

SELECT COMMITTEE ON ESTIMATES 1998-99

REPORT ON

ANNUAL AND FINANCIAL REPORTS 1997-98

November 1998

RESOLUTION OF APPOINTMENT

On 26 May 1998 the ACT Legislative Assembly resolved that:

- (1) a Select Committee on Estimates 1998-99 be appointed to examine the expenditure proposals contained in the Appropriation Bill 1998-99 and any revenue estimates proposed by the Government in the 1998 Budget and the Annual and Financial Reports for the financial year 1997-98;
- (2) the Committee be composed of:
 - (a) one Member to be nominated by the Government;
 - (b) two Members to be nominated by the Opposition; and
 - (c) two Members to be nominated by either the Independent Members or the ACT Greens;to be notified in writing to the Speaker by 10.00am on Thursday, 28 May 1998;
- (3) the Committee report by 25 August 1998 in respect of the Appropriation Bill 1998-99 and by 24 November 1998 in respect of the Annual and Financial Reports for the 1997-98 financial year;
- (4) if the Assembly is not sitting when the Committee has completed either of its inquiries, the Committee may send the relevant report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, publication and circulation;
- (5) the Committee is authorised to release copies of its reports, prior to the Speaker or Deputy Speaker authorising its printing, publication and circulation and pursuant to embargo conditions and to persons to be determined by the Committee,
- (6) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

COMMITTEE MEMBERSHIP

Mr Wayne Berry MLA (Chair)
Mr Paul Osborne MLA (Deputy Chair)
Mr Simon Corbell MLA
Mr Harold Hird MLA
Mr Dave Rugendyke MLA

Secretary

Bill Symington

Assistant Secretaries

Fiona Clapin
Judith Henderson
Beth Irvin
Rod Power

Administrative Assistant

Kim Blackburn

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**DISSENTING REPORT - HAROLD HIRD MLA - DAVE RUGENDYKE
MLA 37**

Summary of Recommendations

Recommendation 1

3.6. The committee recommends that the diversion of ministers from their portfolio responsibilities to promote and deal with their insignificant executive private member's business be avoided.

Recommendation 2

3.12. The committee recommends that the Government present to the Assembly a report on the ACTBIS review when it is complete and provide the revised ACTBIS manual.

Recommendation 3

3.15. The committee recommends that, in future, the Government advise potential consultants that their involvement in the preparation of reports or recommendations which lead to a possible perception of a conflict of interest may require them to be excluded from future Government contracts related to the matters upon which they prepare reports and recommendations.

Recommendation 4

3.24. The committee recommends that senior management be more closely involved in the audit processes to ensure that delays are minimised.

Recommendation 5

3.27. The committee recommends that the Government:

(a) review the level of involvement of Cantrade in contracts of the type and advise the Assembly how it intends to prevent such occurrences in future; and

(b) inform the Assembly when the grant made to Pendon Constructions for painting the ex-Polish airforce aircraft is repaid and the amount which is repaid.

Recommendation 6

3.38. The committee recommends that the Government remind departmental officers of the need for care and attention to detail in respect of evidence given to committees of the Assembly and remind officers of the gravity of such discrepancies.

Recommendation 7

3.43. The committee recommends that the Minister for Education immediately revise measures to improve enrolments at Copland College and advise the Assembly of any changes.

Recommendation 8

3.52. The committee recommends that for the next two years, the Government provide quarterly reports to the Assembly on progress with improvements at Marlow Cottage and Quamby.

Recommendation 9

3.56. The committee recommends that the Government conduct a thorough assessment of the effects of the introduction of the tuition fee for trainees and apprentices and advise the Assembly of its outcome.

Recommendation 10

3.72. The committee recommends that the Government immediately rule out the privatisation of the Canberra Hospital or any part thereof.

Recommendation 11

3.80. The committee recommends that the Standing Committee on Health and Community Care be invited to monitor the implementation of phase 4 of the introduction of the Smoke-Free Areas (Enclosed Public Places) Act 1994.

Recommendation 12

3.88. The committee recommends that the Minister:

(i) advise the Assembly on a quarterly basis on progress with the implementation of the Hepatitis C Lookback Program; and

(ii) advise the Assembly, as a matter of urgency, what protocols and safeguards the Department has put in place to ensure that a situation similar to what happened with Hepatitis C does not recur.

Recommendation 13

3.94. The committee recommends that the Minister, as a matter of urgency, advise the Assembly on contingency plans for the location of the ACT Hospice should the Commonwealth not extend the lease for its existing location.

Recommendation 14

3.98. The committee recommends that the Minister ensure that the Medical Board of the Australian Capital Territory has sufficient resources to effectively operate the Impaired Practitioners Rehabilitation Program.

Recommendation 15

3.102. The committee recommends that the Minister, as a matter of urgency, advise the Assembly how The Canberra Hospital plans to develop the processes necessary to ensure a satisfactory financial outcome is achieved in the 1998/99 financial year and beyond, and the steps that will be taken to make up the lost ground from last year's budget blowout.

Recommendation 16

3.106. The committee recommends that future Departmental annual reports include information on:

- (i) the number of mentions for each case categorised by ‘more than five mentions’ and ‘more than ten mentions’; and**
- (ii) explanations for cases mentioned ten times or more.**

Recommendation 17

3.111. The committee recommends that the Government:

- (i) quarantine funding for extraordinarily costly court cases from ‘average’ cases when formulating the next budget;**
- (ii) designate separate funding for extraordinary cases; and**
- (iii) provide supplementary funding where the appropriation for extraordinary cases is insufficient.**

Recommendation 18

3.115. The committee recommends the Government communicate a message that victimisation is unacceptable through pamphlets, publications and management training.

Recommendation 19

3.119. The committee recommends that the Government develop and implement new preventative measures in response to the disproportionately high rate of indigenous youth arrest and incarceration.

1. INTRODUCTION

Function of the Committee

1.1. This report is the second and final stage of the estimates committee process for the 1998-99 financial year. The committee's first report, presented to the Assembly on 27 August 1998, reported on the Appropriation Bill 1998-99 which was presented to the Assembly on 23 June 1998. This report had as its base resource the annual reports of ACT Government agencies for the 1997-98 year and the associated audited financial statements.

1.2. Agency annual and financial statements were presented to the Assembly during the week 22 September 1998.

1.3. Public hearings were held on seven days beginning on 19 October during which the Speaker, accompanied by officers of the Assembly Secretariat, the ACT Auditor-General, the Chief Minister and all other Ministers, accompanied by officials of departments and agencies, gave evidence. Details of agencies examined by the committee are given in attachment 1.

1.4. In accordance with the standing orders of the Assembly, Members of the Assembly who were not members of the committee attended the hearings and, by leave of the committee, questioned witnesses.

2. OVERVIEW

Tracking agency performances

2.1. As has been the case in past years there were, again, important changes in departmental and agency responsibilities during the year under review. The appointment of a fifth minister and a realignment and rationalisation of departments, such that five departments each reported to a single minister, caused some clouding in the evidence of departmental outcomes. The committee was also dealing with matters between 5 and 17 months old which, in certain cases, had been superseded by the 1998-99 budget.

2.2. Nevertheless, the committee is charged by the Assembly to hold agencies accountable through their ministers and it is a matter for regret that the committee's role and function in this regard is either not fully understood or welcomed.

2.3. The committee is concerned that some senior officers appear to be less than forthright when presenting evidence to the committee, and the committee would be remiss if it failed to express its dissatisfaction with this tendency. Should the committee experience such difficulties in the future there may be a need for it to consider the desirability of taking evidence on oath.

