.

I noticed an article in yesterday's *Sydney Morning Herald* from Sir Zelman Cowen. Sir Zelman wrote:

> There are now more people fleeing persecution, war, human rights violations and other events than at any time since World War II. Amnesty International estimates that there are some 15 million international refugees, as well as an estimated 25 million people who have been displaced within their own countries.

Sir Zelman commented on the fact that the financial crisis in our own region has plunged over 400 million people into severe financial crisis. The immediate repercussions of this include things such as acute food shortage, extreme unemployment and a severe shortage of medical supplies. I think that, most touchingly, is evident in the significant problems faced by people in Africa and to a lesser but grave extent in Asia in relation to the prevalence of AIDS and HIV. The lack of basic support for the 30 million or so Africans infected with the HIV virus at its most immediate level indicates the extent to which the basic human rights of people throughout the world have been neglected. That is what we are talking about here. The lack of medical support to those people is a lack of respect for the human rights of those people.

The international human rights record over the last 50 years has been bleak. Mr Stefaniak touched on those occasions when the developed world, the First World, has not been able to act with any united purpose to restrain and stop the most appalling abuses of human rights and the right to life. The terribly murderous regimes of Idi Amin and Pol Pot are the most dramatic examples.

The Pol Pot regime and the devastation which it created in Cambodia remain with me to some extent. There was appalling devastation in our region and the murder of up to two million people at a time when Australia had links with the developed world. With our links with the United States, with our intelligence, our knowledge, our foreign affairs networks and our so-called intelligence services, I have always had real trouble accepting that somewhere in Australia there was not detailed knowledge of what was going on in Cambodia in the 1970s. It has always caused me significant heartache that the Western world must have known what was happening, just as we know around the world what is happening now in Bosnia, and we remain as powerless to stop these appalling abuses of human rights.

There is much to celebrate but I think it is sobering to reflect on the distance to travel. I am concerned that in celebrating the fiftieth anniversary we do not applaud too loudly our human rights performance, either internationally or locally. I note what the United Nations High Commissioner for Human Rights, Ms Mary Robinson, said in relation to this fiftieth anniversary, and it is truly sobering. In her comment on this anniversary she said:

> I do not see this fiftieth anniversary as an occasion for celebration.

I am prepared to celebrate the declaration, the UN High Commissioner for Human Rights is not. Ms Robinson went on:

> Count up the results of 50 years of human rights mechanisms, 30 years of multi-billion-dollar development programs and endless high-level rhetoric and the general impact is quite underwhelming ... There is a failure of implementation on a scale which shames us all.

Whilst I think the declaration and the extent to which nations around the world have, through their own mechanisms, implemented it is a thing to celebrate, there are, as Ms Robinson says, issues in relation to human rights abuses, internationally and nationally, that do shame us all.

MS TUCKER (12.16): The Declaration of Human Rights is indeed a powerful tool. It has been described as the Magna Carta for all humanity. This fiftieth year should form a landmark celebration outlining the many advances that have been made. Unfortunately we too often hear of human rights abuses and violations, rather than progress that has been made. It saddens me to see the volume of human rights violations and suffering that are a direct result of poverty and war. Poverty is something that touches Australia, and even though it is not recognised by governments it is not just economic. It is social, spiritual and environmental.

Australia is no different here. The egalitarianism that contemporary Australia was famous for and so proud of is now just another myth. The gap between Australia's rich and poor has increased 50 per cent in the last 20 years. The Henderson poverty line determined in 1997 that a single-parent family with two children was at the poverty line on $326 per week. With two children and two adults it was $404. At the same time the Australian Institute of Family Studies estimated that it cost $239 per week to adequately house, feed, clothe and educate one 12-year-old child.

Women are the majority of the world's poor and in Australia are more likely to be subjected to poverty after marriage breakdown or as a single parent. Every minute of every day 50 babies are born into poverty in the world. Women and children are the primary victims of poverty and yet their voices are thwarted by male domination in all strata of society.

An American academic, Charlotte Ku, comments that the scarcity of women taking part in the stages of treaty-making underscores the likelihood of gender bias in the structure or framework that will emerge from such treaties. It is easy to comprehend that when women are not represented adequately their views may well not be represented. This lack of representation in decision-making is compounded in its ratification via the political process. I witnessed such legislation only two weeks ago in this place when men were responsible for legislating on a woman's body and her morality.

Further abroad, at a recent diplomatic conference for an international criminal court held in Rome, the women's caucus reported similar difficulties. They decided after it was made obvious that women's issues were not being included in discussion to hold a seminar titled "Everything you wanted to know about gender but were afraid to ask". The male-dominated delegation gained an appreciation for the heinousness of gender crimes when examples of Bosnian prisoners of war having their testicles bitten off were cited. The women's caucus, however, had to work very hard to motivate delegates on the crime of forced pregnancies. They cited further Bosnian experiences of women being detained and raped and forced to bear Serb babies. A strong right to life response materialised with efforts being made to not only abolish a recognition of such crime, but also to remove any reference to gender. Only after considerable negotiation was there an agreement on the definitions of forced pregnancy and gender.

A special debate was held in April this year by the UN that looked at incorporating gender in all UN programs. Issues of violence against women were particularly noted, with reports of trafficking in women and girls, honour killings of women and girls by their male relatives and genital mutilation. It was resolved that next year for the first time women's human rights will be considered as a separate item under the banner "Integration of the human rights of women and a gender perspective", with violence against women as a sub-item.

Over the last 50 years there have been triumphs and steady progress in acceptance and adherence to the declaration's principles. In outlining the gender deficiencies in human rights instruments and the declaration in practice, I do not mean to detract from these achievements. I still, however, do not believe that this anniversary is cause for a celebration. I believe that there are many who do need to be celebrated, many individual women who make the world a better place and advance human rights issues.

Today I would be happy to celebrate the young Turkish woman, Gonul Aslan, a 19-year-old, who was forced to marry a man in a family arrangement. She left her husband and went to live with another man. When this did not work out she returned to her parents' house. Her father, brother and husband decided that the shame she had brought to the family needed to be cleansed. She was choked and when believed dead thrown over a bridge into the river below. She was not dead and swam to safety and went to the police. She is currently in hiding awaiting the trial of her family members.

I also celebrate two Aboriginal women working in Community Aid Abroad with indigenous communities, particularly women and children, providing them with access to information to promote their rights and self-determination. They do this with an optimism that is admirable. I celebrate the Canberra support worker who cares for men severely damaged through alcohol abuse. She does this with constant dignity for the person and continues to see the value of human life.

I celebrate the Canberra woman who has two disabled children and who has cared for these children for 20 years with minimum respite. Now that her daughter has finished her schooling and is not considered suitable for a work placement, she will now be forced to care for her disabled children 24 hours a day. I do this because the power of the stories of these individuals is underestimated. It is the work that seems to be unrecognised that has made a real difference.

The fiftieth anniversary of the Declaration of Human Rights is a time for reflection and evaluation. If as a community here in the ACT we become aware of the stories of our own people, Aboriginal people, refugees, people with disabilities and the poor in our community, among others, we will be far better equipped to address human rights issues, both here and across the globe. It takes me back to a common phrase of the conservation movement that can be used in striving for a better human rights record. Think globally, act locally.

MR WOOD (12.22): Mr Speaker, the Universal Declaration of Human Rights rose out of the barbarity and the gross atrocities of the Second World War. "Stop this inhumanity", said the people. The nations then comprising the UN did take steps to try to make a better future. Those nations then were principled. They were perhaps also self-righteous and self-congratulatory, but they did adopt noble aims, even if they overlooked some of their own sins. They did set the standard. They promoted respect for individual rights and freedoms, and that is at the heart of the declaration - a recognition of human dignity. What an important statement - to recognise human dignity. Perhaps we take that for granted, but we should not. The Human Rights Declaration is one of the most significant, one of the most meaningful, statements of all time, and it was remarkable that it was made by almost all of the then members of the United Nations. Sadly, there has been too little attention paid to it.

I think it is worth reading just a couple of paragraphs from the declaration and the beginning of the preamble. I quote:

> Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world ...

It goes on to say in article 1:

> All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Fifty years on it is important to reaffirm our commitment to those principles. They have been a rallying point, a beacon, and they have been properly respected and have given millions in the world hope, but they have also been widely ignored.

It is a shame to the world today, and to the United Nations, that atrocities quite similar to those that occurred in the Second World War continue. We have had examples. We see them every night on our television screens. That tells us that more than ever we must still defend the principles of this declaration, still defend the dignity of all people and their rights and freedoms. We should speak out loudly and strongly. This Assembly should lead our community. Some of that community will now be in Glebe Park celebrating the fiftieth anniversary. The Assembly is today acting properly in taking this action.

Question resolved in the affirmative.

TERRITORY'S SUPERANNUATION COMMITMENTS - SELECT COMMITTEE

MR QUINLAN: I seek leave to move a motion in relation to the reporting by the Select Committee on the Territory's Superannuation Commitments.

Leave granted.

MR QUINLAN: Mr Speaker, I move:

> That:
>
> (1) if the Assembly is not sitting when the Select Committee on the Territory's Superannuation Commitments has completed its inquiry, the Committee may send its Report to the Speaker, or in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, circulation and publication; and
>
> (2) the foregoing provisions of this resolution have effect notwithstanding anything contained in the Standing Orders.

The reason for this is quite self-evident. The time for the committee to report has been squeezed. The next sitting day beyond today is 2 February, when we are scheduled to debate ACTEW. If the committee can work that near miracle of having a report,

I presume that members would want some little time to digest that report before we launch immediately into the debate on ACTEW. I understand that the Government will support this motion.

Question resolved in the affirmative.

ABSENCE OF SPEAKER

The Clerk: Pursuant to standing order 6, I wish to inform the Assembly that the Speaker will be absent for the period 31 December 1998 to 31 January 1999 and in that period the Deputy Speaker, Mr Wood, will, as Acting Speaker, perform the duties of the Speaker.

Sitting suspended from 12.29 to 2.30 pm

QUESTIONS WITHOUT NOTICE

ACTEW - Sale

MR STANHOPE: Mr Speaker, my question is to the Chief Minister. Would the Chief Minister be prepared to join Dr Clive Hamilton and others in nominating a panel of experts - local or international economists - to referee the reports of ABN AMRO, the Australia Institute and the Auditor-General so that members considering the proposal to sell ACTEW may have confidence in the argument put in each of the reports?

MS CARNELL: Mr Speaker, I think it is absolutely inappropriate. I am interested in those opposite laughing, Mr Speaker. To get up in this place and suggest that the Auditor-General should have his report somehow looked at or assessed by an independent person is about as unacceptable a suggestion as I have ever heard.

Mr Berry: It is done by a committee already.

Mr Stanhope: Will you referee the ABN AMRO report?

MR SPEAKER: Order! I think I should begin this last question time by saying I am not going to put up with a constant stream of interjections when the Chief Minister or anybody else is answering questions.

MS CARNELL: Thank you very much, Mr Speaker. The Auditor-General is set up under legislation of this place. The Auditor-General's reports are assessed by an Assembly committee. To assume that somehow we need to put our Auditor-General's report through some sort of an independent process is probably suggesting that the Auditor-General is not independent. If he is not independent he is breaking the law.

MR STANHOPE: I have a supplementary question. In relation to the report of the Australia Institute, will the Chief Minister list the thousands of mistakes she told the *Canberra Times* the report contained, including what pages they are on? Will the Chief Minister table her department's critique of the Australia Institute's report to the extent that it shows the billion-dollar mistake?

MS CARNELL: Mr Speaker, I am more than happy to circulate it to members when it is done. We have not done a full critique yet, although we assumed that the superannuation committee that is chaired by Mr Quinlan would want a critique on the approach that has been taken in the Australia Institute report. We had every intention of providing that critique to Mr Quinlan's committee. If other members of the Assembly would like that critique as well, that is fine with us. Mr Speaker, the billion-dollar mistake is quite obvious in the report. You do not need to be an international or a local economist to work it out. You just have to be able to read. Mr Speaker, on page 45 of the report - - -

Mr Quinlan: I take a point of order, Mr Speaker. This is not answering the question. This is going beyond the question.

MR SPEAKER: Mr Stanhope is not listening to the answer either.

Mr Moore: On the point of order, Mr Speaker: The question was: "Will you explain the billion-dollar mistake?". The Chief Minister is now explaining the billion-dollar mistake.

Mr Stanhope: I asked would she table the critique, Mr Moore.

MR SPEAKER: Order! The Chief Minister has indicated that if other members require a copy of the critique she is happy to provide that, as well as to provide it to Mr Quinlan's committee. That was correct, was it not, Chief Minister?

MS CARNELL: That is right, Mr Speaker, but I thought that those opposite wanted me to explain the thousands of mistakes. I thought we could now spend the rest of the day doing so. On the basis that we are in a hurry today, I am more than happy to provide the critique of the superannuation mistake. Basically, on page 45 of the report, the Australia Institute makes it quite clear. They have indicated that they have taken $400m out of ACTEW. Last year those opposite told us ACTEW could not afford $100m without going to the wall. I think that was the comment.

Mr Quinlan: I raise a point of order, Mr Speaker. We only need an answer to the question. Is that reasonable?

MR BERRY (2.36): Mr Speaker, pursuant to standing order 213, I move:

> That the document quoted from by the Chief Minister be tabled.

Mr Humphries: Are you going to speak to the motion?

MR BERRY: Mr Speaker, I do not think I need to speak to the motion. It is pretty clear.

MR SPEAKER: It is straightforward. Did you quote from a document, Chief Minister?

Mr Moore: Mr Speaker, I would like to refresh your mind on this standing order. Standing order 213 says:

> ... the order may be made without notice immediately upon the conclusion of the speech of the Member who has quoted from the document.

Mr Speaker, I would have thought that the way we use the term "speech" is different from they way we use the term "answering questions". What the Chief Minister has is clearly a working document.

Mr Berry: Do not give up your day job, Michael.

MR SPEAKER: Order! This is wasting a great deal of time. I did not see any document except that particular document.

Mr Berry: Yes, that particular document.

MR SPEAKER: Well, that particular document. I thought copies had been made available to members.

Mr Berry: No, Mr Speaker, we want that one in its entirety, with the notations.

MR SPEAKER: I see.

Mr Moore: That is a working document.

MS CARNELL: Mr Berry is just playing silly buggers. Let us be fair. Let us just get on with it.

MR SPEAKER: The question is that the motion be agreed to. Those of that opinion say Aye; to the contrary No. The Noes have it.

Mr Berry: The Ayes have it.

MR SPEAKER: All right, you want a division. Mr Berry, if you are happy to be back here until 10 o'clock tonight you are welcome, but I am not sure your colleagues would agree with you.

Mr Berry: Anything to serve my constituency.

MR SPEAKER: Ring the bells.

The bells being rung -

Mr Humphries: Mr Speaker, I am advised by Mr Osborne's staff that Mr Osborne is not in the building at the moment.

MR SPEAKER: Thank you. Lock the doors.

Question put:

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

The Assembly voted -

AYES, 6	*NOES, 10*
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Hargreaves	Mr Hird
Mr Quinlan	Mr Humphries
Mr Stanhope	Mr Kaine
Mr Wood	Mr Moore
	Mr Rugendyke
	Mr Smyth
	Mr Stefaniak
	Ms Tucker

Question so resolved in the negative.

ACT Finances - Role of Auditor-General

MR HIRD: My question is to the Chief Minister. Is the Chief Minister aware of comments made by the Labor Party in today's *Canberra Times* about the role of the Auditor-General, and a demand by the Opposition that he explain himself over a report he delivered to this parliament on Tuesday? Does the Chief Minister believe that the Auditor-General has acted outside his role in commenting upon the state of the Territory's finances?

Mr Corbell: I take a point of order, Mr Speaker. This asks for an expression of opinion and it is entirely out of order.

Mr Hird: It does not.

Ms Carnell: Do not be silly.

Mr Corbell: Mr Speaker, I would invite you to rule on that.

MR SPEAKER: Yes, I have to ask - - -

Mr Humphries: Mr Speaker, could I speak to the point of order too?

MR SPEAKER: Yes, you may.

Mr Humphries: Mr Speaker, the question asks whether the Auditor-General in effect has gone beyond his brief as Auditor-General and whether he has in some way breached his role as Auditor-General. The Chief Minister is responsible to the Assembly for matters including the Auditor-General and she is entitled to answer that question.

MR SPEAKER: I will uphold that aspect of it, but I will uphold Mr Corbell's comment in relation to any suggestion of an expression of opinion.

MS CARNELL: It will not be an expression of opinion, Mr Speaker. I thank Mr Hird for the question. Mr Speaker, my attention was drawn to the article in today's *Canberra Times*. Quite frankly, I am sure members on this side, and I am sure the crossbenchers as well, would have been absolutely stunned after reading it. What we saw in the newspaper was a blatant, all-out attack on the independence and impartiality, and almost the competence, of the Auditor-General. It was one of the best examples I have seen of an Opposition choosing to play the man and not the ball.

Mr Corbell: I raise a point of order, Mr Speaker. This is entirely an expression of the Chief Minister's opinion. It has absolutely nothing to do with her responsibilities in relation to the Auditor-General. I do not see how she can answer this question in such a manner because she is expressing an opinion of the comments of Mr Stanhope in the paper today. It is not in relation to her responsibilities as Minister responsible in relation to the Auditor-General.

Mr Humphries: Speaking to the point of order, Mr Speaker: I have to indicate my view that that is absolute nonsense. The question asked whether the Chief Minister was aware of comments made by the Labor Party in today's *Canberra Times*, and does she believe that the Auditor-General has acted outside his role. If any other public officer in the Territory behaved in a particular way it would be absolutely within the purview of a Minister to answer a question as to whether or not that officer had behaved appropriately in the circumstances. Defending officers in that role is entirely proper and entirely appropriate, and very much what the Chief Minister is entitled to do today.

MR SPEAKER: Thank you. I will uphold it.

Mr Berry: Indeed. I will rise to that point of order, Mr Speaker. Mr Humphries is right. It is open to the Chief Minister to express a view, but it is not open to a member to ask a question which invites an opinion, so the question is out of order.

MR SPEAKER: There is no point of order. Proceed, Chief Minister.

MS CARNELL: Thank you very much, Mr Speaker. For the benefit of the Assembly, let me refer briefly to the Auditor-General Act which was passed in 1996 in this house with the support of the Labor Party. This Act lists a number of functions that may be performed by the Auditor-General. The first is "to promote public accountability in the public administration of the Territory". That Act also says - - -

Mr Berry: Mr Speaker, did you rule on my point of order?

MR SPEAKER: Yes, I did. I said it was out of order. Please sit down.

MS CARNELL: I quote:

> The Auditor-General is not subject to direction by the Executive or any Minister in the performance of the functions of the Auditor-General.

That is the law, Mr Speaker. In other words, the Auditor-General is a truly independent officer of the Territory whose job is to scrutinise the ACT's financial position, and to do so publicly without fear or favour. I used to think that the Labor Party supported the notion that the Attorney-General should perform those tasks, but now I am not so sure.

Mr Corbell: I take a point of order, Mr Speaker. The Chief Minister is expressing an opinion on her view of the Labor Party and that is quite out of order.

MR SPEAKER: No, she is not. She is developing a response. I think I can see where she is heading, but I will leave the Chief Minister to answer that.

Mr Hird: Speaking to the point of order, Mr Speaker, if I may: Would you direct Mr Corbell and the other members over there to the terms of standing order 202? If they keep it up, give them an early Christmas present.

MR SPEAKER: Thank you.

MS CARNELL: Thank you very much, Mr Speaker. Let me go back for a moment to Tuesday when the Auditor-General released a report entitled "Territory Operating Losses and Financial Position". Mr Speaker, guess what? The Auditor-General brings down one of these reports every year. From listening to those opposite you would have thought that this was a special report that had never happened before. In fact, the Auditor-General has been commenting on the unfunded liabilities of the ACT for several years now. In case the Labor Party has forgotten, let me quote from his report which looked at the Territory's operating loss in 1995-96. That is three years ago. He said:

> The unfunded superannuation liabilities are a major component in the accumulating operating losses of the Territory. Meeting these costs cannot unfortunately be deferred indefinitely and, as the consultant's actuary's estimates show, very large amounts of cash will need to be found in the relatively near future.

Mr Speaker, here is the Auditor-General talking about the ACT's financial position three years ago. Was the Labor Party asleep? Did they not hear the warning sounded by that report? I know that Mr Osborne understood that and I know that Mr Kaine understood that. Certainly, the Government heard that message loud and clear. When the Auditor-General makes the statement that, if the operating losses continue, sales of major assets will eventually be inevitable to provide funds to meet the liabilities when they fall due, why were those opposite so surprised? The Auditor-General has said in this report that if we cannot bring our expenses down at a greater level than we are at the moment, if we cannot raise our revenue, if we cannot achieve operating surpluses, then guess what? We are going to have to sell assets.

Mr Speaker, you have heard that the Auditor-General flagged this three years ago. What would most Canberrans do when they heard that sort of comment from the Auditor-General? They would sit up and take notice because here we have a truly independent view of the problem. But, no, not the Labor Party, Mr Speaker. Instead of heeding the Auditor-General's warning, they got stuck into him, with cheap shots like that from Mr Hargreaves who said in the house the other day that this was one of the smelliest reports he had seen for some time. Mr Quinlan then said that this report was a contrivance. Now Mr Stanhope writes to the Auditor-General and summons him to a meeting to explain himself. In other words, if you do not like what the Auditor-General says, play the man, not the ball.

Mr Stanhope stated that it was of great interest to him that the report by the Australia Institute reached vastly different conclusions - - -

Members interjected.

Mr Hird: I cannot hear, sir.

MR SPEAKER: Order! Please.

MS CARNELL: Thank you very much, Mr Speaker. Mr Stanhope stated that it was of great interest to him that the Australia Institute reached vastly different conclusions from the Auditor-General. Is Mr Stanhope suggesting that the Auditor-General is incapable of forming his own independent view on the state of the Territory's finances and the sale of ACTEW without referring to the Australia Institute, or, for that matter, to anybody else? As this Government has already demonstrated, Mr Speaker, there are some pretty big question marks hanging over the Australia Institute report.

Mr Stanhope also commented that it was of great interest to him that the Auditor-General tabled his report as the Assembly was debating ACTEW. I think Mr Quinlan made the same comment just a minute ago. Mr Speaker, for his information, under the Financial Management Act, the Auditor-General must provide the Treasurer with an audit opinion on the Territory's financial statements within 30 days of receiving them. As Treasurer, I must table a copy of those statements and the audit opinion within three days of receiving them. The Auditor-General brings down one of these reports, bringing together a whole-of-Territory approach, every year. Mr Speaker, this is the last week of sitting. When did those opposite think the Auditor-General was going to bring down his report?

There are a couple of other points I wish to make. First, is this the same Mr Quinlan, having a go at the Auditor-General, who told this Assembly on 1 September, and I quote, "The Auditor-General deserves every dollar he gets."? Secondly, is this the same Mr Quinlan who, as chair of the Chief Minister's Portfolio Committee, recently endorsed the Government's decision to reappoint the Auditor-General for another five years? Is this the same Jon Stanhope who demanded that the Government take action under the Auditor-General's report, released only two weeks ago, which examined bail processes in the Magistrates Court? Finally, Mr Speaker, is this the same Labor Party that appointed this Auditor-General when they were last in government?

Mr Speaker, this is a ridiculous situation. The Auditor-General is, by legislation, independent. For members of this Assembly to doubt that independence, to doubt his competence, is simply unacceptable. I would like to finish, Mr Speaker, by quoting Kim Beazley, when he said last year - - -

Mr Stanhope: A good choice.

MS CARNELL: I agree. Kim Beazley is a good person. He said:

> Even though I hated things that the Commonwealth Auditor-General said about us, you actually have to keep their independence preserved.

Mr Speaker, here is another gem from, I think, John Brumby. He said:

> Labor believes a Government which has nothing to hide has nothing to fear from an independent Auditor-General.

Mr Speaker, this side of the house has nothing to fear. It is an unusual scenario when it is the Opposition who fears the Auditor-General.

Water Franchise

MR KAINE: I am glad that the crossbenchers are recognised in the hurly-burly. Yesterday I asked the Chief Minister a question about the source of her advice in connection with the franchising of water. Just to refresh her mind, in response she said the advice came from ABN AMRO and also from an officer of her department who had visited a number of local bodies in France, and from companies that have been involved in this area for a long time. The Chief Minister's stated option, of course, differs significantly from the recommendation from ABN AMRO because they recommended a concession which they define on page 129 of their report as being an operation in which the assets remain the property of the ACT Government. What we have got is not what was recommended by ABN AMRO. We have something described as a franchise, which is nowhere to be found. So that we can be informed on the thought processes that led to the adoption of a franchise rather than the concession as defined by ABN AMRO, will the Chief Minister first of all table the report from the officer, who must have submitted a written report when he came back from his visit, table the advice from the companies which have been involved in this area for a long time, and, in particular, will she advise us of the names of those companies?

MS CARNELL: As far as I know there are no written reports from the officers. It would not be normal for an officer to provide written reports in those circumstances. Mr Speaker, with regard to the difference between concession and franchise, I think we have a misunderstanding of the two words. The approach of the ACT Government is to go down the path of a concession - that is, the assets stay in the hands of the ACT Government, in the ownership of the ACT Government. Maybe we should use different terminology, maybe consigned or delegated management. In other words, the ACT Government holds ownership of the assets, apart from the pipes, which we have made very clear that we would sell, and the same company which will buy the electricity side of the business will manage the company under a contractual arrangement for a period. That is the basis of the approach that we believe is appropriate.

Mr Moore: The same way we manage Calvary.

