



**DEBATES**

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

20 FEBRUARY 1996

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

### **RESIGNATION OF MEMBER**

**MR SPEAKER:** Members, pursuant to the resolution of the Assembly of 27 March 1992 which authorises me to receive the written notice of resignation of a member, I wish to inform the Assembly that I have received a written notice of resignation from Mr Connolly dated 19 February 1996. Pursuant to subsection 13(3) of the Australian Capital Territory (Self-Government) Act 1988, I present the letter.

**MR HUMPHRIES** (Attorney-General): Mr Speaker, I seek leave to make a statement concerning Mr Connolly's resignation.

Leave granted.

**MR HUMPHRIES:** I thank members. I think it is appropriate for me to say a few words in the Assembly about Mr Connolly and his departure from the Assembly. The unfortunate thing about obituaries is that you do not get the chance - or very rarely anyway - to read your own. The good thing about voluntary retirement from politics is that, in a sense, you get a chance to do just that. I welcome the opportunity to say some things about Mr Connolly that perhaps it was not possible to say before his retirement.

There are 15 ex-MLAs. One is deceased. Fifteen persons have left the ACT Legislative Assembly since self-government. Of these, only four could be said to have chosen, in a completely voluntary way, the time of their own departure. Mr Connolly is the fourth, after Mr Whalan, Mr Westende and Mr Stevenson. The decision to choose to serve the community in the third arm of government - that is, the judiciary - after serving in the first and second arms, is typical of the strong sense of purpose he brought to his time here in the Legislative Assembly. He was elected to the Assembly in May 1990. He became shadow Attorney-General immediately on his election to the Assembly; and, just over a year later, he became Attorney-General. That was the one post he held throughout his next 3½ years in government. He was initially also Minister for Urban Services and Minister for Housing and Community Services and later also Minister for Health.

However, there is a real sense in which Terry Connolly was a lawyer first and a politician second. I think that that fact is signified by the impressive agenda of law reform and legal innovation that he created during his time in politics. I think it is true to say - and this is a surprising observation in some ways - that the Territory's laws were surprisingly neglected and out of date before the Territory was granted self-government in 1989.

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In other respects, the Territory had been well endowed. At the point of self-government, one area that was not particularly showing the signs of strong Commonwealth attention was the Territory's law and legal system. Mr Connolly, as Attorney-General, was substantially responsible for the process of upgrading the laws of the Territory and placing our statute books in what I would say was generally good working order.

Some of the change that he initiated as Attorney-General, my party and I opposed. But most of what he brought forward was acceptable and supportable, not just by my party but by the whole of the Assembly. Much of the legislation he brought forward was indeed groundbreaking. Areas of reform for which he was responsible included laws on surrogacy; recognition of domestic relationships outside traditional relationships; the establishment, for the first time, of judicial commissions to deal with the removal of judges; the use of closed-circuit television in court proceedings, especially with respect to evidence given by children; new applications of the discrimination legislation; a new regime for the forensic treatment of the mentally ill; the liberalisation of the drug policy; enactments recasting the state of the law concerning consumer credit, bail, evidence, the enforcement of judgment debts, adoption, legal aid, registration of land titles and listening devices - and the list goes on. It could be said that ACT laws lagged badly in 1989. Today, in many respects, the ACT's state of the law leads the pack. I have to say that Mr Connolly, to give him his due, deserves much of the credit for that. There were, of course, some less successful initiatives which he was responsible for and which we debated fiercely in this chamber at the time. Now is not the time to comment on those. Indeed, his whole opus of legislation is a matter which is now, I think, more for the history books to judge.

He has now decided to leave party politics permanently. I think that one of the great weaknesses of our system of government is that it puts some players under almost impossible pressure and leaves others in almost unconscionable indolence. I said late in 1994 that being in opposition was akin to unemployment in a highfalutin kind of way, and I suspect that Mr Connolly came to feel the truth of that over the last year. It is difficult for a person with considerable skills and an appetite for challenges to be idle. I had no hesitation, therefore, in offering Mr Connolly the role of Master of the ACT Supreme Court. The community, I think, will derive a great deal of benefit and great value from the contribution he can and will make in that role as Master. Mr Connolly was interested - and is interested, I am sure - in access to justice issues. On the Master's bench he has a chance to do something about that. The Master is responsible for, among other things, the management of court lists to ensure that justice is not only full but timely. I am confident that the zeal for change which was part of his character will be no less an impulse of his in the Supreme Court. The appointment to the Supreme Court is an important one. I am not suggesting that the court is in need of change; but I will say that I believe that this appointment constitutes a generational change for the Supreme Court, and I believe that it will broaden the outlook of the court in the work that it does.

It was my privilege to oppose him over much of the last six years. It is a pity that our roles had to be defined so often, both by ourselves and by the media, as belligerent ones. I think that is a very false impression in many ways. The fact is that politics is very substantially about agreeing and proceeding, on an agreed basis, with a process of change

in the law of the land. Most of what we do in this place is consensual. It is, I think, only his due that we could say that he has left a very indelible impression. It is an occasion to express, on my part, my admiration for his energy and his achievements, and to convey on behalf of the Government our best wishes for his new career.

**MS FOLLETT** (Leader of the Opposition): I seek leave to make some brief remarks.

Leave granted.

**MS FOLLETT:** It has not been a habit in the Assembly to make quasi-obituaries for retiring members, but I cannot allow Mr Connolly's future life to be blighted by the appearance that Gary Humphries is his greatest fan. So I am delighted to put on the public record my great admiration, and that of my colleagues, for Terry Connolly, and to say that it was very pleasant indeed to work with Terry in the years that he was in the Assembly. He was, as all members will know, a person of enormous intelligence and enormous wit. In a small team such as we have in the Assembly, that wit, that bonhomie, is an essential ingredient in running a good team; and Mr Connolly was very much a part of our team.

It was a great pleasure, and I think something of a privilege, to see such a progressive and enlightened Attorney-General at work and to be aware that, as Attorney-General, Terry Connolly was prepared to put forward any proposition that he felt was in the best interests of a fairer and more just society. As Mr Humphries has enumerated many of the legislative initiatives taken by Terry Connolly, I will not go over those again. But I think it is very apparent to anybody who looks at Terry Connolly's tenure as Attorney-General that the rights of individuals, the balance of our community in addressing the relative rights of the powerful and the less powerful, were always at the forefront of his mind. As Consumer Affairs Minister, he took a great many steps that were aimed at increasing the power of the little person in our community. Again I believe that his driving force has always been addressing the imbalance of power in our society.

It is indeed a great pleasure, and something that I know that my caucus colleagues are very proud of, to have enjoyed Terry Connolly's service as Attorney-General. It is my hope now that Terry Connolly will take that progressive and enlightened attitude onto the bench. I have no hesitation in saying that I think that the bench needs it. We have seen far too often, and far too recently, examples of what I regard as inappropriate treatment of many in our judicial system. Women, of course, have been particularly badly treated in the judicial system. The Federal Government report on equality before the law cites instance after instance where women as a class have been treated before the law quite differently from other people. We also have the prime example, in the report of the Royal Commission into Aboriginal Deaths in Custody, of another group of people being treated differently before the law. So there is no doubt in my mind, and I have no hesitation in saying, that the judiciary needs to lift its game and ensure that that equality before the law is a fact and is perceived to be a fact by the community that they serve. I hope that Mr Connolly will therefore continue with his socially progressive and reforming zeal on the bench.

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On a lighter note: I think he could start by dropping the practice of wearing silly wigs and gowns. I would regard it as a sign of even greater things to come if we could somehow abandon what I believe is a totally inappropriate method of presentation by the judiciary, and one which separates them from the rest of the community and marks them as a self-proclaimed elite. In my view, they should be portraying themselves and acting as the servants of our community, just as this parliament is another servant of the community. If anyone can take on those entrenched and somewhat stuffy traditions, Mr Connolly is the man for the job. I congratulate Mr Humphries on making the appointment. I think it was a very good one. On the Labor side, of course, we are very sorry to be losing a great colleague. But I think that the community will be the richer for having Mr Connolly serving on the judiciary.

### **CHIEF MINISTER AND MINISTER FOR INDUSTRIAL RELATIONS** **Motion of Censure**

**MR BERRY:** Mr Speaker, I seek leave for the Leader of the Opposition to move a motion of censure of the Carnell Government.

Leave granted.

**MS FOLLETT** (Leader of the Opposition) (10.45): Mr Speaker, I move:

That this Assembly:

- (1) notes that the Government had failed to negotiate a new enterprise bargain by the time the previous bargain expired on 31 December 1995;
- (2) deplores the confrontationalist approach taken by the Carnell Government in the current industrial relations dispute; and
- (3) censures the Chief Minister and the Minister for Industrial Relations for their failure to negotiate in good faith in an attempt to come to a settlement of this dispute.

I am moving this motion today to give this Assembly an opportunity to express to the Government our dissatisfaction with their handling of the current industrial dispute. It is to make clear to the Government that this is a very serious issue and is regarded as a very serious issue by this Assembly. It is to make clear to the Government that this issue is having a serious and adverse impact on our community.

I think that we need to make it very clear to the Chief Minister that this is not some sort of a PR exercise. It is not a dress rehearsal; it is not an election stunt. It is a very real issue which she, as the head of the Government, has the responsibility to deal with in a considered and calm manner. It is aimed at obtaining a resolution, not a further confrontation. To date, we have seen no sign whatsoever from Mrs Carnell, or from her Industrial Relations Minister, that resolution is what they are after. We have seen

confrontation after confrontation. My colleague Mr Berry will be addressing the industrial relations aspects of this issue, but I can say that never have I seen a government take a more confrontational approach to the legitimate concerns of trade unions in this community. I think that it would behove the Government to listen very carefully to the view of this Assembly when we say that we expect that this issue will be resolved.

Resolution of the issue requires negotiation. Negotiation requires two parties at a table in discussion on the various merits of their positions. We have not seen any will on the part of Mrs Carnell or her Government to enter into that sort of meaningful negotiation. I believe that it is time, as an Assembly with the best interests of our own community at heart, that we expressed our view to the Government. We have chosen to move not in a way that threatens the Government but in a way that expresses strongly the view of the Assembly to the Government. As an Assembly, we have a responsibility to act on behalf of our community. I think that the community could expect no less of us in these very serious circumstances.

As I said, Mr Berry will be addressing many of the industrial relations aspects, but there are two aspects of this matter that I want to address. The first of those is Mrs Carnell's misrepresentation of the financial impact of the unions' claims. There are two issues to be looked at seriously here. I hope that the Independents are listening to the arguments on both sides of this question. Mrs Carnell has said in public, and has said many times in yet another of her classic PR exercises, that the unions' claim, if agreed to, would impact enormously on the rates that Canberra ratepayers pay. In fact, she has said that it would cause a 31 per cent rise in rates. This is a totally dishonest claim. It is a classic case of lies, damned lies and statistics; and Mrs Carnell ought to be ashamed, as her colleagues ought to be ashamed, of perpetrating such a misrepresentation of the facts.

The fact of the matter is that the ACT's rates constitute 13 per cent of the ACT's revenue yearly. There is no reason whatsoever for the unions' pay claim to be taken, in whole or in part, from that 13 per cent of revenue. In fact, that revenue is levied on Canberra ratepayers in order to pay for municipal services. If the pay claim were granted in its entirety and it was spread evenly across the ACT's revenue base, the impact on the rates would be 4 per cent. Last year, we saw Mrs Carnell put the rates up by 4 per cent, for no reason at all. Those are facts that Mrs Carnell will not, of course, put to the community, because they are honest statements. In seeking to perpetuate this myth about the impact on rates, she is really perpetuating a total misrepresentation of the facts.

There is another issue that I want to address on the broader aspect of government financing. The fact of the matter is that a government decides its priorities for expenditure, and that is the right of government. In deciding its priorities, of course, it is bound by the amount of available funds. But I would ask members to look at page 81 of Budget Paper No. 3, as distributed by Mrs Carnell as Treasurer. You will see from page 81 of Budget Paper No. 3 that, in fact, the Consolidated Fund - the area of the budget where salaries and wages are paid from - is in quite massive surplus. You will see, if you look at the Government's own budget papers, that, in fact, in the 1994-95 year there was a \$43m surplus in the Consolidated Fund; in 1995-96 there is a \$42m surplus in the Consolidated Fund; and for the outyears 1996-97 to 1998-99 that surplus is projected by Mrs Carnell, in her own documents, to rise from \$50m to \$65m to \$84m. That is where salaries get paid from.

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There is no doubt whatsoever that over the years that surplus has been allocated for expenditure on a range of items. One of the expenditures has been on partly offsetting the capital works budget and reducing the amount needed from borrowings, but I say again that the expenditure of that money is a matter for government priorities. Let us look at the priorities of this Government - priorities, incidentally, which have not always been advised to the Assembly or fully addressed at budget time. For instance, we have seen that the Government has decided to expend many millions of dollars to demolish the buildings on Acton Peninsula. In fact, it was a very early Government decision to accede to the land swap in relation to Acton Peninsula. My calculation is that that land swap has actually cost the Territory about \$30m. That was a Government decision, that was a priority of this Government, that they wanted to proceed with that land swap.

We also have another Government priority to give massive tax breaks to the business community in the ACT. In the last budget that was presented, those tax breaks amounted to about \$10m - again, a priority of the Government. As I say, the Government has a right to set its priorities, but to pretend that that is not what it is doing is very dishonest. That was another priority of this Government. We have also seen the Government, by way of another priority, give about \$1.5m in a deal with AOFR to get them to establish here. As I say, the Government has a right to establish those priorities, but to pretend that you do not do that, to pretend that you are balancing the priorities between the business community and the work force, I think, is most misleading. On the calculations that we have done so far on the limited information provided by the Government, this Government has spent somewhere between \$6m and \$7m on consultancies in the current year. That is a massive amount of money which I do not recall us debating at budget time. I do not recall the Assembly agreeing to that in specific terms, but it is another expression of the priorities of this Government.

We have seen the Government, again in an expression of its priorities, agree to accept a mere \$210,000 for the sale of Jindalee Nursing Home. In my view, that is a disastrous deal for the people of the ACT, which leaves them some \$1m short. It is a fact that the Government has decided that that is the way it wishes to handle the future of Jindalee Nursing Home; that is the priority that they have attributed to it. I will leave aside for the moment the fact that the Government had promised to the people of Canberra that they would construct two new nursing homes from the proceeds of the sale of Jindalee. I cannot imagine how you could possibly get two nursing homes for \$210,000.

The Government has broken that promise, but the decision on the financing of this matter was a matter for the Government. They took that decision and they cannot pretend that that was somehow an immutable fact which they were presented with. They made the decision. They allocated the priority on that issue, just as they did on all of the others that I have enumerated.

**Mrs Carnell:** And this Assembly passed the budget. The Assembly did pass the budget.

**MR SPEAKER:** Order! Proceed, Ms Follett.

**MS FOLLETT:** The Assembly did indeed pass the budget, and I will say again, for the record, that the Labor members of this Assembly opposed the budget because we did not agree with the Government's priorities. As we said at the time, the Government had allocated priorities; we believed that they had allocated the wrong priorities. We believed at the time, and we said so at the time, that they should have been spending more money on the real needs of our community. We said that. We opposed the budget.

Mrs Carnell has repeatedly insisted that she has no capacity to strike a reasonable enterprise bargain with her own work force. Mrs Carnell knows full well that there are funds available, quite apart from this Consolidated Fund surplus, which, if the Government had the will, it could utilise to strike a reasonable bargain. There are funds allocated within the budget itself for wage increases. I am not going to debate the detail of the negotiation. That negotiation is clearly a matter for the Government. What I will exhort them to do, though, is to go to the negotiating table; forget their total ideological antagonism towards the union movement; and sit down and strike a reasonable bargain. Mrs Carnell has continued to portray to the community that to strike such a reasonable bargain will impose a massive burden on the community. I can conclude only that Mrs Carnell either is determined that the community will pay or simply does not understand how to allocate priorities within a budget to get a reasonable outcome.

I would like to conclude by saying that Mrs Carnell has shown absolutely no impulse to resolve the matter; nor has she shown any impulse - and this is very significant - towards real consultation with her own work force or the trade unions that represent them. This morning on the radio Mrs Carnell quite clearly expected the unions to behave as unilaterally as she has in this matter. The fact is that the trade unions could give Mrs Carnell a lesson in consultation. They have chosen, absolutely legitimately, not to override the expressed view of their members. They have chosen to let their members take the decision on the future of - a very small number, I might say - their bans. Mrs Carnell, in stark contrast, has behaved in a completely ill-advised fashion and without any support whatsoever from either the Industrial Relations Commission or her own colleagues. We have heard nothing from the Independents who support this Government. It has been totally a unilateral effort by Mrs Carnell.

On the other hand, the unions are obliged - and they accept their responsibility - to have real consultation with their membership and to say to their members, "We respect the decision that you made. We now put to you that you should make a different decision in order to allow negotiations to proceed". That is the unions' position today. Mrs Carnell says, "That is not good enough. I want you to ride roughshod over your members, the way I rode roughshod over everybody". They have rejected that, as of course they would. To conclude, I urge the Government and the Independents who support them to accept the seriousness of this situation, find a way forward, sit at the negotiating table and stop this silly stand-off.

**MR SPEAKER:** Order! The member's time has expired.

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**MRS CARNELL** (Chief Minister) (11.01): Mr Speaker, it is very hard to decide where to start on this absolutely ridiculous behaviour by Rosemary Follett. Maybe I will start on Labor's public administration policy from 12 February last year. Rosemary Follett suggested on the second page of the document outlining Labor's record that one of their real achievements was introducing enterprise bargaining, with two agreements settled and with industrial relations in the ACT public sector firmly based on productivity improvements. None of that was delivered. It is interesting that Ms Follett said that over the next three years Labor would maximise the benefits of enterprise bargaining through further productivity improvements and efficiencies across the ACT Government Service. What that basically means is exactly what we are doing here.

The budget that was passed in this Assembly had in it exactly what the Federal Labor Party's policy is on industrial relations; that is, we had a 1.3 per cent budget funded safety net in the budget over the next three years. Increases above that are supposed to be productivity based. They are not my words. I will quote now from a comment made by, I think, Mr Beazley - not normally a renowned Liberal. On 10 May 1995 Mr Beazley, talking about the Federal Government, said that that Government had decided to replace price indexation for government programs with large wage costs, arguing that enterprise bargaining had rendered the present method unsuitable as a basis for budgeting. Mr Beazley said that the new arrangements would ensure that the budget did not fund pay rises which were meant to be offset by productivity growth. That is exactly what we are doing here; we are requiring that increases above the 1.3 per cent which is in the budget be productivity based.

Ms Follett seems to believe that we should have used the Consolidated Fund surplus which is, at least in my understanding, supposed to be used for building schools and all of those sorts of things. One of the things that Ms Follett might have forgotten was that the balance in the ACT Consolidated Fund when we took government was zero. For the interest of members of the Assembly, I table a graph of the Consolidated Fund costs when we took government. Zero is what we had to deal with.

**Ms Follett:** How come your budget paper says that there was a \$43m surplus?

**MRS CARNELL:** When we took over the budget, the balance of the Consolidated Fund was absolutely zero. If Ms Follett and those opposite think that we have not negotiated, I will just run through a chronology of events that go on forever. I will just go through some of the issues. On 3 July last the offer to begin discussions came. Where from? The Government. The first offer from the Government was put on the table on 22 August last year. On 29 August there was an agreement to a paid meeting of delegates on the proposal of 22 August. It was not until 15 September that there was an initial meeting with unions, simply because the unions were not available until then. Then, on 13 October there was the second meeting, after, by the way, the unions had rejected the Government's offer of 22 August. On 11 October there was the TLC's counterproposal. We met two days later. There was then another meeting, a third meeting, with the unions, on 27 October. There was a written outline of the Government's proposal, as requested by the unions, on 13 November. All of these meetings went on. There was another meeting on 17 November.

What happened on 24 November? On 24 November the unions notified commencement of a bargaining period and filed a notification under section 170 of the Industrial Relations Act. What does that mean? These negotiations were in good faith. At this stage, after a number of meetings and a number of offers, what did the unions do? They filed a notification under section 170 of the Industrial Relations Act. For those that still do not know what that means, it takes the umpire out of the equation. It is an amazing part of the Federal Industrial Relations Act which allows a situation where we, as the Government, cannot take the unions to the Industrial Relations Commission if the action is protected.

Most unions at that stage, or very shortly after that, filed for the prerequisite 72 hours' notice period, which meant that virtually all action from that moment on was protected and the Government had no capacity at all to go back to the Industrial Relations Commission. That really indicates that the union movement was very interested in coming up with a solution at that stage! We were not daunted by that approach; we continued to have discussions with the unions. In fact, on 7 December there was a meeting with the unions to clarify the agenda. There was a mass union meeting on 8 December. I think there was a meeting between the TLC and me on 12 December - and so the list goes on. In fact, there were meetings during January. There was a meeting between me and the TLC on 30 January - and so the situation goes on.

What we have said the whole way through this negotiating period is that we as a government have a budget in place; that it was passed by this Assembly; and that is in line with the Federal Labor Party's approach to industrial relations. That means that there is 1.3 per cent factored into our budget over the next three years. On top of that, we are more than willing to enter into enterprise-based agreements. Our initial position was that those negotiations should be agency specific. The reason that they should be agency specific, from our perspective, was that the sorts of things that we can do to improve the productivity in, say, areas such as teaching are totally different from the sorts of things that can be achieved in areas such as grass mowing, general clerical areas or whatever. Therefore, our capacity to offer real productivity pay increases to teachers, people in the clerical areas and nurses really relates to agency specific issues.

Because we care, because we were extraordinarily interested in coming to some sort of an agreement, we gave quite substantially and agreed with the unions that we would go to a basic whole-of-government offer - something that was totally at odds with our policy in the area and our stated position. Because we wanted an agreement, we moved to a situation where we sat down with the unions and determined productivity matters that could be given right across the ACT Government Service. As a result of that, an offer of 4.3 per cent right across the ACT Government Service was put on the table. It was a substantial increase on our initial offer - based upon productivity, of course, but right across the Government Service. We then said, "We are willing to negotiate on an agency-by-agency basis for increases above 4.3 per cent". Remember that the Treasury advice at this stage was that the rise in the CPI for the next 18 months, the 18 months of this particular agreement, would be 4.1 per cent. That was based upon a quarterly CPI increase of something like 0.5 per cent, with a downturn in the CPI in June-July this year. That was Treasury advice, not my advice.

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The CPI increase is 4.1 per cent; the offer on the table is 4.3 per cent - not that we suggest for one moment that wage increases should be tied to the CPI. On radio last week, Ralph Willis made the point that that is definitely what should not happen. In fact, he made the comment that wage increases in the Federal arena, in the Federal Public Service, had been virtually budget neutral because they would be traded off against productivity. That is exactly what we are attempting to achieve here. There is 4.3 per cent on the table; there is a willingness to "agency bargain" above that 4.3 per cent; the 4.3 per cent is above the inflation rate. We have been willing to give and give again.

The bans were put in place a couple of weeks ago - funnily enough, after the Federal election was called.

**Mr De Domenico:** It is just a coincidence.

**MRS CARNELL:** It is just a coincidence. All of a sudden, the negotiating that was going on falls over; bans are put in place. I said right from the beginning that we would not meet with the unions for negotiations while bans were in place. But we moved again. I said "Okay; we are willing to meet for proper negotiations if only six of the 106 bans are lifted - the six that affect the community the most". That is in line with the recommendations of the Industrial Relations Commission last Wednesday which suggested that the bans that most affect the community should be lifted. The other requirements on the Government were to provide full information to the union movement on the implementation of the triple R award, which we did on Friday, and full costings of the trade union offer, which we provided to the trade union movement on Friday, in line with the commission's recommendations.

In negotiations with Jeremy Pyner of the TLC, we determined the six bans that we believed most affected the community. We sent a letter to Jeremy Pyner last Thursday, indicating that we would be looking at commencing negotiations on Monday. The union movement had from Thursday afternoon through until Monday afternoon to organise meetings of membership to determine whether they wanted to go ahead. But they did not. In fact, the executive of the teachers union actually met on Saturday and determined more bans that they were going to put in place, not ones that they might like to lift as a result of this offer. Again we put on the table six bans out of about 106 that we believed were most central to allowing negotiations to go on.

