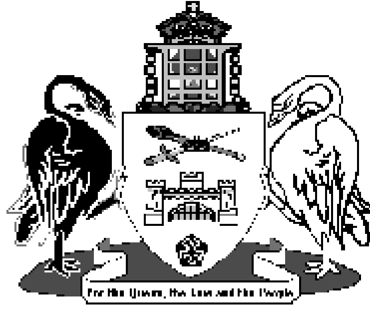

# DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

## HANSARD

26 October 1989

## Thursday, 26 October 1989


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**Thursday, 26 October 1989**

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**MR SPEAKER** (Mr Prowse) took the chair at 10.30 am and read the prayer.

## SCHOOLS AUTHORITY (AMENDMENT) BILL 1989

**MR WHALAN** (Minister for Industry, Employment and Education) (10.30): I present the Schools Authority (Amendment) Bill 1989. I move:

> That this Bill be agreed to in principle.

In August this year the Government established the ministerial consultative committee on schooling to provide me, as the Minister responsible for education, with a consultative forum and a source of independent advice on issues relating to government schooling in the ACT.

The consultative committee replaces the Schools Authority advisory committee which provided advice to the Chief Education Officer of the former Schools Authority. The purpose of the Schools Authority (Amendment) Bill is to formalise this change by repealing provisions of the Schools Authority Act relating to the advisory committee.

The establishment of the new consultative committee does not imply any criticism of the advisory committee; rather the Government believes it is preferable to have an arrangement whereby the Minister responsible for ACT government schools receives advice on issues relating to those schools directly from those most closely involved.

The consultative committee has an independent chairman, Mr Alan Burnett, who formerly chaired the Schools Authority advisory committee. The consultative committee's membership consists of three parent members nominated by the ACT Council of Parents and Citizens Associations, one parent member nominated by the Canberra Preschool Society, three nominees of the ACT Teachers Federation, one nominee of the Public Sector Union and two student members nominated by the ACT Secondary Students Council.

Thus, for the first time, a forum has been provided for direct and regular consultation between the Minister and representatives of the parents, teachers, unions and students. I sought the committee's advice on the budget proposals relating to the government school system. The advice I received was constructive, informative and well presented. I have met with the consultative committee on five occasions and have been impressed by the energy, commitment and understanding of its members.

I am pleased that this particular consultative mechanism is working so well and I would like to place on record my appreciation to all members of the committee for the time and effort they have devoted to the tasks. I now present the explanatory memorandum to the Bill.

Debate (on motion by **Dr Kinloch**) adjourned.

## MEDICAL PRACTITIONERS REGISTRATION (AMENDMENT) BILL 1989

**MR BERRY** (Minister for Community Services and Health) (10.34): I present the Medical Practitioners Registration (Amendment) Bill 1989. I move:

That this Bill be agreed to in principle.

Mr Speaker, this Bill is to make minor amendments to two sections of the principal Act to reflect up-to-date practice and terminology and to streamline the process of medical practitioner registration in the Australian Capital Territory.

The most minor, but nevertheless important, change is to make all third person references to medical practitioners in the principal Act gender neutral. Where the Act refers to a medical practitioner as "he" or "him" the female gender equivalent also is to be inserted.

The second amendment relates to the qualifications of medical practitioners to be included in the ACT register. Following submissions from the medical board, the Government has agreed to the types of qualifications that need to be recorded for the purposes of registration.

The board has found that in the past too many qualifications have been entered in the register, some of which are difficult to assess with regard to their standard and quality. In future it is intended only to register those qualifications that are recognised for the purposes of the Health Insurance Act 1973. These limitations are similar to those imposed in New South Wales. It may be of interest to note also that Victoria does not allow any postgraduate qualifications to be included in the register.

The third amendment recognises the position of elderly medical practitioners in the community. Consequently it has been decided that medical practitioners over the age of 70 should not be required to pay an annual registration fee.

The Government has accepted the medical board's recommendations on the situation of practitioners who have attained this age inasmuch as registration is more a matter of honour than of active professional practice and payment of an annual fee may be onerous.

Again there are similar provisions in relevant New South Wales and Queensland legislation, and, together with changed provisions for the recording of qualifications for registration, the Act will be brought into line with legislation in other States. This follows the policy of the Department of Community Services and Health of having legislation in the Australian Capital Territory uniform with neighbour States where appropriate. I present the explanatory memorandum.

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

## OCCUPATIONAL HEALTH AND SAFETY BILL 1989
### Detail Stage

Consideration resumed from 24 October 1989.

Clause 1 agreed to.

Clause 2 (Commencement)

**MR STEFANIAK** (10.37): I move:

> Page 1, line 10, omit "The", substitute "Subject to subsection (3), the".

I refer members to page 3 of the occupational health and safety committee report. In relation to the commencement clause, the committee, whilst recognising the need for the Executive to have the necessary time in which to put in place the appropriate arrangements to administer its legislation, was of the opinion that the Assembly ought to ensure that legislation it enacts comes into operation within a reasonable time after passage through the Assembly. The committee believed that a period of six months ought to be a reasonable time within which the Assembly could set in place any administrative arrangements necessary to give effect to the legislation.

As a result, the committee recommended to the Assembly that it adopt as a principle that, notwithstanding other commencement provisions in any piece of legislation, every Act passed by the Assembly should come into operation within, at the latest, six months after the Act was notified in the Gazette as having been passed by the Assembly. Accordingly, as a result of that, the committee recommended in its report that all Acts passed by the Assembly commence on a day not later than six months following the notification required by section 25 of the Australian Capital Territory (Self-Government) Act 1988. That is recommendation 3 of the committee's report.

In a schedule attached to the report, the committee suggested an amendment to clause 2 of the Bill to give effect to that recommendation, and that effect initially in

relation to amendment No. 1 would be to omit "The" and substitute "Subject to subsection (3), the".

Amendment agreed to.

**MR STEFANIAK** (10.39): I move:

Page 1, line 11, add at the end the following subclause:
"(3) If a provision referred to in subsection (2) has not commenced before the expiration of the period of 6 months commencing on the day on which this Act is notified in the Gazette, that provision shall, by force of this subsection, commence on the expiration of that period.".

This amendment merely gives effect to the committee's recommendation.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 3 and 4, by leave, taken together, and agreed to.

Clause 5 (Interpretation)

**MR WHALAN** (Minister for Industry, Employment and Education) (10.48): I move:

Page 2, line 17, omit the definition of "apprentice".

These are definitional changes consequent upon the making of the Vocational Training Authority Act. The previous definition of "apprentice" was related to the legislation on the Apprenticeship Training Board, which is superseded by the Vocational Training Authority. There is a different definition there and this is a consequence of that change.

**MR KAINE** (Leader of the Opposition) (10.49): Does the Government intend to define "apprentice" in this Bill at all? As I understand it, this amendment has the effect of deleting the definition of "apprentice" altogether as far as this Bill is concerned. Is it not important to define "apprentice" in this Bill?

**MR WHALAN**: No. It will be specified as defined in the Vocational Training Authority Act.

**MR KAINE**: But that is not what your amendment says. It simply omits the definition.

**MR WHALAN**: It is picked up because there is reference in this Act to "employee", and an apprentice previously was not regarded as an employee. Under the Vocational Training Authority Act, he is now defined as an employee and so it is picked up in the definition of "employee".

**MR KAINE**: I am still not clear because the next government proposal is that the definition of "employee" also be omitted. Further on in the legislation it also proposes that the definition of "employer" be omitted. Taking those three amendments together, it seems that the definitions of "apprentice", "employee" and "employer" are all omitted from this Bill and I see nothing to replace them.

**MR WHALAN**: The Leader of the Opposition is not correct there. We are not deleting the definition of "employee" or "employer". We are deleting the reference to "apprentice" in the definition of "employee" and "employer".

**MR KAINE**: Well, as I read your second amendment to clause 5 you also propose to omit the paragraph that defines "employee".

**MR SPEAKER**: Order! I would just like to draw members' attention to the fact that, for the Minister in charge or whoever is moving the amendment, periods are not specified; but any other member who wishes to participate in the debate has two periods, each not exceeding 10 minutes. If an extension is required a member may seek leave to obtain this. Mr Kaine, you have had your two periods.

**MR KAINE**: I have to object, Mr Speaker. This matter is not clear, so how can you argue that I have completed my debate on the Bill. That is rubbish and nonsense, and I do not accept it.

**MR SPEAKER**: We are dealing with standing orders, Mr Kaine. Please abide by them. All you need to do is seek leave if you wish to proceed further.

Amendment agreed to.

**MR WHALAN** (Minister for Industry, Employment and Education) (10.52): I move:

> Page 3, line 18, omit paragraph (b) of the definition of "employee".

This is consequential on the previous amendment in relation to removing from both the "employee" and "employer" definitions the reference to the words "is an apprentice".

**MR COLLAERY** (10.53): I take it that the word "apprentice" will not be defined in this legislation.

**MR WHALAN**: That is correct.

**MR COLLAERY**: The legislation uses the term "substantially". The Government intends to move a proposed amendment to clause 38, for instance, to protect apprentices on sites. I would have thought it in the interests of the legislation to have the term defined. Now, the term in the Vocational Training Act is defined as

"a person whom an employer has undertaken to train under a contract of training in a trade". No-one could disagree with that. I simply wish to ask the Government why we could not have had "apprentice" in clause 5(1) of the Bill reading: "Apprentice" has the same meaning as in the Vocational Training Act 1989".

**MR WHALAN**: We have to consider the essence of the changed nature of the employment relationship between an apprentice and his employer as a result of the Vocational Training Authority Act. Previously, under the Apprenticeship Act, which was repealed, the relationship was not a contract of employment but a deed of apprenticeship, which was quite a different legal relationship between the two. With the Vocational Training Authority, the relationship between the apprentice and his employer is one of straight employment; it is an employment contract and so it is considered no longer necessary to distinguish in that case.

Amendment agreed to.

**MR WHALAN** (Minister for Industry, Employment and Education) (10.55): I move:

> Page 3, line 21, omit paragraph (b) of the definition of "employer".

Amendment agreed to.

**MR STEFANIAK** (10.56): I move:

> Page 3, lines 32-41, omit the definition of "involved union".

This particular amendment, which concerns involved unions, crops up some 12 times during the Bill and the schedule. The committee's report states:

> Many witnesses were concerned about provisions which made it legally binding on employers, when establishing DWGs, to consult with each involved union in relation to their employees.
>
> The committee feels that, without limiting the legitimate industrial role of unions in the work place, it is an appropriate method to take to delete from the bill references to "involved unions". Particularly as registered unions are recognised bodies for the purposes of the legislation.

When one looks at this legislation, one sees that the thrust of the legislation is in relation to employers and employees. The thrust is not at unions and not at employer bodies. Those organisations naturally will be involved in the process and, indeed, on the tripartite council. There are nine representatives: three from government; three from employee bodies, which would be unions; and three from

employer bodies, which are the peak employer bodies in this Territory. There is no reference to employer bodies, though, in this legislation and only several references to "involved unions". The thrust is at employees and employers. Indeed, we would submit, Mr Speaker, that the thrust of the legislation is, and indeed should be, to get employers talking to their own employees and reaching, on the shop floor, an enterprise level agreement. The whole idea of this legislation is to get people talking together so that they come up with an agreement that is going to work.

I would submit, Mr Speaker, that unions do not have legislative backing to interfere with businesses now. They should not be given it through this legislation. When negotiating before the Industrial Relations Commission, employers are represented by their associations and employees are represented by unions. I believe it would be a disaster for private enterprise to force individual small businesses to consult with national unions.

Mr Whalan has put out a paper in which he indicated the Government's intention to put back "involved unions". It is interesting to note that this legislation was put before the Assembly in May; the committee reported on 6 July; and, because of the committee recommendations, the Government suddenly went cold on this legislation.

The legislation was not put back, or intended to be put back, before the Assembly until late last week. It would seem that the Government and its union friends then felt confident that they could keep in the reference to "involved unions", go against a majority recommendation of the committee and ensure that it was circumvented on the floor of this Assembly. I think that it will be a rather disastrous day for this Assembly if that succeeds, because it strikes at the very heart of our committee system.

I would also submit that this would probably have some dire consequences for ACT industry. Mr Moore, the independent NIMBY friend of mine, has often talked about ecological problems in the Territory and the delicate ecological base that we have. We also have a delicate economic situation. I think that the whole thrust of this particular piece of legislation is to get people talking in their businesses and not have pressure put on them from outside bodies. If that happens, we could see a number of businesses going out backwards. That would not be good for the Territory, and certainly not for the small businesses.

All the employer organisations which appeared before the committee were most concerned about the term "involved unions". They were most concerned with the fact that, if they were involved in an industry where there might be only one union member at a workplace, a union would be involved and they would have to consult with unions all the way along the line. That is not what is intended with the legislation.

In his paper issued the other day, Mr Whalan indicated:

> The legislation, as originally proposed, would simply recognise industry reality and require employers with employees who are members of unions to consult with those unions before making any final decisions.

It does not require them to reach agreement with the union as is required in New South Wales and Victoria but, rather, just to consult. Anyone who knows anything about industrial relations has a pretty fair idea of what would happen if they did not reach a final decision. The unions would use their muscle to force the issue, and I do not think that is acceptable. Mr Whalan went on to say:

> If the ACT legislation does not require such a role, we may well be handing responsibility in this area to a third party, the Federal Industrial Relations Commission, which has already indicated on several occasions its interest in dealing with disputes over occupational health and safety.

He went on to indicate that in one particular industry, the vehicle industry, the commission handed out an award overriding occupational health and safety legislation for four States. In relation to that, an award was handed down and it was held to be a valid award. The commission has to take into account occupational health legislation in the States but is not bound by it. Accordingly it made an award. That is quite different from what Mr Whalan is indicating here.

He went on to say that to refuse to recognise the role of unions would mean that, to play their proper role of protecting their members, they would have to operate outside the system. The industrial relation arena would be their only recourse and industrial action their only means of ensuring appropriate employer attention to their problems. That is a threat, Mr Speaker.

Currently this legislation is not in operation, but in some industries there have been agreements for occupational health and safety. There are not, and have not been, huge problems in relation to unions striking or using industrial action in relation to occupational health and safety. The whole thrust of this legislation is aimed at the relationship between employees and employers. Those terms come up time and time again in the Bill. There is very little reference to involved unions.

I submit that the committee, which looked hard and long at this issue and received a large number of submissions in relation to it, should have its recommendation adhered to today. To go back on that would be contrary to all the work done, all the submissions put before the committee; it would be thumbing our noses at the vast majority of

evidence placed before us by private industry and organisations which are terrified this provision will be left in the legislation. Unions, naturally, will be involved where they are currently involved.

In the building industry there are current agreements on occupational health and safety in certain areas. In other industries where unions play a role and have played a role in the past it is natural that those unions will supply the occupational health and safety representatives from the shop floor. But where unions are not involved, where employees have not joined the union - and the employees still have freedom of choice in this Territory - there is no reason why unions should be foisted on those areas of ACT industry. Let people make their own free choice as to whether they wish to join a union.

**MR COLLAERY** (11.04): The term "involved union" appears in a number of clauses of the Bill. It appears in the definition itself on page 5 of the Bill. It appears in clause 27(3)(b). It appears in clause 30(2)(a); clause 37(6); clause 38(5); clause 41(1); and clause 47(1)(b). Also, a number of decisions can be appealed against by an involved union if its members are affected. They are: "revoking a provisional improvement notice", clause 54(4); "revoking an improvement notice", clause 73; "a prohibition notice", clause 74; and "a direction", clause 75.

The registrar's decisions may be appealed against by an involved union provided its members are affected in a number of other areas: firstly, in establishing a designated work group under clause 38(1) or (2); varying a designated work group under clause 38(3); revoking a provisional improvement notice under clause 54(4); and other provisions in clauses 73, 74 and 75 involving inspectorate roles. Mr Speaker, the term "involved union" has, on my reading of the Bill, a pervasive role in this piece of legislation.

With due respect to the fine work the committee had done, I was surprised that the committee, in arguing to omit the term "involved union", did not make a more philosophical statement as to the reasons. With respect to the committee, I suspect that the real reasons were essentially ideological rather than functional and that the ideological problem is that there are elements of the industry that fear what unions will do in a workplace. I draw members' attention to clause 37(7) on page 18, line 25, which says:

> An employer shall not establish or vary a designated work group without consulting -
> (a) each involved union in relation to employees; and
> (b) if there is no such involved union - such of the employees as the employer considers appropriate.

If one looks at the definition of "involved union", one finds that the union can get involved even if no-one at the work site belongs to the union. If those workers are doing the work that is covered by an award that the union covers, this piece of legislation gives the union the right to go on site in a previously union free situation and do something.

Now, on one side of the camp we hear that the union might cause trouble to a working relationship between employer and employee that was harmonious prior to that visit. On the other side of the camp the Rally hears that there are sweatshops where the employees are sufficiently intimidated by a lack of employment in a city not to complain to a union that their award covers. In practice, all of us who have done a little bit of this work - and I have not done much - know that both those situations exist. Essentially these are still the fundamental, nineteenth century-type concepts of the role of unions and the fairness of employers. But I would say the vast majority of employers in this town would not have a part of any sweatshop situation.

If we narrow this down, we are really talking about the building industry where there are transitory situations; fast working job sites where standards can lapse sometimes in a desire to get scaffolding up. I can think of no worse situation than the way in which the Churches Centre went up, where clients of mine were forced to lay multiple levels of very heavy fire-resistant bricks, some of them weighing seven kilograms each, at levels above their shoulders and around their ankles. There were significant workplace injuries as a result of those improper practices and the use of scaffolding that did not fit and did not correlate with the levels of that type of formwork and brickwork.

Speaking on behalf of the Rally, I see both the issues in this. On the principally vexed issue in this piece of legislation - I do not think there will be very strong ideological argument after this - I simply say that the Rally holds the balance of power in this matter. It is not hard to amend legislation. After long and vexed discussions with industry groups and bearing in mind Mr Berry's statements which speak eloquently for the union movement, the Rally has taken the view on balance that we should allow this piece of legislation to pass in this form. We will wait to hear any reaction.

We will circularise the industry and, if the legislation is misused, particularly in the building industry, I serve notice on our friends and on the unions that we will move in and support the Liberal Party in any amendment it wishes to move to omit the definitions. I serve that notice. However, at present the Rally does not oppose the insertion of "involved unions" in situations where they are not there yet.

**MR WOOD** (11.10): This recommendation in the occupational health and safety committee report was one of the few that did not have my support, and my comments on that are made in a statement at the end. This was one of the key debating points during the committee's deliberations. I am not convinced that it was a significant point during the hearings. I do not believe the report really interprets as correctly as it might the mood of the views expressed during the hearings. I have a very clear memory of general harmony amongst all those who gave us evidence.

True, some employer groups - not all of them - did express concern about that level of union involvement, which is no more or less than is present in so many other employer and employee relationships. There was, I thought - and I have a very clear memory, so I know I am right - general harmony in that room. All those who came to the committee were emphatic that we needed legislation. They were all interested in the welfare of workers in the various sites around the city, and I do not recall particularly severe objection to a formal involvement with unions in connection with health and safety.

Again, I would say that there were certain reservations, but if I went back to the evidence I would say, off the top of my head, that about half the employer organisations that appeared made no reference to it or had no worry about it. So I do not believe that it is really a major issue.

Secondly, I would contest what my colleague Mr Stefaniak said about a large number of bodies making comments about it. It is certainly true that only one body expressed a very strong view in favour of keeping this, and that was the Trades and Labour Council. But bear in mind that we had - I could look at the back of the book and it would tell me - quite a number of employer groups come before the committee, perhaps up to 20 of them, but we had only one group representing the unions, the workers, and that was the Trades and Labour Council.

It could have been that every union in the town might have sent a representative along and then we would not say "a large number" and "only one". I do not think a large number is relevant to use at all because there was one group only that represented the unions and that was the Trades and Labour Council, but it was a very powerful representation, as it represented 50,000 employees in this town. So members should bear that in mind.

