DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

31 October 1989

Tuesday, 31 October 1989

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MR SPEAKER (Mr Prowse) took the chair at 2.30 pm and read the prayer.

PETITIONS

The Acting Clerk: The following petitions have been lodged for presentation, and a copy will be referred to the appropriate Minister:

Water Fluoridation

To the Speaker and members of the Legislative Assembly for the Australian Capital Territory.

The petition of certain residents of the ACT draws to the attention of the Assembly:

That cumulative toxins in the form of fluoride are being added to the ACT's water supply as a mass medication without the consent of the people.

Your petitioners therefore request the Assembly to:

Immediately switch off the apparatus used to artificially fluoridate the ACT water supply and thereby stop this mad act of pollution.

by **Mr Wood** (from 25 citizens).

Royal Canberra Hospital

To the Speaker and members of the Legislative Assembly for the Australian Capital Territory.

The petition of Citizens, residents of the Australian Capital Territory wish to draw to the attention of the Assembly the attached petition. Your petitioners therefore request the Assembly to retain Royal Canberra Hospital as the principal hospital in the Australian Capital Territory.

by **Ms Maher** (from 15,000 citizens).

Petitions received.

QUESTIONS WITHOUT NOTICE

Water Fluoridation

MR MOORE: My question is directed to Mr Wood as chairman of the Standing Committee on Social Policy. Does the committee condone the actions of one of its members in strongly advocating a particular view when the committee has taken on the responsibility of looking into the matter of whether or not the ACT water supply should be fluoridated? How can the community now be assured that this will be an impartial committee?

MR WOOD: The Social Policy Committee is, as I am sure all committees are, concerned to gain the public confidence by the way that it conducts its business and in the report that we eventually bring down. The committee has discussed the way it intends to proceed, but I will not give any details of our discussion; I do not think that is necessary. I am sure that all members of the committee - and that includes me - are concerned to act in accordance with the normal practices and with due propriety. I am confident about the way the committee will be proceeding, and there will be no public discussion on the part of any of our members.

Foster Parents Program

MR HUMPHRIES: My question is directed to the Minister for Community Services and Health. It concerns the Galilee foster parent program and the review of this program which was foreshadowed in the ACT budget. I ask: can the Minister assure the Assembly that the review will be conducted by someone totally independent of the ACT Government? Will the review be carried out well before the six-month funding period will finish so that the Galilee organisation at least knows how to plan for the future? Will the Minister inform the Assembly what progress has been made towards getting this review up and running?

MR BERRY: I thank Mr Humphries for the question. During the budget consultative process these concerns were raised. One of the successes of the process was the Government's decision to take into account the complaints which were raised in respect of the Galilee issue. We have said that it will be an independent review, and that is exactly what was intended by that. I expect that that review will be conducted well in advance of the expiration of the six-month funding.

Environmental Impact Assessments

MR COLLAERY: My question is directed to the Chief Minister. I refer to earlier questions addressed to you regarding the National Aquarium site, including the still to be answered question as to whether you regard your Government or the Federal Government as responsible for any environmental concerns arising from the project - and I emphasise "any". I also refer to the special treatment and sewerage works proposed for the Revlon site. That company has also been given a lease without an environmental impact survey or assessment. Does your Government intend to adopt any environmental assessment procedures for significant developments? Have you ever seen an environmental impact assessment statement affecting any aspect of the ACT? If so, to what development did that relate?

MS FOLLETT: I thank Mr Collaery for that multi-part question. If I could respond first of all to the issue of the National Aquarium project, I have no doubt that Mr Collaery saw the report on WIN television news last Friday night - - -

Mr Collaery: I didn't.

MS FOLLETT: There was a report on WIN television news last Friday night, in which it was claimed that the Federal Minister responsible for the environment, Senator Richardson, had discussed this matter with me. He was quoted as saying that the ACT Government did not want an EIS on that project. Mr Speaker, both of those statements are absolutely incorrect. Senator Richardson discussed the National Aquarium project with me only last evening - Monday evening - although I had been trying to contact him on the matter for several days.