The unions did not meet between Thursday and last night. We find out that the offer that came back just before 6 o'clock last night indicates that the unions are unwilling to lift the ban related to collecting fares on buses, a ban that has cost this community over \$600,000 already. That equates to the cost of a large number of operations for people on our waiting list. We could build two child-care centres; we could do all sorts of things for that sort of money. But not only were they not willing to lift that ban but also they were not willing to lift the bans on such wonderful things as taking kids to the Canberra Show, allowing kids to go on camps, and so on. We were told last night by the teachers union that they would be willing to have a meeting, but it could be next week sometime. The whole negotiating period would be over by then.

Of the six bans, they were willing to lift only four. Interestingly, they did not actually say that they were totally willing to lift those bans. They said that they were “willing to lift them wherever possible”. We did not even get a total undertaking that they would be lifted. On that basis, and taking into account that I had told the union movement yesterday that I had another offer to put on the table last night so that they were aware that we were acting in good faith, they would not come to the party last night. It would appear to me that the Government has moved from an offer of 1.3 per cent per annum, with agency specific productivity bargaining, to a whole-of-government offer of 4.3 per cent, with capacity for agency specific productivity bargaining above the 4.3 per cent. We have moved to a 4.3 per cent offer right across the Government Service, with capacity for enterprise specific bargaining on top of that. By the way, all the lists drawn up by the Government of the areas in which we see that those negotiations could take place were knocked back by the unions.

We said, “We will negotiate on the basis of six of 106 bans being lifted as a sign of good faith”. We told the union movement, “We have another offer to put on the table if you lift six of the 106 bans”. We have met with them. We have done everything in our power to achieve an outcome to this situation; but what we will not do is what the Opposition did when they were in government, that is, end up with wage increases that had to be funded out of the budget because productivity was not delivered, and end up with enormous problems in the education and health budgets. That is what those opposite did. The nurses still have not delivered the 2 per cent productivity for the last wage increases, because those opposite did not require them to do so. Similar things happened with the 6.4 per cent increase in wages for teachers. No productivity was achieved. What happened? It put pressure on the budget this year. We will not do that.

A 9 per cent, fully budget funded pay increase would cost this community \$27m. However you look at that, \$27m has to come out of the taxpayers’ pockets. That is \$225 for every household in this city.

**Mr Berry:** That is a lie.

**MRS CARNELL:** That is actually true.

**Mr De Domenico:** On a point of order, Mr Speaker: Mr Berry should withdraw that immediately and never use it again.

**Mr Berry:** I withdraw it, Mr Speaker. It is completely untrue.

**MR SPEAKER:** Mr Berry, I am sure that you will have the opportunity to put your point of view very shortly.

**MRS CARNELL:** *(Extension of time granted)* That \$27m is in excess of what we have already budgeted for wage increases, which is \$12m. It is not as if we budgeted nothing. The \$12m is already in there. The rest was supposed to be productivity based. You realise that the unions are willing to “productivity base” above 9 per cent, just not under 9 per cent. That is where we stand at this stage.

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What those opposite want us to do is cave in to an unrealistic wage demand, one that is not in line with what Mr Beazley or Mr Willis is saying should happen nationally. That \$27m would mean an extra payment of \$225 for every household in this city. The reality is that we are simply not willing to do that to the community. What we are willing to do, though, is come up with a decent enterprise bargain on an agency specific basis, based upon our initial whole-of-government offer. We are more than willing to talk to the teachers, the nurses, the CPSU and whoever wants to talk to us on an agency specific basis above the 4.3 per cent. It will be going down to 4.1 per cent now, as the cost of this dispute continues to escalate. That is in line with industrial relations in this country. The people who are out of step are those opposite, who did not require productivity trade-offs in their enterprise bargains or did not require any of those sorts of things that are basic to industrial relations in this country. Because they did not, we have ended up with a record deficit this year. We have ended up with problems in our education budget and problems in our health budget. That is what we are dealing with.

It is interesting to note that for the first EBA, between December 1992 and June 1994, an 18-month period, the offer was 4.9 per cent. For the second EBA, between July 1994 and now, an 18-month period, it was 4.5 per cent. So you can see that the offer that is on the table now, with capacity for improvements over the top of that on an agency specific basis, is very much within the ballpark of previous EBAs. We believe that our position is totally sustainable. I would be extremely disappointed if this Assembly believed otherwise. I will be very interested to see what the vote is today. What we are voting on today is whether we believe that there should be budget-funded wage increases above the 1.3 per cent that is the safety net. If we do that, this Assembly will be responsible for tax increases in this city.

**MR BERRY (11.19):** Once again Mrs Carnell attempts to mislead. We are not voting for a budget-funded pay rise; we are voting to censure the Chief Minister and the Minister for Industrial Relations for their failure to negotiate in good faith in an attempt to come to a settlement of this dispute. The problem with Mrs Carnell is that she has treated these industrial relations negotiations as a public relations exercise. She has treated them like an election campaign, rather than an industrial relations negotiation. She has demonstrated her total incompetence on the issue, and she deserves to be censured.

The Liberals opposite regard industrial relations as a class struggle; they think it is a contest between themselves and the unions. This is one of the great social issues which the Liberals have never been able to accommodate within their ideology. Negotiating with groups within the community, including unions, is the path to social justice. Of course, that is something that escapes the Liberals' notice as well. That is why they have failed to come to grips with this industrial relations problem. Mrs Carnell is unable to come to grips with it because it is not something that her brain can cope with.

I think it has been made clear that there is a need for reason. I will go through the chronology of events in a little while. They are quite interesting, in the context of what Mrs Carnell has been saying. There are responsibilities of employers to their employees and a need for reason. Mrs Carnell's approach has been in contrast with Labor's approach

in the past. Mrs Carnell takes great delight in saying that this is Federal Labor Government policy. When was the last time you heard a Federal Labor government describing unionists as stupid, greedy or a bunch of thugs? That is the problem with the Liberals opposite. They are unable to cope with registered organisations which are covered by the Federal Industrial Relations Act. Confrontationalism, of course, has risen to a new height since the beginning of this dispute. They set the tone by appointing on contract Mr Houlihan, a well-known confrontationalist, an H.R. Nicholls Society advocate and all of that sort of stuff; the type that would want to squeeze the unions out of the equation. That is what the Liberals opposite intend to do in the long run.

Mrs Carnell mentioned the unions being forced to establish a bargaining period under the Industrial Relations Act because the Government was not negotiating. Mrs Carnell and the Liberals have made great play of their claim that this was a Federal election issue that was whipped up by the unions in that context. Of course, that is rubbish. It is one of the great lies that have been perpetrated in this whole debate. It was very clear from Mrs Carnell's own chronology that this started in the middle of last year. There was no sign of a Federal election then. What Mrs Carnell has done throughout the whole process is to try to delay and delay, forcing the unions to seek a bargaining period under the Act. They have dragged it out and dragged it out in the context that there is a Federal election to be held on 2 March.

Let us talk about the unprecedented threatened lockout of employees. No government has ever threatened that against its employees. How do you expect employees to respond when you threaten to lock them out? This is the first time that a government has even threatened to do that to its workers. It has never withdrawn the threat, so it is still alive. That threat is hanging over the top of the trade unionists' heads. The Government has never withdrawn the threat. It has not given its negotiators room to move, because ideology has got in the way. As a result, all the industrial relations rules have been broken.

The focus of the Chief Minister has not been on the issues in this dispute. She has never attempted to come to terms with the details. Of course, it is the same focus as we saw coming from the ideology of the Kennett Government and the Court Government. Interestingly enough, the HSUA have been able to strike deals with those particular governments but not with this one, in the context of a Federal election. The image conscious Carnell Government! All of the honeyed words that we have heard here and in the media are focused on simplistic rhetoric.

The Government has never attempted to negotiate truthfully. It has provoked; it has threatened; it has not taken a single conciliatory step. Look at the public record. It is very clear that this Government has been about an ideological struggle between itself and the industrial wing of the labour movement. It has mouthed the rhetoric of the extreme right; it has made the community suffer. They have lost sight of the community. Mrs Carnell complains about the cost of the dispute. She has to wear the responsibility for that because she has provoked the dispute at every step of the way.

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Mr De Domenico over there smiles. He had a little role in it as well. Mr De Domenico was the one who sort of swaggered out and said, "Let us lock them out, Willie. We will lock them out if they disagree with us". Of course, their Federal colleagues rang up and said, "Get him out of the way". Mr De Domenico was locked up for a little while so that Mrs Carnell could have a chance to launch into the unions, and she did. For a brief moment Mr De Domenico re-entered the debate a little while ago, in time to call all the workers out there greedy. A conciliatory approach! "I am the Industrial Relations Minister", he swaggers around saying. "I am the industrial relations expert in this Government. Greedy is what they are. They are greedy trade unionists". That is what he describes them as. You are supposed to negotiate in industrial relations, not turn it into a great big melodrama in public relations terms. That is what you have tried to do.

Mrs Carnell has made the community suffer and, as we have heard from the Leader of the Opposition, has deliberately misled the community about the cost. The great rates hoax was what it was. Of course, it is very good, in public relations terms; real smart-alec stuff. But what does it do in terms of industrial relations? I will tell you what it does. It provokes more action, because it is another lie. If you keep using the media to spread your lies, you are never going to come to a position where you can settle the dispute.

**Mrs Carnell:** How would you pay for it? Come on, mate! How would you pay for it?

**Mr De Domenico:** Tell us how you would pay for it. Would you give them 9 per cent? How are you going to pay for it? Would you know? Would you know how to read a bottom line? Of course not. Would you do another VITAB?

**MR SPEAKER:** Order!

**MR BERRY:** It is like punching somebody full in the face and saying, "Come over here; I want to talk to you and give you a cuddle". As soon as they come over, you give them another one.

**Mrs Carnell:** What would you do?

**Mr De Domenico:** What would you do?

**MR SPEAKER:** Order!

**MR BERRY:** I would negotiate with them. I would treat them with a bit of respect. Of course, that is the difference between us. This Treasurer, as well as not adding up on the costs side of the ledgers, is failing to relate to the community the proper method of handling this industrial dispute. I have mentioned the fact that a great rates hoax was imposed on the Canberra community. The hundreds of thousands of dollars that this dispute has cost is all your responsibility, because you provoked it. Let us be realistic, Chief Minister. The majority of workers earn much less than what you said. I heard you allege that bus drivers earned \$41,000 a year. A bus driver came on the radio and said, "No, I do not. The best I can earn is \$38,000". She said, "No, no; you earn \$41,000". The bus driver would not know! But she failed to refute some other person on the radio who said that it was \$51,000. You are happy to see the lie spread.

It is not a public relations exercise, Mrs Carnell. This is about industrial relations and dealing with industrial organisations. If you want to play your games as if it were an election campaign, you can. You can play it, but what you do is never sort out the industrial problem. Mr Kaine knows that. In the period that Mr Kaine led the Alliance Government in the ACT, I would have to say, with some reluctance, that he was fairly successful, because he was able to negotiate with unions. But I would have to say that Mr Kaine failed to put his stamp on what is going on in this Government. I think he needs to try a little harder.

Mrs Carnell tried to trick the Industrial Relations Commission by her further misleading statements about the threat to patients' lives at the hospital. But she got found out. She could not convince the industrial relations commissioner that that was true. She was told that she was going to lose her case because she could not make out the case. She said, "Oh, they lifted the bans". She tried to spread the lie again. They were never going to endanger patients' lives, and they told you that from day one; so do not spread the lie. It is just not good enough.

She talks about the teachers. She regards voluntary out-of-hours work as part of the industrial dispute and regards it as one of the key bans that have to be withdrawn. What a joke! What you have to do is talk to them about the industrial dispute. You sit over there, hurl abuse and criticise unions all through your speech. (*Extension of time granted*) You tell us in this debate how you have been such a great manager. Have a look at the settlements you have achieved. None.

**Mrs Carnell:** Absolutely. Absolutely no cave-ins.

**MR BERRY:** This Government has been hell-bent on dragging this dispute out and fighting the ideological war. We heard Mrs Carnell say, "And we have had no cave-ins". There is not much chance of an agreement if you will not negotiate with the unions. This morning, on the radio, I heard the unions saying how far they would move. They were prepared to lift bans and they were prepared to get around the table. They know that they cannot trust this lot. On the radio again this morning, she announced, "Oh, well, we had another little deal that we were going to offer them". It is another little trick. You consider this another little public relations trick, I bet.

What has happened in this dispute because of the chicanery of Mrs Carnell? There has been a complete lack of trust built up by the environment that she has created, with all of her false accusations - greedy, thugs. She nods her head. Mrs Carnell still claims that unionists are thugs. Mr De Domenico claims that they are greedy. In the past, Mrs Carnell has claimed that lives were in danger, when they were not. Her whole involvement in this industrial dispute has led us to a point where the dispute, I fear, is beyond settlement, because the parties have been driven apart by the public relations exercise that Mrs Carnell has perpetuated in the community.

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Let us look at the list again. The first step was to lay a meagre wage claim on the unions and say, "Involved in this are compulsory redundancies". For that read "sackings; fewer members, fewer workers". At this point we have Mr Houlihan involved. He is the maestro of advice on the matter. Then we get lockouts. This is a conciliatory government! It says, "We are going to lock them out; we will lock them out. If they disagree with us we will lock them out". Mr De Domenico swaggers out, saying, "We will lock them out". "Lock them out, Louie". That is a great help in the debate! By the way, those lockout threats are still in place.

**Mrs Carnell:** No; the section 170 notifications are still in place.

**MR BERRY:** No; the lockouts are still in place. They have never been removed; they are still threatening.

**Mrs Carnell:** But they cannot be, because the section 170 notifications are there.

**MR BERRY:** Why do you not withdraw it? Mrs Carnell takes over. Then she commits the great rates hoax. That could not have been designed to settle people down. Bus drivers, nurses and all the other workers know that it was a lie; they know that the rates base was only 13 per cent of the budget; they know that it has never happened before that wages are transmitted into the rates base - never, not once, not ever! Of course, they know that Mrs Carnell has perpetrated a 4 per cent rates hike this year, when the value of houses has gone down. They know that she is devious; they know that she is dishonest; and they are not going to accept that. Of course, it just drives them further apart.

There were more false claims that patients were in danger. That notion was defeated; she was wiped out in the Industrial Relations Commission on this. She described unionists as "stupid". Mrs Carnell, they are not stupid. They are a wake-up to you. What you have to do, of course, is step back a bit; climb down off your high horse; forget your ego; forget the Federal election; and worry about the community here in the ACT. These workers are people on \$23,000 or \$25,000 a year. How are they going to respond when they see that you have given an extra \$40,000 to Mr Walker? He did not have to apply for his job. Will you give us the list of his productivity improvements? What productivity improvements did he make? Not many, I would suggest. Who decided? You decided it by yourself. There was no independent arbitrator involved. The workers are greedy; the workers are thugs. The classic line is, "If you do not agree with me I will discount your pay rise for the cost of the dispute which I have provoked".

**Mrs Carnell:** Yes, because it is costing the community.

**MR BERRY:** You should pay, because you are the one that provoked it; you are the one that called the workers greedy; you are the one that called the workers thugs; you are the one that went after their payroll deductions; you are the one that threatened to discount the pay rise because the workers disagreed; you are the one that has to take responsibility; you are the one that has performed badly; you are the one that deserves to be censured.

**MR DE DOMENICO** (Minister for Urban Services and Minister for Industrial Relations) (11.37): Mr Speaker, it is always a delight to follow Mr Berry because there is not really much you can say to make sense of what he said. Let us have a look also at what Ms Follett said and what is the reality of this dispute. Let us assure the community out there that it is all about money.

**Ms Follett:** You are getting your money easily, are you not? You are the Minister for Industrial Relations and you are hiding in your office.

**MR DE DOMENICO:** It is all about money. I will take on that interjection from Ms Follett later on perhaps, if I have time, Mr Speaker. This dispute is about the unions wanting a 9 per cent fully funded pay rise. That equates to \$27m. That, in terms of the rating situation, means about \$225 per household. If the Labor Party wants every household in this community to pay an extra \$225 so that we can give a few greedy trade unions 9 per cent, so be it; let this Assembly vote for this censure motion. That would mean that it wants the community to pay for this exorbitant request of a 9 per cent pay rise.

**Mrs Carnell:** Fully budget funded.

**MR DE DOMENICO:** Fully budget funded. Let us have a look at that. Say it slowly and think about it. The Government's initial offer was 4.3 per cent. It is now 4.1 because of what the unions have decided to do. The initial offer, by the way, was higher than the inflation rate. The inflation rate was 4.1 per cent. The Government offer, on the table, with most of it fully funded, over 18 months, was 4.3 per cent, which was above the inflation rate. But no, what do the unions want? They want 9 per cent - double the inflation rate. Mrs Carnell talked about the way EBAs are done federally by a Federal Labor government, and the way they have been done in New South Wales under Bob Carr. Wayne Goss - do you remember him? - used to do them the same way in Queensland as well. That is nothing like what the people opposite want us to do.

The people on the other side of this house are still living in industrial relations wilderness years, back in the 1800s. What we are talking about is sitting around a table with some unions and discussing realistically what the community can afford. Nowhere have I heard members opposite in this debate tell us what it would cost the people out there in the community who vote for us if we, this Government, were to cave in and give some members of the trade union movement exactly what they want. That is what this dispute is all about. Do we let the community out there pay, on average, \$225 extra per household in order to satisfy the whim of a very few - I stress that - trade union executives? Of course, this Government will not do that, and it cannot do that.

There was a lot said about the fact that this Government was confrontationalist. Mrs Carnell read out that since 3 July 1995 this Government, according to industrial relations principles, had been trying to negotiate a proper EBA with the union movement. We were doing very well until about three or four weeks ago, and, lo and behold, what happened? It was mentioned that it had nothing to do with the fact that it coincided with the announcement of the Federal election. Until about a week ago we did not hear

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from those members opposite as to who was the president of the Trades and Labour Council, a lady called Kate Lundy, who happens to be the No. 1 Senate candidate in the ACT. What a coincidence! Negotiations are going along fine; unions agree to talk; a Federal election is called, and all of a sudden there are blockades, for heaven's sake!

We have heard people mention the phrase "in good faith". Where is the good faith when we see some trade unionists driving buses to which they are denying the community access? They deny the community access to buses but drive one into town and park it here in London Circuit when you and I and others want to get to work. They blockade London Circuit and then go to the community and say, "We are acting in good faith". Of course, that is nonsense. That is holding a gun at someone's head and saying, "Unless you do what we want we will shoot you through the temple". This Government will not buckle to that sort of industrial relations. It is industrial relations of the eighteenth century, not of the twentieth century. Industrial relations of the twentieth century is to say, "Let us have a look at what is a reasonable offer and, if it is a reasonable offer, let us sit down and talk about it".

Mr Berry talks about the way he would do industrial relations. It was Mr Berry, for example, who locked the then Fire Commissioner, Bill Kerr, out of his office for weeks and weeks - for months it was - because Mr Berry did not agree with his appointment. I recall that, when I was representing the insurance industry and there were bushfires coming across the mountaintop from Queanbeyan into the ACT, I rang Mr Kerr and said, "Would you like any assistance from the insurance emergency service?". He said, "How the hell would I know? I do not know the current situation with the fires". I said, "How come? You are the Fire Commissioner". He said, "I cannot get into my office because Mr Berry has locked me out". That was the Mr Berry who now stands in this place and tells us how to do industrial relations. What a hypocritical thing for Mr Berry to do!

Ms Follett used some wonderful cliches. She said that this was an election stunt, as if to say that whatever the union movement is doing - - -

**Ms Follett:** I said that it was not an election stunt.

**MR DE DOMENICO:** She said that it is not an election stunt, notwithstanding that all of these sorts of bans seem to have occurred around about the time that the Federal election was announced. Coincidence, I say to the Greens and to the Independents. What a coincidence that was! Coincidentally also, their No. 1 Senate candidate happens to be, whilst this is going on, still the president of the Trades and Labour Council. We are led to believe that she had no control over or no effect on what was going on on behalf of the TLC. What utter nonsense! Of course it is an election stunt.

Ms Follett also spoke about the best interests of our community. This Government has the best interests of this community at heart because, ultimately, any pay rise at all that is not budget funded, that does not come back with a productivity return, will be funded by whom? It will be funded by the community, by the very people in Tuggeranong that Mr Osborne, Mr Kaine and I represent; by the very people in Belconnen; by the ones who are on the average wage of \$35,000 a year, the ones who are least able to afford to pay the extra \$225 a week. I ask the members opposite: Where is the social justice in that?

There is no social justice. Once again, it is the greedy whim of a very few trade union executives, backed by their political masters here, or one does not know who masters whom. It is all about the politics of the situation.

This Government, let me tell you, will not play politics with this. We will do what is in the best interests of the community. It is not in the best interests of the community to up their rates by \$225 a week in order to give some trade unions the satisfaction of saying, "We won. We went in there. We wanted 9 per cent and we got 9 per cent". That is the way industrial relations may have been done under the former Labor Government. It was quite easy then. You just walked in, particularly if there was an election coming up as well. The nurses, for example, walked in to Mr Lamont, the former Minister for Industrial Relations. Mr Lamont did not want to do it; but, on instructions, he gave them what they wanted - whatever they want, give it to them; there is an election coming up; let us not have an argy-bargy. That does not work. That is not the way industrial relations is done.

A lot has been said by Mr Berry as well. It has taken this Government an inordinate amount of time to settle an EBA, but what Mr Berry did not do is tell you how long it took his Government to negotiate the first EBA. How long did it take, Mr Speaker? It took 18 months. It took them 18 months to negotiate their EBA. This Government started in July last year, eight months ago, and it is still negotiating. Negotiations stopped at the door because of the election, we believe. It took them 18 months. They forget that sort of thing because it does not add fuel to their argument.

A lot has been said by Mr Berry about lockouts. Had Mr Berry acquainted himself with the Federal Industrial Relations Act he would have known that, once the union successfully gets going a section 170 notification, the only legal avenue available to anybody other than the unions is to talk about lockouts. Mr Berry should have lobbied his Federal colleagues months and months ago to change the archaic Industrial Relations Act. Let me stress once again that it was not the Government that called on section 170; it was the union. As Mrs Carnell says, that automatically pulls the umpire out of the equation. It prevents the Government from going to the Industrial Relations Commission.

Ironically, when the Government is able to go to the Industrial Relations Commission - the example is the Transport Workers Union matter - what does the Industrial Relations Commission say? Last week it said, "Listen, in good faith you should sit around a table and negotiate". What should the unions do, Mr Speaker? They should consider lifting the bans. That is what the Industrial Relations Commission said. What did the Government do? It obeyed, to the letter, the recommendations of the Industrial Relations Commission. It said to the unions, "We will give you by Friday afternoon a whole set of costings". That was done. We said to the unions, "We will sit down and talk to you in good faith". That was done. We said to the unions, "You have 103 specific bans in place. Would you please, in accordance with what the Industrial Relations Commission said, remove six out of those 103 bans, including the ones that would prevent you from taking kids to the show or to sporting situations?". What a wonderful thing for unions to do - to deny children access to that! That is what the Government asked the unions to do.

What did the unions do? They virtually stuck two fingers up and said, "No; go and get lost. We will do four out of six if it is at all possible". Then they use the excuse, "Listen, we are going to have to get all our members together and ask them first". They did not get all their members together and ask them before they went on strike but - - -

**Ms Follett:** They did so.

**MR DE DOMENICO:** They did not. If you believe them you do not know what you are talking about. What Mr Berry did not say, and what this mob opposite do not realise, Mr Speaker, is this: Any pay increase over and above what is funded through the budget, or over and above what we can give in return for productivity, will be funded eventually by the community. It is all about costing the community, the very people out there whom members opposite purport to represent when they talk about social justice. They are the people who ultimately will be paying for this.