MS CARNELL: The point that Mr Moore makes is that it is not an unusual scenario for a private company or for a private sector entity to manage government-owned assets, such as is the case with Calvary Hospital.

MR KAINE: I am quite astonished that an officer goes overseas and submits no report. I just do not believe it, frankly. I have a supplementary question, Mr Speaker. The Chief Minister attempts to reconcile the two terms, "concession" and "franchise". They are really two quite different things. I refer to the definition of a franchise from the *Macquarie Dictionary of Accounting*. It is an arrangement under which a special privilege is usually granted to an individual or corporation allowing the applicant to operate a business under certain conditions. So far, so good. It then goes on and it says that McDonald's Family Restaurants and the Kentucky Fried Chicken chains are examples of franchisors. Are we going to have our water supply run by Kentucky Fried Chicken or McDonald's?

MS CARNELL: Mr Speaker, probably some of the best service you would ever get is from McDonald's, and the best training of staff. They are some of the most efficient organisations. On the basis that I do not think people want to get hamburgers when they turn on their water, I promise that the approach will ensure that the successful franchisee concession holder or delegated manager of our water assets has significant experience with water, not hamburgers.

Rates and Land Tax - ACT Rugby League

MR QUINLAN: My question is to the Minister for Planning and/or the Treasurer, with probably a little attention from Mr Hird. Minister, in answer to a question I placed on the notice paper, you gave us the following information in relation to the writing off of land tax charges and land rent for the ACT Rugby League of almost $50,000. In the answer you said:

> Both the ACT Leagues Club Limited and the CDRL -

which is the Canberra District Rugby League -

> are separately liable for the payment of rates and land tax charges from 30 September 1998 when their respective new leases commenced.
>
> Rates and land tax charges of $9,108 and land rent of $39,931.34, that accrued under the previous lease and remained unpaid by the now defunct ACT Rugby League Incorporated, have been written off as irrecoverable ...
>
> Charges owed by the previous lessee of the entire Rugby League Park site, ACT Rugby League Incorporated, were written-off as irrecoverable on the basis that the previous lessee is a defunct organisation with no funds available to meet unpaid debts.

My question is: How did we get to the stage where we accrued that much indebtedness without taking action against an organisation which has real property? Since this answer to a question on notice have you evolved or contrived a new spin on the reasoning, or is this a bottom-of-the-oval scheme?

Mr Moore: That is a matter of opinion. Mr Speaker, I take the same point of order that Mr Corbell took earlier. The second part of the question is a matter of opinion about whether it is a bottom-of-the-oval scheme or not.

MR SPEAKER: I did not think it was necessary to comment. I thought it was just a rhetorical flourish to finish.

MR SMYTH: Mr Speaker, I think all here would be aware that this is a long and involved process that has gone on for something like 15 years. You can look around for simplistic applications like Mr Quinlan is pointing to, or you can look at what happened and see how this process was worked through. Mr Quinlan might not be aware because he was not here last year, and neither was I, but this place passed a special Bill to facilitate the answer to this long and vexing question.

Mr Speaker, this is a problem that the Labor Party were unable to solve. The whole issue of Northbourne Oval was something that Labor, in all their years in office, were not able to come to an agreement on. What they do not realise, Mr Speaker, is that they left yet another dilemma for an incoming Carnell Government to solve. There was a snipe at the Chief Minister and a few words for Mr Hird. Mr Hird is one of the few people who have worked on this to achieve a great outcome for all the rugby league community of the ACT.

Mr Quinlan: I raise a point of order, Mr Speaker. My question relates to unpaid rates and taxes over the last four years.

MR SPEAKER: Thank you. There is no point of order.

MR SMYTH: In the last four years, Mr Speaker, the Carnell Government has had to answer for the ineptitude of the previous Labor governments in not being able to solve this problem. As all here would know, it resulted in a Bill in this place last year to help solve this dilemma. There were three clubs here at various times. The old ACT Rugby League Club Inc. is no longer around. Its successors, the Canberra District Rugby League Club and the ACT Leagues Club have leases. They have leases that started on 30 September. They will pay rent and rates on those leases. That leaves us with the previous lease. There is a sum of $48,000 there. Because of the ineptitude of the previous Labor Government in not being able to solve these problems, the Carnell Government, including Mr Humphries, worked through this, with the assistance of Mr Hird. They are to be congratulated for coming to a solution on this.

Opposition members interjected.

MR SPEAKER: I cannot hear anything for a lot of cackling coming from my left.

MR SMYTH: Yes, the hyenas are gathering. The hyenas have gathered, Mr Speaker, and that is all we get. We get the howling and the cackling. The head hyena has just sat down and that is a great outcome for the day. We have looked at this debt. The advice I have is that the debt has been written off.

Mr Berry: Mr Speaker, I raise a point of order. Is there a standing order that prevents a Minister from digging a hole for himself?

MR SPEAKER: No, but there is a standing order which states that members can be disciplined for persistently and wilfully obstructing the business of the Assembly. Please continue, Mr Minister. You might like to remember, Mr Berry.

MR SMYTH: Mr Speaker, you can gauge the level of disgrace that they feel by the interjections and the comments that we get. What they are embarrassed about is that they were not able to solve this. The answer is simply that the now defunct ACT Rugby League - - -

Mr Quinlan: Embarrass me some more.

MR SPEAKER: Order!

Mr Berry: The red faces are on your side.

MR SPEAKER: I warn you, Mr Berry.

MR SMYTH: Thank you, Mr Speaker. It is pleasing to hear you say that because the head hyena over there will cackle himself out of the place if he is not too careful. What we had was the ACT Rugby League Inc. Because of the tussle over this site, because the needs of the rugby league community were not met by the previous Labor Government, it was left to this Government to resolve them. Yes, debts were accrued that they were not in a position to pay.

Mr Wood: Tell me what we wiped off.

MR SMYTH: You do not transfer debts from old lessees to new lessees in this manner. The leases have been granted. I wrote to everybody here about the granting of these new leases. Mr Quinlan got such a letter as well. Both the Canberra District Rugby League Club and the ACT Leagues Club will pay those moneys that are due to the ACT Government as is appropriate. The previous debt was written off because there was no way to recover it from the defunct body. It has been written off in accordance with the standing practices.

MR QUINLAN: I have a supplementary question. Mr Speaker, if this was compensation for some break-up of the lease, was it preplanned? If there was no way to recover, was there not real property involved over which the Government would have had a claim at any time?

MR SMYTH: Mr Speaker, again, you can only gauge the level of their embarrassment in this matter by the way they persist with this sort of drivel. The rental arrears situation has resulted from complexities surrounding ownership of this site. Those of us who have bothered to read the letter that I sent out or some of the other material that has been circulated over the last 15 years would understand some of those complexities. To her credit, the former shadow Minister, Roberta McRae, kept herself up to date with this. I understand that she worked with Minister Humphries when he was the Minister responsible. I understand that she worked very closely with Mr Hird because she understood the complexities. Ms McRae may well have better understanding of standard accounting practices for writing off unrecoverable debts. Perhaps Mr Quinlan could consult with her as well.

The fact is that ACTRL, the registered lessee at the time, is now a defunct body. Although both the club and the Canberra District Rugby League now have an agreement and shared custodianship over parts of Northbourne Oval, the matter of final ownership was only resolved when that new deed was put in place. At present there is no clear legal nexus between either party and the outstanding rental debt. Further, the deed contains a lease, an indemnity provision, which provides amongst other things that this release includes any claims for financial or economic loss suffered by any party.

Mr Speaker, what we have here is their acknowledgment that they were not able to solve these problems. Since the Carnell Government has been in office we have attempted to clean up and resolve all the matters that these people left in place. Might I say, Mr Speaker, that that includes the unfunded liability debt that we now have for superannuation. It is all right to say that you have financial management - - -

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

MR SPEAKER: Thank you. I uphold the point of order on relevance.

MR SMYTH: Well, it is highly relevant. They are questioning accounting practices. What I am saying is that, if you have a debt and you are not willing to address that debt, you need to do something about it.

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

MR SPEAKER: I have to uphold it. An explanation was sought in relation to Rugby League Park in Ainslie.

Mr Corbell: I assume the Minister has finished his answer. Mr Speaker, you have already ruled that it is not relevant for the Minister to answer this question by referring to the ACT superannuation liability.

MR SPEAKER: Yes, you raised the question of relevance.

MR SMYTH: Mr Speaker, they are not interested in the answer. They are not interested in the facts. They left this mess for us to clean up. Ms McRae, Mr Humphries and Mr Hird have worked to clear up this debt. I will finish by simply saying that this is standard practice. The debt involved was written off as an unrecoverable debt by the department. It was handled by the department as a normal administrative matter.

Rural Residential Development

MS TUCKER: My question is directed to the Minister for Urban Services and it relates to the Government's proposals for rural residential. In July last year the Government's Rural Policy Taskforce released its report in which it recommended that ACT land set aside for primary production purposes not be used for rural residential development. The Government's response was that it did not agree with this recommendation and would undertake a study of rural residential development to identify suitable locations and management policies for such areas. The Government's response also included a statement that consideration of rural lease extensions in Melrose Valley be deferred until the study of rural residential development was completed even though the task force recommended that this land be given a 99-year rural lease. The study has recently been released which, surprise, surprise, recommends that Melrose Valley is a suitable site for rural residential development. My question is: How did the Government make the original assessment last year that Melrose Valley was suitable for rural residential development when this work was supposed to have been part of the later rural residential report?

MR SMYTH: Mr Speaker, I was not the Minister responsible at that time but I will seek information on how that determination was made. We are very pleased that the rural residential study is out there. The document has created a lot of interest. We have had a significant number of people ask for copies and we are waiting to get their answers. We look forward to processing this matter as this Government clearly believes that rural residential will be of huge benefit to the ACT.

MS TUCKER: I have a supplementary question, Mr Speaker. Is it the case then that the rural residential report is really just a justification of previous decisions made by government on where it wants this type of development to occur rather than a comprehensive assessment of the appropriateness of rural residential development in the ACT?

MR SMYTH: Mr Speaker, not true. There is no justification in this. If we wanted to proceed on those particular sites we could simply pick sites that we might choose to use. We have done a study. The study has posed a number of questions. Those questions are out for public discussion. The discussion, I think, has been quite vigorous so far. When we get all the responses to our study we will consider the matter further. The Government has made no firm decision on what sites should or should not go ahead. We are interested in the opinions of the community. We have gone out there and sought their opinion. We are consulting with them, and we will continue to do so.

Discrimination Tribunal

MR WOOD: Mr Speaker, my question is to Mr Humphries. It concerns the workings of the Discrimination Tribunal. Will Mr Humphries tell the Assembly, first, what system is in place to ensure that applications to the Discrimination Tribunal are dealt with in a timely and effective manner? Secondly, can he assure us that the tribunal is sufficiently resourced to avoid hearing delays?

MR HUMPHRIES: Mr Speaker, I thank Mr Wood for that question. I am aware that there were, as of a couple of months ago, a number of matters which were coming to the tribunal for decision which had not yet been decided by the tribunal. I think from memory there were also some cases which had been heard by the tribunal but where there had not been a judgment delivered. Those sorts of issues always give me concerns. I am not any less concerned about a situation in a tribunal matter than I am about a situation, for example, in the Supreme Court with a hearing of a criminal matter or a major civil matter. Delays in the system are a concern and these are matters that I do take up regularly from time to time with the necessary heads of court when those problems present themselves in a particularly material way. I have discussed such matters with the relevant heads of court at appropriate times.

I am aware of the problems of the Discrimination Tribunal. I think at my last meeting with the Chief Magistrate some discussion of that matter took place; if not at that meeting then the previous meeting.

To come to the second part of Mr Wood's question, I do not believe there is a question of inadequate resources available to the court because the ACT Government saw fit only a few months ago to augment the resources of the court by creating an eighth full-time magistrate. More recently than that, we appointed a further special magistrate in the form of the new president of the Administrative Appeals Tribunal. Resources are being progressively increased to the court over a period of time. We have also begun the process of selecting a new court administrator who will be able to better utilise the resources of the Magistrates Court and the Supreme Court to achieve important goals with respect to the management of the courts' matters.

The separation of powers prevents me from intervening directly in the way in which the court organises its work, but members of this place are certainly entitled to ask questions about situations that arise where matters are not dealt with promptly, and I am entitled, as Attorney-General, to go back to the court concerned and ask them why those matters are occurring and whether steps are being taken to remedy them.

ACTEW - Sale

MR OSBORNE: Mr Speaker, I found that question of Mr Quinlan's a very good one. For the last seven years these two parties have been in court arguing over the fact that it was their lease, but when it comes time to pay they both say, "Hey, it's not ours".

MR SPEAKER: Then perhaps you would like to emulate him and ask your own question, please, Mr Osborne?

MR OSBORNE: They have spent thousands and thousands going to court, saying, "No, it's our lease". "Who is going to pay?". "No, no, no; it's theirs". Mr Speaker, my question is to the Chief Minister. Chief Minister, given that you and others have pointed out that the sale of ACTEW is the biggest issue this Assembly has ever faced, given that your party actively avoided taking the question of the sale of ACTEW to the last election, and given that your Government on numerous occasions has attempted to bring on citizen-initiated referendum legislation, would you, have you, or did you consider holding a referendum on the sale of ACTEW and seeking approval for the move from the people?

MS CARNELL: No, I did not because I believe really strongly that governments are elected to make tough decisions, and there is no doubt that this is a tough one. You just have to look at the situation in other States with regard to the sale of assets, particularly utilities, to know that this is the sort of decision that governments need to make and, I have to say, wear the consequences of. We take that responsibility very seriously.

The issues that are involved in the sale of an asset like ACTEW are very complex. I think members in this place made the point when we were debating it on Tuesday. I think I heard many people, including Mr Osborne and others, say that the level of information and the volume of information that you have to get across was such that we really needed to put off the debate for quite a number of weeks in order to allow members of this place to do so.

Mr Speaker, I do not think that is the sort of question that is easy to put to referendum simply because you cannot expect people out there in the community to take the same sort of time as members of this place believe they need to make that decision. Mr Speaker, this is one of the issues that I am sure every member will take extremely seriously and get on top of the data, such as reports like ABN AMRO, the information that will come from the committee and the Towers Perrin report. The list goes on, Mr Speaker. It involves lots of reading, lots of information, but it is an important decision.

MR OSBORNE: I have a supplementary question. Given the answer, I take it that we will not be seeing the CIR legislation back before this Assembly.

MS CARNELL: Mr Speaker, we usually run it at least once every term.

Residential Development - Federal Golf Club

MR CORBELL: Mr Speaker, my question is to the Minister for Urban Services. Minister, in relation to the proposal by the Federal Golf Club for a residential development on their site, I ask whether you stand by your commitment to a meeting with representatives of the Hughes Residents Association in June this year when you said:

> If a new proposal was submitted that was the same as the last then it would be rejected for the same reasons.

Do you agree that the current application by the golf club is the same? Therefore, will this application not have the support of the Government?

MR SMYTH: Mr Speaker, I am told that the application is different from the one that has been previously put before parliament and therefore it is entitled to due process. It will go through the process. There will be public consultation. There will be notification. A draft variation will be involved which will have more consultation and notification. People are entitled to let the process run when it is a different proposal, and I am told that this is a different proposal.

MR CORBELL: I have a supplementary question, Mr Speaker. Minister, both you and the former Minister, Mr Humphries, made similar undertakings to the Hughes community that the proposal by the golf club was not acceptable to the Government in the form that was previously proposed. However, the community is now concerned to learn that the development and planning approval processes are apparently being run concurrently, which would normally apply only in exceptional circumstances in order to progress a development more quickly than would otherwise be possible. Is it the case that the preliminary assessment and development application processes are being run concurrently rather than sequentially in relation to the Federal Golf Club development, and, if so, why?

MR SMYTH: Mr Speaker, applicants are allowed to apply to run variations concurrently. It is normally done in exceptional circumstances. They would have applied to PALM for this under the guidelines. If it has met the guidelines and it has been approved in that manner, then it is appropriate to do so.

Belconnen Remand Centre

MR HARGREAVES: My question is to the Attorney-General. Yesterday in answer to my question the Attorney-General said that he could not recall reports to him in recent months of attempted suicides at the Belconnen Remand Centre. I acknowledge that the Attorney-General undertook to check with his department on that matter. When he does that will he undertake to ask the department to review its records on self-harm incidents over the calendar year to date?

Mr Humphries: Self-harm what?

MR HARGREAVES: Self-harm incidents.

Ms Carnell: That is not necessarily suicide.

MR HARGREAVES: No, I accept that. This is for the calendar year to date, since last January.

MR HUMPHRIES: Mr Speaker, I can provide Mr Hargreaves with some information about his question yesterday. Attempted and actual suicide incidents do occur, unfortunately, within a custodial setting, as indeed they occur in our wider community. Since the death of the person into whose death the inquest is presently under way, on 14 February 1998, there have been seven incidents involving attempted suicide by detainees at the BRC. These occurred between March and July this year, and one detainee was involved in two such attempts. I am advised by the BRC that there have been no incidents of attempted suicide at the BRC since July of this year.

The high incidence of detainees at the BRC with mental health conditions obviously increases the frequency of self-harm behaviours. Every effort is being made to assist the coroner in the inquest into the death of the person whose death is being inquired into at the moment, and in light of the comments made by the coroner an approach has been made to counsel assisting the Coroner to discuss and resolve any difficulties.

The problem with respect to the accommodation of people with mental health illnesses or dysfunction within the BRC is an issue which gave rise to the Government's decision, announced in the most recent budget, to move towards the establishment of a facility for people with such conditions which is secure and which is not necessarily within the context of a facility like the Belconnen Remand Centre. Mr Speaker, I am concerned about any suicides or attempted suicides or attempts at self-harm within the framework of our facilities in the ACT. I cannot ever promise, and I do not think any Minister in my position ever could, to prevent such things from occurring at all, but some work has begun, and must continue, to make sure that they are minimised in the future. I will ask for Corrective Services to review the records of self-harm incidents in the calendar year to date.

MR HARGREAVES: I ask a supplementary question. Would you at the same time advise the Assembly whether there were any inmates of indigenous background the subject of self-harm reports in the calendar year to date? If so, how many were there?

MR HUMPHRIES: You would like me to advise you about the incidents of self-harm in the calendar year to date as well as the incidents involving Aboriginals. I am happy to do that, Mr Speaker, as long as there is no question of identifying individual inmates.

Spence Primary School

MR RUGENDYKE: Mr Speaker, my question is to Mr Stefaniak, the Education Minister. Minister, the Education Department has endorsed a move from Spence Primary School to Melba campus, therefore merging the two campuses into one next year. There are residents of Spence who are concerned that there was not enough consultation in reaching the decision to close the Spence campus. Are you aware of this dissatisfaction in Spence and can you advise the Assembly whether the consultation process was thoroughly completed?

MR STEFANIAK: I thank the member for the question. Mr Rugendyke, in anything like this, I think it would be impossible to make sure that everyone was happy. I start by saying that I commend the Mount Rogers school community for what was a very thorough process, a process which I understand started about October last year. I have been advised by members of the board, too, that they spoke to merchants at the local shops. I think they did a letterbox drop themselves, from what I was told, in the course of the process. By about August of this year a decision was reached by a majority of the school community to consolidate on one site. The matter was then referred back to the board for them to look at, to go through a very thorough process and hear all the pros and cons as to which site.

As a result of that, Mr Rugendyke, they then made a recommendation to the department and to me. Quite frankly, having been aware of the process they have gone through, I really do not think there is anything in that which would indicate that the Government should do anything other than accept the recommendations of the board. I accept that whichever site they picked there would have been people in the community who were unhappy. If it had been Melba there would be people in the Melba community who would not necessarily like the decision. I recall hearing on the ABC one of the Spence parents who would have very much preferred it to have remained at Spence. This person was asked by the journalist, "Do you think there was a need to consolidate on one campus?". The person said yes, but obviously was concerned that it was the Spence campus and I think that is understandable.

In terms of the general community, I cannot see what much more the school board could have done. One of their recommendations to the Government which I think is terribly important was that the general community be involved in what occurs with the school site. That is something that I and the department are very keen to ensure happens. I think it is important that that site is utilised as quickly as possible. It is an educational facility. It is the property of the Education Department. We run it on behalf of the Territory. I do think that is very important. The department will be ensuring that the general community in Spence will be consulted in relation to future uses of the site.

Karralika Therapeutic Community

MR BERRY: My question is to the Minister for Health and it is in relation to the involvement of two of the Minister's former political colleagues in the Karralika drug rehabilitation centre. Is it true, Minister, that the cost of the consultancy awarded to one of them was approximately $20,000? If not, what was the cost? Is it true that the consultancy was carried out with no contract in place? Will you explain how public funds were committed without a contract in place?

MR MOORE: Mr Berry, thank you for the question. I am delighted to take questions from you. It is a contrast from the question that Mr Rugendyke asked the Minister for Education. I note from the advice I have, Mr Berry, that your shadow portfolio responsibility is education and you have asked one question all year on your shadow portfolio. I will have to say that to date - - -

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

MR SPEAKER: I uphold the point of order. Relevance, Mr Moore. Just answer Mr Berry's question, please.

MR MOORE: I am about to work on that. Today, Mr Speaker, we have the first question on notice from Mr Berry. I think it is important to say, since Mr Berry started the question by referring to my former political colleague in this way - - -

Mr Berry: Two.

MR MOORE: Two political colleagues? In this consultancy? I do not have two political colleagues in this consultancy. I actually do not understand - - -

Mr Berry: Would you like me to repeat the question?

MR MOORE: You can do that in your supplementary question if you like, Mr Berry. I am aware of one member who ran with me in 1992, Dr Stephen Mugford. This consultancy, Mr Speaker, was one of the interesting ones where I had suggested an alternative name to the department. They came back to me and said, "No, we have given the consultancy to one Dr Mugford because he has done previous consultancy work for the Department of Health. Do you have any objection to that?". I said, "No".

Mr Berry, if you are prepared to provide me with a little bit of notice on questions that involve detailed financial matters I will be able to answer those questions very specifically. I will take that part of the question on notice because you are entitled to ask that and you are entitled to know the answer. My recollection is that it is in that sort of order but you will no doubt be provided with information. As I say, if you give me a little bit of notice I can answer that sort of question specifically.

This particular consultancy was handled by the department, the purchasing section. The purchasing section of the department handles such consultancies, and it handles them in the way that they consider appropriate. I have, as a general approach, asked the particular officer involved, "How do you go about contractual matters and so forth?",

and I have been very pleased with the answer I have got. I am very supportive of the way that it is done with regard to some very small grants and funding for community organisations. For example, I was of the view that we do not want to put into place a large reporting component which would effectively take more effort than the money was worth. That has been done. Specific to your question on how much and was a contract involved, Mr Berry, I shall get back to you. I will take that question on notice.

MR BERRY: I have a supplementary question. Is it not true, Minister, that you arranged a retrospective contract with no fixed costs between your two former political colleagues after concerns were raised with you? Do you still persist with your claim that this was conducted at arm's length and there is no political cronyism involved? Mr Speaker, I seek leave to table a copy of the contract.

MR MOORE: You just said there was no contract.

MR SPEAKER: Order! Is leave granted to table the document?

MR MOORE: Mr Speaker, I was asked by Mr Berry was it done with no contract? Now he tells me he is tabling a contract. Was it - - -

Mr Berry: No. I will ask it again, to help you.

MR SPEAKER: No. What are you asking leave to table?

Mr Berry: I have tabled it. It is a document.

MR SPEAKER: Is leave granted to table the document?

Leave granted.

MR BERRY: I will repeat the question for the Minister. Is it not true that you arranged a retrospective contract with no fixed costs between you and your two former political colleagues after concerns were raised with you? Do you still persist with your claim that this was conducted at arm's length and that there is no political cronyism involved?

MR MOORE: Why are you muddying people's names? For heaven's sake, say which two former political colleagues and I will do it. The answer to your question is no. Absolutely no. I did not make any arrangement in a retrospective way at all, Mr Berry. The way you go in terms of this sort of mud-slinging is something that I think is appalling. The Labor Party, the Auditor-General, whoever it is; it does not matter.

Qualitative and Quantitative Social Research is the firm that did it. The only other person I can think of who was involved at all in this area is the former president of ADFACT, where there is certainly no money involved. Mr Graeme Evans has fulfilled that role for many years, giving of his own time and so forth. Yes, he was on a ticket of Moore Independents a couple of elections ago, I think. He has made a contribution in the community. He has made a fair contribution in the community in many ways,

including a very prominent involvement with ACTCOSS for some years. I am very proud to be associated with Mr Graeme Evans because he has made a major contribution to this society. There have been many times that I have disagreed with him, but nobody can take away from him his contribution. The same is true of Dr Stephen Mugford. He has made a significant contribution to the ACT community as well.

Mr Berry asked me, effectively, have I personally interfered in any way with this contract. I have not, in any way, personally interfered with the contract. When the department indicated to me that they wanted to appoint Qualitative and Quantitative Social Research and drew my attention to the fact that it included Dr Mugford, I said to them that I would not stand in their way or would not make a comment either way on whether or not they should do that. Apart from that, I have stood aside from any financial aspect of the matter. I have on two occasions spoken to Dr Mugford, once when I ran into him when I was walking to work, and I asked him how he was going with the research he was doing on Karralika and when would we see the response, and the other occasion was similar. I did that by phone at the request of somebody who had approached me and asked how would it go.

Mr Speaker, I must say I am appalled that Wayne Berry should finish the last question time with this sort of slimy, revolting personal attack on people. You have been doing it all year - - -

Mr Berry: I never mentioned their names. You are the one who mentioned names.