Mr Speaker, I think that the first thing to be borne in mind with regard to the National Aquarium project is that this Assembly has had its own reference before its own committee on this matter. The committee chaired by Mr Humphries will, I believe, be reporting to the Assembly very shortly. So I believe the first thing for the Assembly and the Government to do is to get the report from Mr Humphries' committee and to consider it very carefully.

Overall the Government is very concerned about the environment; it is very concerned to protect the ACT environment. With the National Aquarium, because of the river system in this part of Australia which is adjacent to the National Aquarium project, there may be wider issues. But, as I said, Mr Speaker, we must first consider the report of our Assembly committee on the National Aquarium.

Mr Collaery has asked me some more detailed questions about the proposed Revlon project, particularly concerning the possibility of an environmental impact statement in relation to that project. Could I have that part of the question repeated?

MR COLLAERY: I just referred to the Revlon one, Minister, as an example. I went on to ask: do you intend to adopt any environmental assessment procedures for significant developments? If you have seen any environmental assessments, to what do they relate?

MS FOLLETT: Thank you. I am sorry about that, Mr Speaker. It is not what I have taken a note of. On the question of environmental assessment procedures, the Government has released its discussion paper on new legislation for the ACT on planning, environment and heritage matters and on assessment and approval procedures. Mr Speaker, that discussion paper was put out early because of apparent community concern about these sorts of issues, and it has, I believe, been fairly favourably received. But it is a consultation document. The Assembly will be aware that I have given an undertaking on drafting instructions for those new pieces of legislation, and I will be acting upon that undertaking.

I think the short answer to Mr Collaery's question is that we wish to have in place in the ACT, and by the action of our elected Assembly, appropriate environmental controls that reflect the concern of everyone in our community for our environment, and we are working to do that as quickly as possible.

Mr Collaery also asked whether I had seen environmental impact assessments on any particular projects. If he is referring to the kind of EIS that is carried out under the Commonwealth legislation, which is the only legislation we have at the moment, the answer to that is no, Mr Speaker.

Asbestos Removal

MR STEFANIAK: My question is addressed to the Minister for Housing and Urban Services. Is it true that the cost of asbestos removal from private homes has blown out from approximately $20,000 per house to approximately twice that - about $40,000 per house? If that is so, what does your Government propose to do in relation to that?

MRS GRASSBY: Thank you, Mr Stefaniak. The Government will be making an announcement today on the asbestos situation. A contract will be let in the coming week or so to the lowest tenderer. It is true, Mr Stefaniak, that the prices that came in were a lot more expensive than we thought they would be. We are looking at letting a contract for the first hundred houses before Christmas. They will be started, and then we will be looking at other ways of trying to make the cost of it a little less.

MR STEFANIAK: I have a supplementary question, Mr Speaker. Do those other ways include possible legal action against the Commonwealth of Australia for the cost of asbestos removal from ACT homes?

MRS GRASSBY: At the moment, no, we are not looking at it because we are putting a submission to the Commonwealth Government now in relation to the people who are in need and who would find it very difficult to pay for accommodation for two weeks out of their homes. We are asking the Government to come to the party in finding the $260 or $300 a week that a family may need if they have to leave their home for two weeks while the asbestos is being removed. As this is what we are asking at the moment, we think it would be a bit pre-emptive then to suggest that we take it to court. I think we should first ask nicely and then, maybe later, we can talk about those sorts of things.

Health Services

DR KINLOCH: My question is directed to the Minister for Community Services and Health. There are worries apparently amongst some members of the medical community about the ratio, in the ACT Department of Community Services and Health, of administrators on the one hand to hands-on medical and support staff on the other. You may need to take on notice a part of this question. Specifically what has that ratio been over the last 10 years? Is it true that the ratio towards administrators has been steadily on the rise? I am startled, I have to say, by the figures that were hinted at by the person who spoke to me. Is the Minister taking steps to restore the ratio so that the emphasis is on medical and support staff, rather than on administrative staff?