I do not think the amendment understands the principles behind the legislation or the reality of it, the reality that my colleague Mr Whalan has mentioned. The principles are that you do much better when you have formalised and acceptable relationships between two groups, and the reality is that you simply have to do it this way. It works in so many other spheres of employer and employee relationships and, as all our witnesses said, it will work quite well in this case when it gets up and running in this Territory.

**MR MOORE** (11.14): Being the balancing force on this committee that - - -

**Mr Wood**: I thought it was the unbalancing force.

**MR MOORE**: Sorry; being the unbalancing force on this committee that elected to recommend the removal of "involved unions", I wish to point out a couple of things about the occupational health and safety select committee. First of all, the committee report was done in a very short time and was a very intensive piece of work. It was the first legislation that I have ever read in detail. I was very inexperienced. I am sure that that does not apply to Mr Wood, who has been in parliament before, or Mr Stefaniak, who has been dealing with legislation all the time. I think the lesson that I have learnt more than anything is that under such circumstances - and I strongly recommend this to the Assembly - such committee reports should go out in a draft form first and then come to a final form.

With respect particularly to the "involved unions", it took me quite by surprise that the Trades and Labour Council kept pushing the line that it was being excluded from the legislation. This took me by surprise because I made it quite clear - as I said on many occasions - that we did not want to exclude the unions from the legislation but we did not want to include them compulsorily.

Interestingly enough, after my letter to Charles McDonald, I made several telephone calls, on behalf of the Rally at that time, when I said, "Allow me therefore to assure you that, should you be able to show us how we have excluded the unions, we would be prepared to consider changing the proposed legislation in order to rectify the problem". As I pointed out to the house the other day, that is what happened. I believe that the intention not to compulsorily include the unions but also not to exclude them is achieved by retaining the definition of "involved unions". That has been demonstrated to my satisfaction, and I have to say to the house and to the unions in this case that I was wrong and that I am pleased that, since the Bill has been tabled and the committee report has been brought down, we have had time to learn of that mistake and are now able to implement in the legislation the intention that we have always had. For that reason I support the retention of the clause.

**MR HUMPHRIES** (11.17): Mr Speaker, I support this amendment. It may well be that my party is the only body of people in this place that does so, but I will be very proud that we have supported this amendment. We supported the original recommendation of the committee. We will not shirk from that position and we will be very pleased to go out into the community after this debate and say that we have done so, and I am sure that in the course of time our position will be vindicated.

I was particularly disappointed to hear Mr Wood's comments. Mr Wood has come from a place where the committee system is less than successful - - -

**Mr Wood**: Non-existent.

**MR HUMPHRIES**: As he says, non-existent. On several occasions since that time he has said what a great institution the committee system is in parliament and in particular in this place. It seems strange to me that the committee that Mr Wood sat on - probably the first committee that he was appointed to - should have made recommendations and that he should now be leading the charge to reject and repudiate those recommendations.

**Mr Wood**: You might ask Mr Stefaniak whether he is supporting all the recommendations too.

**MR HUMPHRIES**: Mr Stefaniak rejects only one recommendation of that committee, a fairly small one. Notwithstanding what Mr Wood has said about this not being a major issue, I think that it is, of course, a major issue. The question of "involved unions" is the central issue in this debate. Members of the committee have decided to reject the committee process; that is what they are doing - rejecting the committee process, having heard evidence from groups that came before them and put submissions to them bona fide. They now come to this place and decide that for political reasons they do not wish to accept the evidence they have previously heard. I think this is a very sad day. I do not think that I will listen to comments about our wonderful committee system from that side of the house in quite the same way again.

**Mr Kaine**: They have been "heavied" by the unions.

**MR HUMPHRIES**: That is precisely right, Mr Kaine, they have been "heavied" by the unions and have decided that it is an easier course of action to take - - -

**Mr Whalan**: Friends and brothers.

**MR HUMPHRIES**: I think Mr Whalan said "friends". That sums it all up pretty well - the Labor Party's friends. This legislation in favour of the comrades has been put up because of a relationship between the Labor Party and this Government. It is a necessary quid pro quo. The Government was committed to it long before it became the Government. We are seeing it now paying off its debts, and the whole of the ACT, particularly the building industry, will suffer as a result.

**Mrs Grassby**: They are not debts; they are the policy of the Labor Party.

**MR HUMPHRIES**: Yes, that is right, Mrs Grassby; it is the policy of the Labor Party.

**Mrs Grassby**: I am not ashamed of it.

**MR HUMPHRIES**: I would be ashamed if I were you. If you knew the sorts of things that go on at building sites around this city and this country, you would not be quite so proud of the things that this legislation will put in place. Mr Speaker, as I said, I am not convinced that Mr Wood's comment about there being general harmony in the committee is really an excuse for saying that the report of the committee should now be rejected.

I believe this is an essential amendment to make. I will support it proudly and I hope that the rest of the members of the Assembly will feel somewhat ashamed when they cast their votes against it.

**MR WHALAN** (Minister for Industry, Employment and Education) (11.21): Mr Speaker, the Government strongly opposes this proposed amendment. I think one of the most telling comments was a remark which I made in my speech in relation to this matter recently when I pointed out that, if we in the ACT pass legislation which deletes from that legislation reference to "involved unions", we will be joining a very small club of State jurisdictions that have adopted that position. The only current member of that club is the State of Queensland. I am sure that that is not the sort of company that we would like to be associated with when it comes to the question of industrial relations and relations between government and employees. So we would press that we adopt the arguments which have been made so well by my colleague Mr Wood.

In passing, Mr Stefaniak referred to the timetable for dealing with this legislation. It has in fact been some time since the Bill was originally introduced - we acknowledge that - but the time has not been wasted. Considerable discussions have taken place and there were difficulties in bringing certain members of the Assembly together so that we could discuss the matter. I do not think there is anything particularly significant about the time frame in which this has - - -

**Mr Stefaniak**: Try to get the numbers to change it.

**MR WHALAN**: I think that Mr Stefaniak, through his interjection, might be very close to the mark. In relation to the "involved unions", we originally proposed that we would simply recognise industrial reality and require employers with employees who are members of unions to consult with those unions before making any final decisions. It must be remembered that employment in the ACT is governed by the Federal Industrial Relations Commission and we have precedence in relation to these matters through that commission.

**MR KAINE** (Leader of the Opposition) (11.23): What we have here is not a question of occupational health and safety; it is a matter of the Labor Party buckling under pressure

from the trade unions - nothing more or less. As Mr Stefaniak ably pointed out, this Bill has been on the back burner for five months because the Labor Party did not like what the select committee did to its favourite piece of legislation.

I would submit that, if Mr Whalan is dead keen about making unions a party to this, he should have a definition in here of involved employer groups as well and he should require the employees to consult with the employer groups if he requires the employers to consult with the unions. If this is truly a question of making sure that people's interests are properly represented, then he would have both provisions in there, not just this one. To suggest that the trade unions are going to go away because they are not formally recognised by definition in the Bill is, of course, an absurdity. The trade unions will still be there, they will still be using their muscle, they will still be putting pressure on small businesses and small employers whether they are recognised in this Bill or not. I think that Mr Collaery's saying that he will watch this and then come up with an amendment later is another absurdity.

We should be making sure as best we can that the trade unions are not leaning on the small employer. This gives them a formal status in the context of this Bill that I do not believe they ought to have and, as I said, they are not going to go away because they are not formally registered here and given that particular and special status and recognition.

I would urge Mr Collaery and the Residents Rally to rethink their position. They should not come back and try to correct the damage after it has been done. Let us try to make sure that there is no damage, or at least keep the damage control mechanism in place and keep the damage to a minimum by not giving these trade unions a special place, a sort of token power over small business employers, by making this provision. I would ask the Rally in particular to rethink its position, support the view put forward by Mr Stefaniak on this issue and take this special provision out.

**MR BERRY** (Minister for Community Services and Health) (11.25): I think that the Liberal Party has adopted a fairly predictable stance in their approach to the - - -

**Mr Kaine**: So has the Labor Party.

**MR BERRY**: Indeed, and that is what separates us, Mr Kaine; that is the difference between the Labor Party and Liberal Party.

**Mr Kaine**: You are dead right. We do not believe in being "heavied" by the unions. That is the difference.

**MR BERRY**: Mr Speaker, I call on you for your protection. I sat and listened to Mr Kaine, and I must say that it was with a great deal of restraint that I sat there quietly and listened to the rubbish that he served up to us just a few moments ago. I seek your protection when he interjects in future.

Of course, Mr Kaine is right; the ALP's position was predictable in relation to this matter, because we care about workers' safety and we always have done. We made an issue of it in the election and I think that that was recognised by the electorate when it voted. But, of course, one of the issues that was dealt with in the election campaign was also the Liberal Party's approach to industrial relations. I clearly remember the approach taken by Mr Stefaniak on the issue of essential services legislation. He proposed to take us back into the nineteenth century, into the deep north. We were to have the sort of essential services legislation that Joh Bjelke-Petersen imposed on workers in Queensland, which, at that time, resulted in one of the highest levels of industrial disputation in Australia.

That was the sort of direction in which Mr Stefaniak and the Liberal Party were leading us. That is also the direction in which they would have us go in relation to occupational health and safety in the Australian Capital Territory. That is the direction in which they would lead us because they have not come out of the nineteenth century yet in regard to industrial relations. I must say I was rather surprised to hear Mr Stefaniak, in the light of all those previous positions of the Liberal Party, claiming to have some knowledge about industrial relations. On the basis of the sorts of admissions that he has made here today in relation to this matter, I can say for sure that Mr Stefaniak does not have such knowledge.

Mr Kaine, of course, suggested that the Labor Government was folding and buckling in the face of union pressure on the issue of occupational health and safety. Well, I have no difficulty at all with adopting a position of support for strong occupational health and safety legislation because in the last few years I can remember instances where unscrupulous businesses in the Territory forced workers to work in the most horrendous conditions, and the unions were not able to do anything about it because the workers were intimidated. I suggest that involved unions in the context of this legislation would be able to do something about it. Had we had this sort of legislation then, those workers would not have been in that situation.

But the Liberal Party, of course, would allow that to continue in perpetuity. I think it is high time that we exposed the Liberal Party for its union busting and anti-union tactics which it has taken on over the years. We should continue to expose it to the people of Canberra and demonstrate to the people of Canberra that the Liberal Party is prepared to see workers continuously injured

because of the weakness of industrial occupational health and safety legislation in the Territory.

I have no difficulty in supporting the unions in their struggle for this strengthening of occupational health and safety legislation in the Territory. I am a proud union member and always have been in my working life and I expect that I will continue to be a proud union member for the rest of my life. I think that unions have an important role to play in the protection of their members in the workplace. One of their roles is occupational health and safety. I know that unions will not back away from it, and the Liberal Party will not get away with what it is up to now.

**MRS GRASSBY** (Minister for Housing and Urban Services) (11.30): I find it fascinating that Liberal Party members tell me that they support the people, when they do not support the workers. I am concerned about those people who do not speak English and who are working in places such as Chinese restaurants. They are brought in to work in the kitchens of Chinese restaurants where they are paid a pittance for working 18 hours a day. The Liberals want to stop the unions going into these places and doing something about it.

**Mr Kaine**: Why do you not do something about it? You are the Government. It is your jurisdiction.

**MRS GRASSBY**: We are trying to do it right now and the Liberals are trying to stop us. Let us get it right. The Liberals want to vote against it.

**Mr Kaine**: That has nothing to do with this Bill.

**MRS GRASSBY**: Of course it has. This is a case where there is no union protection in a workplace for the workers.

**Mr Kaine**: They have it now. They do not need this legislation to get it.

**MRS GRASSBY**: They do need this legislation to tie it up tightly so that there is no way around it. This is exactly the problem. This is how it works all the time. There are ways of getting out of it and the Liberals are opening another loophole.

**Mr Collaery**: Did you allow your workers to open beer kegs without wearing helmets?

**MRS GRASSBY**: I opened my own beer kegs, Mr Collaery. I always believed that there should never be a boss who could not do every job his workers do. He should not expect the worker to do a job he would not do himself, including cleaning out the toilets in hotels, which I have done.

**Mr Collaery**: I have been told I am not allowed to say anything.

**MRS GRASSBY**: That is all right, Mr Collaery. I can handle you; don't worry. The Liberal Party talks about Labor looking after its mates. Let me say, Mr Speaker, that Liberal Party members have been looking after their mates for years. They talk about unions. What about lawyers and doctors? They call their organisations "associations", of course, but they are unions. Try getting your rights with the law association! What a joke! It is the same thing all over again. There are no rights. It is run by the law association, so you have no rights. It is the same with the AMA. You have no rights there. It is a union.

**Mr Humphries**: On a point of order, Mr Speaker; I do not believe there is any relevance to the subject at all in the Minister engaging in gratuitous attacks on honourable professions in this city in her usual irrelevant fashion. I would ask her to withdraw those comments as they are a reflection on all lawyers and all doctors in this city.

**Mr Collaery**: Hear, hear!

**MRS GRASSBY**: Well, of course we would hear that from two lawyers on the other side of the house, Mr Speaker.

**MR SPEAKER**: That objection has been overruled, Mr Humphries, but please stay relevant, Mrs Grassby.

**MRS GRASSBY**: I, like all the members on this side of the house, am a member of a union and have always been a member of a union.

**Mr Stevenson**: On this side of the house?

**MRS GRASSBY**: I am talking about the Government. I do not refer to you as being on this side of the house, I am sorry, sir. All members of the Government have been members of their unions all their working lives. I myself have been a member of a union all my working life, whether I owned a business or not. I would not employ people who did not belong to a union because I think that, if they cannot be true to their mates, they certainly would not be true to their boss.

**Mr Humphries**: Your father said that.

**MRS GRASSBY**: Exactly. He did. So I firmly believe in it and I firmly believe in this Occupational Health and Safety Bill. The fact that the committee did not agree on absolutely everything does not mean to say it is right. When you have the TLC representing 50,000 workers in this city I am more inclined to see their side than that of the other side of the house.

Question put:

> That the amendment be agreed to.

The Assembly voted -

| AYES, 6 | NOES, 11 |
|---|---|
| Mr Humphries | Mr Berry |
| Mr Kaine | Mr Collaery |
| Mrs Nolan | Mr Duby |
| Mr Prowse | Ms Follett |
| Mr Stefaniak | Mrs Grassby |
| Mr Stevenson | Mr Jensen |
| | Dr Kinloch |
| | Ms Maher |
| | Mr Moore |
| | Mr Whalan |
| | Mr Wood |

Question so resolved in the negative.

**MR SPEAKER**: I will just comment that there has been some dissension on the vote and I rule that the vote will be taken as called.

**MR STEFANIAK** (11.38): I move the following amendment:

> Page 4, lines 17-25, omit the definition of "registered union".

On page 4 "registered union" is at present defined as three different things. Under item (c) it is "a body that is declared by the regulations to be a registered union for the purposes of this Act". Mr Speaker, it was pointed out to the committee that, firstly, that was inconsistent with Federal legislation and, secondly, that there was some reference made to its being an unfair provision as well. There was also discussion that, if it remained in, bodies such as the deregistered BLF might be able to be declared a registered union for the purposes of the Act. It was also an unnecessary provision anyway, and accordingly the committee recommendation - and I think it was unanimous on this point - was that that particular clause be deleted.

**MR WHALAN** (Minister for Industry, Employment and Education) (11.40): From the Government's point of view, Mr Speaker, we do not see this as in any way affecting the integrity of the legislation, so we will not object to it.

Amendment agreed to.

**MR STEFANIAK** (11.41): In relation to my proposed amendment to clause 5(2) I have had advice from the legislative counsel since this schedule was prepared. I have discussed the matter with the legislative counsel and we have gone into it in some detail. Accordingly, my proposed amendment does not really take the current definition any further by adding these words "where he has been required to be so present". I am not proceeding with that particular amendment and I withdraw it accordingly. If I need to seek leave to withdraw that particular amendment, I do so.

Leave granted.

Clause, as amended, agreed to.

Clause 6 (Voluntary workers etc.)

**MR STEFANIAK** (11.42): I move:

Page 5, lines 15-28, omit the clause.

The reason for this, Mr Speaker, is that during the course of the submissions that were made to our committee it was brought up - I think very ably, especially by CONFACT - that there were problems with this particular clause covering voluntary workers. I did make mention of this in my additional comments from which these amendments that I have proposed emanated. I suggested there that CONFACT's objections to clause 6 should be accepted.

CONFACT indicated, Mr Speaker, that the section poses special problems for the private sector employers who currently offer students work experience opportunities on a voluntary basis under the guidance and supervision of the ACT Schools Authority. Given the Government's promotional strategies in the area of youth employment, inclusion of this provision in the Bill at this time will result in employers refusing to offer students these positions in the future. CONFACT recently conducted a survey on this and similar issues of concern to students and schools, the Schools Authority, coordinators, unions and others. According to CONFACT, the results of that survey indicated that employers are well aware of the safety implications and will not take on a student if there is any perceived risk of safety.

Concern was also expressed that voluntary workers who may be members of a family sharing the load of domiciliary care with a paid professional are similarly affected. It was felt that the application of this clause could cause untold damage and it is for these reasons, Mr Speaker, that I think the clause, certainly as drafted, should be deleted.

**MR WHALAN** (Minister for Industry, Employment and Education) (11.44): Mr Speaker, we do regard this as quite an important clause and we would persist in saying that it is better retained in the legislation. The important response to some of the classes of persons who have been identified by Mr Stefaniak is that no class such as he has mentioned would come under this particular clause unless it is first declared by the Minister. So that is the important thing. Those categories of persons that he referred to are not automatically deemed to be employees or employed for that purpose.

It must also be borne in mind that such a declaration is - I take you to subclause (2) - a disallowable instrument under the Subordinate Laws Act 1989. As such, it would be

subject to the scrutiny of the Assembly, and the opportunity would be there for that to be raised in that context.

I will give an example of the class of person that we might find falling into this category. It could be decided by the Government to declare volunteer firefighters who are working with the Bush Fire Council to be so declared for the purposes of this legislation. That is one category of person who could be picked up there.

In relation to work experience students, if they were ever to be declared under this particular section of the legislation I would submit that that might be totally appropriate. There is no employer who would, I think, acknowledge that he does not have a duty of care for work experience students.

**MR MOORE** (11.47): I have a more generalised point to make, Mr Speaker, about the series of amendments by Mr Stefaniak. It seems to me that we have had a committee and the committee has come to certain compromises and certain conclusions. What Mr Stefaniak is doing here is wasting the time of the Assembly and wasting taxpayers' money by bringing up all of these amendments that have already been through a scrutiny process. If, in fact, something new has come up and some of these definitions and some of these amendments are new things, then I find that perfectly acceptable. But the discussion has gone on, and he has put in his minority report in any case. Then he takes his own minority report and writes all the amendments from that.

**Mr Kaine**: On a point of order, Mr Speaker; are we debating this Bill in detail or are we arguing about the propriety of the actions of the members of this Assembly? I am not quite clear what this debate is about.

**MR MOORE**: It seems to me, Mr Speaker, that there is a relevance. The reason I am speaking about all these at once is so that I do not have to come back to each one and waste further time of the Assembly.

I will just take into account the full range of these things. We ought not, as a matter of practice, having come to our compromises in the committee, then come back to the Assembly with all those compromises, unless there is a particular reason, or something new has come up, or there has been a change. Then there is a perfectly good reason to do it.

I hope that Mr Stefaniak will recognise the point that I am making. Obviously, because they are now tabled he will speak to each of these amendments. I hope that he will keep it brief, and the rest of us will keep it brief, and we will let the numbers rule.

**Mr Kaine**: On a point of order, Mr Speaker; I presume that since Mr Moore has taken this high moral stand on Mr

Stefaniak's amendments he will take the same position in respect of the Government's, and he will vote them down too for the same reason.

**MR SPEAKER**: That is not a point of order, Mr Kaine.

**MR WOOD** (11.49): I am confident that the explanation Mr Whalan has given will satisfy Mr Stefaniak and other members in the Assembly that the interests both of the employers and of the employees have been duly considered and are protected by this clause. In commenting on that, I want to add very briefly to what Mr Moore said and to respond to comments by Mr Humphries. I believe that what I do today will be generally consistent with this report. I think there was a minor criticism, that we were going beyond the recommendations made by the committee. But I perused this blue sheet under Mr Stefaniak's name and, if Mr Humphries has a criticism, I think it might properly be made of Mr Stefaniak.