MR MOORE: It did not require mentioning the name. I am very proud to be associated with Dr Mugford. Ever since he was appointed, you have had this explained to you again and again, Mr Berry, and still you look for slime and innuendo. That is what you are looking for. You ought to look in a mirror over the Christmas holidays and see whether you want to conduct politics this way.

MR SPEAKER: Order! Please, this is getting well beyond question time. If you wish to make a statement, do so.

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

Water Franchise

MS CARNELL: Mr Speaker, for the information of Mr Kaine, when the officer who did go overseas makes a report - he has not done so at this stage - I am more than happy to give a copy to Mr Kaine.

Nurses

MR MOORE: Mr Speaker, I took a question on notice from Mr Berry on 26 November 1998. His question was something along these lines: "Given the figures published by the Australian Institute of Hospital Welfare, which show there are 10 per cent fewer nursing staff in the ACT than the national average and the retention rate has dropped by 20 per cent from 1993 to 1997, what measures has the Minister taken to improve the retention rates of nurses to ensure quality of service to people of the ACT? Why is the Minister so blinkered to the disincentive created by mismanagement of the hospital by previous governments?". In that case, of course, he was talking about his own mismanagement.

The answer is as follows: The figures published by the Australian Institute of Hospital Welfare show that there are 10 per cent fewer nursing staff in the ACT than the national average and that the retention rate has dropped by 20 per cent from 1993 to 97. It is appropriate, Mr Berry, to look just a little beyond those figures to understand them.

With regard, first of all, to the 10 per cent fewer nurses, the figures used by the institute are based on the number of staff registered with the ACT Nurses Registration Board. They do not indicate the number of nurses working. A similar situation exists in all States in Australia. For example, in New South Wales nurses are asked to complete a questionnaire at the time of registration. It is not compulsory and so again it is impossible to determine accurately the number of nurses who are actually in the work force. A couple of years ago a similar questionnaire was circulated by the ACT Nurses Registration Board but there was no compulsion to provide information.

It is in New Zealand that it is compulsory to complete a questionnaire at the time of re-registration. Consequently, that country can determine the number of nurses registered and working, and registered but not working; those working in the particular specialty areas; and the number with particular qualifications, et cetera. Of course, that is what we should do for this Territory.

Concerning the stated drop in nursing enrolments between 1993 and 1997, approximately 700 nurses who were not in the nursing work force did not renew their registration when the registration annual dues were increased in 1996. This was expected. The nurses who were actually working renewed their registration.

With regard to the retention of nurses, the Canberra Hospital has an annual turnover rate of nurses of approximately 13 per cent, Mr Berry, and this compares to the Sydney metropolitan teaching hospitals which have an annual turnover rate of approximately 18 to 20 per cent. I know you will be very pleased, Mr Berry, with that figure. The reasons are to do with the measures taken by the Canberra Hospital during the past 18 months to recruit and retain nursing staff.

These include $250,000 to advertise and recruit appropriately qualified staff and experienced mental health nurses; the creation of three clinical development nurse positions specifically to assist new graduate nurses in their new role; establishing a preceptorship program to assist new employees; in partnership with the Canberra University, establishing two postgraduate nursing programs, critical care and midwifery,

and with Charles Sturt University, mental health; completing arrangements with the Canberra University to commence three additional postgraduate diploma courses for nursing in neonatal intensive care, paediatric and child health and cancer nursing; agreeing to continue to have TCH nurse educators conduct the major portion of each of these university courses, a cost that would otherwise have been incurred by the postgraduate students. University fees were therefore reduced by some $5,000 per course. They also established an introduction to critical care program for critical care staff or those who wish to work in that area, and continued generous Studybank support for tertiary studies.

In reference to the conditions under which nurses work, it is worth noting that all nurses who go to TCH from another State - - -

MR SPEAKER: Mr Minister, is this an answer to a question or a ministerial statement?

MR MOORE: I am just finishing. I have two more lines, Mr Speaker. These are specific and direct answers to the question. All nurses who go to TCH from another State are amazed at the general conditions of service, the facility itself and the overall condition it is in, the quantity and quality of the equipment, the staff to patient ratio and the clinical support. Indeed, I have heard that myself from a number of nurses, Mr Speaker.

PERSONAL EXPLANATIONS

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

MR SPEAKER: Well, it is standing order 46 actually.

MR QUINLAN: Thank you for your indulgence and assistance, Mr Speaker. During one of the Chief Minister's diatribes that masquerade as an answer to a question without notice, she said, "Mr Quinlan said the Auditor-General's report was a contrivance".

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

MR QUINLAN: That is misrepresenting what I said. I had - - -

MR SPEAKER: Order! We will get through this a lot faster if we stop mucking around.

Mr Corbell: Yes, Gary. Sit down.

Mr Humphries: I am entitled to take a point of order, Mr Corbell. I am sorry if it offends you that I do. Mr Speaker, it is traditional, if one wishes to seek the benefit of standing order 46, that one explains one's action without attacking or vilifying other members. Mr Quinlan did not conform with that convention.

MR SPEAKER: I uphold that point. The preamble was an attack; that is true. Please just explain, Mr Quinlan.

MR QUINLAN: Thank you, Mr Speaker. The Chief Minister said, "Mr Quinlan said the report was a contrivance". Yesterday, in the course of the debate, I said, in some manner or form, that the Chief Minister's timing of the tabling of that report, her capacity to read from typed notes of that report, was a contrivance. I was, in fact, referring to the Chief Minister when I used the term "contrivance".

MR SPEAKER: Thank you, Mr Quinlan.

MR STANHOPE (Leader of the Opposition): Mr Speaker, I rise to speak on the same issue in relation to the extraordinary and very precious attack by the Chief Minister on - - -

MR SPEAKER: No, I am sorry; once again you are erring. Just a moment. I quote:

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

MR STANHOPE: Thank you, Mr Speaker. The suggestions that I had in some way engaged in an attack on the Auditor-General are simply unsubstantiated. I wrote to the Auditor-General. I raised a number of issues with the Auditor-General and I asked the Auditor-General for a meeting. Mr Parkinson and I spoke about the matter today. We had a very pleasant exchange of pleasantries. We have arranged to meet next week. We will discuss the issues I raised, all very serious issues, and it staggers me that the Government is not interested in these issues of substance. It is not a bit interested.

Mr Humphries: Did you apologise to him?

Ms Carnell: Did you apologise?

MR STANHOPE: I have nothing to apologise about, unlike the Chief Minister in relation to her absolutely appalling attack and the continuing appalling attacks on the Australia Institute, the authors of that report, and each of the referees. It was an absolutely disgraceful and cowardly attack by the Chief Minister on those most eminent academics.

MR SPEAKER: Sit down. You have made your personal explanation.

CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE
Report on Implementation of an Independent Council on Competition Policy - Government Response

MS CARNELL (Chief Minister and Treasurer) (3.44): Mr Speaker, you might inform the house later who decides when Auditor-General's reports are tabled.

MR SPEAKER: I shall have the pleasure of doing it myself.

MS CARNELL: I thought you might. Mr Speaker, for the information of members, I present the Government's response to the Standing Committee for the Chief Minister's Portfolio Report No. 1 entitled "An Independent Council on Competition Policy", which was presented to the Assembly on 29 October 1998. I move:

> That the Assembly takes note of the paper.

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

Leave granted.

Statement incorporated at Appendix 4.

Question resolved in the affirmative.

CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 12 of 1997 - Government Response

MS CARNELL (Chief Minister and Treasurer) (3.46): Mr Speaker, for the information of members, I present the Government's response to Public Accounts Committee Report No. 9 of the Standing Committee for the Chief Minister's Portfolio, entitled "Review of Auditor-General's Report No. 12 of 1997 - Financial Audits With Years Ending to 30 June 1997", which was presented to the Assembly on 24 September 1998. I move:

> That the Assembly takes note of the paper.

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

Leave granted.

Statement incorporated at Appendix 5.

Question resolved in the affirmative.

A.C.T. GOVERNMENT DELEGATION TO JAPAN AND CHINA
Official Report

MS CARNELL (Chief Minister and Treasurer) (3.46): Mr Speaker, for the information of members, I present the official report for the ACT Government Delegation to Japan and China in October and November 1998. I move:

That the Assembly takes note of the paper.

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

Leave granted.

Statement incorporated at Appendix 6.

Question resolved in the affirmative.

PAPER

MS CARNELL (Chief Minister and Treasurer): Mr Speaker, for the information of members, I present the explanatory memorandum for the Duties Bill 1998 which was introduced to the Assembly this morning.

AUTHORITY TO BROADCAST PROCEEDINGS
Paper

MR SPEAKER: I present, for the information of members, pursuant to subsection 8(4) of the Legislative Assembly (Broadcasting of Proceedings) Act 1997, an authorisation to broadcast given to a number of television and radio networks in relation to the following proceedings of the Assembly for today, Thursday, 10 December 1998: Presentation of Drugs of Dependence (Amendment) Bill (No. 2) 1998, the debate on the motion relating to the scientific trial of a safe injecting place, and the adjournment debate.

AUDITOR-GENERAL'S REPORTS - NOS 9, 10 AND 11 OF 1998

MR SPEAKER: I present, for the information of members, the following Auditor-General's reports: No. 9 of 1998 - "Financial Audits With Years Ending to 30 June 1998"; No. 10 of 1998 - "Management of School Repairs and Maintenance"; and No. 11 of 1998 - "Overtime Payment To A Former Legislative Assembly Member's Staffer".

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

> That the Assembly authorises the publication of the Auditor-General's Reports Nos 9, 10 and 11 of 1998.

Question resolved in the affirmative.

LEASES (COMMERCIAL AND RETAIL) LEGISLATION - EXPOSURE DRAFT
Papers

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (3.49): For the information of members, I present an exposure draft of the Leases (Commercial and Retail) legislation, together with an explanatory memorandum. I move:

> That the Assembly takes note of the papers.

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

Leave granted.

Speech incorporated at Appendix 7.

Question resolved in the affirmative.

REPORT OF THE REVIEW OF GOVERNANCE - SELECT COMMITTEE
Reference - Review of the Electoral Act 1992 - The 1998 ACT Legislative Assembly Election
Paper

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (3.49): Mr Speaker, for the information of members, I present the report on the operation of the Electoral Act 1992 in regard to the 1998 ACT Legislative Assembly election. I move, pursuant to standing order 214:

> That the Review be referred to the Select Committee on the Report of the Review of Governance for inquiry and report as part of the Select Committee's inquiry.

I will speak briefly to that motion, Mr Speaker. Members will recall that it was one of the recommendations of the report on the 1995 ACT Assembly election that there be a Standing Committee on Electoral Matters set up in the Legislative Assembly. From memory, the Assembly at the time generally adopted that recommendation.

However, members will be aware that a number of issues relating to the structure of government and also to the conduct of elections and the operation of the electoral system are presently before the review of governance inquiry by the select committee. Mr Speaker, it would seem to me to be appropriate that, since there is no standing committee at this point in time but since issues to do with the operation of the Territory's Electoral Act and the conduct of elections are before that select committee, the matter of the 1998 Assembly election report by the Electoral Commission be referred to that select committee.

Question resolved in the affirmative.

PAPERS

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): For the information of members, I present subordinate legislation, pursuant to section 6 of the Subordinate Laws Act 1989, in accordance with the schedule of gazettal notices. I also present, pursuant to standing order 83A, an out-of-order petition lodged by Ms Carnell from 212 citizens concerning the relocation of the Ainslie After School Care Centre.

The schedule read as follows:

Births, Deaths and Marriages Registration Act - Births, Deaths and Marriages Registration Regulations - Subordinate Law No. 36 of 1998 (S211, dated 9 December 1998).

Bookmakers Act - Determinations of -

Rules for sports betting - No. 254 of 1998 (S207, dated 27 November 1998).

Sports betting licence fee - No. 255 of 1998 (S207, dated 27 November 1998).

Liquor Act - Liquor Regulations (Amendment) - Subordinate Law No. 37 of 1998 (S211, dated 9 December 1998).

Financial Institutions Duty (Amendment) Act 1998 - Notice of commencement (1 December 1998) of remaining provisions (S207, dated 27 November 1998).

Podiatrists Act - Determination of fees - No. 256 of 1998 (No. 48, dated 2 December 1998).

Surveyors Act - Instrument of appointment of members to the Surveyors Board - No. 250 of 1998 (No. 48, dated 2 December 1998).

LEAVE OF ABSENCE TO MEMBERS

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

> That leave of absence from 11 December 1998 to 1 February 1999 inclusive be given to all Members.

HEALTH AND COMMUNITY CARE SERVICES - STRATEGIC PLAN - PROGRESS REPORT
Ministerial Statement

MR MOORE (Minister for Health and Community Care): I ask for leave of the Assembly to present a ministerial statement on the Strategic Plan for Health and Community Care Services.

Leave granted.

MR MOORE: I seek leave to have the statement incorporated in *Hansard*.

Leave granted.

Statement incorporated at Appendix 8.

URBAN SERVICES - STANDING COMMITTEE
Implementation of Variation No. 64 to the Territory Plan - Statement by Chair

MR HIRD: Pursuant to standing order 246A, I wish to inform the Assembly that this morning, 10 December 1998, the Standing Committee on Urban Services resolved that the following statement be made to the Assembly in relation to the committee's monitoring of the implementation of variation No. 64 to the Territory Plan.

Mr Speaker, I make this statement on behalf of the Standing Committee on Urban Services. It is the second statement by the committee in relation to monitoring the way that the Government implements variation No. 64 to the Territory Plan. Our first statement was made on 27 August this year. It did three things. First, it told this parliament that the members of the Urban Services Committee were concerned about the process being used to bring forward proposals to redevelop two local shopping centres in accordance with variation No. 64. These two shopping centres are Latham and Aranda, but, of course, in the future, it could be any of our local shopping centres throughout Canberra. For example, the committee understands that Farrer shopping centre might be the subject of a redevelopment proposal very soon.

Second, it gave some background to variation No. 64. This is the variation which was passed by the Assembly last year and which extends the range of uses permitted in local shopping centres so as to make them more viable. These uses, in some circumstances, can include residential. The Government has developed guidelines in relation to assessing the viability of local centres. These require a developer to consult the local community before he or she lodges a formal redevelopment proposal. In the case of Latham and Aranda, this process gave rise to a great deal of confusion and uncertainty. Third, our statement advised the parliament that the Urban Services Committee had resolved to monitor the way that the variation was implemented.

The statement I make today, Mr Speaker, updates these developments. The committee held a very useful public hearing on 13 November this year. On that day both government officials and members of the public addressed the committee. I would like to thank the Minister for Urban Services for his agreement to make officials available.

The government officials told the committee that no formal redevelopment application for Latham and Aranda is before PALM. However, PALM has received records from the consultants acting for the lessees of the shopping centres and these reports deal with the consultation process. PALM is analysing these reports and it is also meeting with the lessees, the consultants and the architect of the proposed redevelopment. Finally, PALM has prepared a local centres redevelopment consultation kit for use in future local centre redevelopment proposals. The Minister subsequently made a full copy of the consultation kit available to members of the committee. He also asked for the committee's advice about the adequacy of the kit.

Members of the public told the committee at the public hearing that they were concerned about the guidelines used to assess the viability of local centres, that they were concerned about the consultation process, and that they had not previously seen the local centres redevelopment consultation kit. As members would expect, my committee promptly asked officials to make the kit available to the public.

We now have received formal advice from one community group, the Latham Residents Association, about how the consultation kit might be improved. Our quick reading of this advice leads us to think that the suggestions made by the Latham Residents Association deserve careful attention by the Government. We therefore decided, at our meeting today, to refer them to the Government for its attention over the forthcoming Christmas quiet time. The committee looks forward to receiving the Government's response.

We also would like this response to address another important issue raised by the Latham Residents Association, namely, whether the consultation kit fully conforms to the Government's consultation protocol. It is the view of the Latham association that the consultation kit does not conform to the protocol. The committee would be seriously concerned if this was the case. I have written to the Minister for Urban Services to advise him of this matter.

Mr Speaker, before I close, there are three additional points the committee wishes to make. First, if there is any intention by officers to conduct a consultation process for the redevelopment of a shopping centre, such as that at Latham, over the Christmas break, please do not. We all are aware that many people are away at this time, so it is customary to defer the consultation process until late January or early February.

Second, the committee advises members that it intends to deliver an interim report on the implementation of variation No. 64 early next year. This report will cover matters of detail that cannot be addressed in this statement, such as the accuracy of existing guidelines used to assess the viability of local shopping centres, and the effect of building codes on the design and density of redeveloped buildings in local shopping centres. It is likely that the committee will request further advice from the Minister for Urban Services on these matters, and we trust that the Minister will continue to make officers available to brief us at the appropriate time.

In light of this resolve, it is appropriate for me to use this occasion to formally advise the Assembly that the committee has adopted a new inquiry with the following terms of reference: To inquire into and report on the implementation of variation No. 64 to the Territory Plan, taking particular note of the experience with redevelopment proposals for Latham and Aranda shopping centres; and any other related matter. Finally, Mr Speaker, the committee gives notice that it is interested in finding out whether PALM is in a position to develop broad conceptual designs for individual shopping centres that might guide the redevelopment of those shopping centres.

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Scrutiny Report No. 14 of 1998 and Statement

MR OSBORNE: I present Scrutiny Report No. 14 of 1998 of the Standing Committee on Justice and Community Safety, performing the duties of a scrutiny of Bills and subordinate legislation committee, and I ask for leave to make a brief statement on the report.

Leave granted.

MR OSBORNE: Scrutiny Report No. 14 of 1998 contains the committee's comments on three Bills, and I commend the report to the Assembly.

IMMUNISATION OF CHILDREN - SUBMISSIONS TO ASSEMBLY COMMITTEE

MS TUCKER: I seek leave to move a motion relating to the submissions the Standing Committee on Legal Affairs of the Third Assembly received on the immunisation of children.

Leave granted.

MS TUCKER: I move:

That this Assembly:

(1) noting:

(a) that the Standing Committee on Legal Affairs of the Third Assembly did not authorise the publication of the submissions it received relating to its inquiry into the immunisation of children and did not report to the Assembly on that inquiry; and

(b) that these submissions represent a valuable resource and an expression of the community's views on the issue for Members of the Assembly;

(2) authorises the Clerk to make the unpublished submissions and associated records received by the Standing Committee on Legal Affairs of the Third Assembly on its inquiry into the immunisation of children available to the Standing Committee on Health and Community Care to examine and for that Committee to authorise the publication of those documents the Committee considers appropriate under the standing orders.

A lot of work was put into these submissions by members of the community and there is an ongoing interest in the subject. I have been lobbied on it. I was very disappointed that the Standing Committee on Legal Affairs did not complete an inquiry or publish these submissions. As a mark of respect to those members of the community who are passionate and care or who have information on these matters, we should at least publish the submissions and allow further discussion based on that evidence and allow for members of the Assembly to become involved as well.

MR WOOD (4.02): Mr Speaker, I support the motion as a one-time member of the Standing Committee on Legal Affairs. That committee did not get around to doing a report on the immunisation of children, but I am certainly aware that a great deal of information came in, of which I saw some. People in the community had an expectation that their views would be heard. We are not reporting on what they have done, but by passing this motion we would at least say to those people that we will take note of what they have said; that we will listen to what they have said. It is not likely now that we will take it any further. I am not expecting that to happen, but as people made the effort to put in submissions it is certainly the Assembly's responsibility to see that those submissions are available to us, as of course they are, and more widely if others wish to see them.

MR OSBORNE (4.03): Mr Speaker, I was chair of the Standing Committee on Legal Affairs. As Mr Wood said, we did not finish the inquiry because it was quite a complex issue. I do not know why we need to go down the path of authorising publication of submissions that were made to the Legal Affairs Committee for an inquiry that did not reach fruition. If Ms Tucker wants to reopen the inquiry and to have the submissions resubmitted, I think that would probably be more sensible than going down this path. She has indicated that she has been lobbied by the people who made the submissions. From memory, only a couple of submissions came in.

Ms Tucker: I think there were 28.

MR OSBORNE: I cannot recall the exact number. Some submissions disturbed me, I have to admit, given that the vast majority of the community, the medical profession and certainly politicians around the country agree that immunisation is a very good thing. I felt that some submissions made to our committee could confuse some people. Without a proper inquiry being conducted into some of the allegations made in some of the submissions, I have a problem in supporting this motion. One of the risks that I took in calling for the inquiry was that some people would come out of the woodwork and put fear into the minds of parents who were to immunise their children. Governments across the country are actively trying to encourage parents to immunise. We have worse immunisation rates than some Third World countries.

I would be more than happy to have some sort of inquiry and to have another look at immunisation. I would be happy to talk to the members of my committee about looking at it somewhere down the track. I do not think this motion is the correct way to do it. Given some of the things contained in the submissions, I think they should be scrutinised by a committee before we - - -

Ms Tucker: That is what the motion does. I am sending the submissions to the Standing Committee on Health and Community Care to authorise their publication.

MR OSBORNE: Ms Tucker is all for sending it to the Health Committee. If that committee wants to conduct an inquiry into immunisation, then I would be happy to support that, but I do not think it is a sensible thing to be authorising publication of submissions when only select people jump on the bandwagon and confuse people.

Ms Tucker: The Assembly's censor.

MR OSBORNE: I am just expressing my point. Health Ministers across the country are trying to encourage families to immunise. My fear is that the small element out there that disagree with immunisation will jump on the bandwagon. I will be voting against this motion.

MR MOORE (Minister for Health and Community Care) (4.07): Mr Speaker, I would like to make a couple of comments on this motion. Mr Humphries will then seek to adjourn the debate so that we can ensure that we have a sensible debate on this issue. The most frustrating thing is that this motion has just been dropped on my table.

I have not seen it before. That, coming from Ms Tucker, is quite extraordinary. Ms Tucker is always saying that we do not consult with her; that we do not talk about things. I knew absolutely nothing about this motion, and I am vitally interested in immunisation and have been for some time.

Mr Osborne made some interesting points. I heard Ms Tucker interject, "The censor". I have been involved in censorship, too, as chair of the Select Committee on HIV, Illegal Drugs and Prostitution. Perhaps Mr Wood will remember that a number of sex workers approached that committee and said they were prepared to make a submission but they did not want it published, and we refused to publish a number of the submissions to that committee.

I think there are some interesting ideas and it is appropriate for us to have a discussion and see whether we ought to have an inquiry on immunisation. But this motion has come at us out of the blue without any consultation on what the Standing Committee on Health and Community Care is interested in, whether it wants to do a further inquiry into immunisation or whether such an inquiry would be useful in enhancing immunisation around the country. I agree with Ms Tucker that we ought not to suppress information on some child who has suffered badly through immunisation. However, I do not see the need for a rush to release these papers. Let us have a proper discussion. Let Mr Humphries adjourn the debate and by the next meeting of the Assembly we will have had a sensible time to think about it.

MR STANHOPE (Leader of the Opposition) (4.09): I am truly stunned that the Assembly would consider not releasing to the public submissions made by the public to a committee inquiry that did not continue. It is amazingly ironic to me, Mr Osborne, having regard to the work that I know you are doing in relation to the redrafting of the Freedom of Information Act, that you would be involved in restricting access by the public to information.

This is not a particularly dramatic motion. It authorises the Clerk to make the unpublished submissions to the former Standing Committee on Legal Affairs available for another committee so that that committee might, in accordance with the standing orders, release those submissions that it believes appropriate to release. We are doing all the things that one would expect to be done in relation to submissions so that those that might be offensive or in relation to which there are otherwise good reasons for not releasing them are not released. It is absolutely staggering that members of the Assembly should consider this sort of censorship of submissions made publicly to a committee. I cannot conceive of a single reasonable argument for restricting access to submissions made to a committee some time ago.

Mr Moore said that we need time and that we should not rush into this. These submissions have been around for ages. It is an absolute nonsense that we should actively consider censoring submissions made to committees. It is just staggering that members could contemplate not releasing this sort of information to the people of the ACT. The Minister for Health is opposing the release and dissemination of the information in relation to the immunisation of children. The Minister for Health for the ACT does not want public submissions on immunisation to be made available to the people of the ACT so that they might better engage - - -

Mr Moore: I raise a point of order, Mr Speaker. I have clearly been misrepresented. At no stage did I say that I did not want these submissions published. What I said was that it is very interesting - - -

Mr Berry: Mr Speaker, he is debating the issue.

MR SPEAKER: No, he is not debating the issue. He is giving a personal explanation under standing order 47.

Mr Moore: I am saying what I did not say and what I did say.

Mr Berry: I raise a point of order, Mr Speaker. The appropriate time for that course to be taken is at the conclusion of the debate.

MR SPEAKER: Then he can say it under standing order 47, can he not, on a point of order?

MS TUCKER: I seek leave to speak again before the debate is adjourned.

Leave granted.

MS TUCKER: I think I need to clarify a couple of things that have been misrepresented. I am very sorry if I should have given members more notice. I am prepared to accept an adjournment. I did not think it would be controversial to move a motion referring to submissions which were left in limbo because for some reason - I do not know what it was - a committee of inquiry was set up in this place and nothing happened. I think that is a scandal, to start with. I was not going to get into this matter in depth, but I will because of what has happened here.

People in the community asked to make submissions on the very interesting, controversial issue of immunisation of children. We just heard the chair of the former Select Committee on Legal Affairs say that he would not like the submissions to be published because they might confuse the community. Some of the submissions will challenge whether or not immunisation is a good thing. Mr Osborne's stand is intellectual suppression that I have never seen in this place before. It is an absolute scandal.