Ms Follett came up with this marvellous idea of saying, "Let us not build schools; let us get the money that you have set aside for something else; we can stop this dispute by caving in and giving people the 9 per cent pay increase". Nine per cent is too much. This community cannot afford 9 per cent. It is bad industrial relations for us to just buckle under. This Government will not do that. Our doors have always been open and always will be open. We ask the unions to take heed of what the Industrial Relations Commission said. If they are prepared to follow the rulings of the umpire when he blows his whistle, so is this Government.

**MS TUCKER (11.49):** Mr Speaker, I move the amendment circulated in my name, which reads:

That the following paragraph be added to the motion:

“(4) in light of the failure of the Government to fulfil its duties as an employer which has resulted in industrial unrest, calls on the Government to accept the unions offer regarding lifting of work bans and immediately recommence enterprise bargaining negotiations with the union movement.”.

After listening to the debate this morning I will start off by saying that the Greens are going to support this censure motion and, obviously, we are adding a paragraph to it. The discussion has been focused very much, on the part of the Liberal Government, on the claim that this is all about money; that this is about problems in the health budget and in the education budget. The question which keeps being asked across the floor is, "How would you pay?". I have to support what was said earlier in the debate: That political decisions were made by this Government; that they would have a three-year budget, but it would end up \$20m-odd in surplus at the end of that time, and that was a financial management plan. Throughout the Estimates Committee hearings we were very concerned about their clear lack of an understanding of how they were going to cost particular community service obligations within the budget. We saw that they were so interested in this financial management plan and that they had faith that the community would benefit in the long run from this tight fiscal policy.

I would have to disagree that this is all about money. Mrs Carnell said that \$35,000 is the average wage. That supports the figures that we have been given, and that means that there are quite a lot of people in the community under that. To bring up emotive arguments like, "These unions are stopping children going on excursions on school buses - - -

**Mr Stefaniak:** They are.

**MS TUCKER:** Of course; but why have they been driven to that point? What is it like when you are on \$27,000 a year - I have been on \$27,000 a year - and you have children at school and you have to pay voluntary school donations, subject levies, and extra money for those excursions? It is getting harder and harder to survive in this town when you are at the bottom end of the salary range. This argument is not about greedy unionists. Perhaps there is an element of that in some unions. I would not argue that they are all pure white. What I do know is that the number of people in this town who are on a low wage deserve to have a decent salary from which to provide for their families. You are not seeing that coming out of this sort of arrangement which is going to be productivity based, and that is the other thing I would like to talk about.

We do not hear very much discussion about productivity and how it is defined. We have brought it up in the past. Mr Moore has brought it up in the past. There are real concerns about how you get productivity and how you show productivity in certain areas of work, and this is to do with the very important work that happens in our community, such as the work that you have been talking about - health. This is not just about the health budget; this is about health service. I have also worked in hospitals as a nurse. I know the stresses that nurses work under. I know the need for the support that they have had in their shiftwork. They are not in cushy jobs. They should not be treated in the way that you are treating them. I do not think you have a real understanding of the work that they do. The point is that the nurses are being forced into a situation where their family responsibilities - most nurses are women, and Liberal governments usually support the family - are becoming more difficult for them because now, to make up those hours, they are working another shift. If you look in detail at how this can affect a family's ability to support itself in the nurturing sense and the availability of child care in this town, it is a real issue. So this is not just about money.

The money question is a political decision that the Liberal Government made about how they would end up after three years. They refuse to budge from that and just ask everyone in this place, "How would you pay for it?". The Greens have offered suggestions about revenue raising measures. We have talked about trying to cap executive salaries to try to bring equity into this system. We have a real concern for the people at the bottom of our society, the people at the bottom of the salary range, and I believe that that is fundamentally what the unions are working towards. So I cannot accept this line about greedy unionists.

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In terms of the process, I have heard the saga of the meetings that have been held. I have heard the other side of that. I do not think it is particularly fruitful even to try to go into who is right and who is wrong on that. The point right now is that you have to find a solution. If four out of six concessions were made and you wanted six out of six, so what? Let us just get on with this.

**Mr Humphries:** Six out of 100.

**MS TUCKER:** Yes, I understand that; but the point is that they have made a concession. We are here today. They were here last night. We want to find a resolution, and that is why I have moved that we add that fourth paragraph. Let us just get on and have more discussions about this. I am sure that there is room for movement. I am sure that there is room for movement by the Government also because I am sure that both parties are making ambit claims. Is that not how negotiations work?

In closing, Mr De Domenico is talking about the blockade and how that is such an affront to him. That sort of action was taken as a last resort. I respect the right of unions to take that resort if they feel that things have reached a dead end. I do not think that this Government has understood the rights of the unions throughout this process. I see what comes through on the e-mail and I can tell you that it looks confrontationalist. You can deny that it is, but that is certainly how it looks. A good manager would not do that. We keep hearing from the Liberal Government about good management. One of the performance indicators I saw in the Estimates Committee was industrial harmony and good industrial relations. You are failing there and you need to look at why, and work more constructively. Perhaps you should reconsider the bottom line that you say is immovable, because that is your political decision.

**MR HUMPHRIES** (Attorney-General) (11.56): Mr Speaker, obviously people who are outside it have been observing what has gone on in this industrial dispute. It is clear that members of this place and members of the public will have a very wide capacity to determine different points of view, based on what they have seen of this dispute. I might say that it is extremely dangerous for people who have not been part of the process, who do not understand the kinds of tactical games that people play and have not been involved with these sorts of things - - -

**Ms Follett:** Starting with Mrs Carnell.

**MR HUMPHRIES:** That is not true. If Ms Follett says that she has never been involved in a negotiation where trade unions have not played those sorts of tactical games, then I think that she is trying to mislead people in this place. Those games are played and it is very hard for people who have not been part of those negotiations to determine exactly what the dynamics of those things are.

The Government, in a very real sense, has its back against the wall. This is a mistake that the union movement has made in the way in which it has approached this issue. The Government just does not have the flexibility to accede to an unfunded, non-productivity-linked increase above the amount that we have already offered to the trade union movement. Members opposite obviously dispute that assertion. I think the Greens, to be fair to them, have accepted that this is true; but they have said to us,

“You have money at the end of the three-year period. You should pay for it with that \$20m-odd that you expect to be in surplus at the end of the 1997-98 financial year”. I would point out that that money is coming in the 1997-98 financial year, not now. We have to pay the money now, not then; but that is another matter. The fact is that an amount is quantifiable. Not even the union movement disputes the fact that that will cost the community \$27m.

The issue that has to be answered by anybody who enters this debate, no matter who they are, is this: Where will that money come from? Members of the Labor Party are right to say that it need not come from rates. It could come from another quarter. It could be put into other forms of government taxes or charges, or could be translated into cuts in government spending. Yes, that is true. But, if they maintain that we should embrace the payment of that \$27m per annum, it is their obligation to tell us and the community how they would pay that money. This Government maintains that, with a record borrowing this financial year, with a very large problem of Commonwealth reductions in spending on the ACT, we have no choice but to hold the line on a substantial increase in pay - an increase which is more than double the rate of inflation and which goes against the practice of previous ACT governments as well as the present Government, as far as enterprise bargaining and productivity-based pay rises are concerned, and which also flies against Commonwealth Government parameters on enterprise bargaining negotiation. In all those circumstances it is right, absolutely right, for this Government to hold the line on those pay rises. I say to those opposite: Have the honesty and the guts to tell the ACT community where you would find the money to pay for this pay rise.

Mr Speaker, there is much grandstanding and bleating about how terrible this Government is being about its refusal to accede to these pay rises. Members opposite would expect some members of this place or members of the public to conveniently forget the significant industrial confrontations which occurred over the last few years under Labor governments, or under a Labor government particularly. It is interesting to note that the sort of language being used, the refusal to negotiate select points in the dispute, and the hard line supposedly taken by the Government in this dispute are reflected in the kind of thing which I think was very clearly happening during the doctors dispute in the hospital.

**Mr Berry:** But they are not a union and they are not registered under the Industrial Relations Act. They would not go to the Industrial Relations Commission.

**MR HUMPHRIES:** Mr Speaker, if Mr Berry says that the analogy breaks down because they are not a union - - -

**Mr Berry:** And they get paid \$300,000 a year.

**MR HUMPHRIES:** Mr Berry is very fond of calling the AMA a union, and with some justification, I would say. Using your terminology, Mr Berry, you were negotiating with a union, the Australian Medical Association, and the language of confrontation was there then. I hope that members in this place who were not experiencing that particular dispute do not imagine that taking a strong stand and being on occasions apparently hard line is a position that can be taken only by a Liberal government.

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Let me make one point, finally, Mr Speaker, about this motion before us today. This motion is, substantially, a motion of censure of the ACT Government, particularly the Chief Minister and the Minister for Industrial Relations. This is the fourth censure motion that has been moved on the floor of this chamber in the last nine sitting days of the Assembly.

**Ms Follett:** Well, pick up your act.

**MR HUMPHRIES:** They were not all against us. There was one against you, Ms Follett. Mr Speaker, let me make the point - I have made this point before and I will make it again - that it becomes very easy, after a while, when in a fit of pique, simply to censure the Government.

**Mr Berry:** So we should not do it to you? Ha, ha!

**MR HUMPHRIES:** Not at all. No, by all means, governments ought to be censured when the occasion arises; but if it happens on a weekly basis, every time the Assembly sits, it loses, from your point of view as an opposition or as a crossbencher wanting to make a point to the Government, its value. The first couple got on the front page of the *Canberra Times*. If this one slips to page two, or three, or four, you will start to see a decline in the value of that as a tool to make the Government sit up and pay attention.

Mr Speaker, a lot of claims have been made about executive salaries. The Greens were saying that we should be translating some of the money that we are spending on executive salaries into wage increases elsewhere. I might point out that there is a net saving from the Government's restructuring of SES salaries of \$1m.

**Ms Tucker:** Yes, because you have cut jobs. That is productivity!

**MR HUMPHRIES:** Yes, that is right. We have made the senior levels more streamlined and have fewer positions at that level. We make no apologies for that. This is part of the process of making sure that the system operates effectively and efficiently. Mr Speaker, let me also make the point that that \$1m saving we have made on SES positions is going into this pay offer we have made already to the trade union movement. The money we have saved at senior levels of the Government Service is going into that pay rise for people at lower levels.

Ms Tucker, I think, made the point that people on low incomes find it very hard to meet costs like contributions to government schools and things like that, but this pay demand of 9 per cent by the trade union movement is not about helping just those on low incomes. It is about a whole range of salaries in the ACT Government Service. Mr Speaker, let me say on behalf of the Government that if the trade union members came back and said, "We would like to reorganise our request and tailor it for those on lower incomes, not giving 9 per cent rises - - -"

**Ms Tucker:** Have you suggested that?

**MR HUMPHRIES:** They have not raised the issue before.

**Ms Tucker:** But you could raise it if you think that would be desirable.

**MR HUMPHRIES:** You have only just raised the issue with me, Ms Tucker.

**Ms Tucker:** Okay; you had not thought of it.

**MR HUMPHRIES:** You have only just raised the issue with me. I could not foreshadow it.

**Mr Whitecross:** You have not negotiated with them. You would not know.

**MR HUMPHRIES:** This is the first time I have heard this suggestion. The trade unions are not interested, though, in helping just those on lower wages. They want all ACT government workers to get that 9 per cent rise and I think, with great respect, that that is a cost we simply cannot afford, and we do not have the capacity to sustain it. Mr Speaker, I think that members opposite ought to be realistic enough and honest enough to say cleanly and squarely to the community how they would pay for their offer if they were in office; indeed, whether they would make an offer of 9 per cent if they were in office.

**Mr Berry:** We would not have the same priorities as you. You put yourself in this hole.

**MR HUMPHRIES:** They have different priorities, apparently. They would not admit the same priorities, apparently. What would they cut? What would you cut in order to meet those sorts of payments? I heard Ms Follett say that she would cut consultancies in the ACT Government. We have done a bit of research on this question and it appears that, in fact, the amount being spent on consultancies under this Government, at least in the areas I have looked at in my own portfolio, is considerably lower than the amount that was spent by the previous Government in the same areas. Take, for example, the area of legal services in the Attorney-General's portfolio.

**Ms McRae:** It does not negate the point. You can still cut consultancies.

**MR HUMPHRIES:** Mr Speaker, if those opposite would just listen for a moment they might learn something. Let us look at the Attorney-General's portfolio. In the 1992-93 financial year in that portfolio, \$1.619m was spent on consultancies.

**Mr Berry:** What has that to do with it?

**MR HUMPHRIES:** You have said that we should cut consultancies, but we have already done that. We are spending much less on consultancies than you were. You, presumably, were not wasting money, were you, Mr Berry?

**Mr Berry:** But we had a far better record with the unions than you lot have.

**MR HUMPHRIES:** If you were spending money on consultancies, presumably we are entitled to spend some too. I will not go through these figures at this stage. The point I am making, Mr Speaker, is that those opposite claim imaginary savings to be made somewhere else in this enormous budget. They say, "You will find the money

from somewhere. You are the Government. You can just reach in and pull out a few million dollars, or \$27m, to fling at the trade union movement”, but they cannot explain exactly how. “From consultancies”, they say. It does not stack up, I am afraid. The money is not there in consultancies. What about the Acton Peninsula? We have \$15m from the Commonwealth to pay for the demolition of buildings on the Acton Peninsula, but if we do not demolish the buildings we will not get the \$15m. Mr Speaker, the savings cannot be found. I say to those opposite: If you seriously believe that this is the case, if you want to censure the Government, have the decency and the goodness to say to the people of the Territory how you would fund this pay rise.

**MR KAINÉ** (12.08): Mr Speaker, I must say that I am constantly disappointed at the ability of some people in this place to force a debate and then engage in pointless and unproductive debate. The fact is that we have been debating this issue for almost an hour-and-a-half already and at the end of the day, no matter how long it takes, the debate will have added not one jot to solving the matter that is before the public and before the Government. I have heard nothing said yet that suggests that anything could be derived from today's debate that would help the Government solve the problem. Surely, that is what we are here for.

We have a mickey mouse motion brought forward by the Leader of the Opposition which purports to censure two members of the Government for failure to do things. It takes two people, two teams, two sides, to negotiate. I have been listening and reading about the public debate out there. I know no more about it than some others in this place, but I do not believe that all the fault is on the side of the Chief Minister and the Minister for Industrial Relations. If the two sides cannot get together in good faith and negotiate, how can you then censure only one party? So the motion itself is a nonsense. I am not at all satisfied that the trade unions have entered into negotiations in good faith, and that is what we are being asked to censure the Chief Minister and the Minister for Industrial Relations for. I will not be party to that. Let us be clear about it right now.

The Leader of the Opposition, in introducing her motion, which has to do with industrial relations, talked for her full 20 minutes about the budget. She did not mention industrial relations. It was not until her deputy got up and started talking about industrial relations that he made the curious comment that this is an industrial relations matter and not a budgetary matter. He should have had a talk to his party leader before she spoke. She obviously did not see it as an industrial relations matter. I put it to you that it is an industrial relations matter. All that debate about the budget is totally pointless because, within the context of the budget, what the Government is confronted with is a demand from the trade unions, and the core of that demand is for a pay rise. There are other issues; it is not only a pay rise. The only matter for the Government to determine is, firstly, whether that demand is reasonable and whether they should meet it, or any part of it, and, if they should, how they will fund it.

To the extent, as I understand it, that there is a reasonable claim that the trade unions might have put forward for a pay rise, that is fundable in the Government's budget. It is only that part which to me, on the face of it, seems unreasonable that the Government could not fund from their budget. So all this debate about budget priorities and what the Government did wrong in terms of framing the budget, and their mistake in bringing forward a three-year budget with the aim at the end of it of not being in deficit, is totally

irrelevant and unproductive. The question to be determined is: What parts of the trade unions' claims on the Government are legitimate and are sustainable? When we get to that point we can discuss whether or not the Government can fund it, and I submit that any reasonable claim would be met by the Government and would be funded.

Ms Follett and Mr Berry said only three things that I thought were relevant, and they used 35 minutes to say them. First of all, the Leader of the Opposition said, "We have a responsibility to act on behalf of the community". She then spoke for 20 minutes in support of the trade unions, not the community. Mr Berry even sought an extension of time - he had 15 minutes - when he spoke on behalf of the trade unions. You have to wonder whom they are acting as advocates for. Despite the Leader of the Opposition asserting that we have a responsibility to the community, they are not acting as advocates for the community at all.

Mr Berry said, first of all, that I did a pretty good job as Industrial Relations Minister, and he was dead right.

**Mr Berry:** Reluctantly.

**MR KAIN:** You said that I was fairly successful. That is right, I was, and I am prepared to get into the debate now if anybody thinks it is worth while my doing so. But he also said, "You are supposed to negotiate, not engage in a publicity stunt". What is this debate about? Is it negotiating, or is it a publicity stunt? It speaks for itself. Mr Speaker, I am disappointed, as I am many times, about the fact that we come in here and we debate these issues that have no relevance to anything. Somebody simply seeks to make a political point and the whole objective of all of this is lost. The objective of this debate is to come to an agreement with the trade unions on their legitimate concerns. The Leader of the Opposition talked about the legitimate concerns of the trade unions. I have no doubt that they have some; but, when they ask for a 9 per cent pay rise, I do not think that is legitimate. That is a concern, but it is not a legitimate one. If we can focus on the legitimate concerns of the trade unions and enter into a rational negotiation on the matter, I am sure that we can come to a conclusion.

Mr Speaker, most members have used all of their time. Some have used more than their time. I do not intend to do that because I assert that this debate is pointless. It is meaningless. It adds nothing to the total value of the negotiations that should be taking place. It diverts the Chief Minister and the Minister for Industrial Relations from what their job is, and that is to get on with the question of negotiating with the trade unions.

I would have been much happier, Mr Speaker, if the Leader of the Opposition and the "me too" Greens had put forward a motion that suggested that they might assist the Government in some fashion to reach a multipartisan approach to this question. I am quite sure that, if the Leader of the Opposition and the Deputy Leader of the Opposition were to sit down with the Chief Minister and the Minister for Industrial Relations in a non-confrontationalist, rational and reasonable way, they could greatly assist in arriving at a solution to this problem. But no; they come in here and they

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precipitate a confrontationalist debate that adds nothing. I am disappointed that they have not come up with something more positive. I assert that we have already wasted an hour-and-a-half or more on a debate that adds nothing to this process. I wish that some members of the Assembly would look at the issues and not - to quote Mr Berry - engage in a publicity stunt.

**MR WHITECROSS** (12.15): Mr Speaker, I rise to speak to this motion and this amendment because I am very concerned at the attitude being taken on the Government benches. Mr Kaine tells us that this is not a serious matter; it is just a stunt. Quite frankly, from the point of view of people on our side of the house and from the point of view of the community at large, it is a serious issue. The people out there are wondering when the Government is going to get around to taking it seriously and resolving it, instead of playing games with it. That is what they have been doing so far.

Mr De Domenico and Mrs Carnell have demonstrated again and again in their speeches that their minds are fixed. They do not have the maturity, they do not have the humility, they do not have the wisdom and the judgment to approach the business of bargaining in a flexible way. Instead, they have their fixed opinion that this is an election stunt and that they have to oppose the unions at all costs because Kate Lundy is the president of the TLC and is also a Labor candidate in the election. Because Kate Lundy is president of the TLC and is also an election candidate for the Labor Party, they are going to oppose these negotiations at all costs. They are not going to do anything about the Government's position because that would play into the hands of the evil unions who are doing this as an election stunt.

Yet Mrs Carnell's own evidence was that the first industrial action in relation to this negotiation occurred back in November last year, long before there was an election. There was no election last year; yet last year there was industrial action. Mrs Carnell and Mr De Domenico try to say that this is all to do with election politics. It is not to do with election politics.

**Mrs Carnell:** What is it to do with?

**MR WHITECROSS:** It is to do with the intransigence of the Government in negotiating this matter. The sooner they put that particular fixed, narrow and stupid idea that it is an election stunt out of their minds, the sooner we will get this dispute solved.

The next silly piece of inflexibility by the Government is that we have to have agency bargaining. The Government says, "We have to have agency bargaining; agency bargaining, agency bargaining, agency bargaining, agency bargaining. If we do not have agency bargaining, we are not going to play. We are not going to talk. We are not going to negotiate, because we want agency bargaining". Mr Speaker, the main argument for agency bargaining is that the workers who trade off their conditions and who make the effort in their agency benefit from the pay increase. In this case, Mr Speaker, the unions have decided that they do not want to go down that track. The unions have decided that they would rather talk about things across the board. The Government does not want to do that, Mr Speaker. The Government has decided that they are not going to negotiate any across-the-board productivity improvements; they are only going to argue for agency bargaining.

**Mr De Domenico:** We already have.

**MR WHITECROSS:** They say that they have, Mr Speaker. There is one significant productivity increase that they have offered the unions. Mr Humphries's comments in relation to the senior executive and chief executive pay increases are quite revealing in this matter. When we said, "How come John Walker got a 20 per cent increase?", Mr Humphries said, "Oh, that is okay. They were entitled to pay increases. We sacked 10 per cent of the SES so we could pay for the pay increase". That is their approach to productivity.

The only way that Mrs Carnell can get through her head that she can have a productivity increase and the only way that the Liberals can understand the concept of productivity increase is when they sack a few people. What is the main productivity element of their 4.3 per cent offer? The main element is involuntary redundancies under the triple R award. What is the only way, Mr Speaker, that you will get - - -

**Mrs Carnell:** Like what exists in the Federal award and everywhere else.

**MR WHITECROSS:** Listen, Mrs Carnell; you might learn.

**MR SPEAKER:** Order!

**MR WHITECROSS:** The only way you are going to get any savings or any productivity improvements out of involuntary redundancies, Mr Speaker, is by sacking people. You have to sack one per cent of your payroll to pay for a one per cent pay increase. That is how it works, Mr Speaker. The only productivity improvement Mrs Carnell was willing to offer was to sack one per cent of members in order to pay for a pay increase. What a flexible, intelligent and sympathetic negotiating approach that is! No wonder they were lodging section 170 notifications in the Industrial Relations Commission last year. No wonder Mrs Carnell has not been able to get anywhere in her negotiations. The reality is that she has not negotiated. The only extra thing she has put on the table is to sack one per cent of the workers in the ACT Government.

Mr Speaker, the final and most significant inflexibility in Mrs Carnell's mind is this absolute fixation that this whole pay increase will have to come out of the pockets of ratepayers and taxpayers in the ACT. She has that absolutely fixed in her mind. She is so inflexible and so dull in her ability to negotiate that she cannot even understand that that is not true. Mr Speaker, the fact is that enterprise bargaining is about productivity improvements, and it is productivity improvements that pay for pay increases. The unions have put a whole pile of productivity improvement proposals on the table, and what does the Government do? The Government says, "Oh, no. All this pay increase is going to come out of the pockets of taxpayers". That is not true.

**Mrs Carnell:** That is what they say in their - - -

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**MR WHITECROSS:** Mrs Carnell, this just shows how inadequate is your reading. Mrs Carnell, I know that you have read it now, but when you went into negotiations with the unions you had not even read that document. Do not start waving that document around; you had not even read it.

**Mr De Domenico:** That is not true.

**MR WHITECROSS:** You had not even read it.

**Mr De Domenico:** Whoever has told you that has lied to you, Mr Whitecross.

**Mrs Carnell:** Fully budget funded.

**MR WHITECROSS:** Mrs Carnell, yes, that is three words out of a whole document. You read the whole document, Mrs Carnell, and you will know the truth.

**Mr De Domenico:** You should stop listening to some of your union mates because they are not telling you the truth. Some of your mates are setting you up beautifully. I think they are on this side, actually. They are setting you up beautifully.

**MR SPEAKER:** Order, Mr De Domenico! You have spoken already, but you can speak on the amendment later, if you wish.

**Mr De Domenico:** Thank you, Mr Speaker. I might do that.

**MR WHITECROSS:** Thank you, Mr Speaker. The fact is that Mrs Carnell thinks that there are only two kinds of pay increases. One is paid for by sacking people and the other is paid for by the taxpayers. She has not the flexibility to understand that you can have a productivity offset.