**MR JENSEN** (11.50): Mr Speaker, I rise to speak very briefly on this particular matter. I have listened with interest to the explanation given by the Minister and I have also noted the support given to the matter by Mr Wood. Not being a member of that particular committee but having served on committees with Mr Wood in the past, I have considerable respect and admiration for his objectivity in these sorts of matters. If Mr Wood is satisfied with the explanation given by the Minister in this particular matter, without having been present in those committee deliberations myself I still think it appropriate at this stage that the Rally does not support the amendment proposed by Mr Stefaniak.

Amendment negatived.

Clause agreed to.

Clause 7 agreed to.

Clause 8 (Service of documents etc. on employers).

**MR STEFANIAK** (11.52): Again, I have had discussions with the legislative counsel and I am satisfied that this amendment is not needed, Mr Speaker. Accordingly, I seek leave to withdraw it.

Leave granted.

Clause agreed to.

Clauses 9 to 11, by leave, taken together and agreed to.

Clause 12 (Annual report)

**MR STEFANIAK** (11.53): As chairman of the committee, I move the following amendment:

Page 6, line 36, add at the end the following subclauses:

"(2) The report in respect of a financial year shall be furnished to the Minister within 3 months after the end of that year.

(3) The Minister shall present a copy of each report to the Legislative Assembly within 6 sitting days of the Assembly after the day on which the Minister received the report.".

In relation to these annual reporting conditions, the committee was pleased to see a provision at clause 12 in the Bill for an annual report to be presented to the Assembly. However, the committee was somewhat concerned at the open-endedness of clause 12. The committee believed that all statutory bodies, authorities, executive departments and non-statutory bodies of the Territory should be required either by statute or executive direction to report to this Assembly on an annual basis. To this end the committee was of the opinion that all bodies established under legislation should have quite specific reporting requirements.

The committee could see no reason why bodies with reporting requirements could not furnish their relevant Ministers with an annual report within three months of the end of each financial year, and the committee was also of the opinion that the Ministers should be able to table those reports within six sitting days of receiving them.

Accordingly, the committee recommended that those bodies with statutory annual reporting responsibilities should furnish those reports within three months of the end of the financial year to which they related and that Ministers should table those reports within six sitting days of their receipt. Also, the committee recommended that the Executive should give consideration to requiring executive departments and non-statutory authorities in the Territory also to furnish reports within three months of the end of the financial year to which they relate and for Ministers to table those within six sitting days as well. Accordingly, in the schedule attached to the report we have suggested that an amendment be made to clause 12, which I have read out, to give effect to that recommendation.

**MR WHALAN** (Minister for Industry, Employment and Education) (11.56): Mr Speaker, we are opposing this particular amendment. The section requires the Minister to present a report to the Assembly during each financial year. The concern is that this adds two qualifications to that: firstly, it requires a report to be submitted within three months of the end of the year, and, secondly, it further requires that the report be presented to the Assembly within six sitting days after the day on which the Minister receives the report.

What I would submit, Mr Speaker, is that in relation to these sorts of procedures, and particularly in relation to

tabling, there is no reason why the Minister would delay the tabling of the report in the Assembly. One can reasonably expect that that would be part of his duties and that he would pursue those duties without the particular time constraint that is suggested here.

In relation to reporting within three months of the end of the financial year, the report is an important document and it is essential that the report be an accurate account of the issues and activities of the council during the year. The preparation of such a report may, in fact, conflict with a particular period of high level of activity within the council and within the area of occupational health and safety and it may be found that, because of those sorts of conflicts, in order to meet the strict three months' deadline a less than perfect report would be produced. So, what is being submitted here is that the time constraint could limit the quality of the report which was suggested. We would submit that the wording of the clause be left as it is.

**MR MOORE** (11.58): First of all, Mr Speaker, the Minister's talk about time restraint is nonsense. The amendment says "within 3 months after the end of that year". That does not mean to say that they have only three months to prepare the report. They can start preparing the report nine months ahead or whatever; there is no restriction as far as that goes. All this does is tie it down to ensure that the Assembly is given a report and it is not held over or delayed. That holdover or delay also applies to the six sitting days where a Minister might be able to, for whatever reason, hold over or delay.

I think Mr Whalan should recognise that it may not be the case that a Minister of his calibre is sitting in the Assembly over the next 10 to 20 years, or however long this legislation lasts. It could well be that a Minister, unlike the ones that we have now, might, for whatever reason or through laziness, attempt to delay it. So, with no implication for any of the Ministers now, I think it is important for this Assembly to make sure that we do have a controlling factor on the Ministers. In fact, I would like to see that become part and parcel of all legislation.

If Mr Whalan had suggested perhaps nine sitting days and had given a reasonable reason there, then the offer would be open as far as I am concerned. For a reasonable reason, I would be quite prepared to accept that, but it should be in that sort of order.

**MR KAINE** (Leader of the Opposition) (12.00): I am pleased that on this occasion Mr Moore and I are in accord on this issue. It is clearly unacceptable for the Minister to argue that three months is not a reasonable time to ask any body to produce a report on its activities. The Minister has gone to great pains, Mr Speaker, to make the point that this is very important legislation and no doubt the administration of it is going to be equally as important.

To argue that a body responsible for administering this very important piece of legislation should be free to put in a return one or two years after the event, as has often happened in connection with bodies like this in the past, is simply unacceptable. It is an untenable position.

I simply cannot support the Minister's views, firstly, that we should allow statutory officers appointed to this board unlimited time to decide whether or not to submit a report on their activity and, secondly, that no Minister would defer presenting it to the Assembly. There could be many reasons, as Mr Moore suggests, why a Minister might neglect or fail to present the report unless there were a specific provision that he do so. I think it is a very reasonable provision. It will provide proper control over the activities of this body that is being proposed by this Assembly, and I suspect that all of the reasonable members of this Assembly will vote for this provision.

**MR JENSEN** (12.02): Mr Speaker, I listened with interest to the comments by the Minister and I also listened with interest to the comments by Mr Moore and Mr Kaine in relation to this matter. The Rally agrees with the sentiments expressed by Mr Kaine and Mr Moore in this area, particularly in relation to the fact that, just because the committee report has to be produced within three months, this does not mean that they cannot do any work until the end of the financial year. We all know, Mr Speaker, that good management practices require some forward planning and forward thinking and I suggest that it is quite appropriate for that three-month period to apply in this particular case.

In closing, I would also like to make one other remark in relation to the timeliness of reports. Once again, I support Mr Kaine in his concern that Ministers may hold back on providing a report, maybe because it is making some comments with which they do not agree and they may wish to delay it for some considerable time. One report, for example, that comes to mind in relation to the ACT operations is the report that was produced on leasehold within the ACT. That has never been debated and presented before the parliament.

So I would suggest that in this particular case the most important thing is regular and timely reporting. As Mr Moore said, it should be a requirement for all reports of this nature so that they come to the Assembly in a timely fashion.

**MR DUBY** (12.03): Mr Speaker, the Minister spoke against this amendment but, to be perfectly fair to him, he lacked his usual flair and gusto in opposing it. I think it was just put up to fly the flag. He knows perfectly well that it is a reasonable thing to expect the Minister to present a report within a reasonable amount of time. The logic of the previous speakers does not need repeating. We shall be supporting the amendment.

**MS FOLLETT** (Chief Minister) (12.04): Mr Speaker, this is one of the matters that I spoke on yesterday when I put forward the Government's view on some of the more general recommendations contained in the committee's report on occupational health and safety. The reasons the Deputy Chief Minister outlined concerning the time frame for reporting by the council, really, are quite valid.

Members might report within six months of the end of a financial year, or by the end of a calendar year, whichever applies. That is generally required under the legislation which establishes those bodies or by section 30A of the Interpretation Act. So, six months is the general rule. For this annual report we are requiring a very much shorter time frame than is the general rule. I do not really believe that this is warranted in this particular case, particularly if members bear in mind that, as you say, the work of the body is ongoing.

At the end of the financial year there is a requirement that they have audited accounts prepared, and that can take some little time. As a person who has worked on statutory bodies of a variety of descriptions, I can tell you that getting audited accounts and getting a report put together and printed are not things that can be done quickly. I really think three months places quite an undue imposition upon the council and it is an imposition that is not imposed upon any other statutory body that I know of. So I would ask members to think carefully about it.

I fully accept all of the points made about timely reporting and about the necessity for the Minister to present that report in a timely fashion, but I think commonsense dictates that three months, being a very much shorter period than the general rule, is something of an imposition upon this body. In fact, Mr Speaker, very often the question of getting your printing done within that time frame could impose a degree of difficulty upon the task that would not exist if they had the six-month period.

So, Mr Speaker, I take the members' point about timely reporting, but I would ask that they do not impose upon this body the kind of time frame that does not exist for other similar bodies.

**MR WHALAN** (Minister for Industry, Employment and Education) (12.07): I would like to make a general comment which is relevant to this particular clause. One of the issues which has emerged in the form of discussion between the parties in the chamber during consideration of this legislation has been the question of the regulation making power under this legislation. In discussions with Mr Collaery he raised the fact that he had some reservations and concerns about the regulation making power. We will be discussing those later in the day when we come to clause 97.

The point that I do wish to make is that Mr Collaery has agreed with me that issues like this are worthy of consideration by the Bills committee. The Bills committee may come forward with general principles and it would probably be most appropriate if general principles were agreed upon in relation to things like regulation making power under the legislation that comes before this Assembly.

I would put into that same category the question of reporting - statutory reporting - under the legislation or under any piece of legislation. So there may be some circumstances in which a very short period of statutory reporting is required, whereas it might be decided that in general terms a standard level of statutory reporting should be adopted, so that everyone knows where we stand on the issue.

What I would be concerned about is that we take up the points raised by the Chief Minister and let this go through as it is and refer to the Bills committee this question of statutory reporting and whether there is a need for different levels of statutory reporting in different pieces of legislation.

Now, I would like to refer specifically to something that the Chief Minister has referred to. The situation is protected. The time frame is different. If the time frame is the issue that we are concerned about, then I think there is some merit in reviewing that, but in a different context from the one we are talking about here. The Interpretation Act, which was amended in 1986 to insert section 30A, does say, and the Chief Minister referred to it, in subsection (2):

> Where an Ordinance requires a person to furnish a periodic report to a Minister but does not specify a period within which the report is to be so furnished, that person shall furnish the report to the Minister as soon as practicable after the end of the particular period to which the report relates -

So there is a general requirement that it be as soon as practicable, but -

> in any event, within 6 months after the end of that particular period.

So, there is a statutory requirement that it be brought forward as soon as practicable and, in any event, within six months. Subsection (3) deals with the period requirement for the Minister to table it in the chamber and it specifies:

Where an Ordinance requires a person to furnish a periodic report to a Minister for presentation to the Parliament but does not specify a period

> within which the report is to be so presented, that Minister shall cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.

The Government's position, Mr Speaker, is that it may be appropriate to review the reporting times but that should be done in the specialised context of the Bills committee. We would urge members not to tamper with this piece of legislation but encourage the Bills committee to review the principle generally.

Question put:

> That the amendment be agreed to.

The Assembly voted -

| AYES, 12 | NOES, 5 |
|---|---|
| Mr Collaery | Mr Berry |
| Mr Duby | Ms Follett |
| Mr Humphries | Mrs Grassby |
| Mr Jensen | Mr Whalan |
| Mr Kaine | Mr Wood |
| Dr Kinloch | |
| Ms Maher | |
| Mr Moore | |
| Mrs Nolan | |
| Mr Prowse | |
| Mr Stefaniak | |
| Mr Stevenson | |

Question so resolved in the affirmative.

Clause, as amended, agreed to.

Clauses 13 to 26, by leave, taken together and agreed to.

Clause 27 (Duties of employers in relation to employees)

**MR STEFANIAK** (12.14): I move the following amendment:

> Page 11, line 22, omit the comma and the words "and welfare", substitute between "health" and "safety" the word "and".

I think this also affects my amendment No. 5 and my amendment No. 6 as all three of these amendments revolve around the word "welfare". Quite properly, clause 27(1) states:

> An employer shall take all reasonably practicable steps to protect the health, safety and welfare at work of the employer's employees.

There are penalties for not doing so which are quite severe. Welfare, though, crops up as well. It crops up in three areas in clause 27: in clause 27(1) and 27(2)(a)(ii) and further in 27(2)(b)(i). In relation to that, Mr Speaker, this is a Bill dealing with occupational health and safety. Welfare, I think, adds an additional and completely unnecessary component to this debate.

The employer should be concerned with ensuring that the workplace is safe, to enable workers to work there safely. He should be concerned with their health at work. But their welfare is an additional point entirely and, I would submit to this Assembly, is outside the whole gamut of this legislation. Welfare connotes something quite different from mere health and safety. I do not think that that should be included in this legislation. An employer cannot and should not be expected to look after the actual welfare of his employees.

Welfare could connote all sorts of personal problems. Welfare connotes a wide range of areas totally irrelevant to the workplace and totally unreasonable to put on an employer. The employer can suffer if he does not take practical steps. There are quite severe penalties - $20,000 if he is a natural person, or $100,000 if he is a body corporate - if, at present, he does not take practical steps to protect the welfare at work of his employees.

I think that is quite unnecessary. The aim of this legislation will be well and truly achieved if employers take all the steps they have to take to look after the health and safety in the workplace of the employee. "Welfare" is totally inappropriate and really should not have been there to start with. I submit that, where it appears, it should be taken out.

**MR BERRY** (Minister for Community Services and Health) (12.16): Mr Speaker, I will speak against the amendment. I think it is a bit late to raise the issue now. Apart from the point of its relevance in the Act or not, the Occupational Health and Safety Bill, of course, is a Bill for, as it says in the lead-in to the legislation, "An Act to promote and improve standards for occupational health, safety and welfare and for related purposes". That is on the first page of the legislation.

On page 2, in clause 3 of the legislation in relation to the objects of the Act, it talks about securing the health, safety and welfare of employees at work. That is subclause (a). At subclause (d) it says "to foster a co-operative consultative relationship between employers and employees on the health, safety and welfare of employees at work".

So, Mr Speaker, to remove the word "welfare" from the clause, as Mr Stefaniak is attempting to do, of course, would be completely inconsistent with the objects of the Act, which have already been dealt with in a previous debate. I think it would be most appropriate that members

oppose this because I do not think "welfare" means the sorts of services which would be provided by the welfare section of, say, my department.

I think the real issue here is that we have already adopted in the objects of the Act the relevance of welfare for employees at work. To rip it out of the legislation now would be most inappropriate.

**MS FOLLETT** (Chief Minister) (12.19): Mr Speaker, I would like to support the remarks made by Mr Berry in relation to the retention of the word "welfare". I think it is particularly worth noting that the word "welfare" in this Bill is very heavily qualified. It is welfare at work. It bears absolutely no relation to whether an employee has anything in the pantry at home or whether an employee's children have shoes. It is welfare at work.

Mr Speaker, I submit that that could relate to quite a wide range of matters at the workplace. For instance, it could relate to the morale of the work force. It could relate to the particular style of management at the workplace; whether there is undue duress upon workers; whether there is an overbearingly authoritarian attitude at work. All those things would come within the ambit of the workplace.

I believe it is totally appropriate that it be left in place in this Act. It is a qualified expression. Speaking as a woman worker, I think it is wise that we attempt to take a broader view of employees' welfare at work because, as you know, there are very many instances of incidents at work which do not relate immediately to the health or the safety of an employee but which could come well and truly into the interpretation of the welfare of an employee. As a woman, I could cite you any number of instances where that is the case.

So I would urge all members to take the broad view of welfare at work, to accept that it is a heavily qualified expression in this Bill - it is "welfare at work" - and to reject Mr Stefaniak's proposed amendment.

**MR WOOD** (12.21): This matter was discussed in the committee hearings. I do not recall that it was a matter for great debate, although I do recall that the committee made no resolution about it. But it comes up again today. My memory would tell me, and my knowledge of the attitudes of all those who appeared in the committee would confirm, that if we had asked the question - I am not sure we did - "Are you concerned for the welfare of your workers at work?", every one of them would have said, "Yes, we are". I am sure that, if this had been debated more, we would have had an emphatic "Yes" to retaining this in the Bill.

**MS MAHER** (12.22): We will be opposing the amendment. This dictionary I have defines "welfare" as:

> Person's or society's prosperous or satisfactory condition; ... efforts to make life worth living for workmen.

So I believe that "welfare" should stay in the legislation because employers have to provide for the safety, especially, say, of women at night-time, with lighting in carparks and what have you. So I believe that "welfare" should be in the legislation.

**MR COLLAERY** (12.23): The Rally supports the sentiments of the Chief Minister and Ms Maher on that issue.

Amendment negatived.

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

**Sitting suspended from 12.23 to 2.30 pm**

## QUESTIONS WITHOUT NOTICE

### Welfare Maze

**MR COLLAERY**: My question is directed to the Minister for Community Services and Health. Minister Berry, is it true that you recently spent some time in custody, and would you outline those circumstances to the house?

**MR BERRY**: Thank you, Mr Collaery, for the very well considered question. I was today able to visit a program organised by ACOSS in the ACT which was to demonstrate the problems associated with receiving welfare in the ACT. It involved a maze, one point of which involved incarceration if that was what one deserved. However, it was very clear from the outset that the Minister for Community Services and Health did not deserve incarceration, and I spent no time behind bars. But a colleague of mine in this place was incarcerated for a period. I am not prepared to name names. I understand that the incarceration was entirely deserved, but I do not think there needs to be any action taken by the Assembly because I am sure he is very repentant about the matter.

### Suburban Car Parking

**MR JENSEN**: Mr Speaker, my question is directed to the Minister for Housing and Urban Services. I refer the Minister to concerns expressed by residents groups to the Standing Committee on Planning, Development and Infrastructure regarding street parking in the inner city suburbs of Reid, Braddon and Turner. Can the Minister advise when the arrangements will be made to restrict all-day parking in these suburbs, as not only would this help to meet the residents' concerns but it would encourage

greater usage of public transport or of the many under-used public car parks in the city?

**MRS GRASSBY**: I thought that would have been Mr Moore's question, but as it was not asked by Mr Moore I will give you the answer. You will be very happy with the Chief Minister's statement that will be made in the house later. As I do not wish to pre-empt her wonderful statement, part of which I have been working on with my department, I would ask the member to please wait until that statement is made. He will be given a lovely copy of it and he will be able to have some very good bedtime reading.

## TAFE Administration

**MR MOORE**: My question is directed to the Minister for Industry, Employment and Education. I refer to reports about the creation of an additional high-level administrative position worth about $70,000 per annum in the TAFE sector. Will the Minister give this Assembly an assurance that the traditional union principle of last on, first off will apply if cuts to the TAFE budget are contemplated in future so that this position is cut before any established teaching positions are lost?

**MR WHALAN**: Mr Speaker, the TAFE system in the ACT, as a result of changes in the legislation, has gone through a fundamental and important stage of improvement. We are all aware that TAFE was identified by the Grants Commission as being one of those areas of overfunding compared to the standard States throughout Australia, and that area has been addressed in a number of ways. Until recent times we had in TAFE in the ACT three separate institutions, each with its own council and management structure. We have now had those three institutions amalgamated into one to form the ACT Institute of Technical and Further Education, the ACT TAFE.

That has gone through a period of change in the management structure and the location of courses. There has been a rationalisation of courses and a rationalisation of the sites upon which the TAFE operates. The ultimate aim of the Government is that over a long-range period - and that could be up to 10 years, taking us through to the turn of the century - we would like to see the TAFE consolidated on two, maybe three, campuses. The indications are that that would result in substantial efficiencies and improve the delivery of TAFE education. As part of that process there have been ongoing changes in the management structure, and the current position is related to those evolutionary changes as a result of the development of TAFE.

## School Closures

**MR HUMPHRIES**: My question is also to the Minister for Industry, Employment and Education. I refer to the election policy issued by the Australian Labor Party in the ACT which reads in part, "in general, no school will be closed or amalgamated unless the school community agrees". Will the Minister confirm that this principle applies to preschools, and will he confirm that no preschool will close unless the preschool community agrees? If the Minister is unable to supply a clear yes to that question, can he outline what in his view distinguishes preschools and schools on this issue?