I am seeking to refer these submissions to a committee of this Assembly so that it can look at them and see which of them are okay to be authorised for publication. Where else could I send such submissions? I am not saying that we should publish them ad hoc. I am saying that we should send them to a committee of this Assembly to authorise their publication. It does not mean that we have to have another inquiry. I would be happy if the Health Committee were interested in the subject and prepared to take it on. They might see it through and do the work the past committee did not do, for whatever reason. All this motion is about is acknowledging the work of the community, who put a lot of trouble into writing submissions to a committee of this place and who were treated with absolute disrespect because nothing happened to their submissions.

MR BERRY (4.15): I do not know what the paranoia about this motion is. Just sit down and read the motion. All it does, for heaven's sake, is call for the transfer of documents to the Health Committee so that that committee can make a decision about whether they are released in accordance with standing orders. It is a straightforward motion. It is not a matter of immediately agreeing to publish the documents. If Mr Osborne or anybody else in this place who has a relationship with the former Standing Committee on Legal Affairs wants to put a submission to the Health Committee that these documents should not be released, they are perfectly entitled to do so.

Even if the Health Committee decides to release material containing arguments against immunisation, most of us have heard those arguments before anyway and have dismissed them. We know that there are always risks with immunisation. We weigh them up in our minds and say, "That is a risk we are taking". Why not just support the motion? It is quite straightforward. There is no need to be paranoid about it. The documents are not going to be released to the public as a result of this motion. Another decision would have to be made by the committee before that could happen.

Mr Moore: The chair says he has a different view. I just want to hear his view. We have not had a chance to hear his view. That is why we want to adjourn the debate.

MR BERRY: And the chair of the committee to which they would be referred - - -

Mr Moore: No, the chair who knows about it.

MR BERRY: Mr Wood would be the chair of the committee to which they would be referred, and he was on the committee whence they came. I just think this is silly paranoia.

MR OSBORNE: I seek leave to speak again, Mr Speaker.

Leave granted.

MR OSBORNE: Mr Speaker - - -

Mr Kaine: It had better be good, Paul.

MR OSBORNE: It will be good. Typical of the Greens, they want to put out the smallest amount of information that has no balance. My concern, Mr Speaker, is that when most issues come up the first people you hear from are those who have a problem. Certainly, submissions like that came in to the Standing Committee on Legal Affairs. We need to put these submissions in context with the overwhelming evidence against what they were saying before we put them in the marketplace. I have no problem with the information getting out at some stage down the track. We have a very low immunisation rate in the country. We have a low rate here in the ACT. All I am saying is that if the Assembly releases some sort of information there needs to be some information on the other side to balance it.

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

MILK AUTHORITY (AMENDMENT) BILL (NO. 2) 1998

Debate resumed from 8 December 1998, on motion by **Mr Smyth**:

That this Bill be agreed to in principle.

MR HARGREAVES (4.18): Mr Speaker, I rise to indicate to the Assembly that the Opposition, predictably, will be opposing the Bill. This process has been going on for quite some time and it has a history of being rushed through and a history of stumbling along the way. We have seen demonstrations outside this Assembly. We have had people make representation to us and we have seen articles in the newspaper. All of them are bagging the process. Essentially, the process that the Government has undertaken in this particular Bill is very seriously flawed.

If we are talking about major structural change to what we are doing, it is imperative that the people of our community and particularly those affected, the milk vendors themselves - in fact, all of those people who make a living out of the industry - be taken with the Government when it changes their lives so fundamentally. This Government has clearly failed in that regard, if the plethora of information that has come to me is any indication and if the amount of television and newspaper critique is any indication.

Essentially, what the Labor Party is about is protecting as many jobs as we possibly can in the process of change from the current system into the deregulated and competition-infected new regime. It has been of concern to us for many years that the big number of people who will suffer include the vendors' runners, the young people who depend upon the system for a job; the vendors themselves (there is no guarantee under this legislation that the vendors' jobs and their businesses will be protected); and the distributors. There is nothing in this legislation which prevents distributors from going out of business. This Bill does not protect anything.

A positive part of the Bill which, quite frankly, we do not have a problem with is the extension of the sunset provision to protect us against the actions of the ACCC under the Trade Practices Act. We do not find that part of the Bill unacceptable. However, the rest of the Bill is such that we do not believe that we can support the Bill in its current form. Our preference would have been two Bills, one extending the provision we can support and the other with the changes in it, which we could have debated. The extension of the sunset provision would have been very speedily dealt with. However, the Government has chosen to lump it all together and now must suffer its fate because of that.

Even though this has been a fairly protracted exercise, we still think that the Government is rushing through this Bill. First we had the Sheen report, which was criticised severely and scathingly by the Competition Policy Forum. I do not know of any area of the industry which has agreed with the conclusions of that review. The Opposition, a number of other people and I have called for it to be scrapped and for us to start again, largely because the report has not been accepted by the industry. We do not cast any aspersions on the officers who prepared the report. They did their best. I suspect,

however, that they were given the answers and told to go away and work the questions out. We believe that that review was ill informed and fails to address the industry in its entirety. It also puts fright into many people in the industry. We accept that by rejecting this Bill we are not going to be helping much in the way of settling people down. However, we believe that there are opportunities the Government could grasp to do that. Canberrans voted with their feet last year in support of Canberra Milk. This was a very violent reaction and it should be an indication to the Government that they should listen to the community. The community is saying, "The milk industry ain't broke, so don't fix it".

I cannot come to grips with the type of agenda that the Government may have. I do not understand why they need to do this. It totally escapes me. When we look into it a little bit further, we do not see any indication of what the Government's plans are for milk vendors in the way of guarantees that may enable them to trade themselves out of the current situation and into the new one. We do not see what plans the Government has for the distributors. Distributors' livelihood is linked very seriously to the existence of Capitol Chilled Foods, and there is not any guarantee that Capitol Chilled Foods, even if they get the Canberra Milk brand, will be able to continue ad infinitum, because they need a certain amount of market share to be viable. If their market share drops below a certain figure, we do not believe there is a guarantee that Capitol Chilled Foods will stay in the Canberra market. Their processing and distribution business may move out of town. We just do not know. There is nothing in this legislation which addresses my disquiet about that.

The whole thing is a real shemozzle. We know that deregulation of the milk market interstate has brought price rises. There is absolutely no benefit to ACT consumers. Had the public benefit test been conducted and the conclusions published, a lot of our concerns may very well have been addressed. But that has not happened. The Labor Party do not think that the big heavy hand of the ACCC has much relevance. There is, if you like, the escape clause of the public benefit test, but that test has not been conducted. If it had been, things may have been a bit different.

I am concerned that the jobs of 600 to 700 runners are at risk. The milk vendors are frightened. They want some sort of a surety about their business. They do not want a surety that they are all going to get it in the neck. The 600 or 700 kids who are runners are part of a culture. They can be in Year 11 or Year 12 and have a part-time job as a runner. We want to make sure that this opportunity for kids to graduate into the work force using this as work experience continues.

I have a lot of sympathy for milk vendors. We would like to see the Government consider a scheme to allow vendors to restructure their marketplace. The scheme operating in Queensland is a model I think we could well choose to take up. This model requires vendors to contribute to a fund set up for the purpose, and it requires a small levy on the price of a litre of milk, not unlike the petrol levy in New South Wales of three by three. This scheme would allow the zones for existing vendors to cease at a given time and for people to be bought out if they want to exit the market. The zones would be redefined and tendered for again. Of course, compensation would be involved. It would come out of the fund.

There would be no cost to the taxpayer in this particular scheme, as there was no cost to the taxpayer in Queensland. It merely requires the Government to underwrite the system and continue the levy system until such time as that underwriting has been paid back. If such a scheme was developed, I believe that it would take probably a year or so to get it up, probably a year or so to settle it down and all up no more than three to four years before it was all finished. I think we should be looking at such a scheme before we go through massive structural changes. If people see change coming around the corner, they will be able to see ways being provided for them to exit the industry with their dignity intact, and with a reasonable return of the goodwill they had expected from their business. This is the sort of thing that we talk about when we say, "Let us take the people with us". I am sure that they would go with it. But it is putting the cart before the horse to kill the industry off and then say, "You are on your own. See you later". Ultimately, we will all pay the price. I think that price is too high.

I believe that this Bill fulfils the Government's desire to do away with the Milk Authority, this time by administrative action. I do not see any public benefit test results being put down and I do not see the need for the big rush. The Labor Party will not be supporting the Bill.

MR SMYTH (Minister for Urban Services) (4.31), in reply: Mr Hargreaves raised several points on which he is quite wrong. He said that we can move for an exemption and not make any other changes and things will be okay. That is incorrect. The objective of the Government's Bill is to provide a permanent solution to the Trade Practices Act compliance problems that are embedded in the current Milk Authority Act. By transferring the regulatory functions for price control of home vendor licences and zones to ministerial administration, the Government deals with the TPA issues. It is the TPA issues that are of gravest concern to the vendors, because it is the TPA issues that put them at greatest risk. We provide protection to the various market participants - to Goldenholm Dairy, to the processor, to Capitol Chilled Foods, to the distributors, to home vendors and indeed to consumers - by making sure that we fix this problem. It is very simple. We have a problem with the Trade Practices Act. The Trade Practices Act can, I guess, be avoided by a section 51 exemption, but the Trade Practices Commission must approve that exemption. Unless we show that we are moving towards fixing the problem, there is the severe likelihood that they will not.

The head-in-the-sand, King Canute approach from the kings of Canuteland over there in Labor is to keep adding exemptions. But the day will come when the Trade Practices Commission does not accept that. At that point Labor, by their refusal to deal with these issues, will have put at risk those jobs that Mr Hargreaves says he seeks to protect. The Government does not want to do that. The whole point is that the world has changed. There are many factors outside the control of the ACT Government and outside the control of this Assembly that need to be addressed, and you cannot address them by putting your head in the sand.

I was quite astounded to hear Mr Hargreaves say that we should put a small levy on the price of milk. Labor's whole stand to this point has been to say, "We do not want the price of milk to go up". But Labor's answer to Trade Practices Act problems is to levy the consumers of the ACT and give them more expensive milk. How long will this

go on for? Just three or four years, according to them. They say, "Let us have dearer milk for three or four years, because we can fix things". Putting a levy on milk as Queensland has done does not address the fundamental problems of the Trade Practices Act. We are in violation of that Act in the existing Milk Authority Act. We have to address that problem, and we have to address it now. That was quite clear in the Sheen report.

I take great exception to Mr Hargreaves' comment that the answers were provided to those who did this inquiry and that they came up with the script to fit the answers. This inquiry was above board. This inquiry was well done. It came up with recommendations that give us a way forward for the milk industry in the ACT to protect the jobs that Labor claim that they are in favour of and to stabilise and keep as low as we can the price which Labor are now obviously in favour of putting up. Mr Speaker, the inconsistencies of the Opposition are quite incredible.

It is very important that this Bill go through today, for a couple of reasons. Labor stopping this Bill will not save Goldenholm Dairy. The Bill provides a framework to allow milk supply contracts with Goldenholm to be extended to 30 June 2000. If we do not put this Bill through, that will not happen.

What are the implications for the processing plant if those opposite knock this Bill off? I cannot tell you, because we have to see what happens in regard to the all-up milk industry as events unfold in the next couple of years. Not passing this Bill will put the local jobs at the processing plant at risk because there is not a clear way forward.

As for the milk distributors, there will be no more production at the local plant and, as Mr Hargreaves has already said, jobs will be lost. The method offered by Labor does not offer any certainty for those jobs; they are all at risk. Those opposite do not understand the difference between the Trade Practices Act and national competition policy.

As for the home vendors, the Government has proposed a clear way forward. We will guarantee their territories. If on about 2 January next year somebody wants to question our trade practices exemption, and this place has not been honest in its intent to show that we are reforming the industry so that we are not in contravention of the Trade Practices Act, the Trade Practices Commission would be justified in not granting the exemption. What would happen then? No-one would have certainty, no-one would have a territory and no-one would have a future. All those jobs that Labor claims they seek to protect would go down the gurgler. They would go down in the quicksand of Labor's inadequacy in addressing this issue.

We have the dilemma that for a long time the Milk Authority has been not only the regulator but also the marketer and the commercial agent for the milk industry. It is ridiculous to say that that can continue in this day and age.

This Assembly has had no trouble in supporting the role of the Independent Pricing and Regulatory Commission in reviewing monopoly prices. Yet members opposite wish to put the price of milk up by imposing a small levy to support people for four or five years while we change things over. They have their heads stuck in the sand. They are saying

that it is not right to refer the price of milk to the Independent Pricing and Regulatory Commission. We have done it for electricity, we have done it for water, we have done it for gas, we have done it for taxis and we have done it for bus fares, but we cannot do it for milk because they want to keep their heads in the sand. This is not fair.

Under Labor's regime, consumers would pay more. It is a shame that I am wrapping this debate up. I would be interested to hear how small a levy Mr Hargreaves thinks that the people of Canberra should be paying for their milk. The price of milk should rest with the Independent Pricing and Regulatory Authority. They should be determining the price. This Assembly has given them the responsibility to do that.

I am disappointed at the head-in-the-sand approach of the Labor Party. In this debate we have to understand that it is the Trade Practices Commission, not the ACCC, that grants the exemption, because it is the Trade Practices Act that we will be violating. This Assembly can grant an exemption, but the Trade Practices Commission has the right not to accept that exemption, which would expose everyone in the milk industry in the ACT not to a market that will change at the end of 12 months or 18 months, or two years or three years, but to a market that potentially can change overnight, bring down our vendors, end the jobs of runners and close the milk plant. Unless we take this seriously in this place today and make sure that we get it right and pass the Government's amendments to the Milk Authority Act, we will be doing all in the ACT a great disservice.

The Government has said that we wish to protect the vendors as best we can. We cannot protect them from external circumstances that may occur in Victoria and New South Wales if and when they deregulate their farm gate price. We have said that we would like to protect Goldenholm Dairy. We can do that by extending the framework to 30 June. This Assembly cannot control the circumstances. We have said that we would like to ensure that the processing plant continues in the ACT. Therefore, we need to ensure that we do not throw the whole market open to attack by ignoring the reality that an exemption has to be approved by the Trade Practices Commission.

Mr Speaker, the Government's path forward is clear. We offer vendors choice, and we offer them opportunity. Working with my colleague the Minister for Health, we will remove from some of the food Acts conditions that preclude vendors from extending the range of products that force them to work possibly more nights than they have to and at hours that they would rather not. We will let them have the sort of industry that they desire, but for that industry to continue we have to show that we are genuine in our endeavours to reform a government monopoly market, and we need to do that through the reforms in this Bill.

This Bill is quite simple. It slits away the Milk Authority's functions. It says that it is right for my department to administer the territories as a regulatory function. That is what governments are for. It says that it is right for the Chief Minister's Department to administer pricing. That is what the Chief Minister's Department is for. They will refer it to IPARC and IPARC can set the prices and the margins. The Bill says that we will help the vendors in whatever way we can by giving them certainty through the exemption that we would then take to the Trade Practices Commission. We will allow vendors time to look at their market and to build up their industry so that they have certainty.

Labor would deny them that and put them all at risk, because Labor cannot come up with consistent policy. They have ignored the issues and failed to grasp the reality of what goes on in this world.

It is about time we saw real leadership from the Labor Party on this issue instead of the Labor Party playing petty games. By opposing this Bill, they put at risk the future of everybody in the milk industry. To top it all off, they want to put a few cents on top of the price of milk through a levy, so that we can keep going for four or five years in blissful ignorance. The potential is that on 30 June 2000 blissful ignorance will be worth diddly, because the market will have changed irrevocably and we will not be ready for it. The Government's Bill allows a way forward. It is a sensible proposal. I believe that we should pass it to guarantee vendors certainty of their jobs and their territories. We should pass the Bill to guarantee certainty for Goldenholm Dairy. We should pass it to guarantee certainty for the processing plant. We should pass it to give a clear way forward for the Milk Authority. We should pass it for the wellbeing of all ACT consumers.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 8	*NOES, 9*
Ms Carnell	Mr Berry
Mr Cornwell	Mr Corbell
Mr Hird	Mr Hargreaves
Mr Humphries	Mr Osborne
Mr Kaine	Mr Quinlan
Mr Moore	Mr Rugendyke
Mr Smyth	Mr Stanhope
Mr Stefaniak	Ms Tucker
	Mr Wood

Question so resolved in the negative.

MENTAL HEALTH (TREATMENT AND CARE) (AMENDMENT) BILL (NO. 2) 1998

[COGNATE BILL:

CRIMES (AMENDMENT) BILL (NO. 8) 1998]

Debate resumed from 8 December 1998, on motion by **Mr Moore**:

That this Bill be agreed to in principle.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Is it the wish of the Assembly to debate this order of the day concurrently with order of the day No. 3, the Crimes (Amendment) Bill (No. 8) 1998? There being no objection, that course will be followed. I remind members that in debating order of the day No. 2 they may also address their remarks to order of the day No. 3.

MR WOOD (4.46): Mr Temporary Deputy Speaker, I can tell you and the Assembly that there will not be much debate on this Bill. The Opposition agrees with it. The debate will occur next year when the amending Bill comes to the chamber and in the period between then and now as members discuss with the community the various views on this Bill. We certainly support this extension of the sunset clause in both Bills.

MR MOORE (Minister for Health and Community Care) (4.47), in reply: I thank members for their support. Ms Tucker and others have indicated the same support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

CRIMES (AMENDMENT) BILL (NO. 8) 1998

Debate resumed from 8 December 1998, on motion by **Mr Moore**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

SUPREME COURT (AMENDMENT) BILL (NO. 3) 1998

Debate resumed from 19 November 1998, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (4.48): The Labor Party has given some very serious consideration to this Bill. We will not be supporting the Bill. It is a decision we arrived at after quite significant debate. In the end we came to the conclusion that the Bill is not an appropriate way to set a judge's terms and conditions of employment.

We believe that we should leave to the Remuneration Tribunal the question of what pay a judge of the Supreme Court receives. We have a tribunal in place and we think it most appropriate that we leave it to that tribunal to determine the most appropriate salary for a judge of the Supreme Court of the ACT. It is our view that if the Remuneration Tribunal thinks it appropriate it can set the remuneration of resident judges at the level of Federal Court judges. It is our view that that decision should be for the tribunal and not for the Assembly.

A stated intention of the Bill is to ensure that judges of the Supreme Court are engaged under the same terms and conditions as those judges of the Supreme Court that have a joint appointment to the Federal Court. I note also that without further legislation this will not necessarily be the case while ever we have a court of resident judges appointed while another judge holds a Federal Court appointment and others are not so appointed. Some will have the terms and conditions of a Federal Court judge and others will not. The anomaly will remain. Whilst ever we have judges enjoying joint appointment to the Supreme Court and the Federal Court, the need for this Assembly to be involved in setting terms and conditions otherwise than approved by the Remuneration Tribunal will continue.

It seems to us that it is not for the members of this Assembly to automatically assume that a judge appointed only as a member of the Supreme Court has the same range of responsibilities, the same role, as a judge appointed to both the Supreme Court and the Federal Court. We feel that that is a decision best left to the Remuneration Tribunal. We really cannot understand why the Assembly should take to itself the decision as to a particular judge's salary, namely, a judge appointed solely to the Supreme Court. Why should we take that particular role from the Remuneration Tribunal? It seems to the Labor Party that there is no cogent reason for the Legislative Assembly putting itself into the position of the decision-maker in relation to the terms and conditions of a judge of the ACT Supreme Court.

The second component of this Bill gives the Supreme Court power to declare a person a vexatious litigant and deny that person the right to institute or continue proceedings without leave of the Supreme Court. I might say, briefly, that I find the combination of the terms and conditions of a member of the Supreme Court and the situation of vexatious litigants being dealt with in the one Bill slightly odd.

Mr Humphries: It happens all the time, actually.

MR STANHOPE: I take the point, Attorney. It does, but I must say it struck me in relation to this Bill. I take the point you make and I accept it, but I did find it remarkable in this case. It is just a passing comment, but I take the point you make.

In relation to the provision in connection with vexatious litigants, we all understand how frustrating vexatious or frequent litigants can be. They are incredibly frustrating and very difficult to deal with. However, the Labor Party remains to be convinced that we should move down this path; that we should allow individuals within the community, or the Attorney, to make application to courts to have a person declared a vexatious litigant per se irrespective of whether or not at the time that person is necessarily engaged in a matter.

It is an extremely serious thing to keep a person out of the courts. I think it should be rare that we exclude somebody from access to the courts. Even the most intractable of litigants may have a point of substance buried in their case and we do need to be patient in dealing with them. I am mindful of an observation in regard to the difficulties of dealing with vexatious litigants made by the then Justice Kirby in the case Re Attorney-General of the Commonwealth and Another ex parte Skyring. I think this is very important in the context of the debate about vexatious litigants. Justice Kirby said:

> First it is always important for every judge to keep an open mind in case a person who has been rejected by courts in the past may have, hidden among the verbiage of his or her arguments, a point which has not been previously seen and which may have merit. Vigilance and not impatience are specially required where that person is not legally represented.
>
> Secondly, it is regarded as a serious thing in this country to keep a person out of the courts. The rule of law requires that ordinarily a person should have access to the courts in order to invoke their jurisdiction. It is a rare thing to declare a person a vexatious litigant.

I think Justice Kirby sums it up. It is a rare thing to declare a person a vexatious litigant and I do not believe that the Government has made the case for the need for this provision in the ACT. There is no real indication in the Government's case of the number of vexatious litigants or the extent of the problem of vexatious litigation in the ACT. I do not believe that the case has been made for such an important change that denies people access to the courts. The case has simply not been made and it cannot be sustained. I do not believe that any serious attempt has been made to justify this Bill.

It is also notable that yesterday the Government and the Osborne group rejected legislation designed to keep people out of gaol and to allow children access to the Community Advocate. I think it is ironic that today we are debating a further piece of legislation designed to keep people out of the courts. The Labor Party will not support this proposal until the Government makes a justifiable case for the declaration of people as vexatious litigants.

MR WOOD (4.56): Mr Temporary Deputy Speaker, quite probably the Opposition will be opposing this Bill and both of the particular measures it contains. One in particular is an absolutely outrageous proposal. First of all, let me deal with that about the salary of the most recent justice of the Supreme Court, good man that he may be. I recall that when Mr Humphries announced that appointment - you will correct me, Mr Humphries, if I am wrong - he said that he would not have a full judge's role because there was not at this stage the workload for it, and that he may also have a role in looking at, for example, the rules of the Supreme Court or some such thing.

Mr Humphries: I did not say anything of the sort, Mr Wood.

MR WOOD: You did not? All right. I withdraw what I said, Mr Humphries. I will go back into my old files and see what I can find, but I will not pursue that argument.

The outrageous proposal is that which says that we will take steps if we can to refuse applicants access to the courts if they are vexatious litigants, and will give the Attorney-General the right to make an application to the court to deny someone that process. I am not convinced by Mr Humphries' argument, which is only that the ACT and the Northern Territory are the only jurisdictions where this provision does not apply. I do not find that a convincing argument at all. He indicates that courts are slow to accede to any such applications in other jurisdictions. I would expect that they would be. If they are slow and they are cautious, why do we need these measures? I will say shortly why we need them, or why Mr Humphries thinks we need them.

It is ironic that this morning we celebrated the fiftieth anniversary of the UN Declaration of Human Rights, and this afternoon the Government is seeking to curtail the rights of people. It is seeking to reduce their rights; to take away the measure of protection that people may be afforded by the courts. I think it is a disgrace that the chief law officer, charged with protection of the law and all the rights that people have, should be bringing this in. As Mr Stanhope said, there is no justification given by the Minister for this Bill. There is no substantiation. What is the problem? Tell me what the problem is, Mr Humphries, in Canberra.

Mr Humphries: Vexatious litigants. They do occur.

MR WOOD: Well, you did not tell me that.

Mr Humphries: It is in the Bill.

Mr Kaine: Well, Mr Wood, it is not Tuesday or Wednesday.

MR WOOD: That is exactly right, Mr Kaine.

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

SUPREME COURT (AMENDMENT) BILL (NO. 3) 1998

Debate resumed.

MR WOOD: Mr Humphries, if you want to justify this Bill you come to this Assembly and you tell us all the extent of the problem. Tell us how the courts are being blocked up or being disturbed in some way or other by vexatious litigants. You might convince us. But you have not tried. You have not said to us, "This is what is happening and the courts cannot deal with it". Until you can do that we are right to oppose this Bill. It seems to me that the Minister, the Government, wants the right to veto people's approaches to the courts, and I think that is grossly improper.

In question time today Mr Humphries expressed caution about approaching courts because of the separation of powers. Quite right, Mr Humphries, but tell me how this approach this afternoon aligns with that statement. You want to give yourself the right to argue in the court - it is not automatic, I concede - to veto someone's approach. In fact, this Bill is the "Gag Len Munday Bill". That is what it is, nothing more or less than that.

Mr Berry: Does he ever win in court?

MR WOOD: Well, it is interesting. Mr Humphries and the Government may see Mr Munday as a vexatious litigant, but the courts do not see him that way. Mr Munday has taken three or four cases to the Supreme Court, for example, and in all but half of those cases he has been successful. So the courts do not see him as vexatious.

Mr Stanhope: He will be again, I think, Mr Wood.

MR WOOD: As long as the Government continues its unreasonable approach to Mr Munday, he will use the protection afforded by the courts. Is he not entitled to do that? I am aware that there is perhaps one other person in Canberra who uses the courts to great extent. I do not know the details of that. Mr Humphries, if he wants to pursue this successfully in this chamber, must give us chapter and verse about what problems, if any, are caused by so-called vexatious litigants. I make it absolutely clear that this is the problem for Mr Humphries and for the Government. They are acutely embarrassed by what has happened with Mr Munday and they have put forward this gag measure. That is what this is about and it is a disgrace that we should even be contemplating it.