The reason she thinks that is that she wants to keep for herself all the savings from productivity improvements. She wants to keep for herself all the savings from productivity improvements from improving occupational health and safety and rehabilitation. She wants to keep for herself all the savings from productivity improvements from having common conditions of employment across the ACT Government Service. She does not want to share with the unions the savings from the productivity improvements from the more efficient use of office accommodation; she wants to keep all of them for herself. She does not want to share with the workers the savings from productivity improvements from the IT review; she wants to keep them for herself. She does not want to share with the workers the savings from productivity improvements from broadbanding; she wants to keep them for herself. She does not want to share with the work force the savings from productivity improvements from increased mobility so that people who are redundant in one area can move to another area; she wants to keep them for herself. She does not want to share with workers the savings from productivity improvements from simplifying the Public Sector Management Act and making it easier to understand; she wants to keep them for herself.

The fact is, Mr Speaker, that this is a problem which has been there ever since she brought down her budget last year. She has taken all the efficiency savings anywhere in the ACT Government Service for herself, put them into the bottom line and said, "They are mine. If you want a pay increase, you have to give up some jobs".

Mr Speaker, the way to negotiate pay increases under enterprise bargaining is by negotiating improvements in efficiency and sharing the proceeds.

**Mrs Carnell:** Absolutely. Hear, hear!

**MR WHITECROSS:** Mrs Carnell, do you understand the words - sharing improvements with the workers? That is not what you are doing. What you are doing is taking the savings you get from those efficiencies, putting them in your own pocket, and then turning around to the ACT community and saying, "If we give these people a pay increase, it is not going to come out of my pocket; it is not going to come out of the savings - - -

**Mrs Carnell:** That is because I do not have a pocket. The only pocket we have is the taxpayer's.

**MR WHITECROSS:** Yes, you do, Mrs Carnell. You do not want to pay for them out of the savings from the IT review, or the savings from all these things; you want to pay for them out of either tax increases or sacking workers. It is not good enough, Mrs Carnell. Get your act together.

**MR SPEAKER:** Order! The member's time has expired.

Debate interrupted.

**Sitting suspended from 12.26 to 2.30 pm**

## **QUESTIONS WITHOUT NOTICE**

### **Remuneration Tribunal**

**MS FOLLETT:** I address a question without notice to the Chief Minister. Mrs Carnell, why has the Government not appointed the ACT Remuneration Tribunal, especially given that the legislation establishing that tribunal was passed in this Assembly as a matter of some urgency in December 1995, well over two months ago? Why has the tribunal not been appointed, and how many determinations have you made under section 14 of the Remuneration Tribunal Act, as a substitute tribunal?

**MRS CARNELL:** Thank you very much for that question. In fact, the Remuneration Tribunal submission went through Cabinet yesterday. As Ms Follett would know, over the Christmas break we had a deal of difficulty in getting in touch with a couple of the people we were after.

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**Ms Follett:** No, I do not know.

**MRS CARNELL:** They were on holidays. We now have a Cabinet decision on this, and the Remuneration Tribunal will be appointed as a matter of urgency now that Cabinet has approved those sorts of things. I am very happy to table for the Assembly any determinations I have made during the period.

### **National Capital Investment Centre**

**MR HIRD:** My question also is to the Chief Minister. I refer to a recent announcement by Mrs Carnell that a National Capital Investment Centre is to be established in Canberra. Can the Chief Minister outline to the parliament how this new centre will benefit Canberrans and small investors?

**MRS CARNELL:** Thank you very much for the question, Mr Hird. It allows me to focus on yet another initiative that this Government has helped to deliver and that will benefit the community. There are an estimated 42,000 private shareholders in Canberra.

**Mr Berry:** It would have been all right if you had just stuck to your promises and not worried about a few of these other things.

**MRS CARNELL:** It is interesting that those opposite do not seem to be at all interested in fixed income superannuants and retirees, people to whom up-to-date information about the share market and other investment options is essential. This new service that the Government is involved in will certainly help these investors and other Canberrans interested in the share market.

The National Capital Investment Centre is a joint venture between the Government, the Australian Stock Exchange and Commonwealth Funds Management. It will provide practical investment information and will also feature Canberra's first electronic share market board. The centre will be leased and managed by CFM staff, who will also be conducting superannuation and general investment information seminars. The Stock Exchange will also be conducting regular seminars on investing in the share market and will provide displays and publications through the centre. The investment centre will be established in a high-profile spot in Civic, probably in London Circuit. I understand that negotiations over the lease are in their final stages, and it is expected that the opening will take place soon after Easter.

The centre will send two messages, two clear signals, to the boneheads opposite on the Labor benches. First, it is a sign of confidence in the ACT economy that CFM and the Australian Stock Exchange are willing to invest in its establishment. Who knows? In the future, the ASX may well decide to expand its presence in the national capital, creating more jobs and more investment. Second, it puts paid to Ms Follett's very definite claim that we - - -

**Ms Follett:** I raise a point of order, Mr Speaker. The bonehead who asked the question has in fact been engaged in private conversation ever since the Chief Minister started answering it.

**MR SPEAKER:** I suggest that members who ask questions might listen to the answers.

**MRS CARNELL:** Certainly, Mr Speaker. I can understand why Ms Follett wanted to interrupt. It was Ms Follett's claim that we could never get a stock exchange presence in Canberra. Who could forget Ms Follett's performance last year when she claimed that the ACT should have gone it alone six months after we came to government and cut stamp duty on marketable securities by half? The only time in her four years of government that Ms Follett attempted to get a competitive edge over another Australian government - - -

**Mr Moore:** On a point of order, Mr Speaker: This answer, it seems to me, and the question offend two standing orders - 117(c)(ii), as to announcing Executive policy, and standing order 118(a), that answers shall be concise. Whilst the answer may be a lot of things, it is certainly not concise.

**Mr De Domenico:** On that point of order, Mr Speaker: Mrs Carnell has already announced what she is saying now, so it does not contravene that first standing order. Secondly, if Mrs Carnell was allowed to answer the question without being interrupted by everybody else, I am sure her answer would be more concise than it has been so far.

**MR SPEAKER:** Order! I do not uphold the first point of order. I most certainly uphold Mr De Domenico's statement, however, that if the Chief Minister was allowed to answer the question without interjections from both sides of the house we would be better off.

**MRS CARNELL:** Thank you very much. Mr Speaker, it seems that the only time the previous Government, under Ms Follett, ever entered into trying to achieve a competitive edge over other Australian governments was when she got into bed with VITAB and woke up some \$3.3m worse off.

### **High Schools - Disabled Students**

**MR MOORE:** My question is directed to Mr Stefaniak, as Minister for Education and Training. When Charnwood High School was closed last year the Minister made certain promises, particularly in answer to my question on 26 October, about ensuring that Ginninderra High School was made ready for wheelchair access. Can the Minister confirm now that wheelchair access will not be available until the end of term two?

**MR STEFANIAK:** In answer to the member's question, I will find out some information as to exactly when the wheelchair access will be available and I will get back to the member in relation to that. Work has certainly been going on for some time in relation to making Ginninderra District High School ready. It is now open, the students are there, and I am pleased to say that the school is going very well.

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**MR MOORE:** I ask a supplementary question, Mr Speaker. Minister, is it of some embarrassment to you that there is at least one student - a number of students, I suspect - who is disabled and who is not able to get around their new high school?

**MR STEFANIAK:** The Government and, through it, the Department of Education will do all they possibly can to ensure that all aspects of that school are ready as soon as possible, including anything necessary to help any students who are disabled.

### **Chief Minister's Department - Chief Executive**

**MS McRAE:** Mr Speaker, my question is to Mrs Carnell in her capacity as Chief Minister. Chief Minister, do you think it was appropriate for you, and you alone, to determine Mr Walker's salary package, especially when he had not gone through a merit selection process for the upgraded position? What role did Mr Walker himself have in the decision on the salary for his own job?

**MRS CARNELL:** I find that comment really unusual, and I think it is a comment from Ms McRae.

**Ms McRae:** I asked a question. Just answer it.

**MRS CARNELL:** I certainly will. I think I answered this question last year, and I will make the point again. The Director of Public Administration at that stage, Ms Maureen Kane, made the decisions on issues regarding Mr Walker's package. It was done in line with the Public Sector Management Act and, of course, the relevant documents.

**MS McRAE:** Mr Speaker, I asked specifically about the upgraded position. I ask the Chief Minister again: What role did you play in this, and do you agree that it would be better if such decisions were made deliberately at arm's length from the head of government?

**MRS CARNELL:** The decisions with regard to the new packages, as I also explained to the Assembly last year, were made as a result of a consultancy that was put together by the ACT Government, where full job sizing and remuneration levels were determined by an independent consultant. Those recommendations were taken on board totally by the Government. They were not varied; they were taken on board by the Government. They went through Cabinet and Cabinet approved them - a totally sensible approach. Certainly, no variations to those - - -

**Mr Berry:** Will you table them?

**MRS CARNELL:** Yes, all of the contracts will be tabled, I think on Thursday next week - the ones that have been signed at this stage.

### Small Business - Retail Space

**MS HORODNY:** My question is to the Minister for the Environment, Land and Planning, Mr Humphries. We have repeatedly heard from this Government that it is strongly committed to the development of small business in the ACT. That commitment has been spelt out in a number of much needed inquiries which have yet to be completed. In the meantime, one would hope that the commitment would also be reflected in Government action, so I was very disappointed in the announcement that all 10 hectares at the Conder shops had been sold to one of Australia's largest businesses, Woolworths supermarket. How does this action reflect the Government's commitment to small business?

**MR HUMPHRIES:** I thank Ms Horodny for the question because it is a quite good one. I think Ms Horodny is probably one of the only people in this town who have not been calling consistently for the Conder shops to be set up, and not only set up but set up as a matter of great urgency and priority. I am extremely proud that the Government has been able to get that issue on track within 12 months of coming into government and has now auctioned the site. At last the people of southern Tuggeranong will have shops of their own. An earlier attempt, I think by the former Government and by us, to elicit interest in the local centres in places like Bonython and Banks was unsuccessful. There were few or no expressions of interest in building shops in those places. It has left a very serious gap as far as retail facilities are concerned for people who live in southern Tuggeranong, and this Government has not hesitated to say that we should push ahead with a proposal to have shops there.

I am not sure whether Ms Horodny is saying that it should not have been those shops at that site, that it should not have been Woolworths who had that site, or that it should not have happened at this stage. I am not sure which of those things she is saying, but I will address all of them in turn in case it is one of those three things. As to that site: That was the site identified for a group centre in the Territory Plan for a number of years. It had to be there because nowhere else in that part of Tuggeranong was going to have a shopping centre under present conditions.

As to whether it should have gone to Woolworths, let me say this much: The Government, I think, did all it could, within the framework of the available gears and levers at our disposal, to ensure that it was not a large multinational that got that site. The original suggestion was for a supermarket of about three-and-a-half to four thousand square metres. The Government said, "No, the maximum size of the supermarket for at least the next three years will be two-and-a-half thousand square metres", conscious in making that decision that that would discourage the major retail chains like Woolworths and Coles and encourage local businesses, which tend to have smaller operations than the large chains. To my knowledge, a company like Woolworths has not built a two-and-a-half thousand square metre supermarket anywhere in Australia for a very long time; so it was a great surprise to me that not only did Woolworths actually want that site, but also it was prepared to pay a very large sum of money, namely \$5m, for the site.

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To be frank, I do not believe that we could have done anything else to prevent a large national chain from getting hold of that site, short of simply barring them from entry to the auction, which I think would have breached government bidding policies and tendering processes, and probably breached the Trade Practices Act as well. I am very proud that the Government has now released that site. It would have been nice to have it go to a business other than Woolworths; but, unfortunately, Woolworths paid the most money. It is up to the Government to maximise its return within certain parameters, and it has done that. I look forward to the swift creation of a shop on that site.

I make one last point. There was a suggestion that it might not have happened at this stage. I gather that there is some suggestion that it should have been delayed in order to make sure that other businesses elsewhere in Tuggeranong were not threatened. To suggest that people in the southern part of Tuggeranong should be shopping in the town centre, for example, or at Chisholm, which is where the nearest group centre is in Tuggeranong, is like saying to the people in Dickson that they should shop in Civic rather than going to the local Dickson shops. That is quite silly. It is quite plain that the people in that part of Tuggeranong deserve those shops.

I must say that I was intrigued by the contradictory calls coming from the Labor Party on this question. Mr Wood told me that I should have speeded up the process. I had a letter from one person, who is the Labor Party candidate for Namadgi at this election, saying, "Could I urge you to review your proposed auction date from mid-January to February or early March". So the Labor Party said, "Go faster, go faster", but it also said, "Go slower, go slower". I cannot work out what they wanted in that scenario, so I will leave the Labor Party to one side in this game, as they usually are, and say simply that I and the Government are very proud that that site is now available and can be developed for the benefit of the people of southern Tuggeranong.

**MS HORODNY:** The point I was making, Mr Humphries, is that, if that site had been subdivided, then local small businesses could have had a chance to tender for the site.

**MR SPEAKER:** Is this a supplementary question or a statement, Ms Horodny?

**MS HORODNY:** My supplementary question is: Why was the site sold as one large unit, which left the local small businesses out of the bidding process?

**MR HUMPHRIES:** Mr Speaker, there seems to me to be a need for a supermarket facility on that site, and that constitutes two-and-a-half thousand of the three-and-a-half thousand square metres this site will occupy.

**Mr Moore:** Not if it is a 1,500 square metre style of supermarket.

**MR HUMPHRIES:** No, it is two-and-a-half thousand square metres. You could have had an even smaller supermarket, I grant you. You could have had a 1,500 or 1,000 square metre supermarket. There are something in the order of 10,000 people living in that part of Tuggeranong. I do not think a 1,000 square metre supermarket would cater to 10,000 people.

**Ms Tucker:** You might have had a fruit shop and a butcher shop and all these other small shops.

**MR HUMPHRIES:** You can have those things. There is another 1,000 square metres of shops in that area, and people will be able to take up those shops. If Ms Horodny is saying that we should not have let it be developed by one enterprise, the problem with that is that you have to have someone to build the shopping centre. You could have had sites next to each other on which individual people could build; but that would not meet the objective, which sometimes came from the Labor Party, that we needed to get these shops on line early. You cannot say, "You can build the supermarket and you can build the fruit shop next-door and you can build the newsagent". There would be builders everywhere; there would be different processes happening at different times. It does not make any sense. For a centre such as that you have to have a single development. You can then sublet the shops if you want to, and you also get other community facilities being built as part of the process. That, I think, is a process long used in the Territory and a very good one.

### **Remuneration Tribunal**

**MR WOOD:** My question is to the Chief Minister and is about the role of the Remuneration Tribunal. Chief Minister, will the tribunal be able to review the original determinations and to make lower determinations if it should come to the view that the original decision was exorbitant?

**MRS CARNELL:** The Remuneration Tribunal obviously will look at senior executive salaries, as the Remuneration Tribunal will look at our salaries, in an appropriate fashion.

**MR WOOD:** Mr Speaker, that was not an answer to the question. Chief Minister, has it the capacity to review and to reduce the determinations you made?

**MRS CARNELL:** The people who are on contracts obviously are on contracts for a period of time, but at the end of that contractual arrangement they will be able to have their salaries reduced.

### **Community Social Workers**

**MS TUCKER:** My question is to Mrs Carnell in her capacity as Minister for Health and Community Care. Mrs Carnell, during the debates on Kippax and Melba health centres we heard you say repeatedly that your Government was not cutting services. It has been brought to my attention that the community division social work position for Melba, which has been located in the Belconnen Health Centre since early 1995, may no longer be filled, and that the other social work position located in the Belconnen Health Centre is also presently unfilled and may not be filled for two months. In light of increasing demands for these services in Belconnen and Gungahlin and the important preventative

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roles played by the community social work teams, which complement the community mental health teams, can the Minister provide an assurance that both of these positions will be filled in the near future and reiterate the Government's position in relation to maintaining community health services?

**Mr Berry:** There is no policy on that. They are not committed to that.

**MRS CARNELL:** I am very happy for Mr Berry to answer the question if he would like to. The Government has a total commitment - - -

**Mr Berry:** Thank you. Mr Speaker, I would be very happy to answer.

**MR SPEAKER:** Sit down, Mr Berry. I would prefer the Chief Minister to answer the question because that is the person to whom it was directed.

**MRS CARNELL:** The Government has a total commitment to community health services and, as we have always said, we will ensure that those services are available where they are most needed in the Canberra community. We have not given and never will give an undertaking that services will stay in the same place forever, simply because the community changes, demographics change and the needs of the community change. We have already announced that we will be looking at a new one-stop-shop health facility, shall we say, in Gungahlin in the near future, combining a number of family services, child health services and so on. Where the services are needed, they will be provided. That is obviously a dynamic situation which changes. There is no doubt that social work services, mental health services and so on need to be available for the people of Belconnen.

**MS TUCKER:** I ask a supplementary question. You said that the services will not stay in the one place unless they are seen to be needed there. I am assuming that you have done a needs assessment which has shown that it has not been needed in this area, although it is servicing Gungahlin at the moment. Could you table some such needs assessment, because the impression I have is that - - -

**MR SPEAKER:** Is this a question or a statement again?

**MS TUCKER:** I think there is a question coming.

**MR SPEAKER:** The question is not coming. It has arrived. Could we have it.

**MS TUCKER:** Could Mrs Carnell please explain when the needs assessment was done that showed that we did not need to fill these positions right now and that we could wait until services were provided in Gungahlin?

**MRS CARNELL:** I am certainly willing to give the member a total briefing on the service provision at Belconnen Health Centre right now and for the future as well.

**Minister for Urban Services - Staff**

**MR BERRY:** My question is to Mrs Carnell in her capacity as Chief Minister. I ask Mrs Carnell to explain to the Assembly why it is that female staff in Mr De Domenico's office are being moved out of the office and replaced with male staff. Would you advise the Assembly why this is the case? And do not try on the coincidence line.

**MRS CARNELL:** I am very happy to try to answer this question, but I really have very little to do with Mr De Domenico's staffing.

**MR SPEAKER:** Order! I am not sure that this falls necessarily within Government policy or, indeed, the Chief Minister's portfolio responsibilities.

**MRS CARNELL:** I am absolutely confident that it does not.

**Mr Berry:** Perhaps Mrs Carnell will deny that it was done on her instructions.

**MR SPEAKER:** Just a moment. Order! I cannot allow a rhetorical question of that nature to be asked.

**Mr Humphries:** I have a point of order, Mr Speaker. It is fairly clear that our friends opposite have resorted to the lowest form of muckraking yet again. We have seen this happen time and again. The clear inference of Mr Berry's - - -

**Mr Berry:** On a point of order, Mr Speaker - - -

**Mr Humphries:** I am taking a point of order. Do you mind?

**MR SPEAKER:** I will hear your point of order in a minute, Mr Berry.

**Mr Humphries:** The clear inference of Mr Berry's question was that Mrs Carnell is somehow taking women out of Mr De Domenico's office for some issue related presumably to sexual harassment claims made last year against Mr De Domenico, of which he was cleared by the Discrimination Commissioner. That is clearly the inference of the question. It is a low, sneaky and unparliamentary tactic, and I would ask that you ask Mr Berry to withdraw the suggestion.

**MR SPEAKER:** I will now hear your point of order, Mr Berry.

**Mr Berry:** I think you should get Mr Humphries to withdraw the suggestion. I did not make it.

**MR SPEAKER:** Order!

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**Mr Hird:** On the point of order, Mr Speaker: I think our friends opposite have got the whole thing wrong. Indeed, I am delighted to say that my female assistant has now been promoted to Mr De Domenico's office. So I do not know about getting rid of females; I think he is adding to them.

**MRS CARNELL:** Can I answer the question, if it is humanly possible, to say that I have made no directions whatsoever with regard to Mr De Domenico's staff.

### **Nature Parks - Entrance Fees**

**MR KAIN:** My question, Mr Speaker, is to the Minister for the Environment, Mr Humphries. I am getting a bit confused about the question of charging entrance fees to nature parks. As chairman of a committee, I recently tabled a report that, amongst other things, proposed that the Government should consider the charging of entrance fees to our national parks and other park areas in the ACT. It seems to me lately that whenever Mr Berry wants to crank up his leadership campaign he puts out a media release about entry fees to nature parks. I am a little confused. Rather than having to take note of Mr Berry's press releases, could you please explain just what the true position is with respect to that proposal to charge entrance fees to the nature parks?

**MR HUMPHRIES:** Mr Speaker, although I have ease in describing the Government's position on this matter, I would have enormous difficulty in working out what the Labor Opposition is saying about the subject. Frankly, they have been all over the place.

**Mr De Domenico:** They need Mr Connolly back, I think.

**MR HUMPHRIES:** They probably do. I am beginning to regret my decision. It seems to me that Mr Berry does want to crank up his leadership agenda every so often and when he does he fires out all sorts of releases on all sorts of subjects, hoping that one will hit the mark sooner or later by a sheer process of attrition. In fact, Mr Berry at the same time does not always remain completely free of hypocrisy. The latest media release from the Labor Opposition says that this plan - that is, the plan about park fees - is about as ridiculous as they come. He says that Labor has always opposed passing costs on to those least able to afford to pay. One's heart bleeds profusely at these words. Unfortunately, when you check back to the budget papers for 1993-94, Ms Follett actually announced as Chief Minister and Treasurer that entry fees for nature parks were being examined. At page 136 of the Budget Overview 1993-94 it is stated:

The marketing strategy -

that is, for national parks -

... includes the examination of entry charges at certain reserves. This charging is consistent with other national parks and reserves across Australia ...

**Ms Follett:** And rejected.

**MR HUMPHRIES:** Ms Follett says that it was rejected. Presumably that is why Ms Follett commissioned a report in which she asked for the question of fees to be examined. But the fact is that the report did not come in to her while she was in government. The report did not arrive until after you had left office. It is that report which is now out in the public arena and which has given rise to the suggestion - the only suggestion, I might say - that there should be park fees. It is a report you commissioned. You commissioned that report.

Mr Speaker, let me explain what the Government's position is. The Government's position is no less or more than the Labor Party's was in 1993-94 but has now changed.

**Mr Berry:** Why do you not reject it?

**Ms Follett:** So you do not reject them? We did, but you did not.

**MR SPEAKER:** Order! The Minister is answering the question.

**Mr Berry:** Just reject them.

**MR HUMPHRIES:** I know that it is hard, but please try to understand. Please just engage that mind for a minute.

**MR SPEAKER:** Order! The Minister is answering the question.

**Mr Kaine:** Mr Speaker, I raise a point of order. I asked the Minister a question because I wanted to hear the answer, but I have heard scarcely a word yet. I think you must have thrown some meat to the animals in the zoo over the other side somewhere.

**MR SPEAKER:** I must admit that everybody in this chamber seems to be in full voice after two months' leave.

**MR HUMPHRIES:** Mr Speaker, the entire origin of the suggestion that there should be park fees in ACT public parks and reserves comes from a paper which was commissioned by the Follett Government and which has landed in our lap as the successor Government. That is the entirety of the issue as far as the origin of that suggestion is concerned.

**Ms Follett:** Just say no.

**MR HUMPHRIES:** I will say no more or less than you said in 1993-94. If you can criticise that you are a wonderful athlete. You can do a backflip and double pike with return. Mr Speaker, I do not think Mr Berry is helping his leadership ambitions much with these sorts of suggestions. Field marshals are meant to straddle gallant white thoroughbreds, not straddle barbed wire fences.

### Year 12 Evening College Program

**MR OSBORNE:** My question is to the Minister for Education, Mr Stefaniak, regarding enrolments in adult education evening courses. Is it not true that Year 12 evening courses have risen in price tenfold on last year and as a direct consequence the numbers of students have apparently fallen drastically, to the point where the total Canberra 1996 enrolment now stands at just over 100, when only last year some colleges had individual enrolments of nearly 300? In light of this and the fact that a class needs at least 15 students, I am told, to be viable, how do you expect the adult education programs to function effectively and not totally collapse?

**MR STEFANIAK:** I thank the member for the question. The fact is that they will function. That is occurring at this time, so I do not think Mr Osborne need have any concern in relation to that. The Government recognises the opportunity for improving one's life changes through further study, and that can be made available through a number of things and is available to everyone regardless of age. Of course, most evening college students are adults.