MR BERRY: The issue that Dr Kinloch raises has been raised here before. I think Mr Moore some time ago asked me a question about the number of administrators that there were compared with the number of other staff in the health system. I think the question requires a detailed answer, Dr Kinloch, and it would be much better, Mr Speaker, if I took that on notice and got back to Dr Kinloch and the Assembly in due course.

Traffic Accidents

MRS NOLAN: My question is addressed to the Minister for Housing and Urban Services. We all read with concern of the double fatality that occurred on the Federal Highway. The road at the accident site is a single-lane road, with a single broken centre line. Will the Minister immediately issue instructions to her department to place an unbroken double centre line extending up the hill to the crest? If not, given that the preparation for a dual carriageway in the area has been going on for some five years, what will be done to make that particular part of the road safer?

MRS GRASSBY: Thank you, Mrs Nolan. We will be looking at anything in the ACT that can make it much safer for people travelling on any of our highways. Unfortunately, most of the problem with the Federal Highway seems to be in New South Wales. I know that the one you are talking about is not, and we are looking at that, but the worst problem is in New South Wales. That highway is to be upgraded, as we know, but it is taking time. Most of the problem, I understand, is caused by the number of trucks and buses that are now on the highway, and people travelling at speeds much faster than they should be and not being able to take care on that part about which you are speaking, where there is a rise and the drivers cannot see. So we will be looking at trying to do something about that particular area.

MRS NOLAN: I have a supplementary question. My question was: will the Minister immediately issue instructions to her department to place an unbroken double centre line extending up the hill to the crest?

MRS GRASSBY: No, Mrs Nolan, I will not be telling officers of my department to do anything until they have checked it and looked at it, as I am not an expert on roads but I have people in my department who are. I will ask them to go out, have a look at the road and give me a report on it. If they come back and tell me exactly what Mrs Nolan said, then I will ask them to do it immediately.

City Plan

MR JENSEN: My question is directed to the Chief Minister in her capacity as Minister for planning. I refer her to proposals to vary the city plan for Gordon, variation No. 4, 1308/89, and Monash, section 6-18, by changing the gazetted roads to remove battleaxe blocks to make the developments "more commercially viable". Can the Chief Minister advise the Assembly of the rationale behind these changes and whether they set the scene for changes to longstanding planning policies which would meet the needs of developers rather than of people who will be living in the new suburban areas?

MS FOLLETT: I thank Mr Jensen for the question. I do not have the detail available to me on either of those proposals, Mr Speaker, so I will take that question on notice and report in full to the Assembly as soon as I can.

Car Parking in Residential Areas

MR MOORE: My question is addressed to the Minister for Housing and Urban Services. Will she give this Assembly an assurance that pegging and marking work, apparently for the purpose of parking, in the Reid area will cease immediately

and that no such work will be contemplated in future unless the proper consultation processes have been completed and agreement reached?

MRS GRASSBY: Thank you, Mr Moore. The Government is firmly committed to full and open consultation. The views of the members of the Legislative Assembly, interested groups and affected people will be sought before the Government makes any final decision on either general ways of parking or specified matters, like parking in Reid or any other part of Canberra.

In relation to parking in residential areas, there has to be a balance between the rights of residents and the needs of the broader community, and this is what we will be looking at. The government strategy provides for adequate access for residents to be preserved and improved. However, the Government believes that refusal to allow any long-stay parking on residential streets is unrealistic or unfair to the community at large. It does believe, however, that people should not be subsidised to park in residential streets. Charging commuters for long-stay parking would remove any incentive for them to use these streets in preference to off-street parking areas available in the town centre.

A proposal in the Transport ACT booklet is to reduce the amount of commuter parking by about one-third and indeed increase amenities and availability of short-stay parking for residents. There will be no implementation of proposals until consultation has been completed. The pegging and marking of the kerbs in Reid, Braddon and Turner simply identify places where poles will not damage underground services. It does not prejudge what signs will ultimately appear on those poles.