I wait for the day when the Government will treat Mr Munday as the decent, ordinary citizen that he is. Mr Munday is an agitated citizen. He has every right to be agitated because of the treatment he has received and the building up of resistance. I think Mr Munday has been treated very badly, in the first instance by bureaucrats and subsequently by government. I wait for the day when this Government will sit down with Mr Munday and talk to him and work the issues through so that he can resume a normal life. Mr Munday has been kicked enough and he says, "I'm not taking it anymore",

and he has been remarkably successful. I can tell you, because I have great respect for him, that he wants a peaceful life, especially today, since he has gone to hospital for an operation on his foot, and I wish him a peaceful night. I have no confidence in Mr Humphries' assurances. Most members of this Assembly know that Mr Munday has been pursuing a case with the Government about claims that were made - - -

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

MR WOOD: I expected that you would.

Mr Humphries: Mr Speaker, I think what Mr Wood is doing is grossly improper. This Bill is not about Mr Munday. It is not intended to be about Mr Munday. He is not mentioned in the Bill. There is no intention on the part of the Government to use this Bill against Mr Munday. It is completely immaterial. Mr Wood is quite improper, to be quite frank, to be raising a particular individual's name in the context of particular legislation.

Mr Berry: Mr Speaker, one can use examples to justify one's case in any debate, and I cannot see why it would be ruled out in this place. If it were ruled that you cannot use examples which might arise from certain legislation, then there would be poor-quality debate in this case. I am sure that Mr Wood would not mention Mr Munday unless he had Mr Munday's agreement. So I do not think - - -

MR WOOD: Absolutely. Not only do I have Mr Munday's agreement, I - - -

MR SPEAKER: Order! I accept the point made by Mr Berry. However, it is one thing to mention an example. It is quite another to give a history of somebody who is not mentioned in this Bill.

MR WOOD: It is the case that Mr Munday is not mentioned in the Bill. There is no question about that. But I wait to be told that that is not what this Bill is about.

Mr Humphries: It is not.

MR WOOD: It is not?

Mr Humphries: It is not.

MR WOOD: We will wait and see, Mr Humphries. I did not hear from you, in your brief introductory speech, what this Bill is about other than vexatious litigants.

Mr Humphries: That is what it is about.

MR WOOD: For the third time in this speech, let me ask you to come up with a bit of a table and some data to back that up.

Mr Humphries: Back what up?

MR WOOD: That it is a problem, that it is a sufficient problem to override the protection that people have by the ability to go to the courts. I want you to tell me, if you can, that it is a sufficient problem to override that protection. You did not do so in your introductory speech. You will get the chance to reply in a moment and I wait to hear it. I think, given the approach the Government is taking to Mr Munday, that I am entitled to use his name and to use the title, "The gag Mr Munday Bill". There was a Bill recently about roadside signs. I did not stand up to speak on that, but I suspect there is a complexity of issues there. I suspect also that part of that was to deal with the problems created by Mr Munday.

Mr Humphries: But you voted for it.

MR WOOD: Yes, I did, because I am very much against roadside signs, and I have told Mr Munday that. It would be interesting, if the Speaker will allow me to make an aside, to work out the cost the Department of Urban Services went to to try to do something about that. It was out of all proportion to the problem. It was only Mr Munday. They did not move Jacqui Rees's signs or the Social Democrats' signs or the Liberal Party's signs. They were fairly selective in what they did. I can trace the whole history of this and speak with justification about the real measures behind this Bill. We have to oppose it.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (5.08), in reply: Mr Speaker, I do not know what Mr Wood has been doing in the last day or so or what he has been smoking, but I have to say I found his comments about relating this Bill - - -

Mr Kaine: I raise a point of order, Mr Speaker. Did I hear the Minister accuse the member of smoking something?

MR SPEAKER: No, I do not believe so. There is no point of order.

MR HUMPHRIES: Mr Speaker, I do not know what strange notion has infected Mr Wood's mind that he would establish or set up this quite bizarre conspiracy theory. I can solemnly assure Mr Wood that in the preparation of this legislation, to the best of my knowledge, Mr Munday's name has never even been mentioned, much less contemplated by the people who framed the Bill or who put it forward to the house. To be quite frank with you, Mr Speaker, I very much doubt whether Mr Munday would count as a vexatious litigant.

Mr Wood: Sorry?

MR HUMPHRIES: I very much doubt whether Mr Munday would ever count as a vexatious litigant. He does not fall within what I would see as the definition in the legislation.

Mr Wood: Give us the justification.

MR HUMPHRIES: Mr Wood, with great respect, I do. It is in the Bill. Read the Bill. I do not think Mr Wood has read this legislation.

Mr Wood: I have indeed, Mr Humphries.

MR HUMPHRIES: If he did he would not have said what he just said, which was that there is no definition about who a vexatious litigant is.

Mr Wood: No. I said you have not explained this in sufficient detail to satisfy me.

MR HUMPHRIES: Well, that may be, but I suspect that in your present frame of mind I would not be able to do so, no matter how long I spoke for or what I said. The fact of the matter is, Mr Speaker, that vexatious litigation is defined in this legislation. It is defined in proposed new section 67A. It is a definition which, if not the same as those used in other jurisdictions - in fact, every other State in Australia - mirrors very closely what happens in other places. This reflects what is in legislation in, I think, Queensland. It has been picked up from the Queensland Vexatious Litigants Act and - - -

Mr Wood: That does not convince me. I have been there. I have been to Queensland.

Mr Stanhope: They have the Nationals and One Nation up there. You would expect the people up there to be vexatious.

MR HUMPHRIES: That is a nice summary of the people of Queensland, Mr Stanhope. You cannot rely on the legislation because they all vote for One Nation. That is a fine comment to make. Mr Speaker, I will not detain the house by speaking very long on this because I think the arguments put forward by the Opposition have been so palpably stupid that they do not need much rebuttal. The case has not been made out by the Government and these provisions are rarely used. Indeed, they are rarely used, Mr Stanhope, because, fortunately, we are not often beset by vexatious litigants. But you would know, as a lawyer, that there are such things as vexatious litigants.

Mr Stanhope: There are annoying litigants.

MR HUMPHRIES: The fact remains that if there is the potential for such people to clog up the processes of the court then the court, not the Government, deserves to have the power to deal with that problem. We are lucky. We have not had a major problem with vexatious litigants in the past, but they do occur. They occur in other jurisdictions

and they probably have occurred in the past in the ACT, and they have enormous capacity to severely delay the proceedings of the court in the way in which acts are initiated and begun in the courts.

You want examples, Mr Wood. Here is an ACT example. Mr Speaker, I am aware of a case where I understand one particular party in the ACT - - -

Mr Wood: I did ask you for them, Mr Humphries. They were not there at the beginning.

MR HUMPHRIES: I am giving them to you now, Mr Wood. You will have to calm down a little bit. Have a glass of water and calm down and I will tell you about a case, quite recently, I understand, where one individual had something in excess of 20 separate applications in relation to the same matter running in the ACT court system at the one time. I cannot be certain, and I will not give you more details of the case in these circumstances because of that, but I understand that it was partly as a result of that matter that the need to deal with vexatious litigants has arisen. That is why it is in this legislation now. It does arise, like it or not.

Mr Stanhope said, "Why should the newest judge be paid at the level of the other three?". Because, Mr Speaker, his workload is as great as the other three. There is no question but that the newest judge works as hard and deserves money and conditions and entitlements at the same level as the other three judges. There is no question about that. I think it is unfortunate that those opposite would seek to separate him in any way from the other three judges.

Mr Wood made an extraordinarily inaccurate statement about some comment I am supposed to have made about how Justice Crispin would not have a full workload; that he would have less to do than the other judges and therefore we give him some other jobs to do. Nothing of that sort was said by me, Mr Speaker. I have no idea what Mr Wood was referring to. The fact remains that Justice Crispin has, as far as I am aware, an equally heavy workload as other members of the court, as well, of course, as the other obligations he shoulders, including his chairmanship of the Law Reform Commission of the ACT for which he is not paid a separate remuneration, incidentally.

Mr Wood said that it was outrageous to vet people's access to the courts. Well, the courts themselves view the capacity to vet that access on occasions as being very important, and every other court except the courts of the Territories has that capacity, as I understand it. We are simply adding it today. I reiterate my assertion to the Assembly that this is not legislation about Mr Munday. It is quite unfortunate that Mr Wood has chosen to name him in respect of these proceedings because that is simply untrue. As I say, I very much doubt that Mr Munday would fall within that category.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 9	*NOES, 6*
Ms Carnell	Mr Berry
Mr Cornwell	Mr Hargreaves
Mr Hird	Mr Quinlan
Mr Humphries	Mr Stanhope
Mr Kaine	Ms Tucker
Mr Moore	Mr Wood
Mr Osborne	
Mr Rugendyke	
Mr Stefaniak	

Question so resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ENERGY EFFICIENCY RATINGS (SALE OF PREMISES) (AMENDMENT) BILL 1998

Debate resumed from 8 December 1998, on motion by **Mr Smyth:**

That this Bill be agreed to in principle.

MR CORBELL (5.19): Mr Speaker, the Labor Party will be supporting this Bill. We are conscious, as I imagine are most members of the Assembly, that the significance of this legislation has resulted in certain concerns in the real estate industry and amongst people contemplating selling their homes. The Government has argued, and the Minister argued in his presentation speech, that they feel that there was a requirement for more time before the Bill took effect. We have reflected on that since the Minister introduced his Bill earlier this week and we are prepared to support that.

We recognise that there are considerable benefits to be gained from the introduction of this legislation. We supported the principal Act when it was first brought on by Ms Tucker in the last Assembly and we stand by that decision now. We are of the view that the introduction of an energy efficiency rating for existing homes will assist

home buyers in making the informed decision they need to make in relation to the energy efficiency of a property. It will also act as an incentive in many respects for existing home owners wherever possible to increase the energy efficiency of their property.

The Government has had 12 months to work through the implementation process for this legislation and to advise residents and people in the industry affected by the consequences of this Bill what it means and what they will need to do to abide by it. The only reason we are prepared to support the implementation date for the original legislation being set back three months is that at the moment implementation will take place over Christmas. That is a difficult time of the year, for a range of reasons. We are prepared to concede that the implementation date can sensibly be set back to the end of March.

Ms Tucker has circulated some amendments to this Bill but the Government have indicated that they are not willing to support them. I understand that Ms Tucker will now not be proposing those amendments in the debate this afternoon. I am a little disappointed with that. I think her amendments were sensible. They would have provided for a phase-in period once the legislation took effect, so that residents putting their home on the market in the month preceding implementation of the legislation would have been exempt for a period of up to six months. That is my understanding of the amendments. They seemed to me to be sensible amendments and we would have been prepared to support them.

I do not really understand why the Government is unwilling to support the amendments, but I accept that they have not had much time to consider them and would like a little more time to consider the implications. In recognition of the lack of time that the Government has had to consider the amendments, we are prepared not to press that issue. Once those amendments do come on for debate, as long as it occurs within that three-month period we will have next year if this Bill is successful, we will support them. I flag that now.

The Energy Efficiency Ratings (Sale of Premises) Act is a very important piece of legislation. It has caused some controversy in the community, but the Labor Party is of the view that once this legislation is up and running people will realise that it is not an Act which imposes an onerous constraint upon home owners in the form of charges, when you think about the other charges associated with selling a home. It will certainly have advantages for prospective home buyers and for our environment, and hopefully it will lead to an increase in the energy efficiency of existing homes.

MS TUCKER (5.24): I am supportive of this Bill but I am very concerned about that Government's poor implementation of the original legislation. The Government has had 12 months in which to implement that legislation but it was only on 10 November, just over six weeks before the due commencement date, that the Government publicly announced details of how the legislation would be applied. People in the process of selling their houses who had little knowledge of this legislation were suddenly confronted with a need to get copies of their house plans and get a rating assessment. This was not helped by difficulties experienced by people trying to get copies of their house plans from BEPCON, who seemed unprepared for the rush.

I am aware that a consultancy needed to be undertaken to look at the applicability of the existing ACTHERS to the Act, but I understand that there were some delays in getting this consultancy under way. I understand that there were also delays at the end of the consultancy, when the details of how the agreed rating process would be publicly promoted were being sorted out within Urban Services. I find it amazing that in these days of performance contracts, ownership agreements, outcomes and outputs, and performance measures Urban Services could not plan their work over the 12 months to effectively meet the clear deadline for implementation set in the legislation.

I am also concerned that, in its panic, the Government has left it to the last minute to address these implementation issues by now extending the commencement date in this very rushed Bill, which will probably provoke further anger in those people selling their houses now who have gone to the trouble of getting a rating, only to find that they do not really need one for three months. It is no wonder that the Government's incompetence has caused considerable confusion and angst within the community. This confusion has certainly not been helped by the scare campaign that has been run by the *Canberra Times*, which at last count had run three editorials and two feature articles attacking the legislation. Unfortunately, the Government's tardiness in implementing the legislation has led to criticisms of the legislation which are quite unfair.

We have had a number of calls from people who are under the impression that they had to improve the energy rating of their house before sale by installing better insulation and the like. This is certainly not the case. The legislation only requires that an energy rating statement be provided to potential purchasers. What account these purchasers take of the rating in making their decision about buying a house is their own personal judgment. Obviously, though, our intention with the legislation was that, if other factors were equal, buyers would tend to favour houses with higher ratings.

I do not expect that house buyers will suddenly ignore other factors, such as location and size of house, just because houses for sale will now have an energy rating. An energy rating will, however, expand the range of information available to house buyers to help them make the best choice of where to make their biggest investment. The cost of obtaining an energy rating is about 0.1 per cent of the total cost of a typical house. This is a small price to pay compared to the energy savings that would be achieved every year from buying an energy efficient house.

The claim has also been made that there is no need for a rating, because the energy efficiency of a house would be obvious to any potential purchaser. However, this claim ignores the fact that not many people are energy experts, that many of the features of a house which influence energy efficiency are not easily visible and that the relativities between different energy efficiency measures would be hard to assess.

Some critics have said that it should be the responsibility of the buyer to determine the quality of products being sold - the "buyer beware" line. This is true up to a point, but it is unlikely that a buyer would be able to obtain all possible information about a product to make the best choice, particularly where the only way of obtaining that information is by actually testing the product. That is why there are a whole range of labelling requirements

on products to give consumers information that they could not reasonably obtain through other means. The principal legislation applies the same principle to houses through the requirement that sellers obtain an energy rating of houses, rather than unreasonably expecting that buyers would be able to access sufficient technical information about houses on sale to make an objective and comparable assessment of their potential energy efficiency.

I accept the criticism that the rating scheme is imprecise as a measure of actual house energy consumption because the actual behaviour of future occupants is unknown. However, this does not diminish the ratings value in comparing how structural features of houses, which by their nature are much harder to change, would impact on the energy costs of heating or cooling.

It should be obvious that I remain committed to the energy rating disclosure legislation and want to make sure it works. Even though I do not like the way the Government has handled its implementation, I accept that an extension of the implementation period would be useful for the community to get more used to the legislation and also to sort out any bureaucratic hitches. I acknowledge that the legislation will cause a significant impact on the real estate market, but for the sake of the planet it is quite clear to me that the community as a whole must become more aware of the importance of energy efficiency and the link with the greenhouse effect and global warming.

To help make the transition to this new scheme easier for those people currently in the process of selling their houses, I was going to put up amendments to the Bill today, but I will not be doing that, because the Government feels that it needs a little more time to consider them. I accept that. I acknowledge Brendan Smyth's personal commitment to this legislation. I think he genuinely does have a commitment to it because of the greenhouse savings, and I commend him for that. I hope that within the next three months we will be able to work with the Government to look at the amendments I have proposed. If there are any other amendments, then we are certainly happy to look at them also.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (5.30): Mr Speaker, on behalf of Mr Smyth I will close this debate. The Government is pleased that the legislation will be passed today. Of course, it will work with parties in the Assembly over the next three months to put in place a workable regime for the legislation. I have to react a little bit to the comments of Ms Tucker in which she criticised the Government for the state of affairs which we have reached at the moment. I should remind members that the Government was not entirely comfortable with this legislation in the first place. The Government, unsuccessfully, moved amendments to this legislation and the Government opposed outright the provisions which dealt with residential tenancies. I think on each occasion the Assembly overrode the view of the Government. Having encountered those difficulties with the legislation, the Government finds it is a bit much now to hear lecturing of the Government about the fact that Ms Tucker's legislation has not worked out as she intended. It is hardly the fault of the Government if that is the case.

The problems having been identified - often problems do not emerge until quite late in the process, until it becomes clear that certain things are going to happen to make the legislation effective - obviously there is a need to fix them up. Rather than lay blame as Ms Tucker has done, I would say it is better for us to sit down and work out the problems together. It is after all her Bill, not ours.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

QUESTIONS WITHOUT NOTICE

Karralika Therapeutic Community

MR MOORE: I seek leave to give some information in response to a question that I took on notice from Mr Berry with regard to Dr Stephen Mugford.

Leave granted.

MR MOORE: I told Mr Berry I would provide some further information today. A reply was prepared for me by the department. I will read it word for word as I got it:

> Dr Stephen Mugford
>
> Dr Mugford has been engaged by the Department on a consultancy basis over a number of years.
>
> In 1993/94, Dr Mugford conducted an evaluation of the Stairways program at Karralika.
>
> In October 1997, he conducted a number of focus groups in relation to the evaluation of the ACT Drug Strategy.
>
> In March 1998, he was engaged to facilitate focus groups for the Whole of Territory Strategic Plan for Mental Health Services in the ACT.
>
> Dr Mugford's most recent work with the Department was a consultancy in relation to services purchased from the Alcohol and Drug Foundation of the ACT (ADFACT). The contract with Qualitative and Quantitative Research (Dr Mugford is the Managing Director) was for $4,700 and this was signed on 20 July 1998.

> ADFACT has also entered into a contract with Dr Mugford for $19,000. This contract provides for Dr Mugford's assistance in conducting a service review as recommended by the Community and Health Services Complaints Commissioner.

When I spoke to the officer involved I asked, "Why was it that ADFACT entered into this contract with Dr Mugford?". He replied to me that it was on the recommendation of the Department of Health and Community Care that ADFACT employ Dr Mugford as a consultant that the department provided the $19,000 to Karralika to employ Dr Mugford and that the department also looked at the contract in its draft form and approved it.

At the end of this sitting year it behoves us, particularly when a series of questions have been answered openly and fully, to think about what we are doing and how it affects people's businesses when questions are asked in this place to score political points because I happen to know, and happen to have stood for election with, two people in previous times. Everybody here has stood with other people. We know former Labor Party members of this Assembly who are in very prominent positions within the ACT. There will always be a possibility of gaining political mileage by attacking those people.

It seems to me that we ought to think very carefully about the way we deal with people. There will be times when it is necessary, but it is often possible to sort out what the problem is first. If there is still a problem of inappropriate behaviour, it can then be raised in the chamber. In this case there has been no inappropriate behaviour at all and it ought not to be implied or imputed.

MR BERRY: I seek leave to make - - -

Mr Moore: No.

MR TEMPORARY DEPUTY SPEAKER (Mr Hird): Order! If I could give you some advice, Mr Berry, you may wish to do that in the adjournment debate.

Mr Moore: You asked a question earlier. I took it on notice and I gave you an answer.

MR BERRY: You got leave to make a statement.

MR TEMPORARY DEPUTY SPEAKER: You can seek leave if you want to.

MR BERRY: I seek leave.

Leave granted.

MR BERRY: Mr Speaker, it would have helped if Mr Moore had been able to make that sort of fulsome response in the Estimates Committee process and in his subsequent response to the Estimates Committee report.

Mr Humphries: How did he know that you wanted to know?

MR BERRY: Because the Estimates Committee report mentioned certain things. But let me get to the issue.

Mr Moore: I responded fully in both places to every question I was asked. Every question I was asked in this place I have answered fully. You just did not ask.

MR SPEAKER: Order! I am not prepared to tolerate a private squabble between Mr Moore and Mr Berry in this chamber.

MR BERRY: I have leave, Mr Speaker.

MR SPEAKER: If you wish to do it, go outside. Mr Berry, you have the call.

MR BERRY: Mr Speaker, during question time I asked a question in relation to a contract which was retrospective. I think Mr Moore's reaction to it has been more than a little too much. The fact of the matter was that a retrospective contract was brought to me by somebody who had approached Mr Moore and expressed concerns about the absence of a contract for the payment of money for the performance of services and I raised questions in relation to that. Mr Moore has still not satisfactorily answered my question in relation to that matter. There was a retrospective contract. It was between two people whom I have not named. Mr Moore has.

Mr Moore: You said "my two former colleagues".

MR SPEAKER: Order! Mr Moore, I said that I would not tolerate a scrap between two people in this chamber.

MR BERRY: This is about the expenditure of public funds, and the community is entitled to know that the contract process is fair and open.

Mr Humphries: You are a grub, Mr Berry, and you know it.

MR BERRY: Retrospective contracts draw into question the process. That is why I raised the question.

Mr Corbell: I raise a point of order, Mr Speaker. Mr Humphries called Mr Berry a grub. I think that is quite unparliamentary and you should ask him to withdraw it.

Mr Humphries: It is quite called for.

MR SPEAKER: Come on, children!

ADJOURNMENT

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

That the Assembly do now adjourn.

Valedictory

MR HIRD (5.40): Mr Speaker, as this is the last sitting day of 1998, as Government Whip I would like to thank my colleagues who sit opposite me and their staff. I would like to thank the crossbenchers and their staff, and also my own colleagues for the assistance they have given me in the past 12 months. I would also like to extend that courtesy to your staff, Mr Speaker, the Clerk, the Deputy Clerk and all the secretariat staff. I wish all of them a very merry Christmas and a prosperous 1999.

Valedictory

MR BERRY (5.40): Thank you, Mr Speaker. We have to fit everybody in, have we not?

Mr Kaine: Am I invisible?

MR BERRY: Okay, age before beauty.

MR SPEAKER: Come on, gentlemen.

MR BERRY: Mr Speaker, I would like to thank all of the staff who assist us in this place, without repeating what Mr Hird has said - people from the library, people who are associated with *Hansard*, and the secretariat who have, in their usual way, been helpful at all times in providing advice at a moment's notice. I have said on occasions that they are able to deal with the impossible immediately, but miracles take just a wee bit longer, and that is always welcome. We also had sterling service from the committee secretariat staff. The committees that I have served on have resulted in an enjoyable experience for me. I would like to thank the constituents of the ACT who have supported me this year and who have supported my colleagues. I would like to thank my colleagues for their comradeship this year, and I expect that we are going to have another couple of good years.

Mr Quinlan: And their numbers.

MR BERRY: Mr Quinlan interjects, "And their numbers". They are helpful, but we need more, and we will get them. I would also like to thank the Liberal Party for making my office a happier place. It certainly has been a much happier place in the last couple of weeks as a result of the generosity of the Liberal Party and some of its people. We will never get to know the extent of that generosity, but the smile indicates something to me.

I would also like to thank my lone staff member and those who have stood in for her on occasions for their diligent attention to duty. The Labor Party staff, of course, have all performed impeccably under an unbearable workload and they are all congratulated for their attention to duty. At this time of the year it is also important to wish each other a peaceful and safe Christmas period. I extend that offer to everybody and look forward to seeing you in fine trim next year, as I promise you I will be.

Valedictory

MR KAINE (5.43): Mr Speaker, in the nearly 10 years of self-government I have not previously spoken on the adjournment before Christmas, but I thought I would create a precedent by doing so tonight. The reason why I thought that is that members will recall that there has been some debate in recent days about motor vehicles. After that debate I thought, "If everybody in this place had their druthers, what sort of motor vehicle would they have?". I gave that a bit of thought and I have come up with what I think the wish list of members of this place would be if Santa Claus - I mean the Chief Minister - were to meet everybody's expectations. I thought I should start with the Chief Minister and I concluded that, if she had her druthers, she would have a sporty little MG, perhaps British racing green.

Mr Berry: With training wheels.

MR KAINE: No, but it would have a nice big roll bar on it. Then I got to Mr Humphries. That did not present me with any difficulty at all because Mr Humphries is constantly running around putting out bushfires. Obviously a nice and shiny new fire engine with flashing lights and a siren on it would be just great. Mr Moore was a bit of a problem, but I thought of a bandwagon, or maybe a whole fleet of them, because he is getting expert at jumping on and off. For Mr Stefaniak I could not go past a Centurion tank. It is big enough for him and it suits his style. Mr Smyth gave me a bit of a problem. I finally thought of a little dinky Mini Minor, but anything at all with training wheels. Alternatively, he might like to take a back seat in Mr Stefaniak's Centurion tank and take some lessons. Mr Hird was easy - an ex-Army ambulance, preferably a Dodge, just like the one he used to drive when he was in the Army.

For the two Osbornes, I originally thought of a pair of matching Osborne paddy wagons. I thought, "Well, that is fine for Mr Rugendyke. He is familiar with that, hopefully from the outside, not from the inside; but it would not quite suit Mr Osborne. Because of Mr Osborne's rapidly expanding expectations, shall we say, a stretch limousine might be appropriate". For Ms Tucker, forget the gas-filled sedan - a coach and four white horses.

For the Labor team, with the exception of one, I thought that they would probably like any vehicle made in Australia by fully paid-up union members. There is a small proviso in that Mr Stanhope, Mr Quinlan and Mr Hargreaves should not have their P-plates on them. The member I have not referred to before in the Labor Party is Mr Berry. For him I think that a 1935 Ford sedan suitable for restoration would be just great.