**MR WHALAN**: There are a number of distinctions between preschool education and early childhood education in the schooling system as it is presently structured. There have been suggestions from certain responsible quarters for changing some of the boundaries between early education so that there is greater integration of what we currently recognise as preschool education and the lower grades, what used to be called the infant grades. For organisational reasons, but mainly based on sound educational reasons, there seems to be one argument for developing a particular area of early childhood education which would pick up some of the existing school system. The fact is that there is a fundamental difference between the school system and the preschool system. Schooling is compulsory in the school system - - -

**Mr Humphries**: I raise a point of order, Mr Speaker. I did not ask the Minister to explain the difference between preschools and schools. I am merely asking him to explain whether or not the principle that schools must be consulted before they are closed applies also to preschools and, if the answer to that is not yes, to explain the difference between those two situations.

**MR SPEAKER**: Minister, the question is obvious, I believe.

**MR WHALAN**: Thank you, Mr Speaker. The essential distinction is that they are different management systems and that schooling is compulsory whereas preschool education is not. As to the question of consultation in relation to closures or amalgamations, the Government is committed to consultation. I would refer members to one of the recommendations of the Chase committee report. They might recall that the Chase committee report came out of the controversy surrounding attempts by the Commonwealth Government to introduce a preschool fee and the - - -

**Mr Humphries**: Answer the question. I do not care about the Chase report. Just answer the question.

**MR WHALAN**: In fact, it is relevant, and I will show you why it is relevant in a moment. The Chase committee was an inquiry which came out of the controversy surrounding the preschool fee. The Chase committee - which included

representatives, by the way, of the Teachers Federation and the Preschool Society - sought to identify savings that could be made in the cost of operation of the preschool system. To quote from page 31 of the report, "The Committee has reached the conclusion that, given due regard to the ease of access consideration, there is a case for a number of existing single unit part-time preschools to be amalgamated with a neighbouring preschool to create a full-time unit".

**A member**: But the qualification is the access.

**MR WHALAN**: Yes, that was an important qualification. The committee advocates close consultation with the Canberra Preschool Society and the communities affected by such amalgamations. The process of consultation which is being undertaken at the moment in relation to this issue is that the Department of Education has been in close contact with the area preschool advisory committees, which are made up of parents representing the preschools, very dedicated people interested in the future of preschool education - - -

**Mr Collaery**: I rise on a point of order, Mr Speaker. The community wants to ask questions in this hour and we are getting into speeches again from the Minister. It is an important topic, admittedly, but if he has a speech to make he should make it under ministerial statements. Yes or no would suffice.

**MR SPEAKER**: Please be brief, Minister.

**MR WHALAN**: I will finish, Mr Speaker, but I will not be told how to answer the question by the members of the opposition. The process of consultation will extend to include members of the Preschool Society and, indeed, members of the ministerial schools consultative committee.

**MR HUMPHRIES**: I ask a supplementary question, Mr Speaker. Minister, I ask once again, in simple terms: will you confirm that no preschool will close unless the preschool community agrees?

**MR WHALAN**: Mr Speaker, I have quoted to you the approach to this matter which has been recommended by the Chase committee report. The Chase committee report is quite clear. It has recommended an approach to this matter, and in relation to the amalgamations of preschools that is the course which not only do we intend to adopt but which we are adopting at this moment.

## Welfare Maze

**MR WOOD**: Mr Speaker, I am prompted by Mr Collaery's question earlier to direct another one to the Minister who has responsibility for welfare in the ACT, the Minister for

Community Services and Health. I ask this very seriously. Mr Berry, did you think, as I did, that there was something to learn there this morning, and is there any message to you and your department as a result?

**MR BERRY**: The function was, as I mentioned earlier, arranged by ACOSS and it was, I am sure, meant to demonstrate to politicians and other people from our city the difficulties which are faced by welfare recipients. The maze was symbolic of the difficulties that welfare recipients are forced to address when they find themselves in those circumstances. Some of us went there as observers and we were accompanied by minders who were allegedly in various poor circumstances. The young woman that I went with was abandoned with three children and ostensibly no money. She acted out the role very well.

First of all, we went to the ACT Administration, or a bench which was supposed to represent the ACT Administration. Then we went on through the various phases and ended up getting to the welfare queue, which was, of course, the longest. We were harassed by various people along the line to demonstrate and clarify the strain under which welfare recipients have to exist when they are placed in those circumstances.

**Mr Jensen**: And the staff as well.

**MR BERRY**: And the staff as well. I think that is an important point, Mr Jensen. The staff of welfare organisations are placed under a great deal of stress. As a first issue, I would like to make sure that there is some sort of statement from me at least which demonstrates our commitment to the staff who work in those areas, and work very hard and under very difficult circumstances. But I think it was most important for the politicians from this place and from the hill to see the difficulties under which welfare recipients have to function. I think that would be most important for our Liberal colleagues opposite and the Liberal and Country Party people from the hill, particularly in the light of their recent announcements on taxes.

**Mrs Grassby**: The National Party. They keep changing their name.

**MR BERRY**: They become so unpopular they have to. I think it would remind them of the stress and strain that regressive taxes will place on the Australian people. I saw Mr Humphries over there and I am sure that he is aware of the circumstances that were demonstrated. I am sure he is very concerned about the policies of the Federal coalition and what they are going to do - - -

**MR SPEAKER**: Order! Would the Minister please speak to the point?

**MR BERRY**: In short, Mr Speaker, there was a lot for me to learn. One needs to be reminded of the circumstances of all of the players in the welfare area and one needs to be able to address those issues with some compassion which is learned out of real circumstances. I welcomed the opportunity to be there.

## Payroll Tax

**MR COLLAERY**: Mr Speaker, my question is directed to the Chief Minister in her role as finance Minister. Chief Minister, in view of the protestations of consultation just made by your colleague Mr Whalan in relation to preschool education, could you outline to the Assembly the consultative processes you undertook in relation to the Payroll Tax (Amendment) Bill, with industry in particular? Would you not agree that there has been some breakdown in the consultative arrangements, if any, that you entered into?

**MS FOLLETT**: I thank Mr Collaery for the question. Mr Speaker, could I say at the outset that the consultative nature of our budget was a unique circumstance; I think it is the first time it has ever been done. It was, in fact, a genuine attempt on the Government's part to obtain the views of the community on our proposed budget. It was a risky measure and involved us in a great many discussions, negotiations, demonstrations and so on from any number of quarters in the community.

I would like, if I may, on this particular matter to refer to the budget initial statement concerning the matter that Mr Collaery raised, which, of course, is the Payroll Tax (Amendment) Bill. In that initial statement, the exact words that were used - and I will repeat them because they are pretty specific - were:

> The Payroll Tax Act will also be amended to close off existing avenues of avoidance and to clarify employers' obligations. Employers will be required from November 1989 to declare for payroll tax purposes a wider range of payments including termination payments and non cash benefits. As well, schemes which involve payments for services provided by an employee made to or by third parties, such as employment agencies will be covered. Further, schemes involving family, partnerships, companies and trusts which are interposed to blur employer/employee relationships will be caught under proposed changes to the Payroll Tax Act.

Mr Speaker, that document was presented on 25 July 1989.

**Mr Collaery**: Why did not you circulate your detailed proposals then?

**MS FOLLETT**: Following that, the front page of the Canberra Times, in its excellent reporting style, carried precisely the same story. I do not believe it is possible that anybody could have misunderstood that. However, following that, Mr Speaker, as you know, the Government formed a budget consultative committee which included representatives of the business sector. That budget consultative committee met on a number of occasions, and CARD was on that committee. It raised its concerns about payroll tax generally, but there were no specific concerns raised in relation to those matters there.

**Mr Collaery**: You did not give us a specific proposal.

**MS FOLLETT**: The peak organisations which did make submissions to the budget consultative committee were CARD, the Master Builders Construction and Housing Association and the Building Owners and Managers Association. None of them specifically raised any concerns about the announced payroll tax measures, although I would put it to the Assembly that the wording that is contained in the initial budget statement makes abundantly clear the intention of the legislation that is currently before us.

Subsequently there were discussions which took place between Treasury officials and representatives of the Australian Society of Accountants, the Institute of Chartered Accountants and the Law Society. The proposals were discussed in detail. The reason for the discussions taking place between those bodies was that they represent the principal advisers to employers in respect of payroll tax obligations, and they were therefore considered to be the most appropriate bodies to provide comment on the implementation of the proposals. There was also a meeting with the Motor Trades Association, which was convened specifically to discuss the proposals for motor vehicle traders to collect tax on the sales of vehicles, but all of the revenue proposals were canvassed at that meeting.

An invitation was issued by the ACT revenue office to CARD to attend a briefing specifically on the revenue proposals of the budget, and that meeting was arranged for 9 August. CARD cancelled the briefing at short notice and advised that it would seek to reschedule it if it were required. The meeting was not rescheduled. Treasury officials attended meetings with CARD to discuss the Government's proposals generally, but again there were no specific objections raised. More recently, the under treasurer met with Messrs Winnel, Snow and Kleinig on 12 September to discuss the budget, but again specific objections were not raised to the revenue proposals.

Again, today, there have been further meetings between Treasury officials and CARD and some of its associated organisations. Once the particular concerns that had been raised were brought to light we were at pains to have them discussed. But it must be said that the general intention

has been known since 25 July. This Bill has been on the notice paper for a month, and it is only in the last couple of days that people have raised any specific concerns.

I do not see any reason why the business sector should be singled out for special treatment. It is a fact that the unions, the Teachers Federation, the preschool people, the Galilee people, the welfare sector, all took this document, examined it in detail and raised their concerns in detail through the formal budget consultative process and informally with the Government, with all members here. I do not see any reason why the business sector people should have special arrangements made for them. They have had adequate opportunities to put forward their views. It is only in the last few days that they have chosen to do so, and Treasury officials spent some time today in trying to meet their concerns.

**MR COLLAERY**: I ask a supplementary question. Chief Minister, when you issued the invitations to discuss did you at the same time outline the very detailed proposals that went beyond loophole closing?

**MS FOLLETT**: Mr Speaker, I think I have answered that question by reading what the proposal is.

**MR COLLAERY**: The question is, and I will repeat it: when you issued the invitations to industry did you give the detailed proposals you had in mind, or did you just rely on the statement from the budget paper?

**MS FOLLETT**: The Bill, as I say, has been in existence for a month now. That contains all the detail that there is.

**Mr Collaery**: Did you send that to industry?

**MR SPEAKER**: Order, Mr Collaery! Please proceed, Chief Minister.

**MS FOLLETT**: Thank you, Mr Speaker. As I say, the Bill has been on the table in this Assembly for a month; it contains all the detail to which Mr Collaery refers; and the general intention of this amendment has been well canvassed and well known since July.

## Assembly Car Pool

**MR DUBY**: Mr Speaker, my question is directed to you as Speaker of this Assembly. I refer to a statement made today by Dr Kinloch at a demonstration protesting about preschool cuts, to the effect that the three Residents Rally members would no longer avail themselves of the use of the Assembly car pool, with the effect that three vehicles may be disposed of and the money thus realised put towards the general education budget. Have you received any confirmation in writing to this effect? If not, will

you take any action on this matter? If you do receive confirmation of the Rally's intention in this regard, will you dispose of the pool vehicles allocated to the Residents Rally and what will you do with the proceeds? Finally, how will you view future requests from Rally members to you to authorise access to other Administration car pools, as was the case in the past?

**MR SPEAKER**: With respect, budget management is obviously not Dr Kinloch's forte. The vehicles belong to the Assembly car pool and not to individuals. I will write to the members concerned requesting written clarification of their needs. I will at the same time inform them that vehicles will not be available from any alternative car pool. On receipt of their written submission, if I find that I have vehicles in excess of requirements in the Assembly car pool, I will gladly sell the vehicles to the ACT Administration and the money so recouped I will spend on additional equipment and building alterations which have resulted from the recent Residents Rally shake-up. I suggest that Dr Kinloch's statement was in error, with respect.

## Tuggeranong Office Accommodation

**MR MOORE**: My question is to the Minister for Industry, Employment and Education, and when he answers it perhaps he would also answer the last question I asked, which was about the last on, first off standard union principle. The question I have now refers to the move of his department to Tuggeranong. Whilst I endorse the principle of moving an administrative department away from Civic and out into Tuggeranong and the advantages that that would have, I wonder whether he has taken into account the impact that it will have on the schools division by breaking it into the OEC, Griffith section, Deakin, accrediting agency, regional offices, several of them, Macarthur House and then his own Civic offices.

**MR WHALAN**: In relation to the transfer of accommodation to Tuggeranong, I can say that a number of factors have influenced the decisions in this direction, not the least of which is the Government's commitment to proceed with the Civic Square redevelopment project, which will require the demolition in 1990 of both the North and the South Buildings, both of which contain elements of my department. Also the Government is committed to the location of elements of government throughout the town centres of the ACT. I would have thought that Mr Moore would have seen this as being a most commendable move in terms of relieving pressure in the inner city area, because that is the inevitable consequence of such a move as that. The effect of the move will be to ensure that services to the school system are maintained. The other office which is going out there initially is the office of sport, recreation and racing, which is a discrete unit and there will be plenty

of opportunity, I think, for the member to observe the benefits which will accrue. Not least among those benefits which will accrue will be substantial savings in rent because the rental arrangements in Tuggeranong are most attractive compared to other parts of the city.

**MR MOORE**: I have a supplementary question, Mr Speaker. Considering in particular the role of educational consultants, will the Minister carefully investigate the impact of such a move if we separate them from library facilities, from a central location which is important for that particular role, and from administrative functions? Would he consider moving the administrative section of that department rather than the schools section?

**MR WHALAN**: Yes.

## Payroll Tax

**MR KAINE**: I would like to pick up on a question that Mr Collaery asked earlier and address a couple of questions to the Chief Minister. They are quite specific questions. We hear a great deal about this Government's openness and consultative approach. Chief Minister, at any time since the Payroll Tax (Amendment) Bill was laid on the table, at any time before 8 o'clock this morning, has the Government attempted to discuss with the major employer organisations in this city the content of that Bill, to explain to them the nature of the Bill and why it is being put into place? If not, given this commitment to consultation and openness, what was the Government afraid of in taking this matter up with the major employers in this city?

**MS FOLLETT**: I believe that I have already answered the question as to the consultation process that took place on the proposed amendments to the Payroll Tax (Amendment) Bill.

**Mr Kaine**: I am talking about the detail of the Bill itself, not the general intent of it, which you talked about before.

**MS FOLLETT**: I think I answered that when I said that the Bill has been on the floor of this Assembly since September, the exact date I forget, but it is about a month ago. To answer Mr Kaine's second question about what am I afraid of, the answer is "nothing". In looking at the amendments, we are seeking to close loopholes in the payment of payroll tax, we are seeking to abolish the kinds of scams that have led to non-payment in some instances of payroll tax, and we are seeking in short to correct a question of tax avoidance. I am not afraid of that.

**MR KAINE**: I ask a supplementary question in clarification, Mr Speaker. Am I to understand, Chief Minister, that some time between the date that the Bill was tabled in this

house and 8 o'clock this morning you did enter into discussions with industry on the details of this Bill? Is that what you are saying, or is that what you are not saying?

**MS FOLLETT**: I have answered that question, Mr Speaker.

**Mr Kaine**: She has not, I submit, Mr Speaker. I would like an answer to my question.

**MR SPEAKER**: Order, Mr Kaine! You have been answered by the Minister.

**Mr Kaine**: She has not answered the question yet again, Mr Speaker.

## Kingston Foreshores

**MRS NOLAN**: My question is also to the Chief Minister but in her role as Minister for planning. Back in July, a motion was passed in relation to the Kingston foreshores site. What work has been done to that for that reference by the Government and when will the Government be referring the preliminary investigation to the planning committee?

**MS FOLLETT**: I thank Mrs Nolan for that question. Yes, I do recall the question of the possible development of the Kingston foreshores. I think that the proposal at that time was that the Assembly's committee have a first look at the proposal, but in turn it was the wish of the Assembly that the Government come forward with a proposal to put to the committee. I think it is best if I undertake to check up on any progress that has been made on that matter and take the question on notice.

## Tuggeranong Development

**MR JENSEN**: My question is directed to the Minister for Community Services and Health, Mr Berry. I refer the Minister to recent concerns expressed by community groups in the Tuggeranong Valley View about the development and construction, or lack thereof, of the Tuggeranong Community Centre, or town hall, as it is sometimes referred to. Can he advise whether there is now a proposal to delete the community theatre from that project?

**MR BERRY**: I thank Mr Jensen for the question. Yesterday at the luncheon break I met a group that are concerned with the community project and we discussed a number of problems which have prevented the project from going ahead. I have not read the article in the Valley View but I have given an undertaking to the group concerned that I will examine the matter closely with a view to getting the project moving as quickly as possible. I should say that no decision has

been taken about the ultimate form of the project at this stage.

### Housing Interest Rates

**MR WOOD**: To continue the welfare theme, I would like to direct a question to the Minister for Housing and Urban Services. Minister, has your department had many people applying for the safety net help for people who are in danger of losing their homes because of interest rates?

**MRS GRASSBY**: We have had about 10 applications. Members on the other side of the house and also Federal members will have received forms that they can give out to people with this problem. We have had 10 applications which are being processed - - -

**Mr Kaine**: Not so, Minister. I do not know what you are talking about.

**MRS GRASSBY**: I am sorry; they were to be sent out to you. I will check and find out what happened. I asked that they be sent to your offices.

**Mr Kaine**: Can I be number 11?

**MRS GRASSBY**: Whatever you like. Some serious things have come out of it. We had one application where the people concerned owe $176,000 on their house, their repayments are over $2,000 a month and their income is only $600 a week.

**Mr Kaine**: How did they get the loan in the first place?

**MRS GRASSBY**: Exactly, Mr Kaine; that is exactly what I said when I saw it. I thought that there was some irresponsibility by banks and building societies. Obviously it was in an area where houses were display houses and were being sold. I think the particular building company was pushing to sell the houses and was organising loans for people who obviously could not afford them. I think this is very serious and I would like to see this case looked into. People should not be put that far into debt if interest rates do go up. This was one of the most shocking cases that I looked at, because the people could not have afforded the house in the first place.

### Reusable Containers

**MR HUMPHRIES**: My question is to the Minister for Industry, Employment and Education in his capacity as the Minister responsible for the Milk Authority. It concerns the authority's decision to introduce the one litre non-reusable milk bottles into supermarkets on a trial basis. I also note that 600ml bottles which can be recycled have

been introduced into some other supermarkets in Canberra. What guarantees can the Minister give the Assembly that the Government, through the authority, will promote the use of glass bottles in Canberra and will give at least equal emphasis to the use of the recyclable 600ml bottles? Does the Minister acknowledge that it is far preferable to the community for the community to purchase the 600ml reusable milk bottle rather than the one litre non-reusable bottle?

**MR WHALAN**: We often find that one solution to a particular environmental problem in itself creates further problems which have to be addressed. We acknowledge and recognise as an environmental problem the fact that there are produced through the garbage tins of Canberra hundreds of thousands of two litre plastic bottles, which are in no way recyclable, other than by those people who hopefully fill them up with water thinking they will discourage dogs from wetting on their front lawns - another one of the great urban myths.

At the same time the cardboard cartons used for the smaller sized container provide similar problems. They are largely not recyclable, they use up our limited timber resources and they create a problem. If we are going to solve these problems by encouraging people to use recyclable containers, the question then arises as to which is the best way to achieve that recycling.

At this point of time, through the experiments which we have undertaken in the ACT in relation to milk containers, the smaller container is recycled after cleaning. The larger container is recycled by being destroyed and melted down and then recycled after remanufacturing.

The three processes involve using the non-recyclable plastic and cardboard containers, the washed bottles approach or the breakdown and remanufacture approach.