Hospitals

MR COLLAERY: My question is directed to the Minister for Community Services and Health. I refer him to the intolerable situation at the Woden Valley Hospital, where several members of staff claim they have become the targets of assaults, abuse and threats from certain other members of staff, and to the claim that the hospital administration has failed and otherwise refused to conduct a proper inquiry into those allegations. I ask the Minister: does he intend to retain his previous position on this matter, as indicated through his staff to the HEF - namely, that the situation does not require intervention by him - or will he initiate an immediate inquiry so that these serious problems can be resolved quickly?

MR BERRY: My first reaction, I must say, Mr Speaker, to this question is to say that it has already been asked and answered.

Mr Collaery: We didn't get an answer.

MR BERRY: I think you did get - - -

Mr Collaery: You said it was up to the police.

MR SPEAKER: Order!

MR BERRY: Thank you, Mr Speaker. I think I made the position very clear at that time that, if there were disciplinary offences which had occurred at the hospital, that was a matter for management to deal with in the normal course of investigation of disciplinary charges; if there was some sort of criminal activity going on at the hospital, then it was a matter for individuals or for management to report that to the police, as necessary. In terms of an inquiry, I certainly do not have in front of me the sort of information that would cause me to intervene in that way at the moment.

I must say, in response to Mr Collaery's question, that I received a delegation from the Residents Rally party last week, and we discussed this issue in some detail. I am as concerned about it as members of his party. But industrial relations, as Mr Speaker would well know, can often be volatile, and it is an issue in relation to which sensible management should prevail. As I have indicated to the Residents Rally party, I think that management should be allowed to do its job, and that is manage.

At the same time I have also indicated to the Residents Rally party that I will keep my eye on things, make further inquiries about the matter and get back to them if there is anything new to add to the matter. I will give that undertaking again to get an update on the current situation as of today, and I will personally discuss the issue with Mr Collaery if that is what he requires.

MR COLLAERY: I wish to ask a supplementary question, Mr Speaker. Minister, in view of your assurance that you will look into it, will you support the motion I now put, that I be permitted to table the allegations in the house? Mr Speaker, I seek leave to table the allegations.

MR SPEAKER: Is leave granted? Leave is not granted.

Mr Humphries: Mr Speaker, with respect, if no member objects to the granting of leave, leave should be granted. If a member objects to the granting of leave then it should be refused, with respect.

Leave granted.

MR COLLAERY: I table the following papers:

Woden Valley Hospital Administration -
Brief to Mr Collaery, dated 20 October 1989, concerning difficulties being experienced

by certain members of the Hospital staff, together with attachments.
Letters from -
ACT Community and Health Service to -
Hospital Employees Federation of Australia, dated 16 October 1989.
Mr T. Maybury, dated 24 October 1989.
Hospital Employees Federation of Australia to Woden Valley Hospital, dated 16 October 1989.
Mr Blewitt to Mr Collaery, dated 16 October 1989.
Ms Blewitt to Mr Berry, dated 27 October 1989.
Ms Maybury to Mr Berry, dated 19 October 1989.
Scott Campbell Sheils to -
Mr Briggs, dated 27 September 1989.
Hospital Services Division, ACT Community and Health Service, dated 16 October 1989.
Memo from A.T. Maybury to G. Marsden, dated 14 September 1989.
Statements by -
K. Andrews.
S. Blewitt.

Recycled Paper

MRS NOLAN: My question is directed to the Chief Minister in her role as Minister for the environment. In August you announced you had initiated the trial of 100 per cent recycled paper in the ACT government service. What was the result of that trial?

MS FOLLETT: I thank Mrs Nolan for the question, Mr Speaker. Yes, indeed, we have been using recycled paper in the Administration. My letterhead is on recycled paper. To the best of my knowledge, it is proving very satisfactory indeed. But, as far as I am aware, Mr Speaker, the actual trialling of it is still going on and there is no comprehensive result of it at the moment. As far as I am aware, the use of that paper is proving very satisfactory indeed.