For you, Mr Speaker, I thought a big black Rolls Royce with a chauffeur would be appropriate for the office that you hold. Then I thought about myself. My expectations over the next 10 years will be explained by my choice for myself, a Holden Statesman. In conclusion, Mr Speaker, all I can say is this: May Santa Claus - I mean, the Chief Minister - fill your Christmas stockings generously. May everybody have a happy Christmas.

Valedictory

MR STANHOPE (Leader of the Opposition) (5.47): I do not wish to delay the adjournment too long. I join with others in this place in wishing other members a good festive season or a merry Christmas, depending on which they prefer. I would like to repeat some of the thanks that my colleague Mr Berry expressed to those of our constituents who have supported us. To all my colleagues in the Labor Party, those members of my caucus who have worked with me this year, and all the staff in the Assembly, I wish all the best and thank them individually for their continuing help and assistance. I would also like to pay a tribute to the media who work in this place and visit the place regularly for their continuing courtesy and the work that they do as part of the political process.

I thank members of the Government for the joust and for the debate and for the fact that we are still each standing here. I think most of us are still speaking to each other. I thank my staff. All of my staff have worked extremely hard, carrying an incredibly heavy workload this year. I think they have held us in good stead. I would also like to thank my family. I have recognised this year, as a new politician, the enormous strains that this life does impose on families. I particularly thank my wife, Robyn, and my four children for their continuing support of this quite difficult role that we all play.

As well as wishing everybody here in this place and with whom we are associated a good Christmas and a good festive season, it is appropriate that we in this place reflect on the fact that there are many people in this community that I dare say will not enjoy the same sort of Christmas that each of us here will enjoy. There are significant numbers of Canberrans struggling, the sick, the elderly, the lonely, the impoverished, the disadvantaged, and as their representatives it is appropriate that we reflect on the sort of Christmas that those people will have and on the responsibility which we each enjoy to seek to improve their lives and assist them in meeting their aspirations.

Valedictory

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (5.50), in reply: Mr Speaker, since Mr Kaine has gone onto the crossbenches, we do not seem to speak on the same wavelength anymore. That was my assumption until, as I was perusing my speech about what cars I would give members of the Assembly this year, I discovered that I had been pre-empted by Mr Kaine. I realised that perhaps we do not think on such a different wavelength after all.

Mr Quinlan: Let us hear a couple and we will know.

MR HUMPHRIES: Yes. Obviously I have a comparison to make here this year. As members may now be expecting a car, I will have to go through my list. In fact, Mr Speaker, I had also given you a Rolls Royce. Funny that, is it not? There is something about that.

Ms Carnell: With two chauffeurs and flags on the front.

MR HUMPHRIES: That is right. But Mr Kaine would be very concerned about the budgetary implications of that. To offset it I have given Mr Hird a ute so we do not have to blow our budget. Mr Quinlan gets a Mazda 121 because he cannot handle any numbers bigger than that. Mr Rugendyke gets to keep his present car in order to keep the budget down, but it gets fitted with a blue light and a siren. Befitting his crusade against the evils of privatisation, Mr Corbell gets a batmobile and a cape to go with it. Mr Speaker, if Mr Osborne continues with legislation like his abortion Bill, it is really a toss-up between a used popemobile or an armoured car. I am not sure which one it would be.

Mr Corbell: They are the same thing, are they not?

MR HUMPHRIES: Just about. Mr Smyth has graduated from his billycart up to driving ACTION buses, and he will need to if his industrial record continues the way it was this year. I thought Mr Wood at this stage of life probably needs a golf cart. That would be a good thing for him to be driving at this stage. Mr Stefaniak would like a sports car, no doubt, and would probably argue for a sports car - - -

Mr Stefaniak: It would go nicely with a tank.

MR HUMPHRIES: Yes, but given that you were out to prove the existence of Santa Claus earlier this week, I think a Santa sleigh would be a nice alternative to that. Mr Speaker, I would give Mr Stanhope the stretch limousine so he could accommodate all the factions in the one car and take them all for a ride with him along the road at the same time. I thought Mr Hargreaves should have a covered wagon because he is under attack all the time. A covered wagon would be a nice good shelter for him. As far as Mr Kaine is concerned, I thought, in light of his move over to the crossbenchers, he should have a convertible.

Mr Kaine: Okay. A convertible Statesman.

MR HUMPHRIES: A convertible Statesman. Fair enough. A good compromise. It does not really matter what Mr Berry gets as long as it is a left-hand drive, and it does not matter what Mrs Carnell gets as long as someone else drives it. I have noted that Ms Tucker now has a gas-powered car. That is very good, Mr Speaker, but it still uses fossil fuels, Kerrie. Sorry, it is not good enough.

Ms Tucker: So what am I going to do? I am walking, am I?

MR HUMPHRIES: What we are going to get for you, Ms Tucker, is that car that Fred Flintstone used to drive. Just use your feet to go; no fossil fuels. You are going to be 100 per cent environmentally sensitive, no problems at all.

Finally, Mr Speaker, I have not forgotten anyone, not even Mr Moore. Mr Moore was kind enough to collaborate with me last year when I had laryngitis and deliver my speech on my behalf. I am pleased to say that he has assisted me this year, so I am in a sense delivering a speech on his behalf. I suppose last year's cooperation was an eerie portent of what was going to happen this year. Mr Speaker, I understand that Mr Moore has driven a number of Kombi vans in his life, so he will have a Kombi van this time around as well; but in light of his jump up in status in the world I think it should be a Kombi van with GT stripes, mag wheels and a Rolls Royce hood ornament.

Mr Speaker, with those Christmas presents endowed by both Mr Kaine and I, I also join in wishing members a happy and generous Christmas period, and a return to the fray next year, refreshed and relaxed.

Question resolved in the affirmative.

Assembly adjourned at 5.55 pm until Tuesday, 2 February 1999, at 10.30 am.

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ACTEW - Community Service Obligations

MR STANHOPE - Asked the Chief Minister upon notice on 17 November 1998:

Can you outline the eight Community Service Obligations identified by the ACTEW Chairman in May 1996 as noted on page 27 of the Scoping Study on ACT Electricity and Water, supplementary report on Regulatory and Policy Issues.

MS CARNELL - The answer to the Member's question is as follows:

In May 1996 the Chairman of ACTEW identified the following as ACTEW's community service obligations:

- the provision of free water to the fire brigade through hydrants;
- the cost of fluoridating the water supply (but not the cost of the fluoride);
- the provision of additional flushing units (above 2) to schools, churches, hospitals, benevolent or charitable institutions at half the regular charge;
- the provision of water to schools, churches, ecclesiastical establishments at around half the regular charge;
- the exemption of charges for water or sewer rates for land granted a lease under the (since repealed) Church Land Leases Act 1924-32 (for leases granted until 15/1/95);
- the provision of pensioner rebates for electricity;
- the provision of pensioner rebates for water and sewerage; and
- the administration of the Pensioner Rebate Scheme.

The Government does not accept that the first two are community service obligations as any supplier of water would be required to supply them. In relation to fire hydrants, these are also used as a flushing mechanism for the water reticulation network. Consequently their use serves a valuable function for ACTEW. The remaining six CSOs are fully funded through the budget.

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MINISTER FOR HEALTH AND COMMUNITY CARE

QUESTION ON NOTICE: No. 58

Elective Surgery Waiting Lists

Mr Stanhope - on 17 November 1998 asked the Minister for Health and Community Care questions in relation to data on elective surgery waiting lists:

(1) What distribution procedures are in place for distribution of the monthly waiting list data for (a) Canberra and (b) Calvary Hospital.

(2) Could you arrange for Assembly Members to receive this data at the same time as the AMA and the media receive it.

Mr Moore - The answers to Mr Stanhope's questions are as follows:

(1) For several years now, elective surgery waiting list data for both The Canberra Hospital and Calvary Public Hospital has been made available to the Legislative Assembly Members in the form of tabled monthly hospital information bulletins. These bulletins, along with activity data and clinical indicators, provide information on the number of patients waiting for elective surgery by speciality, at the end of each month.

(2) In December 1998 as an ACT first, I made available to the GP's through the ACT Division of General Practice, the November 1998 elective surgery waiting list data by specialist, for patients at The Canberra and Calvary Public Hospitals. This provided the following information to the GP's by speciality for each of the specialists:

- the number of patients added to the hospital waiting list during November;
- the number of patients admitted to hospital from the waiting list during November;

- the number of patients remaining on the hospital waiting list at the end of November; and
- Of those waiting at the end of November, the percentage of patients waiting longer than clinically desirable.

In short, information of this nature will help provide GP's with an indication of patient demand, throughput or clearance rate per month, and inappropriate waits for a particular elective surgery service offered by each specialist. I plan to provide GP's with this level of information for each month on a regular basis.

The elective surgery waiting list data has not been provided to the AMA and the media. It is my current intention to provide this data only to the GP's where it should make a real difference in achieving a better spread in patients waiting across a range of specialities. After all, it is the GP who usually makes the decision as to which specialist a particular patient should be referred to. As to the request to receive waiting list data, I am more than happy to provide the Assembly Members with this around the same time as the ACT Division of General Practice receive it.

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MINISTER FOR HEALTH AND COMMUNITY CARE

QUESTION ON NOTICE: No. 61

Accommodation Support Service

Mr Wood - on 17 November 1998 asked the Minister for Health and Community Care questions in relation to the Accommodation Support Service in the Disability Program:

(1) Who is eligible for this support.

(2) How are people assessed for eligibility.

(3) Is there a waiting list and if so, how many are on it.

(4) What is the waiting time for entry.

Mr Moore - The answers to Mr Wood's questions are as follows:

(1) Eligibility for Disability Program services is outlined in the Program's *Priority of Access and Intake Procedures* policy. This policy states that:

"The Disability Program will provide fair access to appropriate support to people with a disability who fall within the target group identified by the ACT Disability Services Act and are residents of the ACT. The provision of support will be assessed against the Disability Program's priority of access criteria and each individual's relative need for support".

The Disability Program's priority for access criteria are outlined in the same policy, which goes on to state:

" Services from Disability Program will be provided to residents of the ACT on the following basis:
Priority 1: Within available resources, each person with a developmental disability with moderate to high support needs is to be given highest priority for receiving required ongoing Disability Program service(s).
Priority 2: Each person with a developmental disability with low support needs is to be provided with access to Disability Program service(s) where capacity exists within resources to meet their needs.
Priority 3: Should resources be available following a service being offered to those persons prioritised in (1) and (2), all other people with a disability are to be considered to access to a Disability Program service, which are to be allocated according to relative need."

The *Priority of Access and Intake Procedures* policy goes on the state minimum entry criteria for the various service types offered by the Program. The criteria for the Accommodation Support Service is as follows:

"a) the consumer has expressed that they would like to reside within a Disability Program service.
b) the consumer is seeking accommodation support that is not for respite.
c) the consumer is compatible with the other consumers in the residence.
d) the consumer is a priority for residential placement. For example:
- the consumer is at risk of a more restrictive placement.
- the consumer's lifestyle and/or that of the carer are at risk."

(2) Eligibility, and priority for access, is assessed by the Disability Program Placement Committee. This committee and its operations are outlined in the Program's *Consumer Placement and Relocation in Accommodation Support Services* policy.

The assessment includes consideration of the client's needs, preferences and circumstances, and is undertaken in the context of the Individual Planning framework.

The Individual Planning process includes discussion and negotiation with clients and their families, guardians and advocates. The process also includes an exploration of any possible alternatives. Information about the results of this process, including a description of the client and the characteristics of the placement s/he seeks, is provided to the Placement Committee.

The Placement Committee uses the information when considering the most suitable applicant for a vacancy. The consideration includes balancing relative need, and the likely compatibility of clients. Further information is sought during a phased placement process to ensure the placement will be successful for the applicant and for existing clients. This process includes the clients and their families, guardians and advocates.

(3) The Disability Program does not maintain a waiting list. The Placement Committee maintains a list of people who have requested an Accommodation Support service, and uses this list to consider suitable applicants when a vacancy occurs. In November 1998, the list contained some 17 names.

(4) As there is no waiting list, it is not possible to provide 'waiting times'. However, from January 1997 to November 1998 there were 3 vacancies, each of which was filled.

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MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION NO 62

ACT Housing - Tenant Debt

Mr Wood - asked the Minister for Urban Services - In relation to the current tenant debt in ACT Housing -

(1) What was the current tenant debt as at June (a) 1996, (b) 1997 and (c) 1998

(2) In bringing about a reduction:

(a) what amount has been recovered; and

(b) how much has been written off.

Mr Smyth - the answer to the Member's questions is as follows:

(1) (a) $2,058,069, (b) $1,418,781 and (c) $1,284,067.

(2) (a) ACT Housing is unable to provide this information as it does not keep a summary record of these transactions due to the limitations of its current computer system. To obtain this information would require the devoting of considerable resources to manually investigate each account involved.

The variations of $639,288 between 1996 and 1997 and $134,714 between 1997 and 1998 are due to:

(1) reduction by amounts recovered from tenants whose current rent accounts were in arrears;

(2) reduction by transfer of rent account balances to vacated rent accounts because tenants had vacated their properties owing rent; and

(3) increase by current accounts that fell into arrears or further into arrears during the periods.

(b) Amounts are not written off from the current tenant debt.

ACT Department of Urban Services . ACT Housing
A2 Callam Offices . Easty Street . Woden ACT 2606
Locked Bag 3000 . Woden ACT 2606 . Telephone (02) 6207-5111 . Facsimile (02) 6207-1464
ACT Government Homepage: www.act.gov.au

QUESTION ON NOTICE

CHIEF MINISTER'S DEPARTMENT ANNUAL REPORT 1997-98

CONSULTANCY SERVICES

Question No. 63

Commisso and Graphic Elem Consultancies

Mr Wood asked the Chief Minister, upon notice:

(1) Who are the principals of (a) Commisso and (b) Graphic Elem.

(2) What was the nature and outcome of Commisso's consultancy in respect of:

(a) establish network between three photography and multimedia business ($5,000);

(b) establish network for ACT Region wine and food business ($25,000); and

(c) establish wine industry network ($20,000).

(3) What was the nature and outcome of the Graphic Elem. consultancy to establish a wine growers' user group ($5,000).

Ms Carnell: The answer is as follows:

(1) (a) The principal of Commisso for the consultancy to establish the network between three businesses involved in photography and multimedia as well as the consultancy to establish the Wine Industry Network is Mr Anthony Commisso, sole Director of Tony Commisso Services Pty Ltd located in Tuggeranong.

The principals of Commisso for the consultancy to establish a network for ACT Region wine and food business are Mr Dominic Commisso and Ms Janene Commisso of D A Commisso & Co Pty Ltd located in McKellar.

(b) The sole principal of Graphic Elements is Ms Tanya Buxton.

(2) (a) The consultancy to establish a network with companies involved in photography and multimedia conducted by Mr Tony Commisso was to provide facilitation of the formation of the Visual Eyes Group by way of guiding the group through all stages of start up, helping the group understand its critical issues, motivating the group and imparting information, helping the group select actions for implementation and helping set goals and aid in their achievement.

The group combined in order to develop a full service film and multimedia production facility. The combination of the various businesses and experience of the principals helped to open new territory for creative art based productions. The vision of the group is to develop a local film production industry so as to nurture local talent and take advantage of local commercial opportunities that otherwise would go to interstate businesses.

(b) The proposal was to establish a consortium of companies initially termed the ACT Region Wine and Food Supply Chain and subsequently registered as a company called Fresh Supply Solutions Pty Ltd trading as The ACT Wine Industry Network. Mr Dominic Commisso was contracted to undertake a feasibility study of the concept, conduct an economic impact study and assist with the group's establishment as a registered company. While the study was of the view that the concept had benefit, the consortium has not continued.

(c) Mr Tony Commisso was contracted to act as a facilitator for the establishment of an ACT Wine Industry User Group, to develop a brief for a Business Plan for the group to promote the ACT wine industry, to structure training seminars for the wine industry and provide marketing and promotion of the user group's activities within the Region as well as commission promotional material for the wine industry. The Business Plan is now being used to assist with the development of the ACT Wine Industry Strategy being undertaken by the Office of Business Development and Tourism.

(3) The Graphic Elements consultancy was contracted to design and print promotional material for the ACT Wine Industry Network. These brochures were used by the Network at the NT Expo in June this year.

MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 64

Development Applications - Appeals

Ms Tucker asked the Minister for Urban Services -

(l) How many appeals were lodged against development applications in the 12 months
  (a) before and
  (b) after the amendments passed in December 1996 to the appeal provisions of the Land (Planning and Environment) Act 1991 came into effect

(2) For each of these appeals could you indicate:
  (a) whether the appeal was lodged by
    (i) the proponent
    (ii) an individual or
    (iii) an organisation
  (b) if the appeal was lodged by an individual, did the individual live in the same suburb as the site of the proposed development
  (c) the outcome of the appeal

(3) In relation to applications for minor amendments to development applications under section 247 of the Land (Planning and Environment) Act:
  (a) how many applications have been made in each of the financial years
    (i) 1995-96 (ii) 1996-97 and (iii) 1997-98
  (b) how many of these applications were approved.

(4) In relation to applications for orders under section 256 of the Land (Planning and Environment) Act:
  (a) how many applications have been made in each of the financial years
    (i) 1995-96 (ii) 1996-97 and (iii) 1997-98;
  (b) how many of these applications were approved; and
  (c) how many orders were not complied with, and what action was taken by your department to ensure compliance.

Mr Smyth - the answer to the member's question is as follows:

(1) (a) 104 appeals were lodged with the former Land and Planning Appeals Board against development applications in the period 1 January 1996 to 31 December 1996.

(b) 77 appeals were lodged with the Administrative Appeals Tribunal against development applications in the period 1 January 1997 to 31 December 1997.

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(2) (a) For the period 1 January 1996 to 31 December 1996; the following appeals were lodged by:

Proponents 71
Organisations 8
Individuals 25

For the period 1 January 1997 to 31 December 1997, the following appeals were lodged by:

Proponents 48
Organisations 9
Individuals 20

(b) 21 individuals for the period 1 January 1996 to 31 December 1996, lived in the same suburb as the site of the proposed development

18 individuals for the period January 1997 to 31 December 1997, lived in the same suburb as the site of the proposed development

(c) The outcomes of these appeals for the period 1 January 1996 to 31 December 1996:

44	Set Aside	(Departmental decision set aside)
29	Affirmed	(Departmental decision affirmed)
14	Dismissed	(Appeal dismissed by Appeals Board)
13	Varied	(Conditions of approval varied by the Appeals Board)
4	Consent Decision	(Decision between parties outside the appeal process)

The outcomes of these appeals for the period l January 1997 to 31 December 1997:

11	Set Aside	(Departmental decision set aside)
5	Affirmed	(Departmental decision affirmed)
19	Dismissed	(Appeal dismissed by the AAT)
10	Varied	(Conditions of approval varied by the AAT)
21	Consent Decision	(Decision between parties outside the appeal process)
6	Withdrawn	(Appeal withdrawn by the applicant)
5	Awaiting Decision	(These appeals are still current)

(3)(a) No applications for minor amendments to development applications were made in the 1995/96 financial year as development applications did not exist at the time. 855 applications for minor amendments to building applications (for single residential dwellings only) were made in the 1995/96 financial year.

135 applications for minor amendments to development applications, and 730 for building applications (for single residential dwellings only) were made in the 1996/97 financial year. This figure includes the three categories of amendments:

- section 247 applications
- more information requested by PALM
- applicant alterations to a current application

247 applications for minor amendments to development applications, and 631 for building applications (single residential dwellings only) were made in the 1997/98 financial year. This figure includes the three categories of amendments:

- section 247 applications
- more information requested by PALM
- applicant alterations to a current application

(b) 841 minor amendments to building applications (single residential only) were approved, 11 withdrawn and 3 refused in the 1995/96 financial year.

135 minor amendments to development applications were approved, 3 withdrawn and 3 refused. 720 minor amendments to building applications (single residential only) were approved, 7 withdrawn and 3 refused in the 1996/97 financial year.

240 minor amendments to development applications were approved, 6 withdrawn and 1 refused. 620 minor amendments to building applications (single residential only) were approved and 11 withdrawn in the 1997/98 financial year.

(4) In relation to applications for orders under section 256 of the Land (Planning & Environment) Act:

(a) 85 applications for orders were made in the 1995/96 financial year
41 applications for orders were made in the 1996/97 financial year
37 applications for orders were made in the 1997/98 financial year

(b) 11 applications for orders were approved in the 1995/96 financial year
7 applications for orders were approved in the 1996/97 financial year
12 applications for orders were approved in the 1997/98 financial year

(c) All orders that have been issued with two exceptions have been substantially complied with. Court action was threatened in some cases but ultimately not required.

The two exceptions involved dirty blocks. The Department cleaned the blocks and recovered the costs from the Lessee.

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MINISTER FOR URBAN SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 65

Commissioner for the Environment

Ms Tucker - asked the Minister for Urban Services:

1. What is the nature of the part-time working arrangements included in the terms and conditions of appointment for the Commissioner for the Environment?
2. What is the current remuneration of the Commissioner?
3. What interstate travel expenses have been incurred by the Commissioner during:
   a) each financial year since his appointment; and
   b) the purpose of such travel?
4. During each financial year since the appointment of the Commissioner:
   a) how many
      i) complaints have been received from the public regarding the management of the ACT environment; and
      ii) how many of these have led to investigations?
   b) how many investigations have been directed by the Minister; and
   c) how many investigations have been undertaken under the Commissioner's own initiative?
5. For each investigation undertaken by the Commissioner:
   a) what were the terms of reference of the investigation;
   b) what were the
      i) commencement; and
      ii) completion dates of the investigation; and
   c) what public consultation occurred as part of the investigation?

Mr Smyth - the answers to the Member's questions are as follows:

1. The original Instrument of Appointment states that the Commissioner is appointed for a five year term. The Commissioner's appointment is made under the *Commissioner for the Environment Act 1993,* which sets out the deliverables to be met by the Commissioner. The Commissioner's position is part-time and remuneration is based on 80 days per annum.

2. The Commissioner is remunerated $30,000 per annum in accordance with ACT Remuneration Tribunal Determination Number 27.

3. a)

1993-94	Nil
1994-95	Nil
1995-96	Nil
1996-97	$385.55
1997-98	$205.00

b) 1996-97 The Commissioner was invited by the New Zealand Government to be a major speaker at a Symposium on Guardians for the Environment. The $385.55 was for reimbursement of expenses.

1997-98 $155.00 Demonstration of CD-ROM State of the Environment Report to Eurobodalla, Bega and Bombala Councils.

$50.00 Demonstration of CD-ROM State of the Environment Report to NSW Minister for Local Government, in Sydney.

4. a) (i) & (ii)

1993-94 The Commissioner received eight complaints. Six of these proceeded to investigation during that financial year. The other complaint was referred to the Ombudsman. An additional enquiry concerning the Commissioner's jurisdiction did not lead to an investigation.

1994-95	The Commissioner received five complaints. One of these proceeded to investigation, two were not completed due to planning and policy developments, and the other was found to be outside the jurisdiction of the Commissioner. Four additional enquiries were received and discussed but did not result in complaints being lodged.
1995-96	The Commissioner received two complaints. One led to a partial investigation, the other one was supported by a resolution in the Assembly and subsequently became a Ministerially directed investigation in 1996-97.
1996-97	Three complaints received; none proceeded to investigation.
1997-98	No formal complaints received.
1998-99	One complaint received to date which has not led to an investigation as it is outside the jurisdiction of the Commissioner.

b) There has been one Ministerially directed investigation, following an Assembly motion on 16 September 1996, which was in relation to the use of chemicals to control pests on Territory Land, or in other property, managed by or on behalf of the Australian Capital Territory Executive.

The Minister wrote to the Commissioner on 12 August 1997 advising that the Assembly had earlier passed a motion calling on the Government to implement a number of measures in relation to the Totalcare incinerator at Mitchell, and the Minister asked the Commissioner to consider the need for an investigation of the incineration of pesticides. At the time a Code of Practice for the incinerator was being developed and on completion that

Code was included in the Authorisation for the incinerator under the Environment Protection Act 1997. As the Code includes a moratorium on the incineration of pesticides, an investigation by the Commissioner was not required.

c) There has been no investigation conducted under the initiative of the Commissioner.

5. a) Under the *Commissioner for the Environment Act 1993,* terms of reference are only required for Ministerially directed investigations. The terms of reference prescribed by the Minister for the investigation into the use of chemicals to control pests on Territory Land, or in other property, managed by or on behalf of the Australian Capital Territory Executive required the Commissioner to consider:

* an assessment of the types and quantities of chemicals used for the control of pests;
* the effectiveness of existing chemical programs for the control of pests, including opportunities for reduction in the use of chemicals;
* the health and safety aspects of chemical use on the general community and workers applying chemicals;
* public notification of chemical control programs;
* the need for transparent processes to ensure community input on ACT chemical control programs;
* the need to integrate Ecologically Sustainable Development precautionary principles in policy decisions regarding chemical use;
* the potential impacts of chemicals on non-target fauna and flora;
* non-toxic alternatives for the control of pests; and
* such other relevant issues as may arise in the course of the investigation.

b) Commencement and completion dates for investigations undertaken, and the brief nature of each investigation, are as follows:

* August 1993 to April 1994 (air pollution)
* August 1993 to September 1993 (water pollution)
* June 1993 to August 1995 (noise pollution)
* August 1993 to June 1994 (traffic volumes)
* November 1993 to August 1995 (noise pollution)
* April 1994 to September 1994 (land use policy)
* December 1994 to July 1996 (noise pollution)
* September 1996 to May 1998 (use of chemicals)

c) Under the *Commissioner for the Environment Act 1993*, public consultation is only required for Ministerially directed investigations. The investigation into the use of chemicals to control pests on Territory Land, or in other property, managed by or on behalf of the Australian Capital Territory Executive was monitored by a Steering Committee selected by the Minister. Two newspaper advertisements were placed seeking submissions, and interviews were conducted with individuals and organisations making submissions.