2.4. In essence, the committee is obliged to probe issues in as much depth as is possible and reasonable within the constraints of the time available to it. And it is inevitable that the committee's reach will go beyond those issues which are presented in annual and financial reports. In other words the committee has a responsibility to seek out and examine areas of agency activities which are not specifically mentioned in these reports, or directly linked to a budget appropriation line, if there is sufficient justification for doing so. This sometimes

causes discomfort for ministers and agencies but it is a necessary part of the representative function of the Assembly.

2.5. The committee accepts that agencies have to be selective in what is included in annual reports and the degree of emphasis given to such material. The committee also accepts there will be a degree of subjectivity in how and what material is included. The committee was advised, and accepts, that the challenge for an agency is to produce an annual report which is a useful document of record, and which is readable to the general community and that not everything done within the agency can be included.¹

2.6. The essential difference between this report and the committee's August report on the Appropriation Bill is that the latter dealt with matters directly relevant to the current and future financial years whereas this report is more in the nature of observations, albeit with recommendations arising, on the performance of agencies during the previous accounting period.

¹ transcript, p7

3. SPECIFIC ISSUES

ACT LEGISLATIVE ASSEMBLY

Executive member's private business

3.1. The committee noted that the Assembly has now recognised a capacity for a member of the Executive to introduce private business and sought clarification as to how an Executive member introducing a private bill might retain private ownership of that bill.

3.2. The committee was advised that there are no direct precedents for Executive members private business along the lines recently adopted by the Assembly, the only near precedent being the Northern Territory where, in recent years, the then Chief Minister of the Territory introduced a bill dealing with euthanasia by special order of the Territory Assembly. The Territory Assembly suspended standing orders to enable the Chief Minister to introduce the bill as a private member.²

3.3. The committee is of the view that the case for the fifth minister was predominantly made out on the basis of the workload distribution across four ministers and on efficiency grounds. It is therefore incongruous that the newly established position should be encouraged to direct energies toward areas outside portfolios which have as a basis a claimed heavy workload.

3.4. The committee acknowledges the special circumstances of the euthanasia legislation in the Northern Territory. The subject matter was typically a conscience vote for members. By contrast, the first foray under the changes standing orders in the ACT was to deal with a matter of arguable importance but significantly, as agreed to by the Executive. The question arises as to why the Executive could not have agreed to the proposal as Cabinet and then prioritise the legislation for the responsible minister in the normal way, leaving the Minister for Health and Community Care, in this case, to deal with the weighty matters confronting the Health portfolio.

3.5. The committee considers that the case of the *Litter Bill (1998)* was not a good use of the Minister for Health and Community Care's time and that this example undermines the case for the additional funding required for the extra ministry.

Recommendation 1

3.6. **The committee recommends that the diversion of ministers from their portfolio responsibilities to promote and deal with their insignificant executive private member's business be avoided.**

² *ibid*, p451

ACT AUDITOR-GENERAL

Joint venture audits

3.7. The committee, being aware that there had been delay in finalising the financial statements of the Office of Asset Management, sought the Auditor-General's views on the process.

3.8. The committee was advised that the Chief Minister's Department established a process requiring financial statements by a certain date, and under the legislation, the Auditor-General is required to provide an audit opinion within 30 days from the receipt of the financial statements. In order to meet statutory deadlines, departments were asked to provide signed statements by 8 August 1998, but in the case of the Office of Asset Management the statements were received between 15 and 20 August.³

3.9. The committee was further advised that delays caused the contracted auditor for this audit, KPMG, difficulties in completing the audit, and the view was put that there is a need for senior management to be more involved in the audit processes.⁴

3.10. The committee comments further on this matter in paragraphs 3.23 and 3.24 below.

CHIEF MINISTER'S DEPARTMENT

ACT Business Incentive Scheme (ACTBIS)

3.11. The committee noted with some concern that conditions attaching to funds provided by way of grant under the ACTBIS are not enforceable as a loan would be, given that a loan could be attached to a mortgage and so on.⁵ The committee was advised that under revised ACTBIS guidelines the Department had to decide whether it is a financier or a provider of business incentives. In the latter role, the Department looks at what benefits accrue and assess and manage the risks. The committee was advised that the new ACTBIS guidelines are being prepared along with another review of ACTBIS which will be put to government within the next two months.⁶

³ *ibid*, p466

⁴ *ibid*,p467

⁵ *ibid*, p54

⁶ *ibid*, p55

Recommendation 2

3.12. The committee recommends that the Government present to the Assembly a report on the ACTBIS review when it is complete and provide the revised ACTBIS manual.

Consultancy advice on proposed sale of ACTEW

3.13. The committee is concerned that the firms Deacons Graham & James and ABN Amro, which have recommended the sale of ACTEW, could tender for its potential sale.⁷ The committee questions the appropriateness of a company which recommends the sale of an asset being able to finance the sale of that asset.

3.14. The committee was advised that the Department's approach was consistent with that adopted by other governments of making a break between the first and second stages and that it had been made clear to the two firms that they could put forward proposals but they would be considered alongside a whole range of others.⁸

3.14. The committee considers that this makes the point that there is a need for objectivity and the appearance of objectivity and that the firms should be excluded from any further participation in the process of the proposed sale of ACTEW.

Recommendation 3

3.15. The committee recommends that, in future, the Government advise potential consultants that their involvement in the preparation of reports or recommendations which lead to a possible perception of a conflict of interest may require them to be excluded from future Government contracts related to the matters upon which they prepare reports and recommendations.

Bruce Stadium - Old Weetangera Road access

3.16. Following initial advice about planning approval given to open the Old Weetangera Road to allow access to parking for the Bruce Stadium⁹, the committee was subsequently advised that approval to open the road was not included in the response to the development for the Bruce Stadium redevelopment. Instead, the committee was advised that the Conservator for Flora and Fauna would require a further application to open the road.¹⁰

3.17. The committee was assured that while the nature of the application to the Conservator has yet to be determined, the required process will be adhered to and with necessary consultation.¹¹

⁷ *ibid*, p59

⁸ *ibid*

⁹ *ibid*, p65 etseq

¹⁰ *ibid*, p627 & Acting Chief Minister, response to question on notice, 2 November 1998

¹¹ *ibid*, p627

3.18. This matter was also raised during the committee's examination of the Department of Urban Services when the committee was advised the Department is considering the use of the Old Weetangera Road as one of a number of options to facilitate traffic flow.¹² The Conservator of Flora and Fauna advised there had been no formal consultation about this option.¹³

3.19. The committee sought the Department's view on re-opening the road for peak traffic times at Bruce Stadium¹⁴, and looks forward to receiving this in the government's response to this report.

3.20. The committee notes with concern the inconsistency in the evidence presented and the significant delay in having it corrected.

Bruce Stadium - purchase

3.21. The committee was advised that the government anticipated advice from the Commonwealth Minister for Sport within the next month or so about the outcome of the purchase proposal and indicated the offer was within \$12.3m being spent on the Stadium redevelopment.¹⁵

3.22. The committee is concerned about the apparent ad hoc decision making around large commitments of public money on the Stadium and is of the view that the outcome ought to have been established before the ACT expended this substantial amount on the redevelopment.