I think the real point in question here is how to provide the most appropriate program and pathways for these adults who wish to gain university entrance or the Year 12 certificate and how to provide those programs in a fiscally prudent and cost-effective way. The decision to withdraw funding to evening college operations was made in order to improve the cost-effectiveness of that program, which was very heavily subsidised. The Government has decided that, as a result of decisions taken last year, students who commenced a two-year package in 1995 will be able to complete their studies this year under the same fee structure as applied for 1995. With the removal of the general subsidy, an appropriate subsidy for Year 12 evening college students who hold pension cards has been set. There will also be no changes in the arrangements for students with special needs.

Four colleges advertised evening programs this year at a cost, for those students who were not affected by all those concessions, of \$450 per course or \$1,350 for a Year 12 program, and at cost price. The four colleges have offered five courses each. They have enrolled approximately 144 students, I am told, to this point in time. Interestingly enough, that is in line with the number of students who achieved the Year 12 certificate from evening study last year; that is, 85 students last year achieved a Year 12 certificate. In relation to earlier years, my department estimates the number of students who completed an evening Year 12 program, that is, the program and the certificate - the certificate is different from the Year 12 program - to be 110 students in 1994 and 105 students in 1993.

A number of things should be said in relation to evening colleges. The industrial award which pertains to evening colleges requires that before one student enrolls an evening college principal and evening college administrator should be appointed at a total cost of \$14,000 per college. As well, in the past, janitor costs and clerical assistant costs of approximately \$26,000 have also been part of the overheads. That has meant that for the program overall the flag-fall cost has been \$160,000 before one student has walked through the door. Overheads of this magnitude are clearly unacceptable and make the program unavailable in the colleges without a very large subsidy from the taxpayer.

The Government will, however, continue to subsidise the program this year because it would certainly be unfair not to do so in respect of those students who have enrolled in good faith.

I should point out that in New South Wales all Year 12 evening classes are conducted by TAFE. There are also other avenues for mature age students to gain entry to universities. They include preparation schemes run by the ANU and the University of Canberra. Distance education courses are organised by the Open Learning Agency of Australia, a consortium of universities where full credit into universities can be obtained. The fees there are similar to HECS.

I think the member's question has been well and truly answered. If he looks at those figures in terms of how many actually got certificates last year and how many enrolled this year, he might find that there could be an increase in terms of how many get a Year 12 certificate. I would also point out to Mr Osborne that there are a large number of community education courses which are run at cost and which offer a vast range of subjects, including those for which people enrol at evening colleges. I am endeavouring to get those figures, and I will be interested to see whether some of this great drop-out which Mr Osborne talks about has been taken up there.

**MR OSBORNE:** I ask a supplementary question, Mr Speaker. I should get the Minister to repeat that answer, but I will not. Minister, how does it compare to the way the program was run last year, given that in the *Canberra Times* on 9 February you said that you had heard absolutely nothing about the evening courses being in trouble?

**MR STEFANIAK:** Mr Osborne, I think I have given you an incredibly comprehensive answer in terms of the evening colleges at this point of time, on the information that has been given to me. I have also indicated how many students last year got a Year 12 certificate, and I pointed out that the numbers enrolled this year in that particular course are not very different from the numbers of students who were keen to get a certificate and in fact obtained one last year.

### **Community Health Centres - Medical Practitioners**

**MR WHITECROSS:** My question without notice is to Mrs Carnell in her capacity as Chief Minister and Minister for Health and Community Care. I refer to Mr Connolly's motion on health centres and the provision of 100 per cent bulk-billing doctors, which was discussed last year, and to Mr Osborne's action on 6 December last year to adjourn the matter to give Mrs Carnell a couple of months to get her act together. Mrs Carnell, what action have you taken since 6 December to attract 100 per cent bulk-billing doctors to our community health centres, and how many doctors have you recruited?

**Mr De Domenico:** Mr Speaker, on a point of order: Is that not on the notice paper? Is Mr Whitecross pre-empting debate?

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**MR SPEAKER:** I think there is a matter before the house on this subject.

**Mr Berry:** No, there is not.

**Mr Moore:** Yes, it is on the notice paper.

**Ms McRae:** It cannot be on the notice paper for what you did between last time and now. He is asking a different question.

**Mr De Domenico:** Mr Speaker, can I suggest that you seek advice from the Clerk and give a ruling accordingly?

**MR SPEAKER:** I am doing that.

**MR WHITECROSS:** Mr Speaker, I was putting it in context. My question is a simple one: What action has Mrs Carnell taken since 6 December last year to attract 100 per cent bulk-billing doctors to our community health centres, and how many doctors has she recruited? That is the question.

**MRS CARNELL:** I am happy to answer that question.

**MR SPEAKER:** Order! I will allow that question.

**MRS CARNELL:** I think it is very much part of a debate that, hopefully, we will be having at some stage in the next fortnight. As I said to the Assembly last year, I will do my very best to get 100 per cent bulk-billing doctors to our health centres.

**Mr Berry:** Did that include giving them all the records of the patients?

**MRS CARNELL:** That included such issues as offering 30 per cent reductions in rent, offering what I think are very reasonable deals with regard to equipment and so on.

**Mr Berry:** And offering the ones who went all the records?

**MRS CARNELL:** Mr Berry has brought up the question of patient records. Patient records, as Mr Berry knows, remain the property of ACT Health, but copies of patient records are being made available immediately to patients, as soon as they sign a release form, if they are looking to going to another doctor - without any questions asked. Mr Berry is simply wrong there yet again.

**Ms McRae:** Answer the question.

**MRS CARNELL:** Mr Berry was interjecting, Ms McRae, so I was answering his interjection.

**MR SPEAKER:** Mr Berry did not ask the question. Just confine yourself to Mr Whitecross's question.

**MRS CARNELL:** We have advertised for 100 per cent bulk-billing doctors. We have certainly attempted to find 100 per cent bulk-billing doctors for our health centres; but, in line with what I told the Assembly last year, the doctors who were at the health centres at that stage said that, in their view, it was simply not viable to stay on as fully bulk-billing doctors. I again urge the Assembly to rethink their position and accept that as long as doctors are bulk-billing people in need - that means people with health care cards and people with pensioner benefit cards - that would guarantee our capacity to get 100 per cent bulk-billing doctors into our health centres. That is exactly the same position as I put last year. We have done everything in our power to convince doctors to come into our health centres on that basis, as I said, including offering discounted rents, particularly good deals with regard to equipment, and so on.

The reality is that the doctors are saying that it is not viable if they cannot charge even people who are extremely well off for their medical treatment. Remember that we are talking only about the gap between the Medicare payment, which is around \$20, and the amount of money that GPs in this city charge, which is somewhere between \$28 and \$30. So we are talking about at most \$10 for people who are on fairly good incomes. I do not believe that that is unreasonable. I believe that the Assembly should relook at the situation and accept doctors who bulk-bill pensioners, people on low incomes and people who are health care card holders.

**MR WHITECROSS:** I have a supplementary question, Mr Speaker. I note that, in answering the question, Mrs Carnell completely failed to answer the question, which asked what she had done since 6 December. The answer appears to be nothing. I can only conclude that from Mrs Carnell's refusal to answer the question she was asked. By way of supplementary question, I ask: What has she done since 6 December? Has she placed advertisements interstate, including the offer of free rent, as suggested by Mr Osborne? If she has not, would she agree that she has let down both Mr Osborne and the Assembly and that her actions have reduced medical services to the Canberra community?

**MRS CARNELL:** I certainly do not believe that we have ever suggested that we would offer free rent. It is the role of the Government to ensure that community facilities do get an adequate return, and that is what this Government will continue to do. We have had numbers of discussions with doctors who have expressed some interest in becoming 100 per cent bulk-billing doctors in our health centres. At this stage there is no doubt that we have no further interest. There are doctors at most of our health centres around the ACT. We have done an enormous amount since then, but the reality is that this Assembly put conditions on this situation which were, according to the doctors in the marketplace, unworkable.

I ask that further questions be put on the notice paper.

### **High Schools - Disabled Students**

**MR STEFANIAK:** Mr Speaker, I have an answer for Mr Moore in relation to wheelchair access. I am advised that the ramps are in already and also that the lift will be operating by the end of term.

**Mr Moore:** The end of which term?

**MR STEFANIAK:** This term. The toilet, which needs to be enlarged but is still usable, will also be done by the end of term. I might also mention to Mr Moore, with his interest in education, and certainly to my Ginninderra colleagues, that the Flynn Primary School was refurbished, rebuilt, on time, was open for the first day of term, and apparently is going very well.

### **ANSWERS TO QUESTIONS ON NOTICE**

**MS McRAE:** Mr Speaker, I want to ask about a question on notice that expired on 13 January.

**MR SPEAKER:** Yes, under standing order 118A.

**MS McRAE:** Mr Stefaniak, could you please explain why I have not yet received a response to question No. 136, which was due on 13 January?

**MR STEFANIAK:** I will look into that.

**MR WOOD:** Mr Speaker, likewise, I want to suggest to Mr Humphries that he might answer questions directed to him. There are five on the notice paper. They have been three months on the notice paper and are two months overdue.

**Mr Humphries:** Which ones are they?

**MR WOOD:** Nos 84 to 88. They are on today's notice paper.

**MR HUMPHRIES:** Mr Speaker, I do not have the information available to hand. I apologise for that; I should do so. However, I will endeavour to get an answer to Mr Wood by the end of business today.

## QUESTIONS WITHOUT NOTICE

### **Financial Management Reform Unit : Industrial Relations Consultant**

**MRS CARNELL:** Mr Speaker, on 13 December 1995 I took two questions on notice during question time. One was asked by Ms Follett relating to the appointment of Mr Steven Anderson as head of the Financial Management Reform Unit. The other, asked by Mr Wood, concerned the appointment by the Government of Mr Paul Houlihan as a contractor. On 28 December 1995 I provided those answers in writing to Ms Follett and Mr Wood. I now table those answers.

### **MOTION OF CENSURE - PRECEDENCE Suspension of Standing Orders**

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

That so much of the standing orders be suspended as would prevent resumption of the debate on the motion of censure of the Chief Minister and the Minister for Industrial Relations being brought on forthwith.

### **CHIEF MINISTER AND MINISTER FOR INDUSTRIAL RELATIONS Motion of Censure**

Debate resumed.

**MR MOORE** (3.14): Mr Speaker, in addressing this motion, I think it is important to put the dispute in context. It is not only a dispute about the Government and unions, about employer and employee; it is also a dispute about the two-party system. It is a dispute about Liberal and Labor. Earlier today, at the beginning of his speech, Mr Berry described the issue as a silly stand-off. Indeed, those of us who sit on the outside and look at it would say that it is a silly stand-off. We would also say that when we read the motion we see that, apart from paragraphs (1) and (2), which deal generally with the subject, paragraph (3) censures the Chief Minister and the Minister for Industrial Relations for their failure to negotiate in good faith. The motion asks us to make a judgment about good faith. In this case, the judgment is about good faith, about one party, not about the good faith on the part of both parties.

One wonders how an outsider, in the sense I described earlier, could make a judgment about good faith in the light of the current Federal election. For the Liberals, they have the opportunity to indicate to the community that they will not bend to the unions, that they will not have their agenda driven by unions, that there will not be a Federal government that is effectively run by unions. On the other hand, for the unions and for Labor, they have the opportunity to demonstrate how bad the Liberal Government is, how a Liberal government here will fail to deal with unions, and how a John Howard Liberal government would therefore, by implication, fail to deal with unions in the Federal sphere. It is impossible to see this situation without considering the life of the Federal election.

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I see the failure of these negotiations in two major ways - firstly, on behalf of the unions, and, secondly, on behalf of the Government. The failure I see on behalf of the unions is that they decided to insist on a block negotiation seeking a 9 per cent increase. They were not willing to separate and negotiate individually. As far as the Government goes, I think almost exactly the same accusation applies. In the case of the Carnell Government, they want to apply a single system right across the government sector and say, "That is how we are going to negotiate", basing all the salary increments that union members, their employees, might gain on productivity. Unfortunately, they base that just on financial productivity, instead of looking at the outcomes they would get in terms of what the service is that they are talking about and what it delivers. This is particularly true in the case of nurses and teachers. Where they have an enterprise bargaining system, where productivity gains can be returned to their workers, there is a whole series of areas where I think that makes very good sense. It does not make good sense in terms of education. It does not make good sense in terms of health.

While you can apply these same arguments to health, because of the limitations on time I will talk primarily about education. We have a situation where one of the few choices left for teachers to gain productivity at this point in time is for them to reduce the number of teachers. By implication, that increases the class sizes. In the initial instance they may be able to find a couple of other productivities, and most of us would say, "Fine; if they can find other productivities that is how they should work". But in this instance we can see that, in order for teachers to get a reasonable pay rise even to remain with the CPI, let alone to catch up the 25 per cent wage loss they have suffered on a comparative basis over the last 20 years, what it means is that class sizes will increase because there will be fewer teachers.

Even if that happens in only a small way this time around, once the system is established and we seek productivity in the next round, what happens? The only choice they will have is for class sizes to increase, perhaps to 35 this time, perhaps to 40 next time. Where does it end? We will have teachers paid \$60,000 or \$70,000 and teaching classes of 60. You really must ask the question: Where does it go in terms of its logical conclusions? Is that of great benefit to the community? It is not, because, quite clearly, large class sizes are going to mean a drop in the quality of education, particularly for those who are having the most trouble. I was in this situation myself as a teacher some years ago in Canada, where I was teaching a class of 45 students at Year 11 level. It can be done, but the students drop off at the end. You simply do not have enough time to reach those students who are having the most trouble and give them the help they need. The brightest students are likely to cruise through anyway, although in a smaller class they would also be able to be challenged much more effectively.

What we should see is a situation from both the Carnell Government and the unions where they look individually at particular situations, where they can apply the enterprise bargaining system, the trade-off for productivity, across a whole range of areas, but being careful to look at outcomes in other areas, particularly in health and education. After all, priority one of the role of government is service delivery, particularly if you are looking at it in terms of local government, which is a cliché we hear from the Carnell Government on many occasions - service delivery particularly when we take a long-term view of those fundamental issues of education and health.

There has been a great argument for the Chief Minister to come into this house and state publicly that the only way she can deliver this 9 per cent pay rise, if it is delivered through the budget, is by a \$225 average increase in rates. It is a lie. It is a lie to say that the only way it can be delivered is by a \$225 increase in rates. There is a whole series of alternatives. This is the same Government that has just cut payroll tax. It is the same Government that has effectively delivered over \$10m, in their own rhetoric, to the business sector. The question has to be asked: Whom do you value more highly, your children or the business sector? That is what it is coming down to - a question of priorities.

**Mr Humphries:** That is unfair, Michael.

**MR MOORE:** Mr Humphries interjects, "That is unfair". It is just as unfair as saying that the only way to pay for this is a \$225 hike in rates. That is the trouble. Yet another way to pay for it is to look at the fact that we are paying some people in this Government Service over \$200,000. We are looking at chief executives getting huge salary increases, and ordinary workers must ask the question, "Why is it that somebody can get a 10 per cent increase, and that 10 per cent is in the order of \$15,000 to \$20,000; whereas what we are looking for is an increase of 9 per cent, which will really deliver something in the order of \$5,000 or \$6,000?". There are great questions that still need to be answered.

What can be done? Mr Osborne and I certainly attempted to move amendments to the budget. Indeed, just today I offered yet again to the Labor Party, and I discussed it with Ms Follett, that I am still prepared to move an amendment to the budget at this stage to increase the funding to education. Mr Osborne tells me that he is also prepared to move amendments to the budget to increase the funding to cater for this particular area, where productivity gains in financial terms will mean loss of benefit in terms of service delivery to the community, damage to the future of our children and damage to patient care. (*Extension of time granted*)

What we have here is a question of priorities, and the Carnell Government has demonstrated quite clearly that its priorities lie more closely with business than they do with our children. They have made it very clear that that is where their priorities lie. It seems to me that there are solutions here and that those solutions can be reached; but the particular motion that calls on me to censure the Chief Minister, amongst others, for failure to negotiate in good faith is not a motion I am prepared to support. We also have an amendment by Ms Tucker. The Greens seem to think that with this sort of amendment they will get the unions on side. I have news for them. Nothing they do will get the unions on side. The amendment states:

... ..

- (4) in light of the failure of the Government to fulfil its duties as an employer ... calls on the Government to accept the unions offer regarding lifting of work bans and immediately recommence enterprise bargaining ...

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We have a situation where four of those six work bans were offered; two were not offered. Then we have the situation presented as though there are only six work bans in place. My understanding is that there are over 100. I think that interfering in these sorts of negotiations at this stage is entirely inappropriate, and I am not prepared to support that amendment.

I do encourage the unions and the Chief Minister to make moves to settle this dispute, to go beyond the Federal election and to think of what is best for the people of Canberra, and to do it particularly in the light of the arguments I put about separating those areas where productivity actually damages the final outcome as opposed to the areas where enterprise bargaining over productivity makes good sense.

**MR SPEAKER:** I remind members that those who spoke to the original motion can speak to the amendment.

**MR STEFANIAK** (Minister for Education and Training) (3.27): Mr Speaker, the Government, and especially the Chief Minister, have said on numerous occasions that if the full 9 per cent were given it would mean that some \$27m extra would have to be found. Whether that is found by way of \$225 per household or by way of borrowings, the ultimate effect is that Mr and Mrs Average in the community have to pay. The citizens of Canberra have to pay that amount.

One has to look at what the Government has offered in this dispute, and other speakers for the Government have mentioned this. The basic fact is that in very difficult financial times the Government has come up with some 4.3 per cent - it is about 4.1 per cent because of the amount of money lost by the Territory as a result of this dispute - which is a significant percentage in very difficult economic times and which compares very favourably with what those opposite paid in the enterprise bargaining agreements and industrial relations settlements made when they were in government last time. That offer has been made with little, if any, pain to any of the unions involved. On top of that, where is the money to be found? We have this figure of \$27m which just has to be found, and we cannot get away from that.

The Government is following enterprise bargaining guidelines set down by the Opposition's Federal Labor colleagues. What the Chief Minister has said, contrary to what Mr Moore might have been indicating earlier in his speech, is that these unions are different. Teachers and nurses are very different from bus drivers. There is room for enterprise bargaining in this process. Who pays, Mr Speaker? Mr Moore has come up with a couple of suggestions there, which the Chief Minister and the Government are well aware of, in terms of the cost to the community.

**Mr Moore:** I have a few others, too.

**MR STEFANIAK:** Have you? That is good to see, Mr Moore. It is interesting that the Opposition does not. Some people have made some suggestions. Mr Haggar, from the Education Union, has said, "Yes, rates should pay for it; what is wrong with that?", when he talks of education.

**Mr Humphries:** It is easy for him; he does not live in the ACT.

**MR STEFANIAK:** That is right. It is interesting to read from a *Socialist Worker* pamphlet in relation to a rally to be held tomorrow outside the Legislative Assembly. Despite the fact that the Opposition will not say how it is going to be paid for, even the socialist workers are putting in their two bob's worth. They say in their document:

The government has recently threatened that public service pay increases could only be funded by an increase in Canberra household rates of over \$1,000 in some cases. Despite the acceptance of this by the leadership of the teachers union, Resistance believes that education is a right ... Increased education funding should come from taxes on big business, not through extra taxes on the community.

Unfortunately for the socialist workers, there is not any big business in Canberra, and taxing business is not a terribly effective way of getting taxes anyway - especially small business, which is being taxed to the hilt as a result of some 13 years of neglect by Federal Labor. There is a real problem in our community, in that Australia and Canberra are in a recession. Times are tough. People have to realise that, and what the Government has offered is more than reasonable in the circumstances. It is a very reasonable offer in tough times - times of low inflation, we should not forget.

I am going to speak now on the education bans. I reiterate my calls, which I have made on several occasions, for the Education Union to lift them. It is most unfortunate, to say the least, that the AEU has banned all after-hours activity in schools. What a nonsense! What do they mean by voluntary after hours?

**Mrs Carnell:** It is not voluntary.

**MR STEFANIAK:** It is not voluntary, as the Chief Minister says. Do they think that teachers are paid around \$42,756 for the top of band 1 for working what would amount to a 30-hour week, 40 weeks per year, when public sector employees are working 37 hours or more for a 48-week period during the year? Teachers' salaries have been determined taking into account the full range of activities they undertake in outside hours, and it is quite incorrect and, I think, quite improper for representatives of that union to refer to unpaid voluntary work outside of normal school hours. Those things have always been taken into account in the ACT. The teachers union has consistently made the point in the media that it is voluntary, but that is wrong. It is interesting that they have consistently made the point that teachers do those extra duties outside of class time teaching in any claims they make to industrial relations bodies when they come up for additional salaries. They have argued about the demands of parent-teacher evenings, assessment, curriculum development, musical productions, drama, sporting activities, student counselling and excursions, and those things have always been taken into account in setting their wages, certainly in the ACT. Let us not have any more talk about voluntary after hours activity.

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In relation to the bans, they are having a widespread effect on extracurricular activities in all sectors of public schooling. It really is difficult to reconcile this politically-driven industrial agenda with a real commitment to the importance of our young people's education. Information from the schools indicates that at the primary level the bans prevent activities for students out of normal school hours such as camps, interschool sport, excursions and socials. At high schools they are preventing excursions, camps, including peer support camps, sporting trips, drama productions, the Rock Eisteddfod, Duke of Edinburgh Award activities and socials. At colleges they are preventing excursions, camps, sporting trips, drama productions, the Rock Eisteddfod, and work experience placement, including the Australian vocational training scheme courses. That especially, together with some of the more major problems to do with interschool sport that we have seen in recent times, is particularly worrying.

I remind the Assembly that students get only one go at education, and the teachers union leadership needs to understand that. For many students, 1996 will be the first and last time they will get a chance to represent the ACT in some sports. Maybe they do understand but just do not care. I hope that is not the case. Of course, this is true for all education. These bans are taking education, whether it be sport or mathematics, from our students. What is lost now cannot be replaced. If these bans do continue, a lot of students in 1996 will miss out on activities, development opportunities and opportunities to represent the ACT or even Australia at national and State level sporting events. Those opportunities do not come again.

We cannot measure the effect of not having Year 7 or Year 10 camps. Those camps are an important element of the whole package of education. They are a fundamental part of education today. The camps play an important role in motivating students, in building friendships, and in maximising the benefit of peer support programs in schools. The union claims that the core business of teaching and learning is not affected. I would have to disagree with that. If these current bans continue, they will seriously affect many college and high school students in classes where learning and assessment are dependent on excursions or classes which take place outside of teaching hours. Of course, bans on such programs as work experience and the AVTS course do have a major impact on students' education. In those courses, the bans affect a large number of students for whom those courses are very important for future employment.

These bans are a real problem. There are other ways in which the union can go about seeking the 9 per cent it wants. The bans are not affecting any of us here as members of the Government, the crossbenches or the Opposition. They are affecting ACT students. I reiterate the call I have made on a number of occasions to the union to lift the bans. Engage in some other form of industrial activity if you must, but lift those bans because they are affecting our students.

**MR SPEAKER:** Mr Osborne? I call Mr Berry.

**MR BERRY (3.36):** Age before beauty, Mr Speaker. The reason I may be excused for elbowing my way in front of Mr Osborne is that I would like to go to some of the issues Mr Moore raised, which were not up to scratch in the scheme of this debate. For example, Mr Moore said that the failure of unions to agree to anything but a block negotiation was one of the problems. The problem is that the negotiations have not

happened, and that is the real issue behind this censure motion. If you have a look at the industrial relations beast, the unions recognised that they would have to force this Government to negotiations early in the piece when they sought to establish a bargaining period. Mrs Carnell described that as the election politics of pulling the umpire out.

The process is to force the other party into a negotiating period, and there is protected industrial action if unions seek to take that option and there is the option of lockouts if the employer seeks to take it. They have chosen to exercise, for the first time, the option of lockouts, and that has influenced the debate. It has, in effect, driven the unions even closer together, because there is nothing more unifying than something that seems to be coming from the right wing of politics in terms of industrial relations. Let us leave out the Federal election for a moment because at that point the Federal election had not been announced.