**Mr Humphries**: Which is the most expensive?

**MR WHALAN**: I would expect that the breakdown and remanufacture would be the most expensive in terms of cost to the consumer. There are certain advantages - environmental advantages - because the components which are used to wash and sterilise the 600ml bottles enter the system. They include chemicals which do not necessarily break down readily, they create costs and they enter the ecosystem through that process. So there are advantages and disadvantages in all those processes. The matter is under continual review and I think we should congratulate the Milk Authority on its initiatives in this direction.

**Mr Humphries**: So what is the answer to my question?

**MR WHALAN**: What was the question?

## Aged Persons Units

**MR COLLAERY**: I address my question to the Minister for Housing and Urban Services. Minister, I refer to a recent Gazette notice which shows that a contract was let for the design of eight aged persons units in Ainslie to a Tasmanian firm. Minister, will you inform the Assembly of the selection criteria used to select design agents and will you advise whether there are any additional costs incurred in using non-local agents?

**MRS GRASSBY**: I will have to get back to Mr Collaery on that question because I do not have the answer to it.

## Mowing Equipment

**MR STEFANIAK**: My question is also to the Minister for Housing and Urban Services. I asked the Minister some time ago about the purchasing of five Hustler mowers.

**A member**: Oh, no!

**MR STEFANIAK**: I hope this is the last question I have to ask about these damned mowers, but have those mowers been delivered yet?

**MRS GRASSBY**: I have the answer - and I know what a dolly is now. It is the axle with the extra wheels that you put under a very heavy truck so you can put more weight on it. It is not something you get when you are a little girl.

**Mr Kaine**: What has that got to do with Hustler mowers?

**MRS GRASSBY**: He asked me what a dolly was.

**Mr Kaine**: That was a week ago. He is asking you about Hustlers now. What is a Hustler?

**MRS GRASSBY**: Well, I am about to answer that, please, Mr Kaine. You know, you have to be patient in this world. I mean, men have very little patience. It is always seen in women, but never in men. Mr Stefaniak, I will have to find out whether they have been delivered, but I do have an answer to your other question which I will deliver to you after question time.

## Preschool Education

**MR MOORE**: I wish to thank the Chief Minister for being so patient after a couple of long speeches by her Ministers - so far!

**A member**: She has to be, hasn't she?

**MR MOORE**: Exactly. My question is directed to the Minister for Industry, Employment and Education, and in this case preschool education. Last night Dr Willmot gave an assurance to a meeting of preschool parents that the cut-off viability figure of 17 was the point at which preschools would be closed, or not closed, and that was reported in the Canberra Times this morning. In your speech today to parents you have implied that there is no such figure or that such a figure has no real relevance. I wonder whether you could explain that discrepancy between your two views.

**MR WHALAN**: I thank Mr Moore for the question. There is no discrepancy whatsoever between what Dr Willmot said last night to a meeting in relation to preschools in the Belconnen area and what I said today to a rally of parents in the plaza in front of the Assembly. I think it is important that I report to the Assembly Dr Willmot's account of what he said last night, and I will then mention briefly what I said today. You will see that there is no discrepancy between those whatsoever. Dr Willmot said:

> I spoke first and explained the problem that we have with declining enrolments and an increasing cost as a result of vacant places. I said this was a special problem in the preschool sector and pointed out that notwithstanding cuts expenditure on the preschool sector was $224,000 above that of last year. I went on to say that the Government was involved in the consultative process with a view to determining a better way to manage the operation of preschools, relating to the need to either reduce full-time preschools to part-time status and some part-time preschools to be decommissioned and the student body amalgamated with another preschool. During questioning I said that once enrolment reached 25 it was our normal practice for preschools to become part-time and once enrolments went below 17 they would certainly discontinue operation as a preschool in the urban area. I was asked what the level of viability was and I repeated that for part-time preschools to stay open they must have more than 17 students. A further question was asked, "Does that mean that all preschools with more than 17 should stay open?". I said that in general yes, but we still have to address the problem of vacant spaces within the whole regions. There were numerous questions on methods of deciding which preschools should be allowed to fall below 17 since enrolments can be attracted from one to another and in response to all of these I said that we had asked the area preschool advisory groups to assist with these decisions.

That is essentially what was reported by me today, when I said to the gathering in front of the Assembly that under the guidelines which have been in existence for eight

years - that is, five plus three - two issues are dominant. These are, firstly, that of enrolment at individual preschool and, secondly, that of regional capacity and vacancy rates.

Under the first guideline if enrolment of any individual preschool falls below 17 that preschool is closed. However, the converse does not necessarily hold. Enrolment of an individual preschool being above 17 does not automatically mean it will stay open because the second issue is that of occupancy and vacancy rates within the region. To illustrate this point clearly, within one region, namely Belconnen south, there are currently anticipated 80 preschool vacancies for which staffing and other resources would have to be supplied if no amalgamations were to occur. Quite clearly, the statement that I made today is quite consistent with the statement made by the director of education, Dr Willmot, last night.

**MR MOORE**: I have a supplementary question, Mr Speaker. Considering the nature of preschool parents, with both parents working or being at home with a number of children, the fact there are social justice considerations to - - -

**MR SPEAKER**: Order, Mr Moore! I do not believe that is a supplementary. I think we are being misled on what a supplementary question is. It has to do with the first question only.

## PRESENTATION OF PAPER

**MS FOLLETT** (Chief Minister): Pursuant to section 25(4) of the Australian Capital Territory (Self-Government) Act 1988, I table a statement in relation to the availability of the Gaming Machine (Amendment) Act 1989 at the Commonwealth Government Bookshop on the day the law was notified.

I present the following paper:

Australian Capital Territory (Self-Government) Act - Non-availability of law - Statement - Gaming Machine (Amendment) Act 1989.

## INTEGRATED TRANSPORT STRATEGY
### Ministerial Statement and Papers

**MS FOLLETT** (Chief Minister), by leave: The Government gave an election commitment to the people of Canberra to develop an integrated five-year transport strategy for the ACT. Today I am releasing a discussion paper, Transport ACT, which sets out the Government's policies on transport in broad terms. In keeping with our commitment to community consultation, the paper seeks public debate on the issues

addressed by the strategy. We are seeking community input into the long-term transport planning decisions that need to be made.

The transport system of any city is a critical element of its lifestyle. An efficient and effective system is necessary to all aspects of city life. The Government is concerned that the residents of Canberra are informed of the issues and have the chance to influence outcomes. Through this process the Government seeks community support for the changes which it believes will be necessary.

The consultation paper has been prepared at a time of growth and development in Canberra's urban centres and of its traffic and transport systems. The Government believes it is important that Canberra has an integrated and planned direction for the future development of transport, to maintain the reality of a city in harmony with its natural environment.

The Government believes that an acceptable strategy must take account of environment and amenity in town centres and neighbouring suburbs; growth in air and noise pollution associated with private car use; traffic congestion and parking problems in residential areas; wider environmental issues, such as the greenhouse effect and the consumption of non-renewal resources; access to town centres to continue to support economic viability of businesses and future developments; access to town centres and Civic to support the growing tourist industry; the need to contain total government expenditure on transport; and more efficient use of private transport.

The Government intends that this strategic view will be translated into action in consultation with the community. The Government recognises it will take time for community travel patterns to change and that further improvement in public transport, such as the purchase of additional buses, will also require some time.

Traffic pattern modifications will be phased in progressively to allow people time to adjust to new routes and to new priorities on the roads. The change in priority from expenditure on roads and car parking infrastructure to public transport and pedestrian facilities must take time.

It is not only the responsibility of the Government to ensure that the principles of the strategy operate to improve Canberra's transport system but also a responsibility of the community. The aim of the Government's strategy is to reduce congestion and improve access to town centres now and in the long term. This will only be fully achieved with the cooperation and support of the community.

Mr Speaker, there are particular pressures on Civic, and this area will be the initial priority. Improvement of the public transport system is one of the major targets of the

transport strategy. The Government wants to make public transport a more attractive proposition to the commuter, thereby reducing the use of private vehicles within a financially responsible framework. People are often unaware of the very high expenditure incurred simply in maintaining the current road system, which costs $16m annually. Building more and bigger roads would increase this cost.

Similarly new car parks are very expensive - up to $3,000 per space in a sealed carpark or $10,000 per space in a parking structure, in addition to land costs. Commuter car parking in residential areas is a matter where the Government must balance the competing interests of protection of residential amenity and the need of all the community for access to town centres and Civic. The Government therefore proposes further restriction of commuter parking in residential streets and introduction of fees in some cases. Improvement of traffic management to encourage the use of public transport, multi-occupancy vehicles, and giving pedestrians priority in town centres is also an important priority.

My colleague the Minister for Housing and Urban Services, Mrs Grassby, and I have today announced new public transport charges and parking fees which are consistent with the overall policy direction proposed.

Future planning is an integral part of the Government's transport proposals, and there will be a need to address the transport implications of new developments and alternative employment centres. The early reservation of road and public transport routes will be an important part of incorporating transport planning in new developments.

The Government will also be releasing a discussion paper on the issue of contributions by developers or leaseholders to the costs of additional town centre access and providing parking. Total metropolitan transport matters and issues such as arterial and regional road location will be addressed in the Territory plan currently being developed by the Interim Territory Planning Authority.

It is appropriate that our discussion paper is being released at the same time as the National Capital Planning Authority is releasing the outcome of the Gungahlin external travel study. The Government has not yet considered the National Capital Planning Authority proposals, but will do so over the next few months against the framework of community response to our overall transport strategy.

The development of transport access to Gungahlin through public transport and through new and improved roads is a major financial issue. The full range of decisions is not required for several years, depending on the rate of settlement of Gungahlin. A critical consideration will be the extent to which the Commonwealth assists in financing the national capital aspects of these proposals.

I encourage the community to comment on the consultation paper, Transport ACT, so that the Government can ensure the development of a comprehensive strategy that takes full account of public opinion. General comments should be directed to my department and specific comments should be directed to the agencies concerned. The process of consultation will be at two levels. The first will be at a general community level. Because of the long-term nature of the proposed strategy, the Government feels it is essential for the community to have an input into a policy that may involve significant changes to commuting habits, access to town centres and adjustments to new traffic arrangements.

We will be seeking comments from community groups, residents, business proprietors and other interested or affected groups. Community input on the proposals and the strategy will be welcomed and encouraged. At another level there will be consultation on the specific issues to be addressed in the strategy, such as new bus routes, fare structures, or car parking locations in residential areas.

Briefing meetings with members of the Legislative Assembly and interested groups will be arranged to outline how the issues in the strategy interrelate and its longer-term implications. These briefings will also cover the mode of implementation of the strategy, particularly of measures such as car parking controls in residential areas. There will also be a pamphlet drop on all cars parking in the Reid, Braddon and Turner area giving a basic outline of the strategy and encouraging people to obtain copies of it. The same pamphlet will be dropped in letterboxes of houses in the affected parts of Reid, Braddon and Turner.

Following the release of Transport ACT, the Government will make a final report back to the Assembly in the new year after the conclusion of consultation. I believe that a proper informed debate will result in the development of an integrated transport strategy that will provide Canberra with an affordable, accessible, efficient and equitable transport system into the 1990s. Mr Speaker, I present the following papers:

Integrated transport strategy - Ministerial statement, 26 October 1989.
Transport ACT - Consultation paper, October 1989.

I move:

> That the Assembly takes note of the papers.

Debate (on motion by **Mrs Nolan**) adjourned.

## CHILDREN'S WEEK
## Ministerial Statement and Paper

**MR BERRY** (Minister for Community Services and Health), by leave: It gives me great pleasure to draw the Assembly's attention to the fact that Children's Week is being celebrated in the ACT this week. In doing this I would particularly like to highlight the area of children's day care services.

ACT Children's Week began as a child-care week in 1975 and is now celebrated around Universal Children's Day. Universal Children's Day was proclaimed by the United Nations General Assembly in 1954 as a day to promote friendship and understanding among the children of the world. UNICEF has been charged with the task of developing the concept world-wide. Universal Children's Day is now observed in 149 countries around the world as an annual day for world-wide fraternity and understanding among children.

All States of Australia observe Children's Week during October, with special emphasis being placed on Universal Children's Day on the fourth Wednesday in October. Children's Week committees throughout Australia receive small grants from the Federal and some State governments. The convening body in the ACT is the ACT Children's Week Committee, which is made up of community volunteers and government departmental representatives. The Chief Minister is honorary president of the committee. The committee coordinates the program in conjunction with ACT community organisations and individuals. My department provides assistance to the committee by providing secretarial support. The committee aims to celebrate childhood and to focus on children's accomplishments, needs and rights.

Children's Week reminds us to make genuine efforts to engender a community feeling of pride and protectiveness, so that our children live and develop in security and grow to enrich our future society. This year I am pleased to note that some 120 activities have taken place in Children's Week in the ACT. This represents a tremendous effort on the part of many people.

These activities are directed at children, parents, carers, teachers and others involved in children's services. Children's Week focuses on educational programs, for example, art and craft, road safety and storytelling; recreational programs, for example, picnics, walks, films and musical events; multicultural programs, for example, international food festivals, cultural awareness, folk dance and plays. It is also directed towards increasing the public's awareness of existing programs.

At this point, Mr Speaker, may I draw your attention to the Federal Labor Government's commitment to the elimination of child poverty in Australia.

**Mr Kaine**: They are running out of time, Minister.

**MR BERRY**: Well, child-care and poverty, Mr Kaine, will never be ruled out if the Liberal Government gets its way with its proposed tax policy.

**Mr Kaine**: It will fix it inside a year.

**MR BERRY**: It will fix it all right - it will entrench it. Such is the commitment of the Liberal Party to social security.

**Mr Kaine:** We are committed to consultation and open government, like you.

**MR SPEAKER**: Order!

**MR BERRY**: Later on, Mr Kaine, I will get to a little bit of consultation and I will be able to expose the lack of commitment on your part.

To date the Commonwealth Government has moved towards achieving this goal through income support measures, namely, the family allowance supplement, which has steadily been increased since its introduction in December 1987, and the Child Support Agency, which ensures that parents coping alone with the responsibility of bringing up children actually receive child maintenance payments from their former spouse. The provision of affordable, accessible, quality child-care is an important issue for this Government.

This Government is pleased to be a partner in the Commonwealth Government's children's services program. This program aims to target child-care provision for working parents. It is important that all working parents have access to affordable care, and the Commonwealth program assists in this by providing fee relief for those who cannot afford full fees. One wonders what the Liberals will do with this if they ever find themselves in the position, which I doubt, to implement their tax policies.

However, Mr Speaker, it is not only these working parents who need access to a range of children's day care services, and my department's children's services program aims to complement the Commonwealth program by providing places for those who require care for reasons other than work force participation. Reasons for this could be study, medical appointments, a range of welfare matters and for respite.

Quality child-care is important for children and parents alike. Children need to have access to the kinds of quality care, service arrangements and environments which will foster their full development. All parents should have access to the kinds of supportive arrangements they require to meet their range of child-care needs. Women in particular should have access to quality care to ensure that they have the opportunity to participate in all aspects of society and to live full and creative lives.

It is against this broad policy background that my department provides services in the children's day care services area. In the Australian Capital Territory we are extremely fortunate to have 863 long day care places, 427 occasional care places and 878 out of school hours care places funded by governments. In addition, 786 long day care places are provided by the commercial sector and 360 by unfunded community based organisations, and there are 1,482 out of school care places which are unfunded.

Our system of occasional care is one of the best in Australia. I am happy to report that an additional 30 funded places will open at the new Dickson Neighbourhood Centre in 1990. Added to this, 25 unfunded places will open at the section 38 development towards the end of this year. The Government will continue to expand the number of appropriate child-care places as the need is demonstrated.

The next long day care centre to be provided by the joint Commonwealth-State cooperative agreement will be a 40-place centre adjacent to the provisional Parliament House. This centre will provide important work related places for those children whose parents work in Civic, Fyshwick and the Parliamentary Triangle. The Liberal Party is not terribly supportive of that proposal, and I give an undertaking to the Assembly that this Government will work hard to ensure that, no matter what happens in the Federal sphere, we will work hard to ensure that those places are provided to the people of Canberra.

In keeping with our policy to plan for adequate child-care provision, the Government will undertake a planning exercise to determine the child-care needs of the ACT into the next century.

One of the most important functions of the children's day care services section is to provide advice and help to parents seeking child-care. As part of Children's Week, my department will be involved in a number of activities. These include a display at the Tuggeranong Hyperdome where officers will be on hand to assist in disseminating child-care information; the launch of a nutrition book entitled Fast Healthy Food for Kids - I think that is an important initiative as too often we hear complaints about the sorts of inadequate fast foods that are available for our youngsters - a community nursing seminar on cystic fibrosis and a session on meditation for children; and, recognising the important work being undertaken by child-care workers, a function has been arranged for them during Children's Week.

I had the pleasure yesterday to visit that function and enjoy the company of those child-care workers at the function which was arranged for them. Indeed, it was a pleasure because of the enthusiasm that was demonstrated by those workers for the work that they do. I know how difficult that work must be from time to time, but I must say that I was very impressed with the enthusiasm and dedication of those workers.

I might add, Mr Speaker that an important issue for those workers is a new award, a matter which is being pursued in the federal industrial relations area. They are looking for a result from the case which has been put to the federal commission. I must say that I am hopeful that the matter will come through very quickly and I am hopeful that the workers there will be happy with the outcome of the case which they have put before the commission. In addition, I am hopeful that it will improve the child-care services which are provided in Canberra.

The children's day care services section does, however, provide a comprehensive service at all times to both parents requiring advice and to operators of services. It also provides ongoing in-service training for those employed in the child-care industry. My department has responsibility under part VII of the Children's Services Act 1986 to license child-care services.

Under the Act there are seven categories of care. The conditions of licence are continually monitored to ensure that the conditions are relevant, up-to-date, and best suit the needs of children.

I am pleased to report that my department is currently conducting a survey to ascertain whether the occasional care centre licence conditions are relevant and meeting the needs of users. I am looking forward to receiving the result of this service in the near future and making any necessary changes to the regulations that may be appropriate.

The provision of adequate, quality child-care is vitally important in the support of families and is consistent with the Government's position that women must have a real choice over whether they wish to remain in the home or whether they wish to take part in the paid work force.

The Government, by subsidising occasional care, provides support for women who choose to stay at home as well as for women who are studying. Our contribution to the children's services program provides working parents with child-care, which is very important in ensuring the success of employment and training programs leading to employment. It is also very important for the well-being of children, and I am pleased to say that my department is proactive in this important area.

I present the following paper:

Children's Week - Ministerial statement, 26 October 1989.

I move:

> That the Assembly takes note of the paper.

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

## PRESENTATION OF PAPERS

**MR WHALAN** (Minister for Industry, Employment and Education): I present the following papers:

Building Act - Determination of fees 1989.
Housing Assistance Act -
Public Rental Housing Assistance Program, dated 6 September 1989.
Rent Relief Program, dated 14 September 1989.
Motor Omnibus Services Act - Determination of charges, dated 13 September 1989.
Radiation Act - Determination of fees, dated 31 August 1989.
Taxation (Administration) Act - Determinations (2), dated 26 September 1989.
Vocational Training Act - Vocational Training Regulations - 1989 - No. 20.

To assist members, I also table a schedule which identifies each law and instrument, and the editions of the Australian Capital Territory Gazette in which each may be found. Copies of the gazettes and regulations are available through the Assembly's Secretariat.

## PAYROLL TAX (AMENDMENT) BILL 1989

Debate resumed from 25 October 1989, on motion by **Ms Follett**:

That this Bill be agreed to in principle.

**Mr Kaine**: Mr Speaker, I thought we were in the middle of debate on the Occupational Health and Safety Bill. Has that debate been set aside?

**MR SPEAKER**: That will come later in the day. We are following the program as we go through. I believe this is proper.

**Mr Kaine**: I must say I appreciate the Government advising us that it has changed the order of business for the day! I really appreciate that! When we adjourned before the lunch break, Mr Speaker, we were in the middle of the detail discussion on the OH&S Bill.

**MR SPEAKER**: Thank you, Mr Kaine, for that observation.

**MR BERRY** (Minister for Community Services and Health) (3.43): Thank you, Mr Speaker, and I must applaud Mr Kaine for such a nice try. Mr Kaine, the Payroll Tax (Amendment) Bill 1989 which is before the house is a very important

anti-avoidance measure which the Assembly has to consider and deliver for the people of Canberra.