Joint venture audits

3.23. The committee followed up with the Department the matter of delay in completion of the audited financial statements for the Office of Asset Management which had been raised with the Auditor-General by the committee (paragraphs 3.7 to 3.10 above), and was advised that there was in fact no delay and deadlines were met. However, the Department acknowledged that interaction between the Auditor-General's contracted auditors and the joint venture accounting firms about the interpretation of the accounts and financial statements delayed getting to the finally accepted versions of those accounts and statements for the Auditor-General.¹⁶

Recommendation 4

3.24. The committee recommends that senior management be more closely involved in the audit processes to ensure that delays are minimised.

Feel the power of Canberra campaign

3.25. The committee was advised that Pendon Constructions had not fulfilled the contractual arrangements to fly the ex-Polish air force aircraft painted in ACT colours

¹² ibid pp392-393

¹³ ibid p393

¹⁴ ibid p445

¹⁵ ibid, pp629-631

¹⁶ ibid,p645

with the slogan “Feel the Power of Canberra” and, as a consequence, had been requested to repay the \$15,000 granted for that purpose and under those arrangements.¹⁷

3.26. This matter was raised by the committee in its August 1998 report on the Appropriation Bill 1998-99¹⁸. While this episode relates to a relatively small amount of public money it creates serious concerns about the Government’s ability to responsibly manage contracts of this type, in particular in relation to Cantrade’s activities.

Recommendation 5

3.27. The committee recommends that the Government:

- (a) review the level of involvement of Cantrade in contracts of the type and advise the Assembly how it intends to prevent such occurrences in future; and**
- (b) inform the Assembly when the grant made to Pendon Constructions for painting the ex-Polish airforce aircraft is repaid and the amount which is repaid.**

ACTEW

3.28. The committee is concerned that information about customers lost to ACTEW could not be provided to the committee when requested during the hearings on the Appropriation Bill 1998-99¹⁹ but was made available to the media for briefing purposes.²⁰

3.29. The committee was given to understand the information was provided by the Chief Minister but was advised that earlier reluctance to release it to the committee was based on a view that the material ought not to be public but could be available (to the media) in a background sense.²¹

3.30. The committee expresses its concern that in this matter the committee has been treated with unacceptable disdain in discharging its responsibility to the Assembly.

3.31. The committee notes that the Chief Executive of ACTEW initially agreed to table ACTEW’s submission to the Independent Pricing and Regulatory Commission (IPARC) but subsequently the Chair learned from the media that the Chief Executive had changed his mind in relation to the matter and several days later wrote advising of his unwillingness to supply the submission to the committee. The grounds offered were that the information therein was classified as ‘confidential’ and the Chief

¹⁷ *ibid*, p646

¹⁸ Select committee report, p19

¹⁹ transcript, 21 July 1998, p300

²⁰ National Electricity market Customers transferring to Other Retailers (12 October 1998), tabled 9 November 1998

²¹ transcript, p685

Executive offered a conditional copy of the full submission on the clear understanding that it was not to be made public.

3.32. The conditions set out by the Chief Executive of ACTEW are unacceptable to the committee as it is quite open to the committee to consider a request from ACTEW for confidentiality but it is the committee itself which decides whether or not it is in the public interest for information and evidence to be released.

3.33. Time constraints have prevented the committee from pursuing this matter further, however the committee regards the complete turnaround by the Chief Executive of ACTEW on this matter as worthy of further investigation.

3.34. However, the committee is concerned that the commitment to provide the submission was not honoured, and it poses the question as to why there was a change of heart on the matter. Some members of the committee conclude that the submission may have highlighted that ACTEW expects to maintain its profitability.

Hall/Kinlyside

3.35. The committee was advised that the Department was not responsible for the costs of consultancies in relation to the proposed rural residential development at Hall/Kinlyside.²² The committee was advised that some administrative confusion accompanied the separation of land development matters from Planning and Land Management to the Office of Asset Management within the Chief Minister's Department.²³ However, the committee notes that the Office of Financial Management is responsible for the financial and negotiating aspects of land development. This highlights the administrative difficulties which may arise where policy in relation to land development is split between the Office of Financial Management and the Office of Asset Management.

3.36. The committee was further advised that the Department did not see a draft of the Hall/Kinlyside preliminary agreement before it was signed by the Government.²⁴

3.37. The committee heard evidence from the Executive Director of the Office of Financial Management which was in stark contrast to the emphatic evidence given to the committee in earlier evidence taken in respect of leases relating to the failed Hall/Kinlyside development. The committee considers that the credibility of witnesses is not enhanced by these discrepancies in evidence given in formal hearings.

Recommendation 6

3.38. The committee recommends that the Government remind departmental officers of the need for care and attention to detail in respect of evidence given to committees of the Assembly and remind officers of the gravity of such discrepancies.

DEPARTMENT OF EDUCATION AND COMMUNITY SERVICES

²² *ibid* p394

²³ *ibid* pp394-395

²⁴ *ibid* p400

Copland College

3.39. The committee noted the low enrolments at Copland College. The committee was advised that there were approximately 350 students enrolled at the college in August 1998.²⁵ To ensure that the college can offer an array of good quality educational programs to the students enrolled, special staffing arrangements have been put in place. The college is staffed for 400 students, which amounts to supplementation of around \$300,000 above the entitlements under the staffing formula. This arrangement applies for 1998 and 1999.²⁶

3.40. The committee was advised that the college has taken significant steps to attract more students.²⁷ These include the establishment of a multi-media skills centre, the introduction of Vietnamese in conjunction with Narrabundah College, joint activities with high schools in the Belconnen and Gungahlin regions, and meetings with Boards and P&C groups in the feeder area. According to the Minister, these efforts are not expected to show any large increase in enrolments for two to three years.²⁸

3.41. The committee is concerned at the failure of the Minister and the Department to take steps to guarantee a viable future for Copland College and has formed the view that if some urgent action is not taken the viability of the College will be threatened further.

3.42. The committee cannot over emphasise the need for urgent action on this important educational facility.

Recommendation 7

3.43. The committee recommends that the Minister for Education immediately revise measures to improve enrolments at Copland College and advise the Assembly of any changes.

Official Visitor's report

3.44. The committee was most concerned about the matters raised by the Official Visitor in relation to the operation of Quamby and Marlow Cottage. The Official Visitor expressed serious concerns about behaviour management at both facilities. Both facilities were reported to be poorly maintained.

3.45. In addition, the Official Visitor expressed serious concerns about the mix of residents at Marlow Cottage and the length of time that young people in crisis are at the cottage.

3.46. At Quamby, the educational and training programs were reported to be completely inadequate and there are no programs on substance abuse.

3.47. These are serious matters, which have been raised either by the previous Official Visitor or by other reviews, yet there is little evidence of any measures having been taken to improve the situation. The committee considers that the Official Visitor has been treated with great disrespect. As noted in the department's annual

²⁵ *ibid*, p 94

²⁶ *ibid*, p 94

²⁷ *ibid*, p 95-99

²⁸ *ibid*, p 99

report, she wrote to the department on 3 January 1998 setting out a number of serious concerns about Marlow Cottage.²⁹ At the time of presenting her annual report she had not received any feedback on the matters she raised.

3.48. When discussing the need for improvements, the Department of Education and Community Services advised that, following the recent performance review of Quamby, action will be taken to address the review's recommendations, which are expected to take account of the Official Visitor's concerns.³⁰

3.49. The committee was advised that, following the recent performance review of Quamby, action will be taken to address the review's recommendations, which are expected to take account of the Official Visitor's concerns.³¹

3.50. The committee was also advised that the Department is examining ways of improving the situation at Marlow Cottage.³²

3.51. The committee acknowledges that both Quamby and Marlow Cottage are very difficult places to manage. However it is of grave concern that little or no progress has been made in addressing these matters. The committee considers that urgent action needs to be taken at both institutions.