In addition to the Commissioner's work outlined above, the Commissioner has since appointment produced two annual State of the Environment Reports and a triennial Report. Through regular meetings, the Commissioner maintains close liaison with the Minister and the Executive Director, Environment ACT. The meetings provide opportunities to exchange information about matters pertinent to the Commissioner's role.

MINISTER FOR HEALTH AND COMMUNITY CARE

QUESTION ON NOTICE: No. 67

Pathology Contracts

Mr Stanhope - on 19 November 1998 asked the Minister for Health and Community Care questions in relation to Pathology Contracts:

In relation to Pathology Contracts noted in the ACT Gazette No. 36, issued on 9 September 1998, under 'contracts arranged' for the 1997/98 financial year, in which pathology contractors were paid around $181,000; under the heading 'description of suppliers', there was no apt description of the purchased items, just the word: Pathology. Can you outline -

(1) why this level of detail was omitted;

(2) whether it is possible for these details to be made available; and

(3) whether this situation will be rectified in subsequent editions of the Gazette.

Mr Moore - The answers to Mr Stanhope's questions are as follows:

1) The 'contracts arranged' noted in the ACT Gazette No. 36 with the 'Description of Supplies' listed as 'Pathology' were for various laboratory consumables.

   Department of Health and Community Care purchasing officers input details of purchases into the ACT Government's 'Buyers and Sellers Information System' (basis) which subsequently generates 'Contracts Arranged' information for the Gazette. Purchasing officers use local desktop procedures as a guide for the actions required.

   In this case, the items purchased comprised various laboratory test kits, chemical reagents and calibration standards for The Canberra Hospital Pathology Laboratories involving complex item names and part numbers. In view of the complex item descriptions, the purchasing officer responsible for these gazettals used a summary description of 'Pathology' supplies when entering data into the 'basis' system.

2) Copies of the relevant purchase orders are provided for the Member's information. The purchase orders illustrate the complex nature of the item descriptions.

3) The 'Description of Supplies' information previously entered into the 'basis' system will be amended for the affected purchase orders, where a more appropriate short description can be identified. Public access to the 'basis' system is available via the ACT Government home pages on the internet.

The extent to which amendments in ‘basis’ will generate an correction in a future Gazette is still being investigated with the ACT Contracts and Purchasing section of the Department of Urban Services, which is responsible for the ‘basis’ system.

It should be noted that the information that appeared in Gazette No. 36 dated 9 September 1998 was entered into ‘basis’ in late June 1998. Similar data entered into ‘basis’ from June to December 1998 is now being reviewed to ensure appropriate short ‘Description of Supplies’ has been entered.

Desktop procedures for gazettal of purchases have been amended to require more definitive brief descriptions to be entered into the ‘basis’ system. Purchasing officers have been made aware of the amendment.

MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 68

Leases - Grants

Ms Tucker - asked the Minister for Urban Services:

In relation to the schedule of leases granted for the period 1 July 1998 to 30 September 1998, for the following leases granted under section 161(1)(d) of the Land (Planning and Environment) Act:-

- McKellar Section 50 Block 16
- McKellar Section 52 Block 6
- Mawson Section 47 Block 23
- Mitchell Section 38 Block 13
- Hume Section 5 Block 60

(1) What is the purpose for which the land will be used.
(2) Why was the grant made to this particular lessee.
(3) Were other organisations given the opportunity to bid for these blocks.

Mr Smyth - the answers to the Member's question is as follows:

McKellar Section 50 Block 16 and McKellar Section 52 Block 6 (the same answers apply to both blocks)

(1) The purpose is for residential and shall contain not more than four single unit private dwellings in total.

(2) Tokich Homes Pty Ltd trading as Eco-Land Developments approached the ACT Government with a proposal to develop ecologically sustainable housing that would help revitalise local centres and surrounding neighbourhoods.

Eco-Land in conjunction with BASAT and PALM identified two sites in McKellar and one in Fisher, adjacent to the local centres for the pilot projects. As the proposed development was of a small nature it was not possible to incorporate significant environmental initiatives. As part of the arrangement Eco-Land agreed to fund various public works at the local centre to improve the appearance and operation of the centres. These works were included as part of the lease conditions.

In September 1997, the Government agreed to the direct sale of land. The Lessee applied for the land in accordance with Disallowable Instrument No 200 of 1997.

(3) No. The land was sold by direct grant.

Mawson Section 47 Block 23

(1) The purpose is for a service station.

(2) In 1996 Australian Independent Retailers Pty Ltd (a wholly subsidiary of Woolworths) submitted a proposal to the Government to establish 13 Petrol Plus outlets adjacent to the company's supermarkets in Canberra. After considering the matter the Government agreed to sell the Mawson site by direct grant. This was announced by Government in the media release dated 21 August 1997. The Lessee applied for a direct grant in accordance with Disallowable Instrument No 22 of 1994.

(3) No. The land was sold by direct grant.

Mitchell Section 38 Block 13

(1) The purpose is to use the premises only for the purposes of bulk landscape supplies and garden waste recycling facility;

PROVIDED ALWAYS THAT not less than fifty percent of the block area is used as a garden waste recycling facility.

(2) In 1990, Canberra Sand and Gravel purchased this block by auction for the purposes of storage distribution of soil, sand and gravel, blue metal and other forms of aggregate bagged cement and or lime. The term of the lease was for five years. The restricted term was due to the possibility of the area being used as a road. The road is no longer required and a ninety nine year lease can now be issued.

The Lessee applied for an extended lease term but due to restrictions in the Land Act in relation to the payment for the extension of the term the lease was not extended. The lease expired and the Lessee occupied the block on a quarterly term in accordance with the "continued occupancy clause" in the lease.

The Lessee subsequently applied for the land under Disallowable Instrument No 32 of 1994.

(3) No. The land was sold by direct grant.

Hume Section 5 Block 60

(1) To use the premises for one or more of the following purposes only:

(i) general industry;
(ii) light industry;
(iii) store: and/or
(iv) warehouse;

(2) The block was auctioned on 17 December 1997 and was passed in. As notified at the auction the block was then available for purchase over the counter for a period of three months. The block was purchased by M.I.A Investments Pty Limited on 22 December 1997 in accordance with Disallowable Instrument No 33 of 1992.

(3) Yes.

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MINISTER FOR POLICE AND EMERGENCY SERVICES
LEGISLATIVE ASSEMBLY QUESTIONS

QUESTION ON NOTICE
NO 69

Fire Brigade - Expenditure

Mr Hargreaves: - asked the Minister for Justice and Community Safety - In relation to the expenditures of the ACT Fire Brigade -

(1) What is the total actual expenditure spent for the 1997/98 financial year (ie. as at 30 June 1998) for

(a) labour costs, including the expenditures for the following items:

salaries
Superannuation - Expense
Workers Compensation Premium
Annual Leave - Expense
Other employee expenses; and

(b) administrative expenses, including expenditures for the following items:

Uniforms/protective clothing
Buildings - services / R & M
Communication costs
Fuel/Vehicle hire costs
R & M vehicles
Materials - hardware/medical
Firefighting/standby/detection
Publishing/printing/library
Computing costs
Aircraft Hire
Professional Services
Staff development/training costs
Miscellaneous/other costs

(2) What is the total budget allocation for the 1998/99 financial year for (a) labour costs, including items listed in (1)(a) above; and (b) administrative expenses, including items listed in (1)(b) above.

(3) What was the source of the information for both actual expenditure and allocation provided (for example, actual expenditure as per ORACLE report on 30 June 1998)

Mr Humphries - the answer to the Member's question is as follows:

This is a similar question to that asked by Mr Hargreaves in Estimates hearings. It was indicated in answer to that request for the breakdown of these figures for particular Services, that the Bureau's accounts do not allow the breakdown of all of these categories of expenditure. The Bureau is responsible for a number of outputs, some elements of which are not allocated to a particular Operational Service because of the combined, or multi-agency, service delivery model adopted by the Bureau.

Within the Bureau, operational functions are still maintained in the four Operational Services whilst support and logistical aspects reside within whole of Bureau arrangements. Fire Brigade Operations and Operations Development cost centres provide the operational service delivery for urban fire and rescue and it is these two costs centres which have been aggregated in this response. These figures, therefore, will not include expenditure and budget relating to components of the Bureau supporting the delivery of these services such as communications, training and fleet maintenance and repair. These, and other corporate functions, are provided to all areas of the Bureau and cannot be costed on an individual operational service basis.

1(a) The total employee expenses for 1997/98 for Fire Brigade Operations and Operations Development cost centres was:

	$'000s
Salaries	11,805
Superannuation - Expense	2,142
Workers Compensation Premium	435
Annual Leave - Expense	not posted at this level
Other employee expenses	53
TOTAL	**14.435**

It should be noted that the salaries and associated employee expenses include extraordinary one-off payments for the Thredbo disaster, recruit college for Gungahlin and increased manning costs relating to a high fire season. In addition, some salaries payments for Communication Centre operators were charged against Fire Brigade Operations because of the existing relief arrangement. These anomalies will not occur in 1998/99.

1(b) The total administrative expenses for 1997/98 for Fire Brigade Operations and Operations Development cost centres was:

	$'000s
Uniforms/protective clothing	421
Buildings - services / R & M	227
Communication costs	37
Fuel/Vehicle hire costs	96
R & M vehicles	128
Materials - hardware/medical	41
Firefighting/standby/detection	298
Publishing/printing/library	31
Computing costs	17
Aircraft Hire	0
Professional Services	31
Staff development/training costs	10
Miscellaneous/other costs	224
TOTAL	**1,561**

Administrative expenditure listed above relates to direct expenditure by these two cost centres. For some items, such as uniforms-protective clothing, the figure will be a whole of ACT Fire Brigade cost but the majority will reflect only cost centre expenditure. It is not possible to aggregate items from other cost centres nor from total Bureau outlays to identify items related specifically and solely to the Fire Brigade. For example, a component of R & M is a single Bureau contract with Totalcare for a standard level of maintenance across all Bureau building assets. This cost is not reflected above as it is charged against a different cost centre in the Bureau. The reported figure is only additional expenditure required by the cost centres involved.

The expenditure by these cost centres in 1997/98 is not indicative of future budget allocations. Administrative expenditure is allocated on a priority basis across the Bureau based on business plan proposals submitted by each cost centre and is reviewed internally by each cost centre and on a whole of Bureau basis as priorities change. The 1997/98 administrative expenditure also included a large number of extraordinary one-off items. Examples of these are:

- Outfitting of recruits for Gungahlin;
- 2nd set of protective firefighting uniform;
- Refurbishment of Kambah Fire Station kitchen to meet OH&S requirements;
- Thredbo emergency;
- High fire season costs such as fuel and fire fighting foam;
- Inventory and stock requirements for Gungahlin JESC;
- Unexpected legal costs; and,
- Training venue costs.

2. In the 1998/99 Financial Year, Emergency Services Bureau has transitioned to the Justice and Community Safety set of accounts. As part of this transition and

to achieve greater accuracy and accountability at cost centre level, the Bureau is developing cost estimates for all aspects of expenditure. The aim is to derive accurate employee and administrative expense allocations at each cost centre. This is in effect, a zero based budget process and is still being negotiated internally within the Bureau due to complications related to the allocation of expenditure on relief components. The process should be completed in early January 1999. The current iteration relating to the Fire Brigade Operations and Operational Development cost centres is provided in response to the member's question.

	$'000s
Employee Expenses	
Salaries	10,862
Superannuation - Expense	1,881
Workers Compensation Premium	210
Annual & Long Service Leave - Expense	435
Other employee expenses	43
TOTAL EMPLOYEE EXPENSES	**13,431**
Administrative Expenses	
Uniforms/protective clothing	267
Buildings - services / R & M	182
Communication costs	0
Fuel/Vehicle hire costs	218
R & M vehicles/P&E	40
Materials - hardware/medical	51
Firefighting/standby/detection	0
Publishing/printing/library	7
Computing costs	0
Aircraft Hire	0
Professional Services	5
Staff development/training costs	2
Miscellaneous/other costs	86
TOTAL ADMINISTRATIVE EXPENSES	**859**

3. The source of information for the actual expenditure provided above has been the ORACLE report of 30 June 1998.

The allocation information for 1998/99 is taken from revised draft internal budget working papers.

APPROVED FOR TABLING

GARY HUMPHRIES MLA

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MINISTER FOR HEALTH AND COMMUNITY CARE

QUESTION ON NOTICE: No. 71

Respite Care Services

Mr Wood - on 26 November 1998 asked the Minister for Health and Community Care questions in relation to the Kincare organisation and its tender for respite care services:

(1) Given that Kincare was incorporated on the same day as the Health and Community Care (HACC) tender no 14 closed, are you satisfied that it meets the requirements of the HACC agreement, especially Appendix A, Part II, Clause 4.1

(2) Has the purchasing process to award the contract to an out of town provider ignored the departmental policy of facilitating community development particularly the role of members of the ACT community.

(3) Are you aware of the circumstances behind the formation of FaBRiC which was to ensure that respite care services were provided by ACT bodies, or has that policy changed.

(4) Will Kincare be required to acquit details of all costs in quarterly reports.

(5) While Kincare will establish an ACT office, will it be allowed to expend any of its contracted funds on its administrative centre in NSW.

(6) Has the Department of Health and Community Care been concerned about (a) the number of service providers in the HACC service system and (b) the difficulties that can follow.

(7) Is it the case that the funding of Kincare is a duplication of existing services with additional administration overheads.

Mr Moore - The answers to Mr Wood's Questions are as follows:

(1) The agreement in question is the Home and Community Care Agreement (HACC) and the reference in Mr Woods question to Appendix A is an explanatory document, not the agreement itself. The wording in the explanatory document does appear within the HACC agreement (Clause 2.1).

The department sought and received confirmation from the ACT Government Solicitor to the effect that a contract entered into between the department and Kincare Community Services Ltd would not be in breach of the Commonwealth Territory HACC agreement.

(2) The role of facilitating local development is one of a number of policy objectives which guide the selection of providers. In this case, Kincare was

deemed to provide the best all round proposal to provide services within the ACT. Indeed, Kincare has since set up a local administration and is an active participant in ACT networking.

It should be noted that three ACT agencies were also successful in the tender rounds in which Kincare participated.

(3) I understand that FaBRiC was established separate from Barnardo's as some HACC funding to Barnardo's was being redirected outside the ACT to Barnardo's national office. This practice was seen to reduce funds available to the ACT. This occurred prior to current purchaser provider arrangements.

Under present arrangements, organisations are contracted to provide a range of outputs within the ACT. Kincare won the tender in a competitive process and its contract specifies the provision of outputs to be delivered within the ACT. The provision of outputs is monitored. This was not the case with Barnardo's under the older grant arrangements.

(4) Kincare is required to provide quarterly output and financial reports similar to other HACC agencies. Acquittal occurs on an annual basis.

(5) Kincare has established an ACT office. Under purchaser-provider arrangements there is less concern with the allocation of inputs to service provision, and a greater emphasis on the delivery of outputs, that is, services to the ACT community. As such, it is irrelevant whether Kincare expend contracted funds on its NSW administrative centre, as long as it delivers the contracted outputs to the ACT community. I understand that Kincare's NSW office has contributed substantially to the ACT establishment of Kincare.

(6) The Department of Health and Community Care is concerned about the number of HACC service providers only in relation to possible inefficiency due to lack of economy of scale and possible difficulty in accessing services.

The department is also concerned that ACT citizens should have access to high quality, cost efficient services and choice of service providers. It should be noted that Kincare, in a competitive tendering process, was selected as it offered high quality cost efficient services, and has since delivered on that commitment.

(7) Kincare tendered high quality services at a better price, including developing its infrastructure and administrative overheads in the ACT, than did existing services using their current infrastructure and administrative overheads. While Kincare's administration may duplicate existing administration in other agencies, it is able to do this at a lesser cost and provide services, than did other agencies tendering for this service.

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MINISTER FOR HEALTH AND COMMUNITY CARE

QUESTION ON NOTICE: No. 72

Disability Program - Funds

Mr Wood - on 26 November 1998 asked the Minister for Health and Community Care questions in relation to ACT Government funding for the ACT Community Care Disability:

(1) What funds have been available to upgrade its services (including IT support) in each of the last two financial years.

(2) What amount of these funds are growth funds (if any).

(3) What funds have been made available on the same grounds to non-government agencies in the same period.

Mr Moore - The answers to Mr Wood's questions are as follows:

(1) The Disability Program has received funding in each of the last two financial years to reform and improve the quality its services. The funds, which are not recurrent funds amounted to $110,000 in 1996/97 and $310,000 in 1997/98.

The funds have been used for significant projects which have the potential to benefit not just the Disability Program, but all services to people with a disability in the ACT. They include improved policies and procedures, a quality improvement framework, and a comprehensive methodology for assessing support needs and allocating resources to meet identified need.

The funds have not been used to improve and upgrade information technology. However, ACT Community Care has expended $168,750 towards the development of CHIS, a specialised software application for community based health service providers. Of this, a proportion could be considered to be new funds provided for the Disability Program. The funds are not recurrent.

(2) None of the funds mentioned above are growth funds.

(3) Under the Home and Community Care program (which includes services for people with disabilities), $167,727 was provided in 1996-97 and $95,076 in 1997-98 for non-government agency service support. Under the disability program no specific developmental funds were provided, however agencies could use purchase funds for developmental purposes should they choose to do so. In some cases excess funds at the end of the financial year are retained, with departmental permission, for service development. Consolidated records of funds used for these purposes are not kept by the department.

MINISTER FOR HEALTH AND COMMUNITY CARE

QUESTION ON NOTICE: No. 73

Community Care Contracts - Tenders

Mr Wood - on 26 November 1998 asked the Minister for Health and Community Care questions in relation to the proximity of ACT Community Care to the purchasers:

(1) Can the tendering of contracts for service provisions in this area be truly competitive.

(2) Do the principles of competitive neutrality apply, and if so, how.

Mr Moore - The answers to Mr Wood's questions are as follows:

(1) The tendering is truly competitive in both practice and results. The tender panel comprises both departmental officers and officers from other departments to ensure that there is no favouritism. In recent panels, representatives of service providers and consumers have been included as observers and advisers to provide further scrutiny of process and ensure informed decision making.

It should be noted that of the ten tenders where ACT Community Care submitted proposals, it was successful in only one instance. In other cases, ACT community organisations and Kincare (which is now an ACT community organisation) were successful.

ACT Community Care is a statutory body separate from the department. Payments to the ACT Community Care are on the basis of a contract between the department and ACT Community Care.

(2) The principles of competitive neutrality apply in that, in the tender process, each proponent is assessed against a range of selection criteria. It should be noted that, under purchaser-provider arrangements, it is in ACT Community Care's interest to ensure full cost attribution in tenders to cover all costs.

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MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 75

Fireworks

Mr Corbell - asked the Minister for Urban Services -

In relation to recent investigations the Government has made into the continuing provision of fireworks in the ACT can the Minister outline:

(1) How many responses/submissions have been received from the community concerning the use of fireworks.
(2) What percentage have supported either a total ban or stricter controls.
(3) What percentage supports the status quo.

Mr Smyth - the answer to the member's question is as follows:

(1) 582
(2) 99.48%
(3) 0.52%

ACT LEGISLATIVE ASSEMBLY

QUESTION ON NOTICE No. 76

Cyclists - Helmets

Mr Stanhope asked the Minister for Urban Services - Given that the legislative requirement that ACT cyclists must wear helmets, has the Government given any consideration to the possibility that a court could find the ACT liable, for brain injury suffered by a cyclist, caused or aggravated by the wearing of a helmet and if so, what is the detail of that consideration.

Mr Smyth - The answer to the member's question is as follows:

Consideration has not yet been given to the possibility of a court finding in favour of a cyclist injured due to the wearing of a helmet. Should such a case occur, the court will determine the outcome of any litigation. This would take into account all available evidence at the time, both in the ACT and in other jurisdictions. It should be noted, however, that the legislation governing the wearing of a helmet when riding a bicycle is a national as well as an ACT requirement.

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ACT LEGISLATIVE ASSEMBLY

QUESTIONS ON NOTICE NO 77

Cyclists - Helmets

Mr Stanhope asked the Minister for Urban Services - in relation to the Information Bulletin, Compulsory Wearing of Helmets for Bicyclists in the ACT, published by the Department of Urban Services in 1992:

(1) What was the research referred to in the bulletin supporting the statement that 'bicycle helmets are extremely effective in reducing injuries to the head'.

(2) Did the Department undertake any evaluation of that research, and if so, what was that evaluation.

(3) Did the Department, in preparing the bulletin, make any consideration of a 1988 study by Rogers published in the Journal of Products Liability, or of a 1994 inquiry undertaken by the National Health and Medical Research Council into head and neck injuries suffered by footballers.

Mr Smyth - The answer to the member's question is as follows:

(1) This countermeasure was part of the National Road Safety Ten Point Plan and was introduced in the ACT on advice provided by the Federal Office of Road Safety (FORS). In addition this proposal was agreed to and implemented by all Australian jurisdictions.

(2) No. The Department accepted the view of FORS, as an eminent road safety research and policy organisation.

(3) The Department does not know whether FORS took account of the 1988 study by Rogers. Given that the pamphlet was published in 1992, it obviously could not take account of the 1994 National Health and Medical Research Council study. Additionally, this pamphlet was introduced by the then Minister for Urban Services Mr Terry Connolly.

MINISTER FOR HEALTH AND COMMUNITY CARE

QUESTION ON NOTICE: No. 79

Support Programs

Mr Wood - on 10 December 1998 asked the Minister for Health and Community Care questions in relation to support programs for the disabled:

(1) Since all funds for Individual Support Programs (ISP) are fully expended what further options exist to provide support to disabled people.

(2) Do funds remain for Individual Funding Arrangements (IFA) and if so, how much.

(3) What is the total amount provided or budgeted for (a) ISP's and (b) IFAs in each year between 1996 and 2000 (inclusive).

(4) Of the 82% increase in the ACT Government's contribution to the development of disability support services since 1993 (refer to answer to question on notice no. 42) what was the (a) distribution and (b) to what organisations.

Mr Moore - The answers to Mr Wood's questions are as follows:

(1) The department is currently acquitting expenditure on individual support program in 1997-98 to return unexpended funds for re-allocation. In urgent cases, one-off funds have been used to provide support pending consideration of growth funding in 1999-2000.

(2) There are no uncommitted individual funding arrangements funds.

(3) Funds allocated for ISPs and IFAs over 1996-2000 are

Year	ISPs	IFAs
1996-97	1,319,602 ngo 346,900 ACT CC **1,666,502 total**	464,772 ngo 183,000 ACT CC **647,772 total**
1997-98	1,374,600 ngo 356,969 ACT CC **1,731,569 total**	249,379 ngo 205,031 Richmond Fellowship 240,770 ACT CC **695,180 total**
1998-99 allocation only	1,375,655 ngo 398,600 ACT CC **1,774,255 total**	286,200 ngo 208,400 Richmond Fellowship 248,900 ACT CC **743,500 total**
1999-2000	not allocated	not allocated

source: annual reports, ACT CC and Richmond contracts, allocations, acquittals
note: funding prior to 1996-97 was through Community Services Bureau

(4) On further examination of information provided in relation to question 42, I note the wording used should have been that since 1993, the proportion of Commonwealth Government funding of disability services has decreased to from 21.5% to 17% and the proportion of ACT Government funding has increased from 78.5% to 83%.

The actual percentage of increase overall has been 46% (from $14.8m to $21.6m).

Major funding growth between 1993-94 to 1997-98 has been used to meet cost inflation through indexation and for sector expansion, eg developing the COOOL and Prolonged Care Cottages at a cost of $1.017m in 1997-98 and the introduction of ISPs and IFAs. As indicated in response to question 3, ISPs and IFA are managed in both government and non-government sectors.

APPENDIX 1: Incorporated in Hansard on 8 December 1998 at page 3221

MINISTER FOR HEALTH AND COMMUNITY CARE
LEGISLATIVE ASSEMBLY QUESTION TAKEN ON NOTICE

24 NOVEMBER 1998

Mr Stanhope asked the Minister for Health:

The Department of Health and Community Care Performance Report for September revealed that one third of patients on elective surgery are waiting beyond the desirable timeframes. Wasn't the $16.6 million received by the ACT as way of a bonus for the early signing of the Medicare agreement for this purpose. What is that money being spent on. What part of that money will go towards shortening waiting lists **(The Minister undertook to check the specifics).** Noting that the VMO dispute ended 5 months ago and there has been no downward trend for waiting lists, how long will it be before we see an improvement in waiting lists and waiting times?

My answer is a follows:

. Having read the Hansard for 24 November, I find that I may have misunderstood Mr Stanhope's statement about the number of persons waiting longer than clinically desirable for elective surgery as a percentage of total waiting lists and I would now wish to set that right.

. At the end of September 1998, there were 4,859 persons listed on the waiting list and of these, 1,429 or just under 30% were waiting longer than clinically desirable. The number for each category were as follows:

	Number on list	Number of long waits	%
Category 1	123	26	21.1
Category 2	1,932	762	39.4
Category 3	2,804	641	22.9
	4,859	**1,429**	**29.4**

. I can now provide the figures for the end of October 1998 which shows a reduction of 95 in the total number of people waiting

	Number on list	Number of long waits	%
Category 1	173	21	12.1
Category 2	1,904	839	44.1
Category 3	2,687	623	23.2
	4,764	**1,483**	**31.1**

. In relation to the Critical and Urgent Treatment (CUT) incentives funding under the Australian Health Care Agreement, l can confirm that the ACT received funding of $8,195,000 in 1997/98 and will receive further funding of $8,233,000 in 1998/99, a total of $16,428,000. I should also again stress that these moneys are not an ongoing component of the recurrent funding available to my Department.