**Mr Moore:** Come on! They had been campaigning for a year, and you know it.

**MR BERRY:** I accept that the Federal election had to be announced and there was lots of debate about what people described as a false campaign and so on, but the fact of the matter is that the unions took that line to force the employer into a negotiating period. That is still going. Of course, the employers absolutely refuse to negotiate. They demonstrated that as late as last night, when the employers refused to negotiate because the unions would not agree with everything Mrs Carnell said.

**Mrs Carnell:** The unions this morning argued that they wanted the umpire still out of it.

**MR BERRY:** Mrs Carnell keeps trying to create the false impression that because there is a bargaining period in place the umpire is out. The onus is on you to negotiate. That is what the bargaining period is about. You failed, and that is the issue of the censure motion.

Another matter Mr Moore raised in the context of this debate was his fixation with the amendment to the budget. I have to say to Mr Moore that that was a failed and illegal attempt to amend the budget, and I trust that Mr Osborne, as a member of the Legal Affairs Committee, would not persist with that approach. We said in the course of the budget debate, "You support us and we will block any line of this debate, send the Government away to amend it, and they could come back". Neither Mr Moore nor Mr Osborne would support us. We opposed the budget. Mr Moore should have come with us on that score; indeed, he could have supported us on the budget line concerned with education. The problem for Mr Moore is that he is continuing to persist with this failed and illegal block.

**Mrs Carnell:** On a point of order, Mr Speaker: I think the member is reflecting on a decision that has already been made.

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

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**Ms McRae:** What about Mr Moore?

**MR BERRY:** It was all right for Mr Moore.

**MR SPEAKER:** No, it was not, but nobody took - - -

**Ms McRae:** We have favourites, have we? Very good.

**MR SPEAKER:** Pardon me! Nobody took a point of order. I would have upheld it against Mr Moore too. Continue, Mr Berry.

**MR BERRY:** The fact of the matter is, Mr Speaker, that it is not a matter reflecting on whether the vote was right or wrong. The fact is that it failed and it would have been illegal. Those are the facts of the matter. That is hardly a reflection on the vote.

**Mr De Domenico:** Mr Speaker, on a point of order: He has just done it again. I suggest that, whether Mr Berry likes it or not, this Assembly has already passed the Carnell budget. He is reflecting on a vote already taken in this Assembly and is out of order.

**MR SPEAKER:** I am happy to uphold the point of order, but what I am saying is - - -

**Mr Wood:** We can never talk about the budget. Oh dear, oh dear!

**MR SPEAKER:** Can we get on with the debate.

**MR BERRY:** The real issue in this debate is whether or not you censure a government that is ineptly handling the negotiations in relation to this enterprise bargaining arrangement. Mr Moore said that today he had again offered to us to amend the budget.

**Mr Moore:** I did.

**MR BERRY:** On that basis, I expect that you would have supported our censure motion.

**Mr Moore:** No.

**MR BERRY:** They are not tradable options.

**Mr Moore:** You continue working with your Liberal mates, otherwise we will amend the budget.

**MR BERRY:** Nobody is swallowing that any more, Michael. They are not tradable options, and I am disappointed that Mr Moore has raised it. What we have to come back to is the censure motion and the reason for it and leave all of the other baggage aside.

**Mr Moore:** Teach them action instead of words. Come on, let us amend the budget. I will move the amendment if you will support it.

**MR BERRY:** Action any time. I can say to you, Mr Moore, that the teachers are going to be terribly disappointed with your performance if you persist in failing to support this censure motion. They have joined with the rest of the union movement to fight this Government and you cannot leave them out of it.

**Mrs Carnell:** So that is what he is doing here, fighting the Government, not working for the - - -

**Mr De Domenico:** Attack the bosses.

**MR BERRY:** You have to fight. If you do not - - -

**MR SPEAKER:** Order! Mr Berry has the floor.

**MR BERRY:** If you fold in front of this conservative Government opposite you lose, so you have to fight. It is as simple as that. The teachers have clearly joined with the other unions because they know that divided they would find themselves in a spot of bother, and that is exactly what the Government wants.

Mr Moore, I say to you that I think this is a censure motion that is worth supporting. It is about the performance of a government that has failed to deal with an industrial question it ought to deal with. It is an industrial question that affects the entire government work force, not just the teachers or other groups; it is an industrial question that has been around for far too long; and it is an industrial question that could easily have been dealt with were it not for the stubbornness, the provocation of Mrs Carnell in particular and of Mr De Domenico. I will whip through the chronology again. We all remember the lockouts.

**Mr De Domenico:** What lockouts?

**MR BERRY:** The lockouts that were threatened by this Government have not been withdrawn. The great rates hoax, that dishonest rates hoax, which would have enraged workers in the community; the defeated and discredited claim that patients' lives were in danger; the claim from Mrs Carnell that unionists were stupid; Mr De Domenico describing workers as greedy; Mrs Carnell re-entering the debate, describing workers as thugs and discounting the pay rise because the workers disagreed with her. Those are the issues on which this censure motion must be decided. Mrs Carnell has failed the community of the ACT miserably on the issue of this industrial dispute. She has taken repeated actions aimed at elevating the dispute, and she must be delighted because her actions have been successful. If there are any claims about deliberate action in relation to this issue, they lie with Mrs Carnell.

So far as the amendment is concerned, Mr Speaker, Labor will be supporting the amendment. We believe that our censure motion would have stood on its own because it would have driven the Government back into negotiation with the relevant unions. It is an important issue and it deserves to be supported.

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**MRS CARNELL** (Chief Minister) (3.47): Speaking to the amendment, Mr Speaker, the Government will be opposing this amendment. Obviously, this amendment would tie the hands of the Government in terms of our negotiations with the unions and, therefore, obviously, it is a fairly stupid amendment. In fact, I wonder whether the Greens would be interested in putting a similar requirement on the unions. Maybe we should put forward another amendment suggesting that all six bans did have to be lifted. It would be about as sensible.

Some of the more interesting comments during this debate were made earlier by Mr Moore - not that by any stretch of the imagination I agreed with everything he said. Mr Moore made the comment that this dispute did need to be fixed and he commented about the need to address pay rises on an agency-by-agency basis. He said that in the teaching area there was a real need to address this area because it was very difficult to have productivity measures that did not impact on teacher numbers or, alternatively, the quality of education. I believe that there are some areas where productivity can be achieved in this area, and right here and now I urge Mr Moore to have a meeting with me as soon as possible to flesh this out. We want a solution to this. If Mr Moore is so sure that this can be done, then let us have a meeting; let us come up with a solution, particularly for the teachers.

**Mr Moore:** You set the time; I am available.

**MRS CARNELL:** You have got it.

**MR OSBORNE** (3.48): Mr Speaker, I would like to address one point the old man over there raised. You said that you were older than me, Mr Berry. I find it quite interesting how some people reshape history, how some people turn what actually happened. As you know, Mr Berry, we attempted to amend the budget over this side on the crossbenches, and the Liberal-Labor coalition voted us down. Really, my hands are tied as to telling the Government how to spend money. I cannot tell the Government how to spend money because of you.

**Ms Follett:** What a load of rubbish!

**MR OSBORNE:** That is not a load of rubbish. Read *Hansard*. I cannot tell the Government how to spend money. I cannot do that. I have heard some drivel in the twelve months I have been here, but you cannot deny a fact.

Getting back to the motion, I have no problem with unions trying to negotiate the best deal possible because I think that is their role. If they want 9 per cent or 20 per cent, that is their prerogative; but I am standing here to speak to the motion in front of me, and I will go through it point by point. It states:

That this Assembly:

- (1) notes that the Government had failed to negotiate a new enterprise bargain by the time the previous bargain expired on 31 December 1995;

You do not need to be a Rhodes scholar, Mr Speaker. It goes on:

- (2) deplores the confrontationalist approach taken by the Carnell Government in the current industrial relations dispute;

I suppose there are some grounds to agree with that, but I do not think either side has been innocent in this regard. However, there is perhaps something in that. I think the withdrawal of some of the money last week was a little confrontationalist, but I am not the Government. I cannot do anything about money. Paragraph (3) states:

censures the Chief Minister and the Minister for Industrial Relations for their failure to negotiate -

here is the good one -

in good faith in an attempt to come to a settlement of this dispute.

We could stand here and debate for three days and both sides - the unions and the Government - are going to claim that they have been negotiating in good faith. I cannot judge whether or not the Chief Minister or the Minister for Industrial Relations has acted in good faith. Certainly, there has been no enterprise bargaining agreement, which is unfortunate; but these negotiations started only eight months ago. I was not around last time; but the Labor Government took 18 months to come to the previous agreement, so eight months is certainly not in that league. I cannot support this motion when I am asked to vote on good faith.

In relation to Ms Tucker's amendment, as I said before, I have no problem with unions trying to get the best deal they can for their workers. That is their job. Unfortunately, we have a Liberal government in here at the moment and perhaps the unions do not have quite the sway they once had, but that is a fact of life. I personally do not like strikes, but I am not condemning any union that feels it needs to go to that length. Unfortunately, it is the general public who suffer when there is strike action. Nevertheless, I am not going to hold that against the unions.

I do not think asking the unions to withdraw six work bans is asking a lot. I listened to the radio this morning - some members of the TWU are here - and I heard Mr Santi say that he has not had the chance to go to his members to ask them about it. I believe that a vote was taken which he could not overturn. I personally think that, with 106 bans in place, removing six is not a lot. All I ask is that both sides come together and try to resolve it. The longer it goes on the more people are getting hurt.

**Mr Berry:** And you are not going to do anything about it?

**MR OSBORNE:** I cannot do anything about it, Wayne.

**Mr Berry:** Yes, you can. All you have to do is vote for this.

**MR OSBORNE:** I cannot do anything about money. I cannot tell the Government how to spend money, and this whole dispute is about a 9 per cent increase.

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**Mr Berry:** No; you support the Government.

**MR OSBORNE:** You stopped it, and I cannot tell the Government to give the unions 9 per cent. I cannot do it.

**Mr Berry:** Cut it out. Nobody swallows that.

**MR OSBORNE:** Read *Hansard*. I tried to amend the budget, Mr Moore tried to amend the budget, and you blocked us.

**Mr Berry:** You are giving front rowers a bad reputation, Ossie.

**MR OSBORNE:** I think I am giving front rowers a good reputation, Mr Berry, because I am showing that front rowers can think and remember. Wingers like you have this hazy view of what happened in the past. You stopped us.

**Mr Berry:** I never played on the wing. I was a front rower.

**MR SPEAKER:** Order! Mr Osborne, if I may continue the analogy, somebody will be in the sin-bin if the interjections continue.

**MR OSBORNE:** Mr Speaker, I am still prepared to amend the budget if this coalition can be broken. As for this motion, I am not prepared to support it. If I am asked to intervene personally, I think both sides need to have a good look at themselves. As I have said before, it has been only eight months and the previous Government took 18.

**MS FOLLETT (Leader of the Opposition) (3.56):** Mr Speaker, I believe that I will be closing the debate. I would like to address many of the issues raised in the course of this debate, which has been fairly lengthy, and I will do so somewhat in reverse order because I think the comments made by both Mr Moore and Mr Osborne are worthy of response right away. This Assembly should know that both Mr Moore and Mr Osborne have at least intimated to the Labor Opposition that they would support the censure motion if Labor were to agree to their proposals for amendment to the budget. In my view, that is blackmail. In my view, that is a matter of privilege which you may want to look into.

**Mr Moore:** That is a misunderstanding. It is not what you were offered.

**MS FOLLETT:** Mr Speaker, I have the floor, and I would ask that you examine that as a matter of privilege.

**MR SPEAKER:** Ms Follett, I think I understood you correctly. You said that two members may have intimated that they would support the motion under certain conditions; is that correct?

**MS FOLLETT:** Indeed.

**MR SPEAKER:** Was this made publicly in the Assembly?

**Mr Moore:** It has never been made anywhere.

**MR SPEAKER:** Mr Moore, this is important. Was this statement made publicly in the Assembly?

**MS FOLLETT:** It was my understanding, Mr Speaker.

**MR SPEAKER:** I am in some difficulty, obviously, in examining everything - - -

**MS FOLLETT:** That is my understanding.

**Mr Moore:** There was never any quid pro quo like that; it was never offered. That is your own twisted mind, Rosemary.

**MS FOLLETT:** I have been sitting here through the debate.

**Mr Moore:** It is your own twisted mind that is interpreting in that way.

**MR SPEAKER:** I am advised by the Clerk that a matter of privilege needs to be in writing. I repeat what I said earlier. I find it difficult to imagine how I am going to investigate something which is not on record in this Assembly.

**MS FOLLETT:** I suggest that it is, Mr Speaker, and that you examine the *Hansard* on the matter.

**Mr Moore:** On a point of order, Mr Speaker: If Ms Follett wants to raise something like this she ought to take note of standing order 55, which says:

All imputations of improper motives and all personal reflections ... shall be considered highly disorderly.

Here she is being highly disorderly. It simply did not happen. There was no such offer.

**MR SPEAKER:** Order! I do not uphold the point of order, Mr Moore, though of course standing order 47 is open to you if you feel that you have been misinterpreted.

**MS FOLLETT:** Mr Speaker, I would like to tell Mr Moore and Mr Osborne once more how to amend the budget. Here is how you do it. Listen very carefully.

**Mr De Domenico:** "Put me in as Chief Minister"; that is how you do it. That is what you told them last time. "Save my leadership, please".

**MR SPEAKER:** Never mind about putting somebody in as Chief Minister. I will put somebody out in a moment if the interjections continue. Can we get on with the debate.

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**MS FOLLETT:** Mr Speaker, there is a way to amend the budget, and it is the way we put forward in the debate on the last budget; that is, you oppose a line in the budget. If the Assembly votes to oppose any line in the budget, the Government must amend that line. What happened in the budget debate last time was that, because only Labor and the Greens voted to oppose a line, no line was amended. Mr Moore and Mr Osborne supported the Government's budget. It is as simple as that.

**Mrs Carnell:** I raise a point of order, Mr Speaker. Now Ms Follett is reflecting on a vote in this place.

**MR SPEAKER:** I would caution members on this whole question of referring to the budget. Members are quite capable of debating the issues without breaching the standing orders.

**MS FOLLETT:** I would say to Mr Moore and Mr Osborne that that is the legal way to amend the budget. This is the way the budget has been amended, say, in the Federal Parliament. This is the way the budget could legally be amended in this Assembly, if a majority of the Assembly were of the will to do so. So do not give me that rubbish, that blackmail, about getting Labor to agree to your proposals about amending the budget. Mr Speaker, I hope you are listening to this.

**Mr Moore:** You would not increase the budget. You knew that we could do it. We had a very sensible amendment to the budget and you would not play ball. You found a shonky legal opinion.

**MS FOLLETT:** Mr Speaker, I hope you are listening to this, because this is the blackmail, this is the threat: Unless we agree with him on amending the budget, on how to do it, then he will not support us. I really think my case is proven there. There is a way to do it, and Mr Moore and Mr Osborne do not want to know about it. That is fine with me, but let it be on the record that they have been told.

**Mr Moore:** The only way to do it is Rosemary Follett's way. That is what the trouble was for those previous six years.

**Mr De Domenico:** "Please save my leadership, Michael".

**MR SPEAKER:** Order! We have a lot of work to get through.

**MS FOLLETT:** I am going to stand here until they have all finished, Mr Speaker, or you throw them out. Mr Moore also made the comment in relation to this motion that both sides must negotiate in good faith, and I agree with that; but the fact of the matter is that the Assembly's job is to judge the Government. This is where the Government is held accountable, not the union movement. The union movement is held accountable by its own members, and it is up to its members to judge whether their trade union representatives are acting in good faith, not us. But it is up to us to judge whether the Government is acting in good faith. That is the Assembly's job, and I think it is entirely

appropriate that the Assembly should debate such matters and make judgments on such matters. That is why we are here. In looking at an even-handed approach, members must not delude themselves that as MLAs we are also in charge of the union movement. We are not. We are in this Assembly to judge the matters for which the Assembly is responsible, and making judgments about the Government is one of those matters.

I want to go through some of the other issues that have been raised in the course of the debate. Mrs Carnell throughout her comments again gave this Assembly absolutely no indication that she would enter into anything other than confrontation, and she said it again all through her comments by way of interjection. What Mrs Carnell ought to do, in my opinion, is to withdraw the threats she has made to remove payroll deductions of union dues from 7 March. That is a serious threat to the trade union movement, and it is an extremely discriminatory threat as well. Mrs Carnell should also remove her threat to reduce the offer that is being made to unions by 0.15 per cent. That was an act not so much of confrontation as of outright provocation. It was an act of provocation. In the midst of an attempted negotiation, for the Government to reduce its offer like that was, I believe, a straight-out provocation.

I attempted, in my comments earlier in the debate, to indicate that the expenditure by government is a matter of the Government's priorities, and I think that case has been proven. But through you, Mr Speaker, I would like to ask Mr Moore and Mr Osborne, who insist that they cannot influence the Government on this matter, how much they think they voted for in the budget for pay increases. How much do they think it was? They cannot answer that question, because it is not there, because necessarily the Government's budget has a large amount of flexibility built into it. Quite apart from the Government deciding between priorities - priorities like \$40,000 pay increases for chief executive officers, priorities like spending the whole \$15m on removing the buildings on Acton Peninsula, priorities like spending \$7m on consultants - quite apart from those allocational priorities, there must be flexibility within the budget. If that flexibility is not there, how then is the Government going to pay for the expected \$10m blow-out in the health budget? We did not appropriate that through the Assembly. Mr Moore and Mr Osborne did not say, "You might need an extra \$10m, so we had better vote for it". They did not do that.

**Mr Moore:** We did - the Treasurer's Advance. Do you not understand the budget, Rosemary? I would have thought you understood it by now.

**MS FOLLETT:** No, you did not. We do expect that that money will be found, and indeed it ought to be. We have not heard from Mrs Carnell that she is going to have to close the doors of the hospital because the health budget is blowing out. We have not heard that she is going to stop paying all the VMOs because the health budget is blowing out. Of course there must be that flexibility within the budget process, and there is. We heard Mr Humphries say earlier that he was very pleased to get \$5m for the site at Conder. (*Extension of time granted*)

Mrs Carnell also complained in her comments - and it was a real complaint, yet another big whinge, blaming someone else - that the unions have taken the umpire out of the equation; that is, they have gone for a section 170 application. This Chief Minister represents a party whose Federal policy is to take the umpire out forever.

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We saw Mrs Carnell clapping and smiling and nodding as Mr Howard launched his campaign the other day. We have seen from Mr Howard that he intends to abolish the Industrial Relations Commission.

**Mr Moore:** I raise a point of order, Mr Speaker, under standing order 62.

**Mr Humphries:** That is a bald-faced lie. You should be ashamed of yourself for telling lies in public.

**MS FOLLETT:** No, it is not.

**MR SPEAKER:** Did you say standing order 62, Mr Moore?

**Mr Moore:** Yes, Mr Speaker, I drew attention to standing order 62 - irrelevance.

**MR SPEAKER:** It is not relevant.

**MS FOLLETT:** Mr Speaker, I am directly addressing a quotation from the Chief Minister, where she complained that the unions have tried to take the umpire out of the equation.

**MR SPEAKER:** I accept the comment in relation to that quote, but the irrelevance that I am sure Mr Moore was referring to was the reference to Federal matters, as I recall; so I uphold the point of order. You may continue to make reference to taking the umpire out, by all manner of means; but I do not want reference to Federal matters or Federal views, because it is irrelevant.

**MS FOLLETT:** I am not surprised that you do not. I would not either, in your shoes. Mr Speaker, the fact of the matter is that we sat through a diatribe here - the entire 10 minutes - from your Minister, Mr De Domenico, about Kate Lundy and her candidature for the Federal Senate. I would ask you to be even-handed.

**MR SPEAKER:** It was not a 10-minute diatribe, as I recall.

**MS FOLLETT:** Yes, it was.

**MR SPEAKER:** Ms Lundy's name was certainly mentioned. Order! Can we get back to the debate.

**MS FOLLETT:** The fact of the matter is that, no matter how uncomfortable it makes all members of the Liberal Party, it is Liberal policy to take the umpire out for good and all. That is the fact, and it is totally hypocritical of Mrs Carnell to complain about it on this occasion. It is a total irony. Mr De Domenico, as I said, confined his remarks to Ms Kate Lundy and her candidature for the Federal election. Frankly, this is typical of an Industrial Relations Minister who has had to be locked away throughout this whole debate. He has been locked upstairs. He has no staff. It is like the *Marie Celeste* up there. They have taken everyone away because he is such an embarrassment. He is an Industrial Relations Minister without portfolio. He is taking the money, the ministerial allowance, and is not doing the job.

**Mrs Carnell:** I think there might be a relevance issue here, Mr Speaker.

**Mr Humphries:** On a point of order, Mr Speaker: Mr De Domenico has more staff than Ms Follett has supporters in her caucus room.

**MR SPEAKER:** Order! There is no point of order. Continue, Ms Follett. I uphold the Chief Minister's point of order on relevance.

**MS FOLLETT:** Thank you, Mr Speaker.

**Mr De Domenico:** Andrew is looking really good now. Bill Wood is looking good as a leader too.

**Mr Hird:** Andrew is starting to look good.

**MR SPEAKER:** Order! Can we have a bit of shush. I know that you have all been on hold for two months.

**MS FOLLETT:** You might have been. We have not.

**MR SPEAKER:** But the fact of the matter is that we are having a serious debate here, and the level of interjection from both sides of the house has been far too high.

**MS FOLLETT:** On that point, Mr Speaker, I do take objection to that. The interjection has been from that side of the house.

**Mrs Carnell:** Rubbish!

**MR SPEAKER:** I am referring to the full debate, Ms Follett.

**MS FOLLETT:** It is not rubbish; it is true.

**MR SPEAKER:** I am referring to the full debate, and as far as I am concerned the interjections from both sides of the house have been far too numerous and the noise far too loud.

**MS FOLLETT:** Mr Speaker, I would remind you that the censure motion includes the Minister for Industrial Relations for his failure to negotiate and so on, and what I am saying to the Assembly is that he has been nowhere in evidence. He has had to be silenced, to be closeted away, because he is such an embarrassment to this Government. The first action taken by the Minister for Industrial Relations in this whole issue concerned the lockouts. That was his first step. His first step in negotiation was to put on the e-mail a little threat to lock out all the staff. What we heard from Mr De Domenico indicated yet again his total failure to grasp any part of his portfolio. The man is a disgrace, and he is such an embarrassment to this Government that I am expecting his removal any day now. *(Extension of time granted)*

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I do need to mention Mr Humphries's comments as well. The main substance of what Mr Humphries was saying is that the money has to come from somewhere. Mr Humphries, in a rare fit of honesty and openness, actually conceded that it did not have to come from the rates. He said that, and I am pleased to have it on the record, because it gives the lie to what his leader has been saying all along.

**Mr Berry:** Another version of the Christmas speech.

**MS FOLLETT:** It is another own goal by Mr Humphries, another version of his Christmas speech, where he drops the rest of his team right in it - and he did it at question time as well. I think it is worth mentioning that Mr Humphries agrees with what I have been saying, that the Chief Minister's utterances on taking the pay rise out of the rates is a lie. I am very pleased that at least one member of the Liberal team has been honest enough to say so.

Mr Kaine has suggested that the Opposition Leader and the Deputy Leader - I presume that he means the Deputy Opposition Leader, not me and Tony - sit down and come to a multipartisan position to settle this dispute. Where was there ever a greater admission of failure on the part of the Government? He is begging me to fix it up for you. I am not going to. Mr Kaine knows full well - and I am sure that if he could he would say so - that this problem is one of the total intransigence of his leader, the total intransigence of the Liberal team, and the total incompetence of the Industrial Relations Minister. Mr Speaker, I urge the Government to withdraw their threats - - -

**Mr De Domenico:** What threats?

**MS FOLLETT:** The threat to withdraw payroll deduction of union dues, the threat to reduce the offer by a percentage, so that it is well under the CPI. If the Government would sit down and examine the offer made by the unions, had they read the claim and not misrepresented it, they would see that indeed the unions have put forward a package of efficiency measures in order to help pay for their increase in pay. Mrs Carnell, we know, had not read it previously. I presume that she still has not read it, and she keeps rabbiting on about fully budget funded. That demonstrates yet again her complete misunderstanding of industrial relations negotiations, because that comment by the unions is a technicality. It is to stop the Government from reopening the negotiations after the agreement is signed by arguing that the savings achieved did not match expectations. It is a saving clause the unions have very sensibly put in to stop this Government reneging on an agreement, and is very much needed.