Recommendation 8

3.52. The committee recommends that for the next two years, the Government provide quarterly reports to the Assembly on progress with improvements at Marlow Cottage and Quamby.

Tuition fee for trainees and apprentices

3.53. The committee was advised that from 1 September 1998, all trainees and commencing apprentices undertaking off-the-job-training are required to pay a \$250 fee. In the past trainees were not required to pay a fee, while a \$500 fee applied to apprentices.³³ Equity was cited as the basis for the decision to introduce the fee to trainees as well as apprentices. It was, however, pointed out that it is a condition of many apprenticeship awards that the fees are paid by the employer.³⁴ The committee was advised that while final numbers on first year apprentices covered by awards which entitle them to reimbursement of their \$250 fee depends on award simplification, apprentices in the following industry areas have been covered for reimbursement-the metals industry; the building and construction industry; the vehicle repair and retail industry; the graphic arts industry; the furnishing trades; and the horticulture industry.³⁵ It was further pointed out that 'a significant number' of

²⁹ Department of Education and Community Services, *Annual Report 1997-98*, Volume 1, p 191.

³⁰ Transcript, p 154

³¹ *ibid*, p 154

³² *ibid*, p 151

³³ *ibid*, p 126

³⁴ *ibid*

³⁵ Minister for Education, answer to Question on Notice, 2 November 1998.

trainees also have their fees reimbursed by their employer.³⁶ However specific details were not known at the time of the hearing.

3.54. In response to a question on notice requesting details of the number of apprentices and trainees who have their \$250 fee reimbursed by their employer, the Minister advised that of the 18 apprentices who have commenced since September 1998, three are entitled to reimbursement. Of the 68 trainees who commenced since the introduction of the fee, the Minister was not aware of any existing claims for reimbursement of the fee.³⁷

3.55. It appeared to the committee that there are still some inequities in the system with some apprentices and possibly trainees being reimbursed for their fees while others are not. Further, based on discussions at hearings and the Minister's response to the Question on Notice, the committee was not satisfied that there had been a thorough assessment of who would be adversely affected by the fee before the fee's introduction.

Recommendation 9

3.56. The committee recommends that the Government conduct a thorough assessment of the effects of the introduction of the tuition fee for trainees and apprentices and advise the Assembly of its outcome.

Police checks

3.57. The payment by non-permanent employees of a \$25 fee for police checks was discussed in the committee's report on the Appropriation Bill 1998-99.³⁸ In summary, that report pointed out discrepancies in the cost the Department of Education and Community Services would have to carry if the fee was abolished, between the information the Minister gave the Assembly on 27 May 1998 of 'up to about \$50,000 in any one year',³⁹ and information provided in answer to a question on notice. Based on that information, that 820 staff were required to pay the fee in 1997-98,⁴⁰ at \$25 per person this amounts to \$20,500 - less than half the amount quoted by the Minister in the Assembly debate of 27 May 1998. This amount excludes the costs for permanent officers, whose fee is paid by the department.⁴¹

3.58. Information provided to the committee subsequently, during the examination of annual and financial reports, reveals another serious discrepancy. In response to a question on notice, the Minister for Justice and Community Safety advised the committee that, in 1997-98, 318 police character checks were performed for the Department of Education and Community Services at a total cost of \$7,950.⁴² This is

³⁶ Transcript, p 129

³⁷ Minister for Education, answer to Question on Notice, 2 November 1998.

³⁸ Select Committee on Estimates 1998-99, *Appropriation Bill 1998-99*, p 29.

³⁹ Weekly Hansard 1998, p 615.

⁴⁰ Minister for Education, answer to question on notice, 3 August 1998

⁴¹ Minister for Education, answer to question on notice, 3 August 1998

⁴² Minister for Justice and Community Safety, response to question on notice, 18 November 1998

less than half of the number advised by the Department of Education and Community Services in August 1998 for non-permanent staff alone. The committee is extremely concerned about this discrepancy, which highlights a major flaw in the Government's accountability measures. It is another example where the credibility of information provided to the committee must be seriously questioned.

Child Health and Development Services (CHADS)

3.59. According to the Department of Education and Community Services' Annual Report 'waiting lists were reduced in 1997-98 due to the establishment of physiotherapy drop in clinics and the introduction of the *1-2-3 Magic* program'.⁴³

3.60. While that is the case for the two specific programs mentioned, the Minister advised that 'there are no accurate numbers to reflect the change in waiting lists from 1996-97 to 1997-98' because 'the structure of the service changed from a single discipline to a multidisciplinary model for services for children aged three to 12 years with the implementation of three community based multidisciplinary teams'.⁴⁴

3.61. The committee was concerned to note that waiting lists for speech pathology for three to 12 year-olds at all of the community teams is long and ranges from eight weeks at the Northside Community Team to 14 weeks at the Central Community Team.

3.62. Further, except for social work and physiotherapy, waiting times for all services at the Southside Community Team are 12 weeks or more.⁴⁵ The Minister advised that this situation relates to 'increased demand due to local population demographics, lack of adequate space for occupational therapy and speech pathology services, and recruitment difficulties in both of these disciplines for the past year'.⁴⁶ The committee considers this situation to be totally unsatisfactory.

DEPARTMENT OF HEALTH AND COMMUNITY CARE

Annual Report for 1997/98 - relevance of information

3.63. The Committee was surprised to see several pages of the Department's annual report devoted to *Setting the Agenda "A healthy community"* which was "released shortly after the end of the financial year".⁴⁷

3.64. Although the Committee understands that the Department invested a great deal of resources during the 1997/98 financial year to the preparation of the document, the Committee notes that it was not released until 4 August 1998.

⁴³ Department of Education and Community Services, *Annual Report 1997-98, Volume 1*, p 69.

⁴⁴ Minister for Education, answer to Question on Notice, 2 November 1998.

⁴⁵ *ibid*

⁴⁶ *ibid*

⁴⁷ Department of Health and Community Care, *Annual Report 1997-98*, 15 September 1998, p 15

3.65. The Committee understands that the Minister and the Department are proud of the document, but considers they should refrain from including specific details of projects that are completed outside the reporting time frame in annual reports - these details should be included in the relevant year's annual report.

The Canberra and Calvary Hospitals - possible privatisation of hospitals/services

3.66. The committee is concerned that some intensive care functions have already been outsourced to the National Capital Private Hospital.⁴⁸ The committee also noted that the Department has written to each of the private hospitals in Canberra asking whether they were interested in providing additional elective surgery for public patients, in particular for pensioners.⁴⁹

3.67. The committee understands that some of the windfall received from the Federal government for signing the new Medicare agreement is being used for this purpose and therefore the funding is considered to be "one-off funding".⁵⁰ However, within the committee there is concern that this practice is essentially a privatisation of certain elements of the public health system.

3.68. By way of background, on 23 July 1998, following questioning about the cross arrangements between The Canberra Hospital and the National Capital Private Hospital, the Minister, in response to the question on whether he had any intention of selling The Canberra Hospital,⁵¹ stated he did not think that was in contention.⁵²

3.69. On that occasion the committee chair commented that he wanted to make sure that:

the throughput in the public hospital systems across the Territory is improved as one would expect it to be and I would not like the situation to exist ... where the continuing long waiting lists and the delays in getting treatment are used as a tool to manoeuvre people into the private system ...⁵³

3.70. During the 21 October 1998 committee hearing, the Minister advised that while he did not intend to seek tenders for either the management or the sale of The Canberra Hospital at this stage he would not rule out any option.⁵⁴

3.71. The committee is concerned at the Minister's willingness to consider tendering the management and/or sale of The Canberra Hospital.