- The variation to schedule E of the ACT Medicare Agreement under which the CUT funding was provided in 1997/98 indicates that the funding was to ... "assist States in reducing waiting times for public access to elective surgery".
- Funds of just over $5.0M have already been committed against CUT funding. The projects are:

⇒ $1.5 million for the purchase of additional elective surgery throughput (mainly orthopaedic surgery) from the Calvary Public Hospital;

⇒ $170,000 for the purchase of additional elective plastic surgery throughput from Lidia Perin Hospital;

⇒ $2.4 million for the purchase of surgical instrument;

⇒ $250,000 for the recruitment and retention of mental health nurses;

⇒ $180,000 for an asthma research program;

⇒ $500,000 To The Canberra Hospital's Intensive Care Unit pending the review currently being undertaken;

⇒ $25,000 for the waiting times and waiting lists consultancy.

- In addition to this, an offer of $3M ($1.7M CUT funding and $1.3M ACT funding) has been made to The Canberra Hospital for the purchase of additional surgical throughput. As pointed out previously, The Canberra Hospital has not yet been in a position to accept this funding, the reasons for which will be addressed under my response to a question taken on notice on 26 November 1998.

. I do not intend that all these funds be committed in the 1998/99 financial year. I will in fact be asking the Treasurer to make these funds available over the next two to three budgets to ensure that we can put in place a longer term strategy to address the waiting list problem.

. In answer to Mr Stanhope's question about when we might see an improvement in waiting lists and waiting times, l anticipate that the additional funding applied in the 1998/99 budget might begin to take effect in the second half of the current financial year. As I have previously indicated however, there are no easy solutions to the problem of long waiting lists and excessive waiting times, and we will need to deal with the systemic issues that are bringing these problems about.

. I would like to conclude by saying that I believe the Commonwealth will be flexible as to the application of CUT funding and I am considering an approach to the Commonwealth Minister to seek his approval to a commitment of $1.7M over the next five years for a Healthy Cities project which is fundamental to the future directions for health in the ACT as set out in Setting the Agenda.

APPENDIX 2: Incorporated in Hansard on 8 December 1998 at page 3221

MINISTER FOR HEALTH AND COMMUNITY CARE
LEGISLATIVE ASSEMBLY QUESTION TAKEN ON NOTICE
25 NOVEMBER 1998

Mr Osborne asked the Minister for Health:

In relation to drug education, what programs are currently running in the ACT? How much money is being spent on programs with an emphasis on encouraging people not to smoke? Can the Minister give an idea of the success rate of these programs over the years? Are there any figures?

My answer is as follows:

In relation to drug education, what programs are currently running in the ACT?

1. All ACT schools must attend to drug education within the Health and Physical Education framework established by the Department of Education and Community Services. ACT schools have relative autonomy over the specifics of curriculum development around drug education. Curriculum development is supported by annual professional development offered to teachers in ACT primary, secondary and college level schools and the Department of Education and Community Services acts as a central resource to assist teachers with selection of resources and policy/protocol development.

   The National Initiatives in Drug Education project (NIDE), initiated by the then Commonwealth Department of Health and Family Services, has also provided schools with research and up to date resources on drug education.

   The Department of Health ad Community Care has been involved in an interdepartmental Drug Education Framework Committee run by the Department of Education and Community Services. The Drug Education Framework aims to provide direction for schools to develop their own drug education strategy including the development of protocols on drug incidents in schools. The Framework is nearing completion and is due to be launched early in 1999.

   Most non-Government alcohol and drug services in the ACT have an education component to their service, targeted at their particular interest group. In addition, the ACT Government alcohol and drug program conducts ongoing drug education, primarily through its health promotion unit.

2. *How much money is being spent on programs with an emphasis on encouraging people not to smoke?*

   Education on smoking is typically implemented as part of a broader drug education curriculum and it is therefore difficult to provide a monetary breakdown on the smoking component.

The recent Smoke-free Areas public education program for the changes that came into effect in the licensed premises on the 10 November 1998 cost $40,600. In the previous business year the Phase III Smoke-free public and proprietor campaign cost $20,000.

Implementation, compliance and exemptions program in the current business plan for the Smoke-free Areas Act is estimated at $73,458.00, including wages. The Tobacco Act education is targeted at tobacco retailers to educate them on their responsibilities under the law. Advertising, promotion and sales of the implementation and compliance program in the current business plan for the Tobacco Act is estimated at $58,450.00, including wages.

In the last financial year expenditure for programs encouraging people not to smoke through Healthpact was:
$155,000 - ACT Cancer Society
$200,000 - Sponsorship (sporting events etc)

Money was also spent on other areas of drug education eg:
$ 23,000 - Grants
$ 64,000 - Sponsorship
$ 9,000 - Alcohol and Drug Program

The Department funds the ACT Cancer Society $42,650 for tobacco specific interventions. Other agencies in the drug and alcohol sector also include tobacco as part of their broader strategies, eg WIREDD (Women's Information Referral and Education on Drugs of Dependence) and Karralika (therapeutic residential community) both have smoking cessation or awareness as part of the programs (exact figures are unquantifiable).

Healthpact are the major funders of tobacco education programs in the ACT and were responsible for funding the ACT Cancer Society Teenage QUIT Program.

3. *Can the Minister give an idea of the success rate of these programs over the years? Are there any figures?*

The ACT Cancer Society has recently developed, implemented and evaluated a school drug education program on smoking amongst early high school students. The independent evaluation of the program has shown some very encouraging results with quite strong attitudinal and behavioural changes being reported by students. After completion of the 6 week program several students had ceased smoking, several intended to quit or reduced their smoking, and several declared that as a result of the program, they plan never to take up smoking. Many schools have shown interest in implementing this program.

During 1995 in the ACT 21 per cent of adults were smokers, 29 per cent were ex-smokers and 49 per cent had never smoked. These results compare favourably with the rest of Australia at 24 per cent, 27 per cent and 49 per cent respectively. In Australia the proportion of adults who smoke has decreased over the period from 1977 to 1995, while the number of ex-smokers has increased.

The pattern of cigarette smoking, however, is not uniform across all age groups. Although data from the *1995 National Drug Strategy Household Survey* is only available on a national basis, it is possible to infer ACT trends from the national picture, given the similarity of smoking patterns referred to earlier. In 1995 younger males, aged less than 35 years reported higher rates of smoking than males in older age groups.

Nationally, the proportion of current male smokers in the 14-19 year age group remained the same in 1993 and 1995, while in all other age groups until the 55 plus age group the proportion of current smokers declined. The overall pattern of current female smokers in 1993 and 1995 was similar to that of male smokers. The exceptions were a decline in the proportion of current female smokers in the 14-19 years age group and an increase in the 25-34 years age group during the period from 1993-1995. *(Drug Use and Trends in the ACT*- paper prepared by Epidemiology Unit in September 1997).

The *1998 National Drug Strategy Household Survey* is expected to be launched by the Commonwealth in late December 1998.

In 1996 the ACT participated in the National Australian School Students' Alcohol and Drugs (ASSAD) Survey. This survey is to be conducted again in 1999 and the ACT will participate for the second time. In terms of evaluating the results of health promotion activities around smoking conducted throughout the ACT, the second ASSAD survey will provide insight into changes in drug use behaviour as well as providing direction for future drug education strategies.

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APPENDIX 3: Incorporated in Hansard on 9 December 1998 at page 3421

SPEAKING NOTES

LIQUOR (AMENDMENT) BILL 1998

GOVERNMENT AMENDMENT TO MR OSBORNE'S BILL AMENDING THE LIQUOR ACT 1975

The Government supports the intention of the Bill. However, as the Bill has been presented it also removes, from subsection 104B (3), the provisions which establish that liquor licensees are vicariously liable for the action of their staff.

I am advised that it is possible, in the absence of words expressly imposing vicarious liability, that the provisions of an Act may possibly be interpreted to impose vicarious liability for an offence. However, it would be preferable to avoid the need to put this to the test. The likelihood of vicarious liability being negated by Mr Osborne's Bill is more probable as a result of the repeal of all of subsection 104B (3) as it could be argued that the legislature's intent, with the repeal of all of the subsection, was to reverse the current position under the Act.

I now turn to the substantive issue sought to be addressed by Mr Osborne's Bill in relation to the defence of "reasonable precautions and due diligence". While the defence has only been used by licensees on a few occasions, mostly in relation to allegations associated with the sale of liquor to minors, there has been a consistent inclination by the Courts to set requirements for satisfying the defence at such a low level that it is available in almost all circumstances when it is raised. The incidence of the defence being raised is also increasing as a result of it having been used successfully by liquor licensees to avoid convictions for offences under the Act.

In contrast to the position adopted by the Courts, the Liquor Licensing Board has set a higher threshold in relation to what constitutes “reasonable precautions and due diligence” and was recently supported in its position by the Administrative Appeals Tribunal. That decision was, however, appealed to the Supreme Court and it was held that the Board’s and the AAT’s decisions should be set aside.

In practical terms, the Supreme Court decision is that if a licensee has established a system that includes training in elements relevant to the offence sought to be avoided then the licensee will be entitled to the “reasonable precautions and due diligence” defence if an offence is alleged which involves an error of judgement on behalf of an employee of the licensee.

In respect of the offence of sale of liquor to minors, particularly, such an outcome is unacceptable to the Government. As the Assembly is aware, the Liquor Act has been progressively amended, with generally the full support of the Assembly, to ensure that liquor licensees are held accountable for the anti-social and inappropriate conduct that takes place in licensed premises.

While the removal of the “reasonable precautions and due diligence” defence will result in a stricter test applying to the actions of liquor licensees, there still remains in respect of most of the offence provisions of the Act the statutory defence of “reasonable grounds” and the common law defence of “honest and reasonable mistake”.

I note, however, that the defence of “honest and reasonable mistake” would, in all likelihood, not apply in the case of an alleged breach of the

sale of liquor to minors provision in the Act, due to the wording of the offence and the legislative history of change to that offence.

While a very strict liability would apply to liquor licensees in relation to the offence of sale of liquor to a minor, it needs to be remembered that licensees can avail themselves of the statutory defence contained in the Act if they have sighted one of the approved forms of identification - Driver's Licence, Proof of Age Card or a Passport.

Even in circumstances where they have not taken this precaution and a conviction follows, the circumstances of the offence, whether staff have been adequately trained in relation to the obligations of the Act, the apparent age of the minor and the reasonableness of the belief that the minor was of or above the age of 18 years are all issues that can be taken into account when determining an appropriate penalty.

The Government therefore proposes to amend Mr Osborne's Bill as detailed in the amendment circulated in my name.

APPENDIX 4: Incorporated in Hansard on 10 December 1998 at page 3481

1998

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

GOVERNMENT RESPONSE TO THE STANDING COMMITTEE FOR THE CHIEF MINISTER'S PORTFOLIO REPORT ON AN INDEPENDENT COUNCIL ON COMPETITION POLICY

TABLING STATEMENT

Circulated by Authority of
Kate Carnell MLA
Chief Minister

- Mr Speaker, you will recall that in June this year the Assembly asked me to come back in August with a model for an independent council to "monitor, review and make recommendations to the Assembly on all aspects of the implementation of National Competition Policy".

- On 27 August 1998 I outlined to the Assembly the government's preferred model for such a council, which was based on the existing Independent Pricing and Regulatory Commission, or IPARC.

- I am happy to say that the Standing Committee for the Chief Minister's Portfolio has examined that model, and in its report tabled on 29 October, broadly endorsed the direction of the government's preferred model, with some suggested alternations.

- The government response I am tabling today picks up some of the committee's recommendations and I think represents a workable compromise.

- The most significant area of difference is on the size of the proposed Independent Competition and Regulatory Commission (ICRC).

- The committee suggested a five member commission, which the government believes would be too expensive, too large for the size of our jurisdiction and too prescriptive given the evolving role of the regulator.

- The extra cost is considerable. It is estimated at an extra $100,000 per annum for each additional commissioner, when extra staffing and support costs, as well as payments to the commissioner are taken into account.

- However, we have moved from our original proposal of a single part-time commissioner, to accept the merit of three part time commissioners which would broaden the range of expertise, experience and qualifications.

- This is also consistent with the *Statement of Regulatory Intent* which I tabled last month. That statement outlined a new structure to improve the regulation of utilities in the ACT.

- It included an expanded role for IPARC, and an increase from a single part-time commissioner to a three member commission.

- Mr Speaker, on the issues of reporting arrangements and appointments, while the government agrees that the work of the proposed ICRC should be brought to the attention of the public and the Assembly, the buck stops with the government and the commission should continue to report to the government.

- Similarly, while the government is happy to take account of the views of the Assembly on possible appointments, ultimately it will be my responsibility as Chief Minister to make appointments, as is currently the case with IPARC.

- I commend the government's response to the Assembly and look forward to the establishment of the proposed Independent Competition and Regulatory Commission in the New Year.

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APPENDIX 5: Incorporated in Hansard on 10 December 1998 at page 3481

1998

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

GOVERNMENT RESPONSE TO THE

STANDING COMMITTEE FOR THE CHIEF MINISTER'S PORTFOLIO

(INCORPORATING THE PUBLIC ACCOUNTS COMMITTEE) ON

THE PUBLIC ACCOUNTS COMMITTEE REPORT No.9 "Review of the Auditor-General's Report No.12, 1997 - *Financial Audits With Years Ending To 30 June 1997*"

TABLING STATEMENT

Circulated by Authority of
Mrs Kate Carnell MLA
Chief Minister

- Mr Speaker, I am pleased to table the Government's Response to the Standing Committee for the Chief Minister's Portfolio, Public Accounts Committee Report No. 9 titled "Review of the Auditor-General's Report No.12, 1997 - Financial Audits With Years Ending To 30 June 1997".

- The Committee's Report summarises a number of matters of significance raised by the Auditor-General's Report and the Government's submission to the Committee on these matters. The Committee's Report also submits seven recommendations to the Government in relation to some of these matters.

- The Government is appreciative of the work of the Committee and welcomes the Committee's Report.

- The Government is pleased to state that all of the issues and recommendations raised have either been addressed, leading to positive results, or appropriate actions have commenced.

- The Standing Committee of Attorneys-General has given in-principle agreement to the proposed fine default mutual recognition arrangements between state and territory jurisdictions. Discussions on the key details of that agreement are continuing.

- ACTEW Energy's new accounting system was operational in March 1998 and both the internal and external auditors have noted improvements.

- ACTlON's control over the custody and distribution of bus tickets has improved through the modification and improvement in its ticketing systems. These improvements negate the need to implement a new system.

- The review of the Agents Act has commenced, with amending legislation proposed to be brought before the Legislative Assembly in 1999.

- Increased capital works and CSO funding and an increase in the number of events have led to a significant turn around in EPlC's financial position.

- In addition, INTACT has implemented its new PINNACLE asset register.

- Finally, a significant proportion of the Totalcare Board's draft Strategic Audit Plan, prepared by external accountants, has been conducted and a remediation plan is now in place.

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APPENDIX 6: Incorporated in Hansard on 10 December 1998 at page 3482

Tabling Statement

ACT GOVERNMENT

DELEGATION

TO

JAPAN

AND

CHINA

OCTOBER-NOVEMBER 1998

Circulated with the
authority of
Kate Carnell MLA

It gives me great pleasure to present to the members of the Assembly the Official Report of my recent delegation to Japan and China.

The Report outlines the success of the delegation with over 250 Canberrans visiting Nara to celebrate the fifth anniversary of the sister city relationship on 26 October 1998.

Prior to Nara, a smaller ACT business delegation consisting of four firms and ACT Government travelled to Osaka to participate in the Global Business Opportunities Convention. The results of this have been encouraging with all firms involved in new business discussions with Japanese companies met at the convention.

The report also covers a new phase in ACT and China relations. Details of the establishment of two Cooperative Business Councils between the ACT and Beijing, and the ACT and Hangzhou are outlined.

Hong Kong saw discussions carried out with the following Hong Kong business and industry associations; the Hong Kong Trade Development Office, the Hong Kong Productivity Council, and the Hong Kong Industry Technology Council.

The discussions pertained to possible collaborative efforts, particularly in the areas of IT and environmental management.

The success of the delegation supports the ACT Government’s commitment to the Asia Pacific region and its efforts to be recognised as a leader in the IT and Environmental management industries within the Region.

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APPENDIX 7: Incorporated in Hansard on 10 December 1998 at page 3483

ATTACHMENT B

The Legislative Assembly for the

Australian Capital Territory

TABLING STATEMENT

LEASES (COMMERCIAL AND RETAIL) BILL 1998

EXPOSURE DRAFT

To be delivered by:
Gary Humphries MLA
Attorney-General

On 20 August 1998, I tabled the Government Response to the ACT Government Working Party's Report of its review of retail and tenancy legislation in the ACT, *Commercial and Retail Tenancy Legislation into the 21st Century*.

At that time, I foreshadowed that extensive new legislation would be necessary to give effect to the recommendations of the Working Party accepted by the Government. The *Leases (Commercial and Retail) Bill 1998* which I am tabling today as an exposure draft reflects the accuracy of that statement.

Objectives of draft Bill

The Government has had a longstanding commitment to ensuring a fair balance between the interests of lessors and commercial and retail tenants. Consistent with this commitment, the objectives of the new legislation, clearly stated in clause 3 of the draft Bill, are:

- to ensure that all parties to commercial and retail leases, and negotiations for those leases, are able to make fully informed decisions;
- that there is an appropriate balance between the bargaining powers of the parties, particularly in the negotiation stages;

- to encourage equitable conduct between parties to commercial and retail leases; and
- to provide an effective dispute resolution process in relation to commercial and retail leases and the negotiation of such leases.

Key recommendations accepted and implemented

Two of the key recommendations implemented by the draft Bill are the consolidation of the *Tenancy Tribunal Act 1994* and the *Commercial and Retail Leases Code of Practice,* and the transfer of jurisdiction in relation to commercial and retail tenancies from the Tenancy Tribunal to the ACT Magistrates Court.

Other recommendations accepted and implemented

Additionally, over 150 other recommendations made by the Working Party for reform are taken into account in the draft Bill. The result is, I believe, a piece of legislation which, consistent with its stated objectives, makes comprehensive provision for the regulation of the relationships between lessors and tenants of commercial and retail premises in the ACT.

Some of the important features of the draft Bill flowing from the Government Response to the Working Party report are:

- a new approach to the delineation between retail and commercial premises including a Schedule listing examples of commercial premises covered by the legislation, based on the definitions included in the Territory Plan;

- a clearer distinction between premises which do and do not fall within a shopping centre;

- an enhanced definition of ‘multiple rent review clause’ to cover clauses which have the effect of reserving to one party complete discretion as to the rate of rent to apply;

- provision for standard lease provisions to apply, unless there is contrary agreement, to fill the void that can sometimes arise, for example, where occupation of premises is given without there being an express agreement about the conditions;

- streamlined provisions relating to the determination of market rent in cases of rent reviews and lease renewals, where the parties cannot agree on the amount of rent;

- new provisions dealing with damaged premises, including the circumstances as to the kind of damage which may give rise to the right to terminate the lease;

- more comprehensive provision with respect to bonds, including the manner of holding bond moneys and deductions which can be made from such moneys; and

- provision for the publication of a handbook to be approved by the Director of Consumer Affairs to assist lessors and tenants in their understanding of the legislation.

The draft Bill also confirms the requirement that, unless independently advised by a legal practitioner, tenants must be offered a lease for a minimum period of five years. A lease for less than five years may be extended by the tenant as a matter of right in certain circumstances and, in such cases, provision is now made for the terms of such extended leases to be ascertained.

Dispute resolution

Part XI of the draft Bill provides a streamlined process for mediation of disputes, and for hearings of unresolved disputes to be heard in the Magistrates Court. Provision is made for an informal hearing process except in cases involving complex issues of fact or law where it is in the interests of both parties that a more formal hearing take place. The remedies available to the Court have also been specified and, as recommended by the Working Party, it is provided that, subject to the overriding

discretion of the Court, costs are to follow the event of a hearing.

Prior to referral for mediation or resolution by the Court, there is also provision for a preliminary conference where, with the assistance of the Registrar, the parties may seek to resolve their differences by informal means.

Part XI will be further developed with the assistance of the procedural committee established by the Government to develop new forms and procedures for the Magistrates Court in the exercise of its new commercial and retail tenancy jurisdiction.

Representations following tabling of Government Response

Since I tabled the Government Response last August, the Government has received representations from a number of key players, including the Law Society of the ACT, the Property Council of Australia and the Commercial and Retail Tenancy Association. The opportunity has also been taken in the draft Bill to make several amendments in light of some of these representations.

Firstly, an amendment has been made to subsection 36(2) of the Tenancy Tribunal Act (now sub-clause 25(2) of the draft Bill), which sets out the grounds the Court may consider when

determining whether or not the parties have engaged in unconscionable conduct, to make it clear that tenants as well as lessors can be found to have engaged in unconscionable conduct.

Secondly, a general right is provided in the draft Bill for lessors to withhold consent to the assignment of a lease where to do so would be reasonable in all the circumstances. The grounds upon which consent may presently be withheld will also be retained as non-exclusive examples of reasonable refusal. Additionally, consistent with a recommendation of the Working Party originally not accepted by the Government, it is proposed to provide that one of the circumstances where the withholding of consent is reasonable is where the tenant has failed to rectify a breach of the lease.

Thirdly, in relation to redevelopment proposals for a shopping centre or part of a shopping centre, a new provision has been included in the draft Bill requiring lessors to consult either:

- the majority of tenants in the shopping centre or that part of the shopping centre being redeveloped; or
- a representative body of the majority of tenants in the shopping centre or that part of the shopping centre being redeveloped.

Such consultation could be conducted by way of a lessor holding a meeting or providing a written summary to tenants and seeking submissions.

Consultation

Stakeholders who have approached the Government have been uniform in their concern that there be adequate time for consideration and comment on the draft Bill. Having regard to the general complexity of the law in this area and the breadth of the reforms made by the draft Bill, this is an entirely reasonable concern.

To ensure that there is sufficient time for consideration of the draft Bill, the Bill has been developed as an exposure draft, and I am proposing to allow some 8 weeks for consultation prior to its introduction in the Assembly.

The draft Bill represents one more step in the Government's reform program for commercial and retail tenancy regulation in the ACT. I am therefore pleased to table the draft *Leases (Commercial and Retail) Bill 1998* for consideration and comment prior to its introduction during the 1999 Autumn sittings.

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APPENDIX 8: Incorporated in Hansard on 10 December 1998 at page 3485

Progress Report on the

Strategic Plan for Health and Community Care Services

MINISTERIAL STATEMENT

December 1998

Circulated by:
Michael Moore MLA
Minister for Health and Community Care

Mr Speaker, Members will recall that the Report of the Standing Committee for the Chief Minister's Portfolio entitled *"Review of the Auditor General's Report No. 13, 1997 - Management of Nursing Services"* recommended that I inform the Assembly, during the December sittings, on progress in completing the strategic plan for health services to the year 2005, and provide the plan to the Assembly at the earliest opportunity".

In line with that recommendation, I would now like to provide you with details of the Plan's progress to date.

Members may recall that the aim of the plan is to:

- identify strategies for future health and community care services for the people of the ACT and the Australian Capital Region; and

- underpin future funding decisions within the health and community care system.

To date progress on the plan has focused upon two key areas.

First, work has focused on establishing an agreed framework for the plan's development. This has included matters such as, establishing a steering committee with Terms of Reference, agreeing definitions, methodology, priorities, undertaking an environmental scan of factors outside the Health and Community Care System which may impact on it, and agreeing on criteria for assessing future options developed under the Plan. While not necessarily "high profile" work these matters are nonetheless crucial to the sound development of the plan.

Members may be interested to know, that as part of developing this agreed framework, the Department sponsored three community workshops on Setting the Agenda and the Health and Community Care Services Plan. Part of the aim of the workshops was to assess the utility of using the initial set of Principles in Setting the Agenda as criteria for comparing options developed under the plan. These workshops proved highly successful with about 90 people attending over the day and half the workshops were held. The report of the Workshops is expected to be distributed to all participants and other invitees over the next week or so and therefore would be made available to all Members of the Assembly.

The second area where work has focused is on analysis of services meeting people's acute care needs in the ACT and Australian Capital Region. This has included:

- a comparison of standardised hospital inpatient separation ratios of ACT residents and those people living in the balance of the Australian Capital Region, in other NSW rural areas and in metropolitan NSW,;

- development of hospital inpatient demand projections for the ACT and for the balance of the Australian Capital Region to the year 2005/6, which for the first time in ACT planning incorporated data from most of the Territories private day surgeries;

- undertaking a role delineation exercise with both public hospitals; and

- consultation with ACT public and private hospitals where able, day surgeries, ACT Community Care, some relevant non-government players, and Southern Area Health Service.

This work is currently being compiled into an Acute Care Study Report, and is expected to be the subject of a Clinicians Workshop on 15 December 1998. As previously advised, it is anticipated that this first stage of the plan largely dealing with acute care services will be ready to be tabled in the Assembly by March 1999.

The subsequent components of the plan largely relating to services which meet the community's general care needs and coordinated care needs are only in their preliminary stages of development. While both of these areas are complex, unlike acute they do not have a good foundation of data from which to work. Consequently, development of these areas will require substantial time and effort over the coming year. Accordingly, I anticipate that a final plan including these components will not be tabled before October 1999.