Much has been said in the debate over this issue and I will try not to repeat too much of it, but I think that, because the matter has been held over, members may wish or need to be refreshed about the issues which have been raised in the debate.

The Bill, as has been said, covers four main issues, and will extend the payroll tax base to include payments made in a greater number of circumstances. The amendment picks up the scheme introduced by the Commonwealth to tax the increasing range of fringe benefits. The following payments will be required: payments to third parties for services as an employee; payments on termination of employment, such as pay-out of furlough or long service leave; and payments by a third party to the employee.

It includes a wider range of benefits as wages for payroll tax purposes; for example, those covered by the Commonwealth fringe benefits legislation. I must say that the absence of tax collection in relation to those benefits is, to my way of thinking, a serious anomaly in the taxation policies of the Territory. This amendment will pick up the scheme introduced by the Commonwealth to tax the increasing range of fringe benefits, including the method by which the benefit will be valued.

The Commonwealth scheme is extremely comprehensive, and business interests have welcomed tying the ACT requirement to the return prepared for the Commonwealth purposes. Of course, by tying it to that return it will avoid additional work, and that will be of significant benefit to local businesses, because if they were required to have a different form of return it would be an additional burden.

It will nullify contract arrangements which are shams and are entered into merely to obscure employee and employer relationships in order to avoid or minimise payroll tax liability. A number of the members who have spoken on this issue have expressed some revulsion about those sorts of scams, and rightly so. This is an anti-avoidance measure, and it is made necessary by some employers' arrangements, which have already been described as a blur of employment relationships.

I think, Mr Speaker, that those issues are extremely important and the blurring of employment relationships is one that is really a trick to avoid tax. I think it is high time that this Government moved, and I am sure that we will be recognised for the progressive nature of the move at all times in the future.

I think that there is no need for arbitrary qualifications to be introduced into the ACT, since the only test which should apply is whether the relationship is one of employment. Similarly, the exclusion of designated groups

such as insurance agents, owner-drivers and door-to-door salesmen as in New South Wales cannot be justified since different arrangements may apply with the group. This Bill will make employment agents liable for payroll tax for certain on-hired employees.

In relation to consultation, I think it is most important that I refer back to some of the comments of the Chief Minister in question time. She made it very clear that the initial budget statement in July 1989 became a public document immediately. Employing organisations in the Territory had the opportunity, and availed themselves of it, to involve themselves in that process. They were fully aware from day one of the impact of the Government's decision.

It is quite clear from page 70 of the initial statement that the payroll tax, and I will quote from that:

> ... will also be amended to close off existing avenues of avoidance and to clarify employers' obligations. Employers will be required from November 1989 to declare for payroll tax purposes a wider range of payments, including termination payments and non-cash benefits. As well, schemes which involve payments for services provided by an employee made to or by third parties such as employment agencies will be covered. Further, schemes involving family partnerships, companies and trusts which are interposed to blur employer/employee relationships will be caught under proposed changes to the Payroll Tax Act.

I do not think much can be clearer than that. It is pretty pointed. If I were an employer who was likely to be affected by those proposals and if I were concerned about it, I certainly would have made my position clear.

One of the things that has happened in this debate is that the Liberal Party members have fallen down on their responsibility to look after what is often felt to be their traditional constituency, the business sector. I think they have made it very clear that they have fallen down on their job. The first instance of that was that Mr Kaine, although involved in the process at an early stage, walked away from the consultative process and let down his constituency.

For the Liberals to continue to moan about the lack of consultation is merely an attempt to hold this over and prevent the Government from collecting appropriate taxes to apply to relevant services for the people of Canberra.

**MR STEFANIAK**: I move:

> That the debate be adjourned and the resumption of the debate be made an order of the day for 14 November 1989.

Question put.

The Assembly voted -

| AYES, 5 | NOES, 12 |
|---|---|
| Mr Humphries | Mr Berry |
| Mr Kaine | Mr Collaery |
| Mrs Nolan | Mr Duby |
| Mr Stefaniak | Ms Follett |
| Mr Stevenson | Mrs Grassby |
| | Mr Jensen |
| | Dr Kinloch |
| | Ms Maher |
| | Mr Moore |
| | Mr Prowse |
| | Mr Whalan |
| | Mr Wood |

Question so resolved in the negative.

**MRS NOLAN** (3.55): The continuation of the debate on the Payroll Tax (Amendment) Bill 1989 will enable the house to see how ineffective the Government's consultation process has been, particularly with the business community.

This Bill has been put forward by the Government, without any consideration of those that it will affect most. The Government has stated on many occasions that the future growth of Canberra's economy will be in the private sector. Indeed, the Chief Minister said in her budget speech that a robust and diverse private sector will provide increased employment and long-term stability for the ACT.

She went on to say that the budget itself contains several proposals to promote economic development. However, what she did not state was that the Government intended to introduce this Bill to the Assembly at the end of September, further adding to the burden of business in the ACT, which would inevitably be passed onto the consumer.

People out there in the community are unaware of the implications of this legislation. They are unaware of the financial implications of increasing payroll tax and unaware that the expansion of the definition of "payroll" will have detrimental effects on the ACT. Did the Government consult with the community effectively on this issue? Of course not. You and I, Mr Speaker, and the community out there, the people who are really hurting because of high interest rates, will bear the burden. Ill-conceived policies at both Federal and local levels are hurting this community - the very people this Government is supposedly representing.

This Government expects the private sector to provide both employment growth and an increased revenue base whilst they insist on continually slugging the business community with

increased taxes. It is a limited resource which must not be squeezed to the point of bankruptcy. The Government seems to forget that it is the consumer that will ultimately pay.

The Government thinks that it can absolve itself from any responsibility by stating to the community that it did not increase any rates and charges, but rather that it is the business people that are hitting them with the increased prices.

The Canberra community is intelligent and is well informed and will, I know, realise that it is the Government that is really responsible for increased costs. If this Government is really serious about its consultation process why did it not consult? It was only yesterday, as a result of the Liberal attack on this legislation, that the Government realised not only that it did not carry out its consultation but that industry groups in this city were very angry.

I received several copies of letters to you, Chief Minister, late yesterday afternoon from business representations. I quote from a letter from CONFACT:

> We request that we be granted an urgent appointment with you in order that an adequate consultative process can be entered into by the private sector concerning this proposed legislation.

I quote from part of another from MBA dated 25 October:

> The Association sent to your office this morning a comment on the Payroll Tax (Amendment) Bill 1989 currently before the Assembly.
>
> We pointed out that the amendments appear to have serious consequences for business in the ACT and that there has been no consultations with industry representatives to explain the objectives and implications of the proposed changes.

The Australian Small Business Association also sent a note to the Chief Minister, saying:

> It is our objective to fully represent the interests of our members and to assist you by contributing to the work of government in these important issues, but we must have the time to do so. We would therefore ask that the proposed Payroll Tax Legislation be postponed to allow a reasonable time for consultation.

CARD's letter was even more scathing on the consultation process. It said:

> The situation is irreconcilable with your genuine commitment to the private sector and the role it can play in creating economic diversity and job opportunities. I urge you to withhold the current legislative proposals until there has been time for proper consultations to provide appropriate legislation consistent with your commitment.

Why did these organisations request consultation if it had already taken place? With respect, Mr Speaker, consultation does not take place by issuing a press release. The Chief Minister, proud of her first 100 days in office, stated in such a release dated 18 August that one of her achievements was to announce measures to tighten stamp duty and payroll tax legislation to prevent tax avoidance.

Does this constitute consultation? Hardly. It seems more like government by decree. This Bill is, as Mr Kaine has said, complex and the ramifications have not been thought through by the Government. It is a Bill involving specific measures with discretionary powers and it only seeks to widen the existing tax base. The increase in the ACT payroll tax will have serious consequences for small businesses. Some businesses may reduce employees and others will inevitably close.

It is time the Government gave the ACT and the business sector a fair go. The Labor Government should not make announcements which affect the economic well-being of the Territory without extensive and appropriate consultation with the business community. The Government should take care about consultation announcements that do not take place.

Because of the Liberals' diligence, we have caught the Government out. Is it not interesting that, when letters started arriving in the Chief Minister's office yesterday, she suddenly found it necessary to call an urgent meeting at 8 o'clock this morning to consult those affected?

The adjournment of this Bill should be for a sufficient period of time to allow proper consultation - time for CARD, CONFACT, ASBA, the Master Builders Association and others to consult their membership. It is not good enough for Government to organise a quick meeting overnight.

I hope that the Government can learn a valuable lesson as a result of this exercise. If it intends to continue to publicly state that it is going to consult, then it should do so, otherwise the Government should stop misleading the ACT community on its open, consultative process.

I urge this house to consider very carefully the implications of passing this Bill today. The Government has not consulted with those affected most. Its revenue loss argument is weak, having already stated in its budget papers that the Government will gain over $6m in revenue.

What is necessary is effective consultation so that the community will not suffer.

**MRS GRASSBY** (Minister for Housing and Urban Services) (4.03): Mr Speaker, this Government is against the avoidance of tax in any form. The erosion of tax hurts all of us in the end. Mr Kaine talked about drivers employing people across the border. Why would employers do this? The major anti-avoidance measures are in place in New South Wales anyway, so why would they do it?

**Mr Kaine**: No, they are not. I suggest you read the New South Wales legislation, Minister.

**MRS GRASSBY**: On fringe benefits, New South Wales is forming a proposal to use Commonwealth legislation as a base for defining non-cash benefits. So it is following us exactly. In other words, New South Wales is proposing to follow the ACT.

**Mr Kaine**: No, it is not.

**MRS GRASSBY**: It is. The fringe benefits tax closed some of the very large loopholes which were rorts, and even the Liberal Party has said that it will not take off fringe benefits tax if it gets back into Federal government. God help us if it ever did. These fringe benefit rorts were only able to be used by certain people. The lower class people, or people on lower salaries, had no chance of being able to do this, none whatsoever. It is the wage-earner that carries this country. It is the pay-as-you-earn taxpayer that carries it.

**Mr Humphries**: The lower class people?

**MRS GRASSBY**: Unfortunately they are on the bottom rung of the ladder, on the smallest salaries, and you want to take money away from them. You expect them to pay for all the special things that you want. I mean, you expect them to pay for the roads and everything that you need in Canberra, but allow tax avoidance by the people who can afford to pay.

As I say, it is the wage-earners, the pay-as-you-earn people, who keep this country. The tax cheats employ accountants who spend their time trying to find loopholes in the law to save them tax, when they should be paying their share.

As I say, pay-as-you-earn taxpayers pay their tax. They do not have any of these benefits. They are not getting away with it. Yet you want to give them another chance to do exactly the same thing. I am afraid I could never support this. If you pay the taxes that you should pay, then the whole country can share in it, but you only want a few people in Canberra to be responsible for paying the tax.

This is just another loophole, a bottom of the harbour scheme, call it whatever you like, for people not to have to pay their share of the tax. By dividing their companies up and putting so many people into each company so that it is just below the amount, they do not have to pay payroll tax. Well, if you are telling me that that is not cheating, then I do not know what is. If it is the same business and it is employing the same amount of people, then it should be paying the payroll tax.

**Mr Kaine**: You have to demonstrate, Minister, that that is happening.

**MRS GRASSBY**: It is happening. You are saying that we do not have consultation. This is always the Liberal Party's cry, that we do not have consultation with people. Since 25 July people have known about this Bill. It has lain there and they have known exactly about it. All of a sudden they have woken up to it. Unless you spoon-feed them, as I have said before, they scream like mad. They are saying, "It is going to cost us this, it is going to cost us that". But they want everything else.

They want all the facilities that we have got in Canberra; they want all the good roads; they want all the parks; they want Canberra to look beautiful, as it does; but they do not want to pay tax for it. They expect the wage-earner to pay the tax, and the wage-earner has very little tax avoidance opportunity at all. If you look at what wage-earners get back in their tax cheques, you find they would be lucky if they got back a couple of hundred dollars a year, but if you look at what the companies take off in tax you find there are thousands upon thousands of ways they have learned to save tax.

So, Mr Speaker, I cannot possibly support the Opposition in this. I support the Government's payroll tax Bill because I think it is a fairer way of people paying their tax. You know, it is those who can afford to pay the tax who should be paying it.

**MR HUMPHRIES** (4.08): Mr Speaker, I think it is worth just looking at some of the implications of this Bill and examining the history of payroll tax and what it was originally conceived as and what it now means to governments as a source of funding. The payroll tax idea first was introduced by the Commonwealth in 1941 as a means of financing child endowment and remained in its hands for some years, until 1972, when States assumed responsibility for its collection from the Commonwealth.

Since that time, of course, payroll tax has become easily the largest source of taxation revenue for the States, representing more than 30 per cent of taxation revenue. Since 1972, the rates have been raised from about 2.5 per cent to more or less 5 per cent across the board. I think there is one State that has not yet reached 5 per cent. In some States there are surcharges or levies that add an

additional 1 per cent to that 5 per cent tally. I think that that is worth bearing in mind because it shows fairly clearly why it is that this Government has succumbed to the temptation to seek extra funding from this source.

Being the largest single bucket at the disposal of most State governments, this Government, like those, must in some ways be tempted to view it as a fairly easily accessible bucket of money and indeed business as a fairly easy target for additional taxation. I think Mr Kaine described it as "a bottomless well". But the fact is that it is not, Mr Speaker.

Business, like any other legitimate generator of wealth in our community - and, after all, business is the biggest single generator of wealth - needs to operate in an environment where it can be fairly certain of the burdens that are to be placed on it by society and it needs to operate in an environment which encourages it to continue to do what it is there to do; that is, generate wealth. Measures of this kind which increase the burdens on business have to be looked at suspiciously.

We are perfectly entitled to ask, as members of this place, whether or not it is justified for any government to place an additional burden on business, particularly, as I am going to outline shortly, when the environment of the ACT's economy is such that we should be looking at removing burdens from business rather than placing them on business.

In the course of this debate there have been many references to loopholes. I see that Mr Grant Hehir made a statement on behalf of the Government in the Canberra Times on 21 October where he referred to the Bill "closing loopholes in the current legislation which have allowed employers not to pay the tax". Mr Duby referred to loopholes and so did the Chief Minister. This is an old furphy. Let us face it; any desire by government to catch those who legally structure their business to minimise tax are described as people exploiting loopholes.

We all, in a sense, exploit loopholes of this kind to minimise our taxation. Every one of us engages in tax minimisation of varying sorts. Even members of the Government, I am sure, do that. Yet to take advantage of tax laws to ensure that one pays less tax by structuring one's affairs so that does not happen does not necessarily mean that one is cheating. What the Minister for Housing and Urban Services said about running to our accountants and asking them to find ways around the laws is an insult to those people who want to take advantage of the existing framework of the law to ensure they comply with the law.

As well as having insulted doctors and lawyers in this house today - I think that was the other Minister's responsibility - we are taking accountants in as well. We are going through all of them. At this rate we will probably get onto academics next.

**Mr Kaine**: All professionals are crooks?

**Mrs Grassby**: No. Academics are pay-as-you-earn taxpayers. They do not have tax lurks.

**Mr Jensen**: What about real estate agents?

**Mrs Grassby**: Yes, let us get into them next.

**MR SPEAKER**: Order!

**MR HUMPHRIES**: I think we can only deal with a certain number of professions in one day. We might leave the others for other days.

**Mr Kaine**: It will be engineers next.

**MR HUMPHRIES**: Engineers, yes. So, Mr Speaker, I reject the kind of logic the Government applies to this idea of loopholes. It is interesting that a number of unintended consequences are also caught by this kind of loophole-closing. As yet I have heard no explanation, or even an attempt at an explanation, from Government members as to how they are going to deal with situations beyond the ones that they so colourfully characterise as being the ones that this Bill is out to catch. The sorts of instances that were mentioned by Mr Kaine in his speech include the idea of an employment agency used by an employer being deemed to be paying wages.

This is not what the Government has been talking about when its members have been making outrageous claims about this legislation. What unintended consequences are there that we have not been told about, and what information have those that are going to be affected by this been given about this kind of change to the law? This is going to be, if the Government gets its way, operative in a few days' time. It is 26 October. The Bill will be gazetted, I imagine, in time to be operative from 1 November, only five days away. This is broadening the scope of the existing payroll tax quite extensively. What steps has the Government taken to ensure that all those who might be affected by this know that they are going to be hit for more tax in five days' time? Of course, if they had not rushed in and picked up from the table here a copy of the budget initial statement back on 26 July they have only got themselves to blame, says the Government. I think that that argument speaks for itself.

**Mr Berry**: Their representatives were involved in it.

**MR HUMPHRIES**: You represent everybody in this Territory, Mr Berry, not just the unions or the workers, or the lower class, as Mrs Grassby describes them.

Let us look at the other interesting argument. New South Wales does this, they tell us. I find it very interesting

the way the Government is prepared to use New South Wales as an example of what is good and wonderful when it chooses to do so and to reject it on other occasions. I can recall an amendment that we from this side of the chamber moved in respect of tough environment laws that the New South Wales Liberal Government was bringing into place and how the Government squealed with disdain at the idea of having to support some motion that in any way commended the New South Wales Government.

Yet now they are saying that the New South Wales Government deserves to be followed; the New South Wales Government is setting a lead. You cannot have it both ways, Minister. You cannot have your cake and eat it, but that is exactly what you want to do. I am also advised that the New South Wales Government has struck snags, and is continuing to strike snags in this regard, and is finding great difficulties in applying these changes to the law that it has been looking at.

There was another argument put forward, by Mr Duby in this case. "This is an urgent piece of legislation; the Government needs it in place quickly; it has got to have its Bill there in time for the new tax grab on 1 November; we'll miss out on the $200,000", says Mr Duby, "if we don't get it in place straightaway". I see - as the Chief Minister points out - that this was announced in the budget statement back on 26 July. Why has the Government taken three months to bring this legislation forward, and why is it now saying - - -

**Ms Follett**: We have had a consultation period, Gary.

**MR HUMPHRIES**: I will come to that in a minute, Chief Minister. How fortuitous that you should say that. I will come to that in a minute. We will see how well you have used these three months.

**Mrs Nolan**: We had a meeting only this morning.

**MR HUMPHRIES**: Yes. The three months period is still going; it was going at 8 o'clock this morning.

**Mr Kaine**: At the thirteenth hour, not the twelfth.

**MR HUMPHRIES**: At the thirteenth, indeed.

**Ms Follett**: At your request.

**MR HUMPHRIES**: At our prompting. Mr Speaker, the Government says this is so urgent it has to be done this month. It has left this Bill until the week before it has to be in place - in fact, days before it has to be in place - to meet its own self-imposed 1 November deadline, and now the Government says, "You have got no time; you have not got time to consider the implications of this Bill. You have had enough time by the details we gave you on 26 July. That full page there was enough information

for you to do everything you needed to do about payroll tax". And now it expects the Assembly to rush through this piece of legislation.

Clearly, members of the community are not happy with the degree of consultation that has occurred, and clearly the Assembly is entitled to more time, but it is obviously not going to get it. If it had been introduced at the beginning of August, the Government would have saved some $600,000 - in fact, if you use Dubynomics, $800,000 - but that is not to be. Mr Speaker, payroll tax is, in many respects, a very unfortunate kind of tax. It reduces the competitive edge of ACT business. We add to the burdens of business in attempting to generate wealth for this Territory. The Deputy Chief Minister yesterday, I think, said, "The imposition of payroll in the Territory was not a disincentive to business coming to the ACT". That may be the case, but it certainly is not an incentive to come here, and should we not be looking to see whether the way in which tax structures exist in this Territory create incentives for business to come here? For goodness sake, do we not need that?

This is a bad time to be exploring avenues of the kinds this Government is presently exploring. I want to quote from that excellent publication Trends, put out by the Civic Advance Bank, which the Government constantly quotes from and constantly holds up as a good reflection of what is going on in this Territory. In the August edition, it says this about the ACT's economy, under the heading "ACT's Economy Marks Time":

> The economic outlook suggests that the Territory's revenue base may be significantly at risk in 1990-91 due to: relatively slow growth in ACT payroll tax collections -

and listen to these words -

> (as employment growth slows over the course of 1989-90).