⁴⁸ trans pp 196-197

⁴⁹ trans p 194. The private hospitals are Calvary Private Hospital, the National Capital Private Hospital, the John James Private Hospital and the Lydia Perrin Private Hospital.

⁵⁰ trans pp 193-194

⁵¹ *ibid*, pp 572-577

⁵² *ibid*, p 577

⁵³ *ibid*, p 579

⁵⁴ *ibid*, p 200

Recommendation 10

3.72. The committee recommends that the Government immediately rule out the privatisation of the Canberra Hospital or any part thereof.

Lung stapling operations

3.73. The committee is concerned about comments by the Minister reported in *The Canberra Times* about lung stapling operations. The Minister was reported as saying that:

as our population ages, unless we are prepared to pay for a significant increase in taxes, some difficult choices will have to be made

One of the dilemmas was that most having the lung operation had emphysema from smoking, and had understood the health risk. On the other hand, he was aware of nicotine's addictive nature.⁵⁵

3.74. The Minister advised the committee that, while he regretted the reported comments,⁵⁶ he had referred the matter of lung stapling operations to the Health and Community Care Ethics Committee. He did this because he was concerned that the operation was "new and innovative surgery" and that even though there had been some success there had also been a number of deaths. He was also concerned that "we do not have a full understanding of the long term outcomes" and that one person who had had the operation spent approximately 90 days in intensive care.⁵⁷

3.75. The committee is extremely concerned about these comments as they indicate declining compassion for people in need of medical assistance on the basis of amenity and the likelihood of costly treatment. In the committee's view the Minister should desist and exercise more care before making such statements in future.

3.76. The committee urges ministers to be very careful at all times about the language they use, particularly when discussing health issues. The comments by the Minister for Health and Community Care noted above demonstrate why such care is necessary.

Compliance with Smoke-Free Areas (Enclosed Public Places) legislation

3.77. The committee is concerned about compliance with phase 4 of the *Smoke-Free Areas (Enclosed Public Places) Act 1994* which came into operation on 10 November 1998⁵⁸ and which prohibits smoking in the 143 licensed premises in the Territory.⁵⁹ The Minister has the power to grant a certificate of exemption if the applicant has installed "equipment capable of maintaining air quality in accordance with Australian Standard 1668.2".⁶⁰ To date the Minister has granted 27 exemptions to licensed

⁵⁵ *The Canberra Times*, Cheerful survivors of surgery pause for a breather, Catriona Jackson, 7 October 1998, p 4

⁵⁶ trans, pp 212-213

⁵⁷ *ibid*, p 212

⁵⁸ *ibid*, p 222

⁵⁹ *ibid*, p 222

⁶⁰ *Smoke-Free Areas (Enclosed Public Places) Act 1994*, sections 7, 8, 9, 9A and 10

premises (24 to licensed clubs, the others to Casino Canberra, the Liquid Lounge and the Holy Grail).⁶¹

3.78. The committee was advised that the Department has three full time staff working on compliance with the legislation. The Department will also implement a community education program through the media which will target not just smokers, but the whole community, to encourage compliance with the legislation. The Department has established a newsletter and visited a number of premises to ensure that proprietors understand the legislation and comply with it.⁶² However, the committee was advised that:

the difficulty tends to be when the patrons have ... had a few drinks their likelihood of compliance has reduced so we are trying to increase ... the peer pressure aspects of it over the next month.⁶³

3.79. The committee appreciates that compliance with the legislation may be difficult but is concerned that three full staff may be insufficient to police licensed premises.

Recommendation 11

3.80. The committee recommends that the Standing Committee on Health and Community Care be invited to monitor the implementation of phase 4 of the introduction of the Smoke-Free Areas (Enclosed Public Places) Act 1994.

Hepatitis C

3.81. The committee is concerned about an oversight by the Department of Health and Community Care in the treatment of people who had acquired Hepatitis C through contaminated blood transfusions during the period 1985 to 1990.

3.82. The Minister advised the committee that:

... There is a major problem there that between 1994 and 1997 the Red Cross were busily going about making sure they had identified the infected blood supplies but our hospitals were not These hospitals were not then turning around to participate in that blood trace. I think it is an issue that we should be embarrassed about and I have said that publicly before. The focus clearly was elsewhere⁶⁴

3.83. Infection through blood transfusions was first raised at a meeting of the Australian Health Ministers Advisory Council (AHMAC) in October 1994,⁶⁵ which referred the lookback strategy (a program to identify people infected through blood transfusions) to the Red Cross.⁶⁶

⁶¹ Minister for Health and Community Care, response to question on notice, 6 November 1998

⁶² trans, p 223

⁶³ *ibid*, p 223

⁶⁴ *ibid*, p 233

⁶⁵ trans, pp 230-231 and Minister for Health and Community Care, response to question on notice, 6 November 1998

⁶⁶ trans, p 232

3.84. The committee notes that the plight of those who contracted Hepatitis C through blood transfusions was finally brought to attention through litigation.⁶⁷ The Minister advised the committee that:

suddenly they were going for large sums of money. The more important issue was that there were many people in the community who were Hepatitis C positive who did not know it and who had the ability to change their lifestyle or reduce the amount of alcohol they drank, that sort of thing, be careful about the drugs they use that might be hard on the liver and that by modifying their lifestyle they would have a better chance of a longer life. That is the real concern.⁶⁸

3.85. The committee has difficulty in understanding how this situation could occur given the history of the AIDS virus. The committee is at a loss to understand why more was not done sooner and is concerned by the Minister's comment that it cannot be assumed that this is the last blood virus, and there needs to be systems in place to minimise the spread of any blood borne virus.⁶⁹

3.86. In the committee's view, it is not only the issue of the spread of any blood borne virus, but also the fact that health officials should have systems in place to act quickly to limit damage to the health of people who have been unwittingly infected.

3.87. The committee was also advised, and notes with concern, that unless the Assembly legislates to remove people's rights to sue, the Territory could face some lengthy and expensive legal battles.⁷⁰

Recommendation 12

3.88. The committee recommends that the Minister:

- (i) advise the Assembly on a quarterly basis on progress with the implementation of the Hepatitis C Lookback Program; and**
- (ii) advise the Assembly, as a matter of urgency, what protocols and safeguards the Department has put in place to ensure that a situation similar to what happened with Hepatitis C does not recur.**

Future of the ACT Hospice

3.89. The committee continues to be concerned about the future of the ACT Hospice. The committee's August report on the Appropriation Bill 1998-99 recommended that the Commonwealth be advised that the Territory will be continuing to operate the Hospice on the Acton Peninsula and that relocation will only be considered where the Commonwealth is prepared to accept liability for full

⁶⁷ *ibid*, p 234

⁶⁸ *ibid*, p 234

⁶⁹ *ibid*, p 230

⁷⁰ *ibid*, p 227

compensation for the move to a new site including land and building costs.⁷¹ The committee notes that the Government agreed in principle to this recommendation.⁷²

3.90. However, the committee notes that the Government has not been able to extend the lease for the ACT Hospice to remain on the Action Peninsula site indefinitely. The committee is mindful that the current lease expires in June 1999 and that the Commonwealth has recently advised the Government that Amendment No 20 to the National Capital Plan (dated 5 December 1997) permits only a temporary extension of that lease.⁷³

3.91. The committee was further concerned that the Government is not clear about the meaning of “temporary” in this context, noting that Amendment No 20 reflects an agreement with the Commonwealth that the development of the Acton Peninsula for the Museum of Australia may require that the ACT Hospice be relocated at some point.⁷⁴

3.92. The Minister advised that two possible sites have been identified for a new hospice if negotiations with the Commonwealth are unsuccessful. One is co-location with the Calvary Hospital and the other is near Lake Ginninderra.⁷⁵

3.93. The committee is concerned that the substantial lead time required to build a new hospice could present major problems if the Hospice lease is not extended beyond 1999.