I believe that the motion is well and truly justified, and I am very sorry indeed that what we have seen from the Liberals, and from Mr Moore and Mr Osborne, is just more of the same - more confrontation, more attempt to blame everything on Labor. It is all our fault because we will not amend the budget. I do not know what that has to do with anything. The Government must sit down with the unions and discuss the issues, because it is the Canberra community that is suffering. This Government appears determined to make that Canberra community suffer even more. The work force that is negotiating this bargain is

part of the Canberra community. They have full rights, as do other members of our community. This Government is treating them with contempt, and I do not believe that that is good enough. I believe that this Assembly, which is the place where the Government is held accountable, should have the guts to say to them, and this includes the Independents, "You have not done well enough so far. Go away and do better". I hope that is indeed the way the Assembly will vote.

**Mr Moore:** On a point of order, Mr Speaker: Under standing order 47, I seek to make an explanation.

**Mr Berry:** Mr Speaker, on a point of order: It seems to me that it would be far better if this were done after the vote was taken.

**MR SPEAKER:** No; Mr Moore is doing it under standing order 47. I am not sure, Mr Moore. You will have to make the judgment for yourself whether it is 46 or 47. Certainly, if it is standing order 47 it has to be taken while the debate is continuing, while the subject is before the house. I just mention that to you.

**Mr Moore:** Indeed, Mr Speaker, the subject is still before the house, which is why I have sought to make the explanation under standing order 47.

**MR SPEAKER:** That is my understanding.

**MR MOORE:** Thank you, Mr Speaker. Mr Berry's lack of understanding of the standing orders is coming through again. Rosemary Follett in her speech put the proposition that somehow or other Paul Osborne and I had suggested that we would support the censure motion, in some way using blackmail, she said, or some term like that, in return for their agreeing to amend the budget. Mr Speaker, if that is what was intended, then to that extent this was misleading the house. What happened was that Ms Follett actually came round to my desk here to ask whether I was going to support the motion - a perfectly normal occurrence - and what I said to her was, and I am paraphrasing, "I think the better way to do this is to amend the budget". I must say that if I had said, "Let us do a quid pro quo on it", that would be normal politics. That would be in no sense blackmailing, but there was not even that. At no stage did I suggest that. What I suggested was that Labor, if they wanted actually to achieve something instead of just words, could go back and amend the budget. I said that I was prepared to go back now and put an amendment on the table to amend the budget in the same way as I had suggested during the debate on the Appropriation Bill. To represent this as some quid pro quo on behalf of either me or Mr Osborne, who was sitting next to me at the time, was entirely inappropriate and certainly was not the case. If Ms Follett continues with this sort of thing, she will probably last even less time as Leader of the Opposition. She ought to appreciate the fact that she has a little time, now that Mr Connolly has gone.

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Question put:

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

The Assembly voted -

*AYES, 7*

Mr Berry  
Ms Follett  
Ms Horodny  
Ms McRae  
Ms Tucker  
Mr Whitecross  
Mr Wood

*NOES, 8*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Hird  
Mr Humphries  
Mr Moore  
Mr Osborne  
Mr Stefaniak

Question so resolved in the negative.

Question put:

That the motion (**Ms Follett's**) be agreed to.

The Assembly voted -

*AYES, 7*

Mr Berry  
Ms Follett  
Ms Horodny  
Ms McRae  
Ms Tucker  
Mr Whitecross  
Mr Wood

*NOES, 8*

Mrs Carnell  
Mr Cornwell  
Mr De Domenico  
Mr Hird  
Mr Humphries  
Mr Moore  
Mr Osborne  
Mr Stefaniak

Question so resolved in the negative.

**LEGISLATION PROGRAM - AUTUMN SITTINGS 1996**

**Paper**

**MRS CARNELL** (Chief Minister) (4.24): Mr Speaker, for the information of members, I present the autumn 1996 legislative program, and I move:

That the Assembly takes note of the paper.

Mr Speaker, in the interests of getting through business today, I seek leave to have my statement incorporated in *Hansard*.

Leave granted.

*Statement incorporated at Appendix 1.*

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

**TOTALCARE INDUSTRIES LTD**

**Paper**

**MR DE DOMENICO** (Minister for Urban Services and Minister for Business, Employment and Tourism): Mr Speaker, pursuant to section 9 of the Territory Owned Corporations Act 1990, I present a statement which details the changes to the shareholding arrangements of Totalcare Industries Ltd, dated 19 January 1996. Mr Speaker, I seek leave to make a very short statement in relation to that.

Leave granted.

**MR DE DOMENICO:** Due to changes of government and departmental arrangements, there have been changes to shareholdings in Totalcare. Mr John Walker has replaced Dr David Rosalky as head of the Chief Minister's Department, and Mr Jeff Townsend has obtained departmental responsibility for Totalcare, which was previously in the Department of Urban Services under Mr Turner. With forthcoming changes in departmental chief executives, there will be further changes to shareholding arrangements, and these will be tabled in the Assembly in due course.

**Ms Follett:** I move that the debate be adjourned, Mr Speaker.

**MR SPEAKER:** Actually, there was no motion.

**Ms Follett:** Somebody, I am sure, moved that the Assembly takes note of the paper.

**MR SPEAKER:** No, only on the first one, Ms Follett, the legislative program.

**Mr De Domenico:** Pursuant to an Act of parliament, I have to table the changes in the shareholding, to change your name and Mr Lamont's name to Mrs Carnell and me. That is a requirement of the Companies Act as well. There is no paper.

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**Ms Follett:** And we are not allowed to debate it. Is that right?

**MR SPEAKER:** You can seek leave, I am informed by the Clerk, if that is your wish.

**Mr De Domenico:** There is a copy of the changes here.

**Ms Follett:** I want to see what they are.

**Mr De Domenico:** They are there. It is being circulated now.

## **SUBORDINATE LEGISLATION AND COMMENCEMENT PROVISIONS Papers**

**MR HUMPHRIES** (Attorney-General): Mr Speaker, pursuant to section 6 of the Subordinate Laws Act 1989, I present subordinate legislation in accordance with the schedule of gazettal notices for determinations, exemptions, management standards, a national standard for limiting occupational exposure to ionising radiation, regulations and Supreme Court Rules. I also present notices of commencement of Acts.

*The schedule read as follows:*

Agents Act - Exemption Application by Business Travellers Pty Limited -  
No. 1 of 1996 (S2, dated 11 January 1996).

Animal Welfare Act -

Animal Welfare Regulations (Amendment) - No. 48 of 1995 (S321, dated  
22 December 1995).

Codes of Practice for the -

Welfare of Cats in the ACT - No. 8 of 1996 (S14, dated  
6 February 1996).

Welfare of Horses in the ACT - No. 9 of 1996 (S14, dated  
6 February 1996).

Bookmakers Act -

Determination of events to be a Sports Betting Event - No. 11 of 1996  
(S18, dated 7 February 1996).

Determination of Rules for Sports Betting - No. 12 of 1996 (S18, dated  
7 February 1996).

Building Act - Exemption - ACT Public Hospitals Redevelopment Tower Block at Woden Valley Hospital - No. 10 of 1996 (S17, dated 9 February 1996).

Building (Amendment) Act - Notice of commencement (1 January 1996) of sections 14, 15 and 16 (S319, dated 22 December 1995).

Building and Services Act - Determination of fees - No. 165 of 1995 (S324, dated 28 December 1995).

Buildings (Design and Siting) Act - Buildings (Design and Siting) Regulations (Amendment) - No. 46 of 1995 (S314, dated 19 December 1995).

Classification (Publications, Films and Computer Games) (Enforcement) Act - Classification (Publications, Films and Computer Games) (Enforcement) Regulations - No. 47 of 1995 (S318, dated 22 December 1995).

Electoral Act - Electoral Regulations (Amendment) - No. 45 of 1995 (S309, dated 15 December 1995).

Land (Planning and Environment) (Amendment) Act (No. 2) - Notice of commencement (1 January 1996) of sections 4 and 5 (S316, dated 21 December 1995).

Motor Omnibus Services Act - Determination of charges - No. 14 of 1996 (S22, dated 16 February 1996).

Motor Traffic Act - Registration of Motor Vehicles - No. 166 of 1995 (S325, dated 29 December 1995).

Nurses Act - Determination of fees - No. 5 of 1996 (S11, dated 23 January 1996).

Occupational Health and Safety Act - National Standard for Limiting Occupational Exposure to Ionizing Radiation [NOHSC:1013 (1995)] - No. 2 of 1996 (S3, dated 11 January 1996).

Optometrists Act - Determination of fees - No. 6 of 1996 (S11, dated 23 January 1996).

Ozone Protection Act -

Determinations of criteria for granting of -

An essential use classification for an installation that utilises Halons -  
No. 163 of 1995 (S320, dated 22 December 1995).

An exemption for an installation that utilises Halons - No. 164 of 1995  
(S320, dated 22 December 1995).

Public Place Names Act - Nomenclature in the Division of Dunlop -  
Determination No. 7 of 1996 (S13, dated 6 February 1996).

Public Sector Management Act - Management Standards -

No. 2 of 1996 (S9, dated 18 January 1996).

No. 3 of 1995 (S9, dated 18 January 1996).

No. 5 of 1995 (S9, dated 18 January 1996).

Public Sector Management (Amendment) Act 1995 - Notice of  
commencement (21 December 1995) of remaining provisions (S315, dated  
21 December 1995).

Remuneration Tribunal Act - Notice of commencement (21 December 1995)  
of remaining provisions (S315, dated 21 December 1995).

Skin Penetration Procedures Act - Determination of fees - No. 13 of 1996  
(S20, dated 14 February 1996).

Supreme Court Act - Supreme Court Rules (Amendment) - No. 44 of 1995  
(S308, dated 15 December 1995).

Taxation (Administration) Act - Determination for the purposes of the *Payroll  
Tax Act 1987* - No. 167 of 1995 (S328, dated 29 December 1995).

Vocational Educational and Training Act - Notice of commencement  
(1 January 1996) of provisions (other than sections 1 and 2) (S322, dated  
28 December 1995).

**MONTHLY FINANCIAL STATEMENTS  
Papers**

**MR HUMPHRIES** (Attorney-General): For the information of members, I also present the Treasurer's monthly financial statements for the year to date ending 30 November 1995 and 31 December 1995 which were circulated to members when the Assembly was not sitting.

**MATTER OF PUBLIC IMPORTANCE - WITHDRAWAL**

**MR SPEAKER:** I wish to advise members that I have received a letter from Ms Follett withdrawing the matter of public importance submitted to me earlier this day.

**ADMINISTRATION AND PROCEDURE - STANDING COMMITTEE  
Report on Legislative Assembly (Broadcasting of Proceedings) Bill 1995**

**MR SPEAKER:** Pursuant to order, I present the report of the Standing Committee on Administration and Procedure on the Legislative Assembly (Broadcasting of Proceedings) Bill 1995, together with extracts of the minutes of proceedings.

**MR MOORE** (4.28): Mr Speaker, I move:

That the report be noted.

Mr Speaker, I think it is a quite important move on the part of the Assembly that this very important issue now come back to the Assembly. As you may recall, Mr Speaker, the Legislative Assembly (Broadcasting of Proceedings) Bill 1995 was tabled by me, and it was referred for examination by the Standing Committee on Administration and Procedure, which you chair. That was done before the Bill was considered at the in-principle stage.

Mr Speaker, I think the most significant recommendation of the committee is the first one, which says that this legislation be agreed to in principle. However, the committee then set a number of actions in place. It was the committee's view that we should move slowly on the introduction of the broadcasting of Assembly proceedings. One of the reasons why I felt it was appropriate for us to move slowly was my observation of the reporting of parliaments in other places. As far as most people in Australia are concerned, with reference, for example, to the reporting of the Federal Parliament, the only thing that happens in parliament is that there is bickering between the Prime Minister and the Leader of the Opposition. About the only thing that is reported is question time.

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The committee felt that as a first step it would be appropriate - this is recommendation 3 - that "the legislation be amended to remove any legal impediment to the broadcasting to the public of designated significant and landmark debates during the proceedings of the Assembly or its committees on an experimental basis". So it is appropriate for us to ensure that there is the opportunity for debates to be broadcast, but for those debates to be limited by some control mechanisms. The committee also recommended that prime control go to the Speaker, who then consults with the Standing Committee on Administration and Procedure, rather than the way it had been handled in the Bill. The emphasis of the committee's report, I believe, is that we take this issue step by step rather than opening it completely in the initial instance.

There was some debate and some concern, Mr Speaker, over the matter of privilege. That issue is referred to in the recommendations. Certainly, the Assembly proceedings should be broadcast to the ACT Public Service via ACTnet, for example, and there should be absolute privilege provided there. In other places we should have qualified privilege. Having qualified privilege means that, although the networks are protected for fair reporting, if they report in a way that misleads, or use part of somebody's speech to give an impression of something that is not truthful, that privilege would not apply.

Those are the sorts of issues that we dealt with. I believe, Mr Speaker, that this committee's report, if adopted by the Assembly, will be a very sensible first step. This is about fundamental issues of free speech, of openness in what we do; but we also need to keep in mind that we may well be handing over control to other organisations to vet the way they report. One of the great methods of control, Mr Speaker, is the decision as to what you include and what you exclude from anything you are dealing with, whether it be a scientific study, whether it be proceedings of the Assembly, or whether it be a speech you are making. That decision to include or exclude is one of the most fundamental ways of attempting to change community attitudes. Therefore, it is appropriate, I believe, Mr Speaker, that we go very carefully down the path of determining what we include and what we exclude from such broadcasts.

In the initial instance the committee believed that the appropriate way to handle that was with significant landmark debates which are clearly of interest to the community. Looking back over the life of this Assembly, Mr Speaker, I suppose there are four or five landmark debates that would fit into that category. I think they would include the corporatisation of ACTEW, as an example, perhaps the Bill on active euthanasia, and a couple of others. I think the reason why we suggested that that control mechanism should remain with the Speaker in consultation with the Administration and Procedure Committee is to ensure that it is not the decision of government as to what is excluded and what is not excluded.

**Ms McRae:** Fat chance!

**MR MOORE:** I heard Ms McRae say "fat chance" in terms of that exclusion. I find that quite surprising, Mr Speaker, because Ms McRae was chair of the Standing Committee on Administration and Procedures for three years. I believe that she would have had the opportunity to observe how carefully that committee operates and, under her stewardship as chair of that committee, how much care was taken to ensure that things were done as fairly as possible. Allow me to assure her, as a member of the current committee as well

as the previous one of which she was chair, that exactly the same effort is made to ensure that the committee acts as fairly as it possibly can. That is one of the things, Mr Speaker, that members of the public miss. They often see us in this chamber in full conflict. Rarely do they see the real negotiations that go on in places such as the Administration and Procedure Committee to look for the best possible solution and to include members as far as possible.

Mr Speaker, I think it is a very sensible report. I hope that in future we will go beyond this experimental stage, but I think it is appropriate that we take it step by step. As the author of the original legislation, I think it is an appropriate move.

**MR BERRY** (4.35): Mr Speaker, I rise to express a view dissenting from that of the advocate in support of the report, Mr Moore in this instance. I would like, first of all, to deal with the legislation which was put before the Assembly by Mr Moore. Mr Moore's legislation was referred to the committee. It is legislation which goes all the way in relation to the broadcasting of proceedings. So far as that is concerned - that it go all of the way - the Labor Opposition would support it; but we oppose strenuously some of the detail in the legislation.

The first point I want to refer to is the authorisation to broadcast proceedings, which is dealt with in recommendation 2 of the report. The recommendation is that the responsibility lie with the Speaker. I would expect, Mr Speaker, that in the normal course of events that would be done in consultation with the Administration and Procedure Committee or with knowledge of the attitude of the committee, and, if that was not enough to influence you, knowledge of the attitude of this chamber, or what it might be should you choose a course that was unacceptable. From our point of view, we believe that the Speaker is the appropriate person to make the authorisation.

So far as privilege is concerned, Mr Moore, in his legislation, proposed absolute privilege. That is something that the Labor Opposition would oppose because we believe that qualified privilege should apply in relation to anybody who broadcasts parts of a debate or parts of one's response in this place, and that qualified privilege ought to apply in all other areas. I do not think anybody could imagine circumstances where, if somebody broadcast the whole of proceedings, there would be an action available to them under the qualified privilege rule. So far as absolute privilege is concerned, we oppose that position.

Recommendation 3 deals with allowing broadcasting to the public of designated, significant or landmark debates. That is a real issue of concern for us because it really is a matter of who decides what is a designated, significant or landmark debate. That would go to the majority of this Assembly, so anybody who is not among the majority in one way or another may well miss out. I will try to create a hypothetical example. If the Greens decided that something was a significant or landmark debate and the Liberals and the Independents disagreed, it would be unlikely that it would be broadcast. That is the real problem with that particular approach. We take the view that all of the Assembly's proceedings ought to be broadcast, and that all of the Assembly's proceedings ought to be available to whoever wants to report from them, with qualified privilege.

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We also are at odds with recommendation 12, which talks about the associated cost being met by the user organisation. If I was trying to make my mark in society as a salesperson, I think that selling all of the proceedings as a marketable product would be a difficult job; but I think there are some innovative ways of minimising the impact on the Government of the broadcasting of the Assembly proceedings. We believe that the broadcasting of proceedings of the Assembly is mandatory in principle. It is something that ought to be occurring in order that media outlets can gain full access with qualified privilege. That applies in respect of both audio and video.

Mr Speaker, so far as a dissenting view is concerned, I would like to point out to the members of the Assembly that it is our view, if I can put it in a nutshell, that we should have an all-in position; that is, all of the proceedings ought to be broadcast, both video and audio, and the cost ought to be met by the Government. Communicating the efforts of this Assembly to the community is a government responsibility. I am sure that some useful marketing arrangements could be organised with some of the community media organisations. Mr Speaker, I will leave it there. So far as other recommendations in the report are concerned, we have no great difficulty with them. The principal issue is whether or not we should broadcast it all or just parts of it. I think that to broadcast parts would be dangerous and not in the interests of democracy.

**MS TUCKER** (4.41): The Greens support this report as it stands now. I was interested to hear Labor's concerns about the fairness of how it would be operated, but it has not been my experience up to date that there has been unfair treatment within the Administration and Procedure Committee.

**Ms McRae:** Try next year.

**MS TUCKER:** Ms McRae says, "Try next year". This is just a start anyway. It is an experiment. I think that is the word used here. After the fact, when it is no longer an experiment and it is set in concrete, if things start to become obviously unfair, I am sure that there will be ways for that to be dealt with.

**Ms McRae:** I do not think so.

**MS TUCKER:** You are very cynical, Ms McRae. I will continue to have some faith in the system here. I think it is working fine at this stage. I think broadcasting debates of significance is a reasonable idea. It is not going to have a huge cost implication as well, the Assembly in these days of cuts to costs in all areas, and particularly in the Assembly budget.

I agree with what Michael Moore said about question time being recorded. Question time does not give a real representation of the more credible and intelligent debates that sometimes occur in this place. Perhaps the fact that a debate of significance was being televised and recorded would be an encouragement to minimise some of the less honourable exchanges that occur. I am happy to support this in principle. I see it as a trial, or something that we will evaluate as it goes on. I think it is a worthwhile addition to making the work in this place more accessible to the community.

Question resolved in the affirmative.

## SENATE VACANCY

### Paper

**MRS CARNELL** (Chief Minister) (4.44): I present a letter from the President of the Senate, dated 6 February 1996, informing me of a vacancy in the ACT's representation in the Senate, and I ask for leave to move a motion relating to it.

Leave granted.

**MRS CARNELL**: I move:

That this Assembly, noting:

- (1) that a casual vacancy in the ACT's representation in the Senate has been created by the resignation of Senator the Hon. Robert Francis McMullan;
- (2) that the Commonwealth Parliament was prorogued on 29 January 1996 and will not meet until after the election has taken place on 2 March 1996;
- (3) that the Territory will be electing 2 Senators on 2 March 1996; and
- (4) that the term of any newly appointed Senator would expire at the close of 1 March 1996 pursuant to section 44 of the Commonwealth Electoral Act 1918;

therefore determines that, in recognition of these facts, it shall not choose a person to fill that vacancy and endorses the Chief Minister's actions in doing the same.

Question resolved in the affirmative.

## LEGAL AFFAIRS - STANDING COMMITTEE

### Reference - Legal Assistance to Members

**MR HUMPHRIES** (Attorney-General) (4.45): Mr Speaker, I think the motion that I propose to move has been circulated through the chamber. I seek leave to move a motion referring the provision of assistance in legal proceedings to members to the Standing Committee on Legal Affairs.

Leave granted.

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**MR HUMPHRIES:** I thank members. I move:

That the Standing Committee on Legal Affairs inquire into and report by 30 June 1996 on the development of guidelines for the provision of assistance to Members in relation to legal proceedings.

Mr Speaker, this motion is very straightforward. I do not propose to speak to it for very long. It is clear from recent events that there is a need for the Assembly to try to establish some ground rules for the approach to the provision of assistance to members of the Legislative Assembly, including Ministers. Up until now there has been a more or less discretionary approach to be taken by the government of the day. Clearly, issues of conflict of interest and the appropriateness or inappropriateness of particular actions are certainly open to people to suggest in circumstances where that discretion is purely in the hands of the government.

The present Government believes that it would be much better to have that element of uncertainty of discretion on the part of the government removed by providing for guidelines which would inform a government decision on whether granting assistance should occur in particular circumstances. These are circumstances which apply, I should point out, not just to members of the Legislative Assembly but also to senior public servants or any public servant who finds himself or herself in the position of being sued as a result of some action that was taken during the course of their performance of duties on behalf of the government. The criteria are, first, that the action arose out of a Minister or member acting in the course of their official duties and where the member or Minister did not act in bad faith, or unreasonably; or, alternatively, in circumstances where the Territory is vicariously liable for the acts of the member or Minister. Mr Speaker, it may well go beyond that. It may not. The question of the extent to which such provisions ought to apply to members who might seek to have their costs reimbursed, or their costs indemnified, from the Territory's coffers, is a matter, I think, that needs to be carefully examined and scrutinised.

Mr Speaker, the experience of other jurisdictions is only a partial guide to the ACT, in that there is a range of experiences in other jurisdictions as to what sort of provision might be provided. To cite recent examples at the Federal level, members are probably aware that, although there was a controversy about the payment of fees to the Hon. Carmen Lawrence, as Minister for Health, arising out of actions she had taken in her capacity as Premier of Western Australia, there was a decision made by the Australian Senate to provide her with something in the order of \$550,000 in public money to support her actions before that royal commission inquiry in Western Australia. There was a further amount that was sought by the Australian Government with respect to the challenging of the jurisdiction of the royal commission to conduct its hearings, and that matter was not indemnified on the part of the Australian Senate.

Similarly, there was a decision made, again by the Federal Parliament, again, I understand, on a fully bipartisan basis, that the costs incurred by the Hon. Alan Griffiths, a former Minister in the Federal Labor Government, in respect of his proceedings arising out of what is colloquially called the sandwich shop affair, were also met by the Parliament and they amounted to almost half a million dollars. The actions in that case arose not out of a Minister's duties as a Minister, but out of an entirely personal, private arrangement the

Minister had entered into. Mr Speaker, what is clear is that there is a range of applications of these principles around the place. Rather than rely on whichever precedent we can pull out of the air from somewhere else in the country or even overseas, we should be developing guidelines which apply as often as possible to circumstances which may arise.