But they are not saying there that payroll tax collections are slowing because the employers are finding ways out, because employers are avoiding their responsibilities. They are pointing out there, very clearly, that employment growth is slowing; and employment growth is slowing because, among other reasons, the burden on business is getting greater. The burden on business, particularly after this most recent budget, is so much greater that it is quite understandable that employment growth should slow in the Territory. If we are lucky, that will be the only thing that slows in the Territory. It probably will not be.

Stamp duty collections will also fall, according to this publication. The Government seems to ignore that fact. Let us look at the existing position of businesses in the

Territory as far as the employment of people is concerned. My colleague Mr Kaine has pointed out that the ACT already faces significantly higher average labour costs compared to the States. The costs in the ACT for labour rose by 13.4 per cent last year whilst New South Wales costs, with which we compete very directly, rose by only 8.6 per cent in the same period. The 1987-88 average costs per employer in the ACT were $27,275 compared to the national average which was only $23,980.

I go back to the Trends publication. It says here:

> These danger signals -

the signals I referred to before -

> highlight the need to diversify the ACT economic base - that need is greater than ever.

Now, what does this Government do about that; what is it doing?

**Mr Kaine**: Jacks up payroll tax.

**MR HUMPHRIES**: It jacks up payroll tax; that is right. It imposes additional burdens at the very time - if this publication I have just quoted from has any credibility - when it should be removing burdens, when it should be relieving burdens. The Government should be creating a competitive environment for business in this Territory. Instead, it is slugging business for more. It is absolutely the wrong direction to be taking. The Government should be heading north, and in fact is heading south.

Clearly, a sensible government policy would be to relieve tax burdens, to make business in the ACT attractive. But what does this most recent budget do, this wonderful first Follett budget? It hits business with an extra $40m per annum in taxes and other charges.

**Ms Follett**: Where did you get that from?

**MR HUMPHRIES**: Look at your budget document and you will see it is all there. We will be happy to show you all the last, grizzly details of that $40m, Minister. One example is land tax. Land tax is principally a tax on business in this Territory.

**Mrs Nolan**: Do not forget they are giving $1.35m to business.

**MR HUMPHRIES**: Yes, of course; I am so sorry. After taking $40m from business, they are giving back their $1.35m to business. I am sure business will be on its knees with gratitude to the Government for that wonderful benefit! But let us look on the other hand at what the Government is still doing. (Extension of time granted)

Let us look at what else it is doing: 1988-89, $6.9m in land tax; 1989-90, $12.9m in land tax. The Government is forcing businesses across the border and it is dissuading others who would otherwise come here from making that decision and moving to the ACT. Yet the Chief Minister had the hide, when talking to the Rotary Club of Canberra, Burley Griffin branch, on 17 August to mouth these sweetly reassuring words. Are you leaving, Chief Minister?

**Ms Follett**: Yes, I am.

**MR HUMPHRIES**: Oh, dear; you will have to read it in Hansard. These sweetly reassuring words were used: "The local economy is receiving purposeful and well directed assistance which will enhance the ability of local firms to compete in national markets". That is empty rhetoric - totally empty rhetoric.

Mr Speaker, the Government does not seem to have realised quite what it is doing in this regard. It has to create, as I have said, positive incentives for people to come to the ACT. That may mean, of course, on some occasions deliberately undercutting the amount of tax it collects in order to create a directly comparable advantage between the ACT, for example, and New South Wales.

Mr Hehir, from whom I quoted before, is quoted in the same press article as saying, "If the ACT abolished the tax, we would be the only State to do so". I can almost hear the alarm in his voice. I refer members to the occasion some years ago when the Government of Queensland abolished death duties in that State. What happened, of course, when that occurred - and members better informed than I am will correct me if I am wrong - was that a great many business and other arrangements were restructured to relocate in Queensland because death duties were not imposed in that State. In fact, what happened in due course was that every other State in the Commonwealth abolished death duties because the Queensland Government had created an incentive which other States could not match.

Why could we not think about doing the same thing for ACT business? Why could we not think about doing the sorts of things here that would broaden our tax base, even though it meant some loss of revenue in the short term? I would argue that, on the Government's own rhetoric, it ought to be examining just that.

I do not necessarily support the immediate abolition of payroll tax in the Territory. Clearly, that would not be possible. But the Government certainly ought not to be widening the payroll tax net. It certainly ought to be examining ways of relieving the tax burden in all forms on business.

I want to quote from a document that CARD issued, a budget blueprint, in February this year, in which they indicated their views on payroll tax. They make quite a good case.

**Mr Berry**: They argued for none.

**MR HUMPHRIES**: They did indeed, Mr Berry.

**Mr Berry**: But you just said that you did not support that.

**MR HUMPHRIES**: I am going to quote from that document and indicate that the arguments are very good. It states:

> Because the ACT relies less heavily on payroll tax than the other States it is relatively easy for the ACT to do without payroll tax receipts and difficult for the other States to nullify the effect of the ACT initiative by abolishing their payroll taxes.
>
> Removal of payroll tax would stimulate a variety of manufacturing and service industries in the ACT. The likely major effect would be the stimulation of labour-intensive tertiary industries but the abolition of payroll taxes would very probably also make it economic to establish completely new industries. To the extent that it led to the growth of manufacturing in the ACT, it would represent a major diversification of the economic base of the ACT.

That is a very laudable goal. As I have said, I do not support in its entirety the idea that we should abolish payroll tax at this stage. Clearly that is impossible. But, for goodness sake, we should not be going in the opposite direction.

As I have said before, payroll tax is a clumsy tax. It is a tax on employment. It necessarily, therefore, discourages employment. It would be sensible for the Government to de-emphasise taxes of this kind. Capital intensive industries, of course, pay less payroll tax than labour intensive ones, and that is a somewhat unfortunate discouragement to be making, particularly when the Government, like other governments, complains bitterly about unemployment in the ACT and elsewhere.

I want to refer in the last few minutes available to me to the consultation issues that have been raised already. I do not think I can really go beyond what my colleague Mrs Nolan has already said in this regard. The Government has made the assumption that the mere issuing of public statements, which sometimes get buried in back pages of a newspaper, is sufficient effort on its part to consult with the ACT community. I have a message for the Government: it is not. It is the duty of the Government to properly consult with people who are directly affected by measures of this kind. That does not mean taking backdoor steps to ensure that those people are properly consulted.

**Mr Berry**: We even consulted with you.

**MR HUMPHRIES**: Well, it is not enough to consult with us. You said the other day that you were directly consulting with the community. You cannot have it both ways. Whom are you consulting with? The fact is you are not consulting with anybody very well at all.

The facts speak for themselves. When we debate the optometrists Bill next week we will just see how paltry this argument about consultation is. The fact is that you had to hold a meeting at 8 o'clock this morning because your efforts at consultation had been so pathetically weak that you had to fix the hole in the dyke this morning. Apparently even that was not enough, and you failed.

Mr Speaker, I think the weakness of the Government's case for this Bill has been amply demonstrated by members on this side of the house. I do not hold any hopes that the Government will withdraw the legislation, but I can only say that, if it is passed and we see businesses start to close or we see a decline in the manufacturing base of this Territory, we have only one group of people to blame, and they sit opposite me in this chamber.

Debate interrupted.

## ADJOURNMENT

**MR SPEAKER**: Order! It being 4.30 pm, I propose the question:

> That the Assembly do now adjourn.

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

Question resolved in the negative.

## PAYROLL TAX (AMENDMENT) BILL 1989

Debate resumed.

**MR STEFANIAK** (4.30): In relation to this debate on the payroll tax I think it is important that the views of the private sector be put to the Assembly. Indeed, the Government has made much of the role the private sector will pay - I mean play - in the future of the ACT, indeed, the major role.

**Mr Kaine**: You are right, pay.

**MR STEFANIAK**: Pay is right, yes, indeed. I think my friend Mr Humphries was wrong. I think it was $41m, Gary, not $40m.

Members of the private sector did meet with officials today, and a number of points came out of this particular Bill. They were concerned about the lack of a consultative process, particularly in relation to the Bill, and a number of points were raised. I think it is worth while to go through them.

Firstly, let us take service contracts. The principle of the legislation dealing with payments to contractors is the same as in the New South Wales and Victorian legislation. However, the ACT legislation differs significantly in the area of exclusions and exemptions. New South Wales has specifically excluded four situations. However the ACT Bill has not followed it. These situations are as follows:

> Services of a kind ordinarily required by a business for less than 180 days in that financial year;
>
> Services provided by one person for a period of 90 days or less in that financial year;
>
> Payment of consideration under contract being $500,000 or more; and
>
> Where the contractor engages labour to perform the work in relation to the services, the subject of the contract, the contractor may work on the job together with his partner or partners and/or employees.

The New South Wales legislation specifically excludes owner-drivers, insurance agents and brokers, and direct selling agents. The Victorian payroll tax commissioner has also excluded these.

The discussion that arose on these matters was quite lengthy, and some other issues were raised. The ACT Treasury was asked whether owner-drivers would be considered employees under this legislation. The response was that, if the service is in the nature of a contract of service, a liability exists; if a contract for service, no liability exists.

The Treasury was also asked whether a partnership would be excluded or a contractor who employs labour. It appears that these persons would be excluded by virtue of the commissioner's discretion under the proposed legislation. However, the view of the business community and professionals is that taxation by discretion is unacceptable.

It is accepted by members of the private sector that, where there are contrived contractual situations whereby one person "contracts" to the same business for long periods, the legislation is not challenged; that is, where a definite employer-employee relationship exists.

However, as the legislation has been drafted without reference to practical situations, the private sector is most concerned. Are they to leave it to those who administer the legislation to ensure that anomalies or inequities do not arise? That is the situation under the terms of this Bill. The legislation allows for administrators to shift ground by virtue of interpretation.

The question of subcontractors where materials are involved was also discussed. They felt the proposed legislation allows the commissioner to determine the split between labour and materials. The ACT Treasury is currently compiling an explanatory paper in relation to the proposed Bill. It would have been preferable if further explanation had been included in the explanatory memorandum to the Bill initially.

Other points were dealt with. The private sector was worried about the fact that legislation relates to contracts in existence at the time of passing legislation. Neither New South Wales nor Victorian legislation dealing with payments to contractors applies to contracts already entered into. The term "person" is not defined in the legislation.

The proposed legislation determines "benefit" as that used for the Fringe Benefits Assessment Tax Act. This does not apply in New South Wales or Victoria, where clarification of what is a benefit has been done by rulings. By using this definition, the term "benefit" has been extended to situations where the benefit is not part of the remuneration package of the employee that is negotiated at the time of employment. The Treasury was asked whether the commissioner would adopt miscellaneous tax rulings and other documents issued by the Federal commissioner of taxation in relation to fringe benefits tax. The Treasury was unable to clarify this. That is a matter of concern to the private sector.

The Supreme Court in New South Wales has recently handed down a decision in the Terry Shields case. The principal enunciation in that case is that a benefit is wages for payroll tax purposes if it is provided to the employee in lieu of cash. The Treasury staff have apparently indicated that the New South Wales commissioner is considering introducing legislation to determine a benefit in the same name as the proposed ACT legislation.

There also arose the question of when payroll tax is payable on benefits. On a literal interpretation of the legislation, it will be payable monthly, as are other wages. However, the New South Wales commissioner has accepted payment on an annual basis to fall in line with calculations for FBT purposes.

An area also of concern is that of employment agents. The proposed legislation treats the employment agent as an

employer, and therefore is liable for payroll tax. This is not consistent with New South Wales and Victoria, where the person receiving the service is liable for the payroll tax. It creates a number of inequities. Temporary staff engaged are not afforded the same treatment as employees who were recruited directly, and employers who are exempt from payroll tax or fall under the threshold are burdened with an indirect charge of payroll tax.

It appears that the ACT Treasury officials are unaware of the inconsistencies between this legislation and that of New South Wales. It appears that they were not familiar with the extent of the fringe benefits tax legislation. The definition has been applied to overcome interpretation and valuation problems; however, this will create more problems than it will solve. The private sector agreed that a working party should be established, and they have indicated that they are very much opposed to the Bill without further close examination by qualified persons and further consultation.

Mr Speaker, CARD put out a press release, and I think it probably would be sensible if that were read into the record here. It is a press release put out today in relation to their concerns over the payroll tax amendments. It states:

> The private sector is very concerned about proposed Payroll Tax amendments which would introduce the harshest Payroll Tax legislation in Australia by significantly expanding the revenue base.
>
> In the original Budget discussions very limited information was made available on proposed significant changes to the Payroll Tax Act and the current proposed amendments were drafted without any significant input by the private sector.
>
> The ACT Government has clearly acknowledged the critical role of the private sector in providing economic expansion, diversity and job creation. For example, it is anticipated that in excess of 20 thousand young people will come into the job market in the next two to three years who will be essentially looking to the private sector for job opportunities. The Canberra Association for Regional Development has clearly established that it is essential to create a positive environment for economic growth and job creation and that an important part of that environment will be a budgetary context that allows positive growth in the private sector.

The Chairman of CARD, Mr George Snow, said today that the current Payroll Tax amendments had harsh implications for all employers in Canberra with the extension of Payroll Tax into previously

> exempt areas. The amendments went beyond New South Wales where there were considerable exemptions in that the proposed definition of sub contracts and service contracts would see a lot of so-called contract payments would now be assessable for payroll tax.
>
> The proposed amendments also placed considerable discretion on the ACT Revenue Commissioner to interpret the implementation of the so-called amendments which would lead to considerable uncertainty in not only the amount of tax that would be due but also in other areas like workers' compensation and employee liability.
>
> Mr Snow said the proposed amendments were not sufficiently defined to allow certainty for all employers who would need then to go to the Revenue Commissioner to seek determinations or to challenge such determinations in the Administrative Appeals Tribunal, which would be costly and time consuming.
>
> There was also the proposal to extend Payroll Tax legislation to cover fringe benefit payments, which were not previously assessed for Payroll Tax.
>
> Mr Snow called on the ACT Government to provide sufficient time for all the proposals to be properly examined prior to seeking to have the amendments endorsed by the Legislative Assembly.
>
> Mr Snow said it was unfortunate that the ACT Government was seeking to mimic all other State type taxations in the ACT, particularly those that have an unfortunate impact on employment opportunities. It was a pity that the opportunities were not sought to try and encourage people to employ more labour rather than increase the burden on all employment in the Territory.
>
> Mr Snow called, on behalf of the private sector, for further discussion in regard to the proposed amendments prior to the Government seeking approval from the Legislative Assembly.

I think it is very clear from those views that the private sector is not at all happy with these proposed amendments.

Like Mrs Grassby, I have been a PAYE taxpayer all my life. Indeed, the Liberal Party believes that people should be taxed, but they should be taxed fairly. We do not believe in screwing business, as this legislation would propose to do. As Mr Humphries so very ably said, in the ACT we want to encourage business; we do not want to make it harder for them. The Labor Party professes to have a great regard to looking after the interests of workers. You do not look

after the interests of workers by making it impossible for businesses to continue to run. If those businesses fail, workers lose their jobs and the economy goes into a state of depression. We do not want to see the ACT end up like a basket case.

As Mr Humphries also indicated, perhaps there is a lot of room here in the ACT to provide incentives to broaden the employment base. Such measures are being applied by other States in the Commonwealth and by governments throughout the world. It is interesting that even dogmatic socialism is going out in such countries as the Soviet Union.

I think we really need to look to ourselves here to ensure that we do not put unnecessary, needless barriers in the way of employers - which will impact badly on the ACT economy, lead to businesses going broke, and lead to workers being put out of jobs.

**MS FOLLETT** (Treasurer) (4.40), in reply: I would like to thank all of the members for their contribution to the debate on this very important matter and in particular to thank those speakers who have indicated that they support the thrust of this legislation, which, after all, is an anti-tax avoidance measure. It aims to provide for fairness in the payment of payroll tax by businesses in the ACT. I think that it is only fair to state that what we are seeking to do here is to provide a level playing field for all businesses in the ACT.

I do not think it is in any way fair or supportable that some businesses pay their full share of payroll tax and others, by means which this amendment seeks now to avoid, do not pay their fair share. I do not think anybody should support that, and I am surprised to find that there is some support for that kind of arrangement. The legislation does aim to close loopholes that exist in the payroll tax provisions in the ACT, to reduce the scams, and indeed simply to put everybody on the same footing.

Mr Kaine, in particular, made some interesting comments. He asserted that the budget was looking to small business to bail out the ACT economy. Now, to speak of small business in relation to payroll tax I find quite a surprising step for Mr Kaine to take. It is a fact that there is a threshold for the payment of payroll tax, and in the ACT that threshold is a wages bill of $432,000 per year.

In fact, unlike New South Wales, we have actually indexed the threshold for payroll tax in the ACT. So our threshold has risen and it has not in New South Wales. I would put to you, Mr Speaker, that a genuine small business would not very often have a payroll bill of over $432,000 per year. If it does, it is not a small business, in my view. So the Bill largely does not relate to small businesses.

Mr Kaine used a further figure of a $6m increase in payroll tax by virtue of the amendments that I am proposing to make. That is simply not so.

**Mr Kaine**: That is incorrect. I did not say that. You are misquoting me, Chief Minister.

**MS FOLLETT**: Mr Speaker, I would like to clarify that matter. The amendments that we are proposing today should provide approximately $1.5m increase in our total payroll tax take.

**Mr Kaine**: Your explanatory memorandum says $1.8m, Chief Minister.

**MS FOLLETT**: The $6m that Mr Kaine quoted is, in fact, an overall increase in the payroll tax, and it is made up in large part by an increase in wages paid in the ACT and by expected employment growth in 1989-90. That employment growth we expect to be in the order of 2 per cent, about 3,500 jobs. Those two factors, increased wages and employment growth, are responsible for by far the larger part of the increased take on payroll tax.

I should also mention that the total overall payroll tax take for the year is some $65m. The provisions we are looking at today are approximately $1.5m. I put it to you that that is hardly a draconian increase in our proposed payroll tax take.

Much has been made of the consultation process involved in this matter. I spoke at some length on that during question time, so I do not propose to repeat my comments there, except to say that it is my genuine belief that the information on this provision has been widely available since 25 July 1989.

I think it is most regrettable that CARD, in particular, having taken part in the Government's budget consultative process, has left its run so late on this issue. We must remember that CARD includes representatives of the Chamber of Commerce, the Building Owners and Managers Association and the Master Builders Association, some of the groups which have been so active in the past 24 hours or so.

I think it is also extremely regrettable that CARD, in fact, cancelled its meeting with the Treasury officials in August. CARD cancelled it and did not reschedule it. I find it extraordinary that it is now claiming not to have been consulted. I do not know how you go about consulting people who so patently resist being consulted. I believe, Mr Speaker, that they have had every opportunity to put their view. I believe they are actually aware but embarrassed because they have slipped up.

Unlike the union movement, the Nurses Federation, the Teachers Federation, the Galilee people, any number of welfare and arts and community sectors who pored over

the initial budget statement and made their views abundantly clear from a very early stage, the business sector appears to have skated over it, not to have really taken in what it meant, and finally panicked right at the last moment.

They were not as quite as clever as they might have been. However, because of the last-minute concerns that were raised, a further meeting was arranged with officers of the Treasury and the Office of Industry and Development this morning. At that meeting there was a broad representation of industry and their advisers to discuss the concerns that have come to light very recently. I have had a report back from the officers involved in that, and I believe that that meeting should have allayed many of the concerns that have been raised.

The concerns at the meeting, I am advised, centred on firstly the taxing of benefits, and in particular the possibility of the Fringe Benefits Tax Assessment Act being interpreted in a different manner by the commissioner for ACT revenue and the federal tax commissioner. Mr Speaker, on the fringe benefit issue, the commissioner for revenue has advised me that, for the purposes of completing their payroll tax returns, ACT employers may indeed rely upon rulings of the Australian taxation commissioner for calculating fringe benefits to be included for payroll tax liability. So there should not be a problem there.