Recommendation 13

3.94. The committee recommends that the Minister, as a matter of urgency, advise the Assembly on contingency plans for the location of the ACT Hospice should the Commonwealth not extend the lease for its existing location.

Impaired Practitioners Rehabilitation Program

3.95. The committee is concerned about the operation of the Impaired Practitioners Rehabilitation Program of the Medical Board of the ACT in that the Board continues to be concerned with the potential danger to the public associated with registered medical practitioners who may be suffering from a physical or mental impairment or from substance abuse.⁷⁶

3.96. According to the latest published list of registered medical practitioners registered under the Medical Practitioners Act there are 1,523 medical practitioners registered in the Territory and over 900 medical practitioners who list their

⁷¹ p 36 of the report

⁷² Government Response to the Select Committee report, p20

⁷³ transcript, p 243

⁷⁴ Minister for Health and Community Care, response to question on notice, 5 November 1998

⁷⁵ trans, p 242

⁷⁶ ACT Department of Health and Community Care, *Annual Report*, p 61

professional address in the ACT.⁷⁷ The Department's research suggests that between nine and 18 medical practitioners are in need of assistance.⁷⁸

3.97. The committee notes that while the Board is satisfied that a start has been made in coming to terms with this issue, it does not have a sufficient level of support from the Secretariat for the rehabilitation program to be regarded as an unqualified success and, as a result, is seeking additional administrative support from the Secretariat to permit it to more actively manage this program in an attempt to ensure that the public continues to receive a high standard of medical care.⁷⁹

Recommendation 14

3.98. The committee recommends that the Minister ensure that the Medical Board of the Australian Capital Territory has sufficient resources to effectively operate the Impaired Practitioners Rehabilitation Program.

Budget overrun - The Canberra Hospital

3.99. The committee is concerned about the budget overrun of The Canberra Hospital, noting comment by the Chairperson of the ACT Health and Community Care Service Board that while the financial outcome for The Canberra Hospital was disappointing and in part reflected the demands placed on its services, the hospital has continued to develop the processes necessary to ensure a satisfactory financial outcome is achieved in the 1998/99 financial year and beyond.⁸⁰

3.100. The committee was advised that the Hospital had incurred a greater operating loss than had been originally budgeted for.⁸¹ The Hospital had budgeted for a \$10.322m deficit but the actual deficit was \$13.634m.

3.101. Although throughput for the year exceeded the purchase agreement⁸² the committee is concerned that the hospital was not able to contain its expenditure within its original budget.

Recommendation 15

3.102. The committee recommends that the Minister, as a matter of urgency, advise the Assembly how The Canberra Hospital plans to develop the processes necessary to ensure a satisfactory financial outcome is achieved in the 1998/99 financial year and beyond, and the steps that will be taken to make up the lost ground from last year's budget blowout.

DEPARTMENT OF JUSTICE AND COMMUNITY SAFETY

⁷⁷ Australian Capital Territory Special Gazette, No. S70, 13 February 1998

⁷⁸ Minister for Health and Community Care, response to question on notice, 5 November 1998

⁷⁹ ACT Department of Health and Community Care, *Annual Report*, p 62

⁸⁰ ACT Health and Community Care Service, *Annual Report*, p ii

⁸¹ trans, p 257

⁸² *ibid*, p 257

ACT Magistrates Court

3.103. The committee was concerned about delays of 7-8 months between the entering of a not guilty plea and the hearing of cases and that almost 500 matters were mentioned ten times or more before finalisation during 1997/98.⁸³

3.104. The committee was also concerned that this information on delays in the ACT Magistrates Court was not available in the Department's annual report. If not for the annual report of the Director of Public Prosecutions, this information would not have been available to the committee. Meaningful information on timeliness of court cases is important because it can indicate resource problems and/or management problems in the Magistrates Court.

3.105. The Department's annual report did include information on the number of matters dealt with during 1997/98. The committee was surprised to see a variation from an 'original target' of 28,000 increased to 68,000 as the 'amended target' and then an actual 'result' of 86,257.⁸⁴ This represents a 27% increase in the number of mentions from the projected target.

Recommendation 16

3.106. The committee recommends that future Departmental annual reports include information on:

- (i) the number of mentions for each case categorised by 'more than five mentions' and 'more than ten mentions'; and**
- (ii) explanations for cases mentioned ten times or more.**

3.107. The committee was concerned that three years have elapsed between the death of Warren I'Anson and the inquest report being finalised. In response to a question on notice, the Minister advised the committee that 'while there is no real delay' in the Coroners Court, 'the Chief Magistrate is conscious of the need to finalise the matter'. While the committee recognises that the convention of separation of powers limits the Government's ability to act, the committee was not satisfied with this response as it provided no explanation for the delay and no information on when the Coroner's report would be released.

Legal Aid Funding

3.108. The committee is concerned that Legal Aid expenditure on the hospital implosion inquest has already totalled about \$350,000 which means that based on an average legal aid cost of \$1800, 195 Territorians have missed out on legal aid.⁸⁵

3.109. The committee acknowledges that the Government could not have anticipated such expenditure would be required when it allocated legal aid funding in the budget. However the committee considers that potential legal aid recipients, who are some of

⁸³ Director of Public Prosecutions, *Annual Report 1997/98*, p2, p5. Officials advised during the estimates hearings that the average time delay was about 6 months for defended matters where someone is not in custody. (Transcript, p 557)

⁸⁴ Department of Justice and Community Safety, *Annual Report 1997/98 vol2*, p50.

⁸⁵ *ibid*, p585.

the most needy in the community, should not have to bear the cost of unpredictable, costly inquests and trials.

3.110. The committee considers that budget allocations for legal aid should be based on an estimated number of people who could be expected to receive assistance based on the average cost per case and extraordinary cases such as the hospital implosion inquest should have separate funding.

Recommendation 17

3.111. The committee recommends that the Government:

- (i) quarantine funding for extraordinarily costly court cases from ‘average’ cases when formulating the next budget;**
- (ii) designate separate funding for extraordinary cases; and**
- (iii) provide supplementary funding where the appropriation for extraordinary cases is insufficient.**

Victimisation of complainants

3.112. The Discrimination Commissioner advised the committee that more people were being victimised when they complain of discrimination.⁸⁶ Under the *Discrimination Act 1991*, victimisation means being treated unfavourably because of making or assisting in a discrimination complaint, or asserting a right under the Act.⁸⁷ In 1997/98, 20 complaints of victimisation were received by the Discrimination Commissioner.⁸⁸ This represented an large increase from 2 in 1994/95, and 3 in 1995/96.⁸⁹ In 1997/98, victimisation complaints comprised 15 % of all complaints, the second biggest category of complaints.⁹⁰

3.113. The Discrimination Commissioner advised the committee that in some cases a complaint about discrimination may not be upheld although the complaint about victimisation may be.⁹¹

3.114. The committee was very concerned about the increase in victimisation of discrimination complainants and the fact that nine of these complaints related to employment.⁹² In the committee’s view, the Government should send a strong message to employers and managers that victimisation is unacceptable and will not be tolerated.