The performance of official duties often involves some level of personal behaviour, and the two are often quite inseparable. For example, if a Minister, in the course of defending a government decision, were to make a comment about a critic of the government, and in the course of doing so give rise to a possible action for defamation, there is a question as to whether or not the cost of the defamation ought to be indemnified by the Government in the course of that individual Minister's defence of the defamation action. That is a question which I put, in a sense, rhetorically to the Assembly. Granting assistance only when a member or Minister was acting in the course of their duty and not because of any private reason may also mean not providing assistance in circumstances where it would be in the Territory's interests to be protected as a potentially vicariously liable defendant to the proceedings.

For the same reason I think it is not possible to determine whether assistance should be granted before legal representation or legal action was entered into. While it may be possible to say before legal proceedings begin whether or not an action arose out of a Minister's or a member's official duties, it may not be in the course of those proceedings that it is determined that a Minister or member was acting in bad faith or acting unreasonably and should therefore not be granted assistance. Those issues often simply cannot be determined until the outcome of proceedings is arrived at, and in those circumstances guidelines to let members know at the outset what they can expect are of some assistance.

Mr Speaker, because these guidelines would apply equally to members and Ministers, it is important that they be sanctioned by the whole Assembly, not merely by the Government. I propose, therefore, that the Standing Committee on Legal Affairs take on the reference of looking at those guidelines and in due course report to the Assembly on an appropriate framework for such guidelines. The need for those guidelines has been highlighted by recent events and I would ask the committee to consider those issues without reference to those recent events. Whatever rules are established ought to be rules that are fair and equitable in all circumstances, not based on who it is that may have had cause to call on those guidelines or rules, once made, to deliver them assistance in legal proceedings. I commend this motion to the Assembly.

**MS FOLLETT** (Leader of the Opposition) (4.53): Mr Speaker, I move the following amendment to the motion:

After "provision of", insert "future".

I have moved that, Mr Speaker, to make it very clear that I do not believe that the question of Mr De Domenico's legal representation ought to be a subject for this inquiry by the Standing Committee on Legal Affairs. I have made it very clear in the past that I do not believe it appropriate that the Canberra taxpayer should pay Mr De Domenico's legal fees in that instance. I have put forward some guidelines of my own which

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I believe apply. In many respects they are somewhat similar to those put forward by Mr Humphries, in that both of us consider that the actions which have given rise to legal representation must have been incurred in the course of a member's duty before any legal assistance from the public purse could even be considered. It is my view that Mr De Domenico's actions quite clearly related to his personal behaviour, not to his public duty.

I have also considered, Mr Speaker, that it is only reasonable and in the taxpayer's interest that we should consider the level of representation undertaken by a Minister. In Mr De Domenico's case, the forum for which he obtained legal representation is a forum where legal representation is not required. Indeed, legal representation has to be the subject of special permission if any party before the Discrimination Commissioner seeks to have such representation. Mr De Domenico had to apply for special permission to be so represented. The complainant in the matter had no such representation, nor could she afford it. So, Mr Speaker, I believe that it is very important that we do not allow for a retrospective decision on this matter.

The Chief Minister, in fact, has said publicly that she does not believe that the Canberra taxpayer ought to bear Mr De Domenico's costs. I agree with her statement on that. I think it was the *Chronicle* that had the Chief Minister's Christmas wish being that I would agree with her on just about anything. Well, she has got her Christmas wish; I agree with her on that. I do not believe that the Canberra taxpayer ought to be paying the considerable costs incurred by Mr De Domenico in the Human Rights Office matter. Mr Speaker, I do agree that it is appropriate that we have guidelines, but I would submit that those guidelines have existed, perhaps in unwritten form, for many years and in every other parliament. I believe that Mr De Domenico's request for assistance fell well wide of those guidelines and ought not to be considered, either now or in the future.

I realise that the question of Mr De Domenico's costs has caused some level of embarrassment to members of the Government because there is clearly a division of views within their ranks on whether or not the fees should be paid out of the public purse. We have had the Chief Minister's assurance throughout the whole hearing of that matter - right at the start, throughout it, and after it - that it would not be a charge on the public purse. I do not want the Government to use this committee reference as some sort of backdoor way of getting Mr De Domenico's costs paid. The decision, as Mr Humphries has said, was one for the Government. In my view, they took the right decision; they would not pay. I do not want this committee to be manipulated or used, or even to have the appearance of being some sort of a court of appeal for Mr De Domenico in the matter of his costs. If it is used in that way, I can tell you now that we will oppose it strenuously, and I would expect the Government to do so as well.

Mr Speaker, I have moved to insert that word "future" by way of amendment to put the matter beyond doubt. I think that Mrs Carnell was absolutely right in saying that the taxpayer should not pay Mr De Domenico's costs. I expect the Government to abide by the assurances that they gave throughout the whole of that lengthy affair and not to use this quite worthy undertaking of the drawing up of guidelines as a backdoor way of getting Mr De Domenico's costs paid, because they should not be.

**MR MOORE** (4.58): Mr Speaker, I think it is Mr De Domenico's situation that has raised this issue. It is the catalyst for this reference to the Standing Committee on Legal Affairs. I have a different view from Ms Follett on this, in that the standing committee ought not look at the funding of Mr De Domenico's situation. It may well be that the outcome is exactly as Ms Follett has presented it. It is my understanding that she is likely to be a member of that committee and will have the opportunity to put the position she just put very strongly. Mr Speaker, it is my view that the committee should be able to consider the full range of issues. Ms Follett said basically that there has been effectively, right throughout parliaments, an unwritten process on how we should go. She then went on to say that getting it in writing is a worthy exercise.

I think it is worth while drawing to members' attention a particular concern of one member of the Northern Territory Parliament. A Labor member of the Northern Territory Parliament made a statement in the media which was construed as defamatory, and a Minister was then funded to take a defamation action against a member of the Opposition who was not funded. I think that that raises much more serious questions than the ones that we are dealing with now. I would hope that such issues would be determined by this Assembly before they arise in this parliament. No doubt, at some time in the next 10 or 15 years, that sort of situation is likely to arise.

It is my view that the committee should have as broad a reference as possible, and they can include Mr De Domenico's situation if they so wish. It is open to the committee. The motion Mr Humphries put up is:

That the Standing Committee on Legal Affairs inquire into and report by 30 June 1996 on the development of guidelines for the provision of assistance to Members in relation to legal proceedings.

It does not require that the committee look into that particular issue, although I would think it would be quite appropriate.

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.

**LEGAL AFFAIRS - STANDING COMMITTEE**

**Reference - Legal Assistance to Members**

Debate resumed.

**MR MOORE:** Mr Speaker, it is for those reasons that I will be opposing the amendment. I must say, in conclusion, that I think it would be helpful to me, as a member of the Assembly, to have had the committee look into and present all the issues around whether or not a member in Mr De Domenico's circumstances should be provided with funding or not. I must say that I am still open-minded about the issue, although I know that other members have already made their decision on that. All I would argue is that, as far as I am concerned, it would be helpful for me if the committee, in its deliberations on the full range of issues, also applied its mind to that specific issue.

**MR KAINÉ (5.02):** Mr Speaker, this is an interesting debate and it perhaps foreshadows what might or might not happen in the committee when it is considered by them. I can only imagine that the Leader of the Opposition has put forward this amendment on the basis that she does not want the committee to do anything that would be retrospective. I would just note, as a longstanding member of this Assembly, that the Assembly has rarely, if ever, enacted legislation that has been retrospective, and I think she is anticipating something that may or may not happen downstream.

First of all, if this motion from Mr Humphries is successful, the matter will go to the committee. The committee, as all committees of this Assembly have done, will look at the matter assiduously and will report by the due date of 30 June 1996. That will be in connection with guidelines for the provision of assistance to members in legal proceedings. That report will then be considered by this Assembly. The recommendations, if any, will be considered by the Assembly, and out of that will come some action that this Assembly requires to be taken.

As I said at the beginning, it would be rare for the committee to look at the retrospectivity of legislation. I think it would be rare for this Assembly to do it either, so I do not know what the outcome of this will be. I think the Leader of the Opposition is anticipating something that may or may not occur; but I suggest that it may be unnecessary anyway, given the normal processes that we have adopted in the past. I tend to agree with Mr Moore. I do not know that the committee ought necessarily be circumscribed in the matters that it can look at in such an inquiry. It may well be that there really is only one case currently extant, and it may well be that the committee would want to look at the circumstances that pertain to that; but I do not want to anticipate what the committee might look at. At the moment, the committee is not a full committee. A member has yet to be appointed to make up the three members. That person, presumably, will become the chair.

**Mr Berry:** You are on it, are you not?

**MR KAINÉ:** There are two. The two members could, under the standing orders, proceed to take evidence on the matter, but could not conduct a deliberative session on it. There needs to be a third member appointed by the Assembly, and then there needs to be a determination about whether that person is to become the chair. So there are a number of matters that are open, at the moment, about the committee itself, let alone what the committee might consider when it takes this reference on board. I do not know that we need necessarily look too far into the future at this juncture.

**MRS CARNELL** (Chief Minister) (5.05): Mr Speaker, I have made very clear my opinion on this matter. Various members of the Assembly have expressed different opinions - - -

**Ms Follett:** I am with you, Kate.

**MRS CARNELL:** That is good. Various members have expressed differences of opinion. As this issue affects each individual MLA quite personally, or could potentially, I believe strongly that the Assembly should look at it. I certainly do not resile from my position on this.

**MR BERRY** (5.06): I heard what Mr Kaine said in relation to this matter and he is right in saying that there are rare occasions when matters are dealt with retrospectively. I think it is time to make a decision in relation to this one right now. Two people were involved in the proceedings which we are discussing. I think it would be quite unfair to the complainant if this matter were opened up by a committee of this house. The complainant in this issue would, I expect, be extremely stressed by the reopening of this issue. I will come back to that once the discussion over there has been completed, Mr Speaker, so they can hear what I am saying. I think it is probably the best course, rather than ask you to interject.

There are other issues at large as well. My understanding is that this matter has gone on appeal. You have to consider whether or not it would be correct for a committee to be raking over the coals, so to speak, in relation to a matter which was the subject of appeal. I think it would be quite unfair of this Assembly to take the position of looking at whether or not legal assistance would be provided by the Government when this process is in place. I think it would be quite wrong.

I go back to a point I was raising earlier, when you were involved in other discussion. You have to think about the complainant here. How do you think the complainant in this matter is going to feel about having this matter raised again in the context of the provision of assistance for legal proceedings for a person, irrespective of what the outcome of the inquiry might be? The fact is that there is going to be an inquiry into it. I think she would be entitled to feel aggrieved that the matter was even being inquired into. That would be my view of the matter anyway. I think it is unfair of us even to enter into a debate.

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So far as I am concerned, Mrs Carnell has made a decision. She says that it was her decision, the leader of the Government's decision, in the first place; but that has been melting a bit, it has been watered down, and it is now a personal decision. But Chief Ministers do not have personal decisions. It is the head of the Government's decision that funding would not be available. Mrs Carnell, if you want to support the team that supports you on this, vote with us. It is as simple as that. We are the ones who support your view. You ought to be supporting us on the basis that this will involve raking over the coals of an earlier issue that was before the Human Rights Office, and I think you ought to be ensuring that we do not do that.

Mr De Domenico, in this case, made his own decisions, knowing full well what the outcomes were. He took advice in relation to the matters, and I expect that in the course of that advice he was told how much it would cost. The Government made a decision not to fund it. The case has gone beyond the first stage. It has now gone to an appeal stage. It is time for the Government to drop off, and it is time for this Assembly to drop off. It is not our issue anymore. It is before other tribunals. If the Government had taken a contrary view and decided to fund Mr De Domenico, we in the Opposition would have been saying, "You ought to fund the complainant as well".

It is an effrontery to ask a committee even to consider an issue in the past. If by chance they were to come up with a recommendation in support of assistance for those proceedings, I think it would be an outrage. I think we should just put it out of our minds. It is not something that we ought to be considering. It would be grossly unfair for us even to consider it, and that is why the amendment has been moved. If the Government wants to fund Mr De Domenico's position, that is a Government decision. So far as the future is concerned, I think it is a wise decision.

I do not think it will be terribly hard to find a set of recommendations which covers these issues. It is not as if it is something that has not already been dealt with. So, good luck to the committee in their deliberation of the matter; but please have a bit of regard for the complainant in this issue, have a bit of regard for the fact that it is before the courts and is still continuing, and make sure that there is no further concern about what this committee or this Assembly might rake over in terms of those earlier proceedings. I think the amendment has to be supported on the basis of natural justice alone.

**MS HORODNY (5.12):** Mr Speaker, we do not have a problem with this issue going to the committee. We agree that guidelines have to be established for how and when a politician is eligible for financial assistance from the Government. It can be difficult, we agree, to distinguish between a Minister's or a member's personal actions and actions that they take in fulfilling their public duties. It is certainly desirable that some of these issues be cleared up in a committee and that some ground rules be set for the future. We will support Ms Follett's amendment, however, because we believe that it was Mr De Domenico's choice to take on legal representation in a forum where legal representation was not necessary and, in fact, is discouraged. For that reason we will be supporting the amendment. That is all I wish to say.

**MR OSBORNE** (5.13): Mr Speaker, I will be brief. As a member of the Legal Affairs Committee, I do not think it is going to make a major difference whether we look at Mr De Domenico's matter or not. I think it would be quite petty if we did not at least look at it and decide. We have heard a lot of different arguments here today and they may well be right, but I can see no problem with - - -

**Ms Follett:** Where is the money coming from? It is not in the budget. You will have to amend the budget.

**Mr Humphries:** Where did the money for VITAB come from?

**Mr Moore:** The Treasurer's Advance, Rosemary.

**MR SPEAKER:** Order!

**MR OSBORNE:** I am not talking about that, Ms Follett. I can see no problem with at least looking at it in the Legal Affairs Committee.

**Ms Follett:** You could not even consider it. Your hands are tied.

**Mr Berry:** Yours hands are tied, mate. You cannot even consider it.

**MR OSBORNE:** You tied them. I can see no problem with at least looking at it and - - -

**Mr Moore:** Did you never use the Treasurer's Advance for providing money for legal situations?

**Mr Humphries:** Where did Mr Berry's money come from?

**Ms Follett:** It is not my argument; it is yours. I know where the money is.

**MR OSBORNE:** I will sit down, Mr Speaker. Maybe I hit a raw nerve.

**MS McRAE** (5.14): Mr Speaker, I will be very brief. What I hear fills me with despair. I put it to the chamber that, if this matter is picked up by the Legal Affairs Committee and our amendment does not get up, at the very least the Assembly should get legal advice that that in fact can go ahead. This matter is before the AAT. It is not a joke. There is something quite serious before an appeals tribunal which may yet have major ramifications on the case, and here we are all glibly carrying on as if it is just a joke. The matter is one committee and with a committee report then coming through with guidelines that could quite clearly fill Mr De Domenico's case. After the committee has reported, if in fact they fill out the guidelines, the Assembly can debate the issue.

I do not see that it is proper, or appropriate, for this committee to look into something which is before an appeals tribunal, which has - - -

**Mr Humphries:** It is not doing that.

**Mrs Carnell:** We are not looking at that. We are looking at the costs.

**MS McRAE:** There is absolutely no way that someone can look at the costs without looking at the merits of the case. That, Mr Speaker, is what I would like this Assembly to have legal advice on. We are hearing this sophistry about the separation of ideas in people's heads. That in abstract they can look at a case that is before us and before the AAT, and not look at the case again and not look at what did and did not happen, is just, in my head, a sophistry. I would be very disappointed if we blundered into this without proper advice as to where our responsibilities stop and the AAT's begin. The rights of people before an appeal process should be looked at without us blundering into an affair that we should have no right to reconsider.

If at the end of the committee's inquiry, without touching on Mr De Domenico's case, the guidelines are such that they quite obviously suit Mr De Domenico's case, it is not beyond the capacity of this Assembly to then rule that an ex gratia payment be made. We do not need to look at past cases and current cases within the Assembly to come through with guidelines that then hold tight. I think it is absolutely irresponsible, and it fills me with horror that people are so glib about the current situation that is before us, are so glib about the Administrative Appeals Tribunal and what is still to be faced by individuals, both in this chamber and outside it, that they can blithely say, "Oh, we can look at anything". I think that is appalling. I would be very disappointed if proper legal advice is not obtained by you, Mr Speaker, if nobody else, to ensure that we are not just blundering blithely into something that people seem to take very lightly.

**MR HUMPHRIES** (Attorney-General) (5.17): Mr Speaker, to close the debate, let me say, first of all, that I think Ms McRae has just disqualified herself from taking on the role of shadow Attorney-General. What she has said is simply pure nonsense. It is perfectly possible for an Assembly committee to look at the question of costs in the abstract circumstances of particular situations - even one postulated of a member of the Assembly or a Minister being accused of sexual harassment matters before the Discrimination Commissioner - without in any way jeopardising the proceedings before the AAT. Indeed, the Australian Parliament has done just that by approving costs while matters were afoot for Minister Carmen Lawrence and ex-Minister Alan Griffiths.

**Ms McRae:** They did not. They did it before she went to court.

**MR HUMPHRIES:** No, that is not so. The proceedings had already commenced when that occurred. I think Ms McRae has gone off the deep end completely, and does not understand the situation.

Let me make another point as well. The suggestion was that legal representation is not necessary before the Discrimination Commissioner. Let me tell Ms Horodny that there is no court in this country for which legal representation is necessary; but there are many courts where legal representation may be desirable, or appropriate, in order to protect the interests of the parties concerned.

**Mr Berry:** Do not mislead. You have to get leave before the Discrimination Commissioner. You should go to that point.

**MR HUMPHRIES:** Leave was obtained in this particular circumstance that has been raised by the Opposition. Mr Speaker, the question is whether or not we establish rules. I think we have agreed that we establish rules, or attempt to do so. I pose the question, having done that, as to whether or not it is appropriate to establish rules in respect of a hypothetical person who may have been, say, facing sexual harassment charges arising out of their work as a member of the Legislative Assembly, and say in those circumstances that such a person ought to be reimbursed their legal costs, but then say that where an exact circumstance such as this has occurred such fees, such legal costs that arise out of that, cannot be met by the public purse. That, Mr Speaker, is to try to take political advantage out of the circumstances in which a member has found himself or herself.

Mr Speaker, there are many issues to be resolved in this matter. As far as the Government is concerned, Mrs Carnell has made it quite clear that the decision made by the Government previously on that matter stands, and we await the outcome of the inquiry. There will be no decision to pay Mr De Domenico's costs, for example, in respect of this appeal without there being some regard had to what is going on within the Assembly. Mr Speaker, I think there are those who seek to take advantage of the fact that they can potentially formulate one rule for members who have come before a certain case - indeed, Mr Berry was the beneficiary of such rules - and another rule for members who might come after a certain case, even identical in all circumstances. That somebody should be treated in one way and somebody else, in those same circumstances, should be treated differently is quite unfair, and I think those opposite know that it is unfair.

Ms Follett suggested that the rules are quite clear, but that in fact is not the case. If Ms Follett can show us an articulation of the rules that are consistent across the country, I would greatly like to see that, and I encourage her to do so; but she cannot do that because there is no consistency of those rules. Mr Speaker, I therefore commend this motion to the Assembly.

Question put:

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

The Assembly voted -

*AYES, 7*

Mr Berry  
Ms Follett  
Ms Horodny  
Ms McRae  
Ms Tucker  
Mr Whitecross  
Mr Wood

*NOES, 8*

Mrs Carnell  
Mr Cornwell  
Mr Hird  
Mr Humphries  
Mr Kaine  
Mr Moore  
Mr Osborne  
Mr Stefaniak

Question so resolved in the negative.

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Question put:

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

The Assembly voted -

*AYES, 10*

*NOES, 5*

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

Mr Berry  
Ms Follett  
Ms McRae  
Mr Whitecross  
Mr Wood

Question so resolved in the affirmative.

### **LEGAL AFFAIRS - STANDING COMMITTEE Membership**

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

That Ms Follett be appointed as a member of the Standing Committee on Legal Affairs.

### **QUESTIONS WITHOUT NOTICE**

#### **Community Social Workers**

**MRS CARNELL:** Mr Speaker, I seek leave to provide an answer to a question asked by Kerrie Tucker at question time today.

Leave granted.

**MRS CARNELL:** This question was to do with a social worker position in the Melba-Belconnen area. Ms Tucker is right; until the vacant PO2 social worker position is filled at Belconnen there is a vacant social worker position at the Belconnen Health Centre. Currently there is one senior professional social worker whose responsibilities include projects and group consultations, not individual consultations, on issues such as domestic violence and eating disorders. She is also responsible for supervising all social workers working out of health centres ACT-wide. The other social worker is currently

on maternity leave, and steps are being taken to find a full-time replacement as soon as possible. Interested people from within ACT Health and Community Care are currently being interviewed for the position, and it is anticipated that the position will be filled within a fortnight.

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

**MR OSBORNE:** I present Report No. 20 of 1995 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. I ask for leave to make a brief statement on the report.

Leave granted.

**MR OSBORNE:** Report No. 20 of 1995, which I have just presented, was circulated when the Assembly was not sitting, on 28 December 1995, pursuant to the resolution of appointment of 9 March 1995. I commend the report to the Assembly.

**PLANNING AND ENVIRONMENT - STANDING COMMITTEE  
Report on Draft Variation to the Territory Plan - Deakin**

**MR MOORE (5.27):** Mr Speaker, I present Report No. 8 of the Standing Committee on Planning and Environment entitled "Draft Variation to the Territory Plan (No. 49) - Deakin, section 35, block 18", together with extracts from the minutes of proceedings. I move:

That the report be noted.

This is a minor variation to the Territory Plan which the committee considers is rectifying an anomaly in Deakin. I commend it to the Assembly.

Question resolved in the affirmative.

**LAND (PLANNING AND ENVIRONMENT) ACT - VARIATION NO. 49  
TO THE TERRITORY PLAN  
Papers**

**MR HUMPHRIES** (Attorney-General and Minister for the Environment, Land and Planning): Mr Speaker, for the information of members, I present the approval of variation No. 49 to the Territory Plan for Deakin, section 35, block 18, pursuant to section 29 of the Land (Planning and Environment) Act 1991. In accordance with the provisions of the Act, this variation is tabled with the background papers, a copy of the summaries and reports and a copy of any direction or report required.

## ANSWERS TO QUESTIONS ON NOTICE

**MR STEFANIAK:** I seek leave to further respond to a question which Ms McRae asked in relation to question on notice No. 136.

Leave granted.

**MR STEFANIAK:** For Ms McRae's benefit, I am instructed that the question was not answered on time due to an administrative oversight on the part of the department. I apologise for that. Although the question is complex, I will endeavour to have an answer prepared by the end of this current sitting period.

**MR HUMPHRIES:** Mr Speaker, a question was asked of me by Mr Wood earlier today about questions Nos 84 to 88. In fact, answers were provided and submitted to the Table Office on 12 January. There seems to be some problem as to why they did not then proceed through the system. I am not sure what the nature of that problem is, but when I and the Secretariat find out what it is I will be happy to advise the Assembly.

## ADJOURNMENT

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

That the Assembly do now adjourn.

## Remuneration Tribunal

**MS FOLLETT** (Leader of the Opposition) (5.30): I want to make a very brief comment in the adjournment debate. It relates to a question that I asked Mrs Carnell at question time today. I asked Mrs Carnell how many determinations she had made as a substitute tribunal in the absence of an appointed Remuneration Tribunal. I just ask members to recollect that Mrs Carnell did undertake to provide those determinations to the Assembly. She has not yet done so. I wanted to point out that, if my memory of the Remuneration Tribunal Act is correct, those determinations must be provided to the Assembly within six sitting days. I earnestly trust that it is not Mrs Carnell's intention to utilise the maximum six sitting days and provide those determinations to the Assembly on Thursday of next week when, clearly, there will be no opportunity for the Assembly to ask any questions about the determinations. I think that we have all heard over and over again Mrs Carnell's claims of open and consultative government. It would be, I think, the nail in the coffin of that particular claim if we were to see the legislation utilised in a way that actually denied this Assembly its right to see those determinations and to ask questions about them. I raise the issue in the adjournment debate, and I sincerely hope that I do not have to raise it anywhere else.

Question resolved in the affirmative.

**Assembly adjourned at 5.32 pm**