The meeting this morning also discussed service contract provisions, and the business people present expressed some concern that the provisions in our Bill do not exactly mirror the legislation that is in force in New South Wales. On that issue of whether ACT legislation should, in fact, mirror the New South Wales provision, I would like to emphasise that, while the individual provisions may differ somewhat, the same underlying principles apply; namely, that if a person supplies labour to a business on a continuous basis and forms an integral part of that business, then that person is considered to be an employee and the payment received is wages. That is the principle which I think applies in both places.

Neither this Bill nor the New South Wales provisions attempt to tax payments to genuine independent contractors. I hope members will take very careful note of that fact. The Bill specifically provides exemption in cases where services are provided to the public generally and where the provision of labour is ancillary to the supply of goods.

The revenue commissioner has also advised that, where a person or a partnership employs staff to fulfil a contract, that contract would, as in New South Wales, be payroll tax exempt unless it forms part of a tax avoidance scheme. So it is only if it is apparent that it is a tax avoidance measure that there is any sort of a worry. The Bill deliberately does not follow New South Wales in arbitrarily exempting contracts over $500,000 and short-term arrangements. Such arrangements will be treated on their

merits. The reason for that, I think, is quite clear - such arrangements are obvious avenues for tax avoidance.

The more specific a Bill gets as to those sorts of matters, the more open it is to evasion and avoidance, and the more loopholes appear. The New South Wales Act also excludes certain contractual arrangements which, depending upon the circumstances, may or may not be service contracts. These are not excluded under the Bill and, again, they will be treated on their merits. The commissioner advises me that, for example, genuine contractual arrangements for door-to-door sales will not be caught as a service contract.

However, Mr Speaker, as a result of today's discussions, it has been decided that owner-drivers will be excluded from the service contract provisions in proposed section 3B, and I have an amendment circulating on that matter. So, Mr Speaker, in closing I would just like to emphasise that the action is aimed at protecting the ACT's revenue base and providing for us a capacity to maintain high-quality government services. Payroll tax is a very important part of our budget, and in all the discussion and all the opposition we have not heard of an alternative source for that $65m, nor have we heard a case put forward for why some people should be able to avoid this tax while the majority of good and proper businesses do not. So, Mr Speaker, I commend the amendment to the Assembly.

Question put:

> That this Bill be agreed to in principle.

The Assembly voted -

| AYES, 12 | NOES, 5 |
|---|---|
| Mr Berry | Mr Humphries |
| Mr Collaery | Mr Kaine |
| Mr Duby | Mrs Nolan |
| Ms Follett | Mr Stefaniak |
| Mrs Grassby | Mr Stevenson |
| Mr Jensen | |
| Dr Kinloch | |
| Ms Maher | |
| Mr Moore | |
| Mr Prowse | |
| Mr Whalan | |
| Mr Wood | |

Question so resolved in the affirmative.

Bill agreed to in principle.

**Detail Stage**

Clauses 1 to 4, by leave, taken together.

Question put:

That clauses 1 to 4 be agreed to.

The Assembly voted -

| AYES, 12 | NOES, 5 |
|---|---|
| Mr Berry | Mr Humphries |
| Mr Collaery | Mr Kaine |
| Mr Duby | Mrs Nolan |
| Ms Follett | Mr Stefaniak |
| Mrs Grassby | Mr Stevenson |
| Mr Jensen | |
| Dr Kinloch | |
| Ms Maher | |
| Mr Moore | |
| Mr Prowse | |
| Mr Whalan | |
| Mr Wood | |

Question so resolved in the affirmative.

Clauses agreed to.

Clause 5 (Insertion)

**MS FOLLETT** (Treasurer) (4.57): I move:

Page 5, line 12, after proposed new subsection 3B(5) insert the following section:
"Contracts that are not service contracts
3C. A reference in section 3B to a service contract is not to be taken to be a reference to a contract under which a person is supplied with services ancillary to the conveyance of goods by means of a vehicle provided by the person conveying them, unless the Commissioner determines that the contract was entered into with an intention either directly or indirectly of avoiding or evading the payment of tax by any person.".

The purpose of this amendment is quite straightforward. It is to provide an exemption for owner-drivers from the service contract provisions, and that amendment has arisen following discussions with employers, as I outlined just a few moments ago. It is a specific exemption from that provision.

**MR KAINE** (Leader of the Opposition) (4.58): Mr Speaker, this is a classic example of the Government working off the back foot. As of eight o'clock this morning, the Chief Minister had no intention of putting forward such an amendment or anything like it. It was only after discussions with industry which we forced them into at eight o'clock this morning that this issue, amongst a lot

of others, arose as being a matter of contention on the part of the business sector.

For the Minister to merely bring forward this one amendment as a token gesture, to try to placate the industry in some fashion, is totally unacceptable. It is accepted in that way by the Opposition. It in no way improves the Bill. We will not support this or any other amendment from the Government at this stage until there has been proper consultation on the whole Bill.

Question put:

That the amendment be agreed to.

The Assembly voted -

| AYES, 11 | NOES, 5 |
| --- | --- |
| Mr Berry | Mr Humphries |
| Mr Collaery | Mr Kaine |
| Mr Duby | Mrs Nolan |
| Ms Follett | Mr Stefaniak |
| Mrs Grassby | Mr Stevenson |
| Mr Jensen | |
| Ms Maher | |
| Mr Moore | |
| Mr Prowse | |
| Mr Whalan | |
| Mr Wood | |

Question so resolved in the affirmative.

Amendment agreed to.

**MS FOLLETT** (Treasurer) (5.01): I have further amendments, Mr Speaker, to clause 5, and they have been circulated. I seek leave to move them together.

Leave granted.

**MS FOLLETT**: I move:

Page 4, line 41, omit "regulated credit contract", substitute "regulated contract".
Page 5, line 11, omit "regulated credit contract", substitute "regulated contract".

These are tidying-up amendments. They arise simply because the term is actually defined in the Credit Act and we wish to make it consistent with the Credit Act definition.

Amendments agreed to.

Question put:

That the clause, as amended, be agreed to.

The Assembly voted -

| AYES, 11 | NOES, 5 |
|---|---|
| Mr Berry | Mr Humphries |
| Mr Collaery | Mr Kaine |
| Mr Duby | Mrs Nolan |
| Ms Follett | Mr Stefaniak |
| Mrs Grassby | Mr Stevenson |
| Mr Jensen | |
| Ms Maher | |
| Mr Moore | |
| Mr Prowse | |
| Mr Whalan | |
| Mr Wood | |

Question so resolved in the affirmative.

Clause, as amended, agreed to.

Clauses 6 and 7, by leave, taken together.

Question put:

> That clauses 6 and 7 be agreed to.

The Assembly voted -

| AYES, 11 | NOES, 5 |
|---|---|
| Mr Berry | Mr Humphries |
| Mr Collaery | Mr Kaine |
| Mr Duby | Mrs Nolan |
| Ms Follett | Mr Stefaniak |
| Mrs Grassby | Mr Stevenson |
| Mr Jensen | |
| Ms Maher | |
| Mr Moore | |
| Mr Prowse | |
| Mr Whalan | |
| Mr Wood | |

Question so resolved in the affirmative.
Clauses agreed to.

Clause 8 (Review of decisions)

**MS FOLLETT** (5.05): I move:

Page 6, line 4, after "subsection 3B(1)" insert "or section 3C".

The amendment is to allow for an application to be made to the Administrative Appeals Tribunal to review a decision made by the commissioner under the proposed new section 3C that we spoke of earlier, which exempts owner-drivers. So it is just an appeal provision.

**MR COLLAERY** (5.06): Mr Speaker, this is another rushed amendment to a Bill which has not, as my colleague Mr Kaine indicates, been presented in adequate fashion for adequate consultation with industry.

The Rally has been placed in the most difficult position of knowing that revenue may suffer at a time when preschool closures are occurring and not knowing substantively and definitively whether the arguments on both sides are correct. On balance, the Rally has decided to support this amendment and the other amendments because it is this Chief Minister who will carry the responsibility, from this afternoon henceforth, to explain these amendments and this Bill to the public at large, including the business community.

The Rally takes the view that, if this or any amendment is shown to have caused undue hardship in the community, then the Chief Minister will have that to explain. Further, the Chief Minister will certainly need to ensure that, in future, Bills of this nature come forward in a better fashion and with better consultation.

**MR STEVENSON** (5.07): Mr Speaker, the fact that there was a meeting called this morning by the Government to explain to representatives of the business community something about this Bill and that some amendments were made as a result of that is a clear indication that there was not justification for that and fair consultation on the matter.

There are any number of major business organisations in this town, and we should really look at this. What are we? Are we a government that rams things down people's throats or are we a government that has consultation? Are we prepared to allow people to consult when they say they have fair concern - and business organisations in this town have said they have fair concern? Letters have been sent to every member in this Assembly. Are we prepared to consult or, as Mr Kaine well puts it, rush in some amendment off the back foot that has not been explained correctly even to members of this Assembly, let alone to people in the business community.

They were not consulted correctly in the first place. It was suggested that it was mentioned in the budget papers with words like "clarifying". "Clarify" does not cover some of the fairly sweeping changes that are included within this Bill. This not only covers loopholes, but it drags into a far wider net many more businesses. While there may be a discretion of the commissioner, there is some concern with these discretionary powers.

The Chief Minister may look puzzled but perhaps, if there were more consultation with the business community, she would not have the puzzlement that she demonstrates on her face and she would understand the concerns of big business and small business in this town.

It is unfortunate that this is being rushed through. It is unfortunate that new provisions in this legislation are not only in line with legislation in other States but exceed this situation.

Unfortunately, it looks like there will be no opportunity for fair consultation with people in the public gallery today, business community representatives, or other representatives. There will not be today, but let us hope there will be soon.

I agree that there is an onerous workload to follow and, as soon as we get the consultants through, I will have the opportunity to gain the specialist knowledge and understanding that I need and fairly obviously that other parties could use in this Assembly.

**MR MOORE** (5.11): I rise to congratulate the Labor Party and Mr Stevenson for holding out for what they believe in and for at least making it - - -

**Mr Stefaniak**: Oh, no, the independent socialist NIMBY.

**MR MOORE**: I am glad you mentioned NIMBY, Mr Stefaniak, because I just prepared a little word I would like to say on that. There are many reasons why we need to be grateful to the Deputy Chief Minister, among them his introduction to the Assembly of two words which have gained instant popularity. The first, as we remember, was "mendacious". The second, which Mr Stefaniak has seized upon with all the enthusiasm of a child with a new toy, is "NIMBY".

Now I am not a NIMBY, despite rumours to the contrary. Indeed, the Deputy Chief Minister used the acronym to describe an organisation which I no longer belong to. Mind you, I am happy to be described as a NIMBY if the alternative is belonging to a group, the only appropriate acronym for which is CLOWN. I hope no-one will take offence, but CLOWN is short for Closet Liberals Only Worried about Numbers. Speaking of the CLOWNs, it is interesting that at least while the Liberals are prepared to say "This is our stance" and hold by it, there are the CLOWNs who are now saying, "We are going to vote with this, but we are going to say we are not voting with it", trying to put the responsibility back on the Minister who has presented the particular Bill and the particular amendments.

Now the crux of the matter is, if you vote for this Bill and you vote for this amendment, then you are responsible for it too. Anything else is just wimping out.

**MR KAINE** (Leader of the Opposition) (5.13): I would like to respond on this very important issue to the new NIMBY party, and I just want to make one comment. During the closing stages of this debate I think two members of the Government made some reference to 25 July. That, Mr

Speaker, was a very relevant date, because it was on 25 July that the Government gazetted over 100 pages of increases in fees and charges, without any prior consultation, and put them into effect from that date.

In the budget statement, the Chief Minister merely made a bland statement to the effect that, despite her earlier election promise that charges on individuals and households would not increase - - -

**Ms Follett**: I take a point of order, Mr Speaker. The intent of the amendment here is to insert the words "or section 3C". Now, this is a wonderful debate, but I must query the relevance of the current remarks.

**MR SPEAKER**: Yes. Please stick closer to the point, Mr Kaine.

**MR KAINE**: I did not raise 25 July in this debate, Mr Speaker. It was raised by two members of the Government, so I think that it is relevant, since they raised the date. Furthermore, it is relevant in the context of consultation, because the Chief Minister promised during the election that there would be no increases on individuals and households. Yet on 25 July she published over 100 pages of the Gazette, listing increases which impact directly. It is a question of consultation, Mr Speaker.

**Mr Berry**: On a point of order, Mr Speaker; I think Mr Kaine ought to stick to the issues. The Chief Minister has already raised the point of the debate, and he is going on in complete ignorance of that very important thing. I hope that you will rule in my favour.

**MR SPEAKER**: Mr Kaine, will you stick to the point of section 3C.

**MR KAINE**: I said that my comments would be relevant, and they are, because it gets back to this whole question of consultation. I was just giving an example of where the Government had once again failed in terms of consulting with people and breaking its previous promises. This again, of course, is a knee-jerk response to the thirteenth hour discussions that were held this morning, where they were forced into discussions.

**Mr Berry**: Mr Speaker, I would just ask you to rule on the point of order and encourage Mr Kaine to listen to your ruling.

**MR KAINE**: I think I have made my point, Mr Speaker. I do not wish to speak any further.

Amendment agreed to.

Question put:

> That clause 8, as amended, be agreed to.

The Assembly voted -

| AYES, 11 | NOES, 5 |
|---|---|
| Mr Berry | Mr Humphries |
| Mr Collaery | Mr Kaine |
| Mr Duby | Mrs Nolan |
| Ms Follett | Mr Stefaniak |
| Mrs Grassby | Mr Stevenson |
| Mr Jensen | |
| Ms Maher | |
| Mr Moore | |
| Mr Prowse | |
| Mr Whalan | |
| Mr Wood | |

Question so resolved in the affirmative.

Clause, as amended, agreed to.

Title agreed to.

Question put:

That this Bill, as amended, be agreed to.

The Assembly voted -

| AYES, 11 | NOES, 5 |
|---|---|
| Mr Berry | Mr Humphries |
| Mr Collaery | Mr Kaine |
| Mr Duby | Mrs Nolan |
| Ms Follett | Mr Stefaniak |
| Mrs Grassby | Mr Stevenson |
| Mr Jensen | |
| Ms Maher | |
| Mr Moore | |
| Mr Prowse | |
| Mr Whalan | |
| Mr Wood | |

Question so resolved in the affirmative.

Bill, as amended, agreed to.

## ADJOURNMENT

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

That the Assembly do now adjourn.

## Government Consultation

**MR COLLAERY** (5.19): At the end of this week, I wish to rise to make some comments on the subject of consultation. This week we have finally seen the Government forced when it wanted its legislative program to get off the base - and it has, in a lame, stop-start fashion. But, of course, that was out of the goodwill of some of the members of the Assembly who have put up with all of the broken meetings, the lost lunch times, the early starts and the late evening discussions. I trust, Mr Speaker, that this week has taught the Government a lesson that, in its minority situation, it must come further across in terms of providing much more extensive explanatory memoranda to its Bills. I say that with no disrespect to the parliamentary draftsman, but the explanatory memoranda need to be far more comprehensive, at least in the early days of this new Legislative Assembly.

Finally, Mr Speaker, the passage of some legislation this week has been at the cost of some annoyance to all of us in terms of the fact that we once again feel that we are insecure in relation to unintended interpretive effects that will have their cost to this community when we take over the court system and we find an excessive amount of legislation and challenges going through the tribunals, the review bodies and the courts. We will not know this for a year or so. But then this could be a time bomb we are setting up by not having our legislation in place, by not having it sent out to all those affected groups in the community, in ample time for there to be proper consultation.

## Residents Rally

**MR JENSEN** (5.21): Mr Speaker, I rise to make a few brief comments in relation to some statements that were made about the Rally during one of the debates. There was some suggestion that the Residents Rally members for some reason were closet Liberals and could not make up their mind. Now, without wanting to bring personalities into this particular debate, I seem to recall that one of the things that we looked at today related to a decision that was made by the committee on the Occupational Health and Safety Bill, and it was an agreement that was made in that particular matter. It would seem to me that, in relation to involved unions, Mr Moore also changed his mind. So, if it is good enough for Mr Moore to change his mind on one thing, surely, Mr Speaker, in the appropriateness of time and with a view to a consideration of the facts, it is appropriate for other organisations and groups within this party to consider very carefully the issues and vote accordingly.

**Residents Rally**

**MR MOORE** (5.23): Mr Speaker, I certainly did change my mind and I certainly said I was wrong. I have said that in this Assembly and I have said as much to Mr McDonald who is sitting here. I went in there then, and I voted, and I accepted that that was my vote. I did not then go and say, "This is the Minister's responsibility", as the wimps next to me did. What they are trying to do is say, "It's your responsibility, but we are going to vote with it". Once they vote with it, it is their responsibility. That is something they are going to have to learn to face if they possibly can.

What they have to do at some stage or other is realise that when they make a decision and when they act on it then they wear the responsibility. You cannot have it each way. These two-way bets just do not work.

**Government Consultation**

**MR STEVENSON** (5.23): Mr Speaker, Mr Collaery spoke on consultation. I actually want to speak on the lack of consultation. The Chief Minister spoke of the budget consultative process. In that she mentioned community groups. I note that she did not mention, because I was waiting for the opportunity - - -

**Mrs Grassby**: Mr Speaker, may I draw to the attention of the house the fact that there is not a quorum.

**MR SPEAKER**: There is a quorum present.

**MR STEVENSON**: The Chief Minister mentioned the budget consultative process. It was not a consultative process. When the Chief Minister mentioned it in this house a little while ago, she mentioned that community groups were consulted. I note she refrained from saying "parties in this Assembly", because she did not consult the Coalition, and she deserves to be condemned for that.

**Mr Duby**: She spoke to the Liberals. She spoke to the Rally. That is the coalition. What more do you want?

**MR STEVENSON**: That is not the Coalition. There is only one Coalition in this Assembly. Look at the names of the parties.

**Ms Maher**: Did you ask her? Did you go up and say - - -

**MR STEVENSON**: Did I ask? Let me tell you what I asked. For three months I have been asking the Chief Minister for some consultation on the LA(MS) Bill. Do I get any? No. One month after putting a report in to her, and after my staff contacted her for a reply, as I have mentioned before, her staff said they were aware of it but they had lost it.

So one would assume, having lost it, they then would have done something about it. Nothing has been done to this day. I put another one in. Nothing was done about that. I have not been told that that was lost or filed in the WPB. That is the sort of consultation, Ms Maher, that we get. You said: did I ask her? Indeed, I did - again and again and again and again. What do we get? Do we get consultation? No, we do not. We get avoidance. Looking at a Chief Minister who seems to be so concerned about avoidance, you would think that she would not avoid her duty, her responsibility, to members in this Assembly. This may seem interesting but this is the truth of the matter.

We are told again and again and again and again that there is consultation, and in some cases there is, and that is great, but in many cases there is not. We have seen that today in the payroll tax Bill - no fair consultation. The suggestion that you can make amendments at the last minute because people are concerned is truly not on.

Question resolved in the affirmative.

**Assembly adjourned at 5.27 pm until Tuesday, 31 October 1989, at 2.30 pm**

## ANSWERS TO QUESTIONS

The following answer to a question was provided:

### Belconnen Tip Amenities Block

**Mrs Grassby**: On 25 October 1989 **Mr Collaery** asked the following question:

> I refer to the $299,000 new amenities building at the Belconnen landfill site which is included in the capital works program. In view of the fact that a $41,000 contract has been let for the design of this building - it is in the most recent Gazette - will the Minister advise the Assembly of the scope of work and any special design considerations which are to be taken into account in establishing an apparently excessive cost estimate for the project? That is $41,000 just to design an amenities block at the Belconnen tip.

My answer to the member's question is as follows: a new amenities block at Belconnen tip is required to overcome noise, dust, and ablutions problems associated with the existing facility. The building will provide office accommodation, lunch room, shower and toilet facilities for the staff of up to 10 who work at the tip.

The allocated funding of $299,000 represents an estimated construction cost of $258,000 and an upper limit of cost of $41,000 to cover design for the contract recently let. This contract is not only for design of the building. It also covers the architectural, electrical and mechanical consultant fees and construction supervision costs for the amenities block.

Experience on projects of this size in the past has shown that fees of the order of 16 per cent of the construction cost are required.