⁸⁶ Uncorrected Proof Transcript 4 November 1998, p 608.

⁸⁷ Human Rights Office *Annual Report 1997/98*, p 1.

⁸⁸ *ibid*, p 16.

⁸⁹ *ibid*

⁹⁰ *ibid*, p 18.

⁹¹ trans 4 November 1998, p606.

⁹² Human Rights Office *Annual Report 1997/98*, p 16.

Recommendation 18

3.115. The committee recommends the Government communicate a message that victimisation is unacceptable through pamphlets, publications and management training.

Arrests and incarceration of indigenous people

3.116. The committee is concerned at the high rates of remands and committals of indigenous young people in the ACT. Although indigenous people make up only 0.6 of 1% of the ACT population, in April 1998 approximately 50% of young males remanded and committed were indigenous.⁹³ The committee was also advised that of 324 juvenile males arrested in 1997/98, 92 were indigenous youth.⁹⁴ 3.116. The committee is also concerned that three out of four young females arrested for intoxication are indigenous people.⁹⁵ Although the small sample size limits conclusions that can be drawn it is an area which the committee considers the Government should closely monitor.

3.117. The committee is further concerned that the holding cell at the Gungahlin Joint Emergency Services Centre does not have observation capacity as recommended by the report of the Royal Commission into Aboriginal Deaths in Custody. Although the Government advised this cell is not currently being used, it does not send the message that this Government takes the issue of Aboriginal deaths in custody seriously.

3.118. The committee acknowledges that the problems facing indigenous Australians are highly complex and not easily fixed but suggests the Government needs to demonstrate more commitment to preventative measures.

Recommendation 19

3.119. The committee recommends that the Government develop and implement new preventative measures in response to the disproportionately high rate of indigenous youth arrest and incarceration.

DEPARTMENT OF URBAN SERVICES

ACTION - accreditation system

3.120. The committee noted the concern of one local operator about different standards between the ACT and NSW in the accreditation system for operating a public bus passenger service.⁹⁶

⁹³ Table 22: Breakdown of Ethnicity of Young Persons (Remands and Committals) Statistical Profile Quarterly Series Vol 6, ACT Administration of Justice

⁹⁴ *Australian Federal Police Annual Report 1997/98*, p32.

⁹⁵ *Australian Federal Police Annual Report 1997/98*, p32.

⁹⁶ transcript, pp346-352

3.121. The committee was advised that a nationally uniform standard for bus classification should be introduced in 1999, which will remove one disparity between the ACT and NSW (the former defines a bus as a public passenger vehicle with six seats, whereas in NSW it is a vehicle with more than eight seats).⁹⁷ The committee was further advised that the ACT is examining the possibility of instituting an accreditation course for bus operators within the ACT, which would mean that ACT operators would not have to travel to Sydney (as they do at present).⁹⁸ The committee commends this initiative.

ACTION - special needs buses

3.122. With regard to the decision to use midi-buses, adapted to the needs of disabled people, on just one route which does not include Tuggeranong interchange,⁹⁹ the committee was advised that the buses are being trialed on the route 234 service because it goes via the Calvary and Canberra hospitals.¹⁰⁰ The Minister undertook to discuss the bus routing with representatives of disability groups to ensure that the route 234 service is the most appropriate - and to raise with the Minister for Health and Community Care the specific needs of disabled people in Tuggeranong.¹⁰¹

Staff plans and training

3.123. With regard to management plans/training for Departmental staff, the committee shares the Minister's concern that only 20% of staff have a management plan at present. The Minister advised that the agreed Departmental target is that all staff have a management plan. The committee agrees with the Minister that this is an area that must be worked on in the current year.¹⁰²

3.124. The committee experienced some difficulty in interpreting the figures for staff training.¹⁰³ but was advised that the Department will review the way in which training information is presented and will improve the explanatory notes accompanying such statistical and financial data in future reports..¹⁰⁴

⁹⁷ *ibid* p346

⁹⁸ *ibid* p348

⁹⁹ *ibid* p437

¹⁰⁰ *ibid* p439

¹⁰¹ *ibid* p440

¹⁰² *ibid* p356

¹⁰³ *ibid* p356

¹⁰⁴ Response to a question on notice

Tidbinbilla Nature Reserve

3.125. The committee noted a significant decline in the number of visitors to the Tidbinbilla Nature Reserve (when compared to the original Departmental estimate). The Annual Report states that the initial target over-estimated [the] number of visitors.¹⁰⁵ While stating that information on visitor numbers needs to be interpreted cautiously, the Department acknowledged the overall downward trend - which it views as indicating the Tidbinbilla Reserve needs to be revitalised in some way.¹⁰⁶ The committee is aware that the Standing Committee on Urban Services may take up this issue in its current examination of the draft management plan for Tidbinbilla Nature Reserve.

Conservator of Flora and Fauna - Possible performance measure about specific policy advice

3.126. The committee sought a view as to whether a performance measure should be developed that deals with the advice provided by the Wildlife Research Unit (or other sub-units) to the Conservator of Flora and Fauna (or to the Executive Director of Environment ACT) on specific environmental issues.¹⁰⁷ The Department advised that this type of activity falls under the heading of general policy advice and should not be separated out.¹⁰⁸ However, there is a view within the committee that it would be useful if those areas of an agency which, in any particular year, face unusually heavy demands for policy advice could be specifically identified.¹⁰⁹

Old Weetangera Road

3.127. Use of the Old Weetangera Road as one of a number of options to facilitate traffic flow and parking arrangements for the Bruce Stadium during peak demand was discussed with the Department.

3.128. This matter was also discussed with the Chief Minister's Department in relation to the Bruce Stadium redevelopment and comment on the discussions with the two departments is given in paragraphs 3.16-3.20 above.

¹⁰⁵ Annual Report volume 2 p132

¹⁰⁶ Transcript p382

¹⁰⁷ Ibid, p390

¹⁰⁸ ibid p391

¹⁰⁹ ibid

Planning and Land Management - delays in processing applications

3.129. The committee noted Departmental concerns about the unexpected number of development and leasing applications which were not processed within the prescribed time frames. The committee was advised that resources have been re-directed to this area in order to improve performance¹¹⁰ and that the Department is seeking information from other jurisdictions to see if it is nationally competitive.¹¹¹

3.130. The committee is concerned that this situation will not improve in the future, given the fact an internal review of PALM is seeking savings of \$1m. This suggests that the delays in processing development and leasing applications will only worsen.

ACT Housing

3.131. The committee was advised that an asset management strategy is being prepared for all ACT Housing assets.¹¹² The committee considers this is overdue. The committee was pleased, however, to be assured that ACT Housing intends to closely involve tenants in the preparation of the strategy.¹¹³

3.132. The committee notes the Department's preferred use of the term 'applicant list' rather than 'waiting list'.¹¹⁴ However, it appears that ACT Housing staff continue to use the latter term, and to advise the public that the waiting list is three to four years.¹¹⁵ This contradicts the statement in the Annual Report that the 'average waiting time' is 11 months (down from an anticipated 44 months).¹¹⁶ The reason for such a big improvement was said to be a change in methodology used to calculate the average waiting time which is now based on the average time between the date of approval and the date of allocation of a property.¹¹⁷ The Department undertook to clarify the situation.¹¹⁸

Wayne Berry MLA
Chair

¹¹⁰ *ibid* p416

¹¹¹ *ibid* p418

¹¹² *ibid* p344

¹¹³ *ibid*

¹¹⁴ *ibid* p340

¹¹⁵ *ibid* p423

¹¹⁶ Annual Report volume 2 p145

¹¹⁷ *ibid*

¹¹⁸ Transcript, p428

APPENDIX – PUBLIC HEARINGS

MONDAY 19 OCTOBER 1998

Chief Minister's Department

TUESDAY 20 OCTOBER 1998

Department of Education and Community Services

WEDNESDAY 21 OCTOBER 1998

Department of Health and Community Care

THURSDAY 22 OCTOBER 1998

Department of Urban Services

TUESDAY 3 NOVEMBER 1998

ACT Legislative Assembly

ACT Auditor-General

Department of Justice and Community Safety

WEDNESDAY 4 NOVEMBER 1998

Department of Justice and Community Safety

MONDAY 9 NOVEMBER 1998

Chief Minister's Department

Territory Owned Corporations

DISSENTING REPORT HAROLD HIRD MLA

I wish to record my dissent from the following paragraphs of the report.

2.2 The committee is not "charged by the Assembly to hold agencies accountable through their ministers..." Rather, for purposes of this report, the committee was "appointed to examine the Annual and Financial Reports for the financial year 1997/98". This is made clear in the terms of reference.

The ~committee's role and function does not include "holding agencies accountable". That is the role of Ministers, not Estimates Committee. Indeed, from its assertion in para 2.2 it is clear that the majority of the committee does not understand its own role. Accordingly I dissent.

2.3 The committee is grossly in error in its attacks on public servants. It appears to hold the mistaken belief that it can cross-examine public servants whereas, if it conducted itself properly, it would direct all questions (and attacks if it feels the necessity) to ministers.

Moreover, I believe the committee is equally in error in expecting public servants to comment on matters of policy. Only ministers should be asked to explain policy.

If the committee found some senior officers "to be less than forthright", it should first ask itself if it were directing questions to senior officers on matters on which they were not obliged to respond when it should have been asking ministers instead.

In attacking senior officers and making petulant threats as in paragraph 2.3, the committee is outside its charter. I make the observation that this Estimates committee, by directing its questions and attacks on matters of policy and opinion (for example, seeking "views") to officials, has sought to politicise the public service. I believe this matter should be brought to the attention of the Assembly and some rules established to stop it.

2.4 I reiterate - the committee was "appointed to examine the Annual and Financial Reports for the financial year 1997-98 That is all. It does not have the authority to range far and wide over any topic that might please it. The committee may want to "cause discomfort for ministers and agencies" by "going beyond those issues which are presented in annual and financial reports", but its terms of reference do not give it that role.

3.2-3.5 I dissent for three reasons:

- 1) the comment that "there are no direct precedents for Executive members (sic) private business" is incorrect. In 1997 the Chief Minister of the ACT introduced the *Artificial Conception (Amendment) Bill 1996* as a private member's bill;
- 2) the committee has obviously not acquainted itself with the conditions under which Mr Moore was brought into the Ministry. One of those conditions is that Mr Moore may promote issues on which he has given notice and in which he has declared a specific interest outside the portfolio of Minister for Health and Community Care; and
- 3) the comment in para 3.5 is irrelevant and gratuitous. It is not within the committee's terms of reference to comment on the *Litter Bill 1998* and to cite this as an "example [which] undermines the case for additional funding required for the extra ministry" shows that the committee has neither considered the structure of the fifth Minister's office nor its operational and financial requirements.

3.6 Accordingly I dissent from Recommendation 1.

3.19 The committee is going beyond its terms of reference in seeking "the Department's view". The Department may provide information at the request of the Minister, but only the Minister - not the Department - should offer a "view". To do otherwise may involve the Department in commenting on policy. That is to be avoided because it potentially politicises the public service.

3.26 Since the committee is aware that there are no problems with Cantrade's ability to manage contracts of the type cited, this paragraph is not correct. In fact, the termination of the arrangement with Pendon shows that both the contract itself and Cantrade's management of it are effective. Hence there is no basis for para 3.26 and 3.27 (a) of Recommendation 5.

3.27 (a) I therefore dissent from Recommendation 5(a)

3.30 This paragraph is inappropriate because the committee's preciousness is not a matter which comes within its terms of reference. The logic of this paragraph is that if the committee feels it has been "treated with unacceptable disdain" it should outline an acceptable level of disdain and, perhaps, examine why it attracted such treatment in the first place. The paragraph should have been deleted from the report.

3.34 It is truculent and irresponsible of the committee to speculate as to the reasons for the Chief Executive of ACTEW deciding not to provide certain information. As the comment does not reflect any evidence or research it should not appear in the report.

3.36 To say that "the Department did not see a draft of the Hall/Kinleyside preliminary agreement..." does not make sense because "the Department" (the Chief Minister's Department) was involved in the drafting of the preliminary agreement, therefore it would have seen it.

3.37 The committee has failed to acknowledge that any apparent disparity in evidence was clarified and explained in the context of a related censure motion in the Assembly, so the credibility of witnesses is not in question. Since the remarks in paragraph 3.37 are wrong in substance and inappropriate in tone I dissent from them.

3.38 I dissent from Recommendation 6 for the reasons cited above (3.37) and because this is a further instance of the totally unacceptable behaviour of the committee in its attacks on officials - in this case because it had failed in its attack on the Minister.

3.41-3.42 I dissent from these paragraphs because they ignore the evidence presented in the previous paragraph of the steps being taken to position Copland College for the future. The committee warns that "if some urgent action is not taken" the viability of Copland College will be threatened, yet the preceding paragraph summarises the "significant steps" being taken. This is a case of the committee expressing its prejudice no matter what evidence to the contrary.

3.43 I dissent from Recommendation 7 because it is based on a false premise and fails to take account of information presented to the committee.

Harold Hird MLA

DISSENTING REPORT - HAROLD HIRD MLA - DAVE RUGENDYKE MLA

We record dissent from the following paragraphs of the report.

3.66-3.72 The committee expresses concern that some hospital functions have been outsourced to the National Capital Private Hospital, but we do not share that concern. Indeed, from the point of view of the additional patients being treated it can only be regarded as an improvement.

We also do not share the committee Chairman's ideological fixity against the private sector providing community services and we resent his personal views being imposed on the committee in this draft report. If, for instance, the private hospitals in Canberra can assist in "providing elective surgery for public patients" then that should be welcomed, not regarded as a matter of concern.

The draft report's reaction to the Minister's comment that he "would not rule out any option" for improving the management of The Canberra Hospital, borders on the hysterical and we completely disassociate ourselves from it. The Chairman of the committee may be "extremely concerned" at the logical possibility of tendering the management of The Canberra Hospital, but we are not.

A further reason for our dissenting from paragraphs 3.66-3.72 is that there is no analysis of the issues raised, only emotional rhetoric. The committee should be prepared to examine and report objectively on all information presented to it. Instead it has become, in this case, no more than a propaganda sheet for the Chairman's prejudices.

We therefore dissent from Recommendation 11

Finally, we record our appreciation for the work of the committee staff and note the improvements in the operation of the committee from having it served by staff from each of the relevant Select Committees

Harold Hird MLA

Dave Rugendyke MLA