Teacher Transfers

MR COLLAERY: Mr Speaker, my question is directed to the Minister for Industry, Employment and Education. I refer to the Canberra Times article today regarding the proposed transfer of Mr Pritchard from Lyneham High School. Do you not agree that this again demonstrates concerns raised in recent weeks regarding this oppressive policy? What precisely do you intend to do for schools and school boards

which oppose the implementation of compulsory transfer without merit, review or appeal rights? Do you not agree that compulsory transfers between shearing sheds was one of the planks in the formation of the AWU and the Australian Labor Party?

MR WHALAN: I thank Mr Collaery for his question. I would say that among quite a number of school visits that I have undertaken I have had the opportunity of visiting the learning centre at Lyneham High School. I have visited several learning centres in our schools. One of the strengths of our education system is the provision of these specialist facilities. There is demonstrated there an extraordinary dedication on the part of the teachers and, I might add, the teacher assistants. The teachers are ably assisted by non-professional assistants - I should not say non-professional but not professionally trained assistants - so there are the professionally trained teachers and their assistants, and an extraordinary level of commitment to the students.

I spent quite a period in that particular unit and met the students. As a result of the campaign in relation to the particular teacher who was the subject of the publicity in the Canberra Times today, I can report to the Assembly that I have received quite a number of letters from the current students at the school and I have responded personally to each of those letters from the children. Obviously, in some cases, it was a considerable effort for them to send a letter in. I think that their efforts in that respect are a credit to the kids and to their teachers.

However, I am also aware that the department is concerned about the need for greater mobility in the teaching service. It does consider that, in general, it is not in the interests of teachers in a career service, or in the interests of the pupils, for teachers to stay indefinitely in one position. Consequently, the department is considering the temporary transfer for two years of some 50 secondary teachers who have been in their current positions for 14 years or more. I have said before, and I repeat, that the implementation of this policy has been the subject of negotiation and agreement between the Education Department and the ACT Teachers Federation.

The department has also been setting up guidelines to minimise the impact on particular programs and to consider special cases for deferment. I can report that at this stage no decision has been made concerning the particular teacher at Lyneham High School.

Casino

MR JENSEN: My question is directed to the Chief Minister. I refer her to the first recommendation of the Select Committee on the Establishment of a Casino, which urged the Government to:

> adopt as a matter of policy the urgent implementation of the Social Impact Survey recommendations relating to the epidemiological studies and the establishment of counselling, referral and education services.

Can the Minister advise what progress has been made in implementing this important recommendation?

MS FOLLETT: No, Mr Speaker. I will take that question on notice and advise the Assembly when I have had a chance to look at it in some detail.

Use of Schools

MR HUMPHRIES: My question is addressed to the Minister for Industry, Employment and Education. Is he aware of the joint submission by the Australian National College of Business and English and Belconnen Skillshare, an organisation to assist the unemployed, to develop the Page Primary School? Can the Minister say whether applications of a kind which preserve community assets for potential future community use, as this does, are preferred by the Government over ones which do not? Can he say when this and other applications for use of redundant schools will be considered by the Government?

MR WHALAN: The use of redundant schools, Mr Speaker, is currently the subject of a review of land use policy. In that process there have been draft variations in relation to those sites, and they include the sites at Watson, Phillip, Pearce, Fisher and Page. They were released in August, and they provided for the reuse of the school sites for community use and/or for residential developments. Over 50 submissions have been received in relation to those sites, and a consolidated report on all school sites is expected to be submitted to the Government before the end of the year.

Fun Run

DR KINLOCH: My question is directed to the Minister for Community Services and Health. We understand that a Legislative Assembly team of three persons took part in a recent athletic event, and I believe it could be said that those three persons have the most magnificent legs of any people in this building. I do not wish to make unfortunate comparisons at all - other people could enter that contest - but, having seen at least some of those legs, I think one can be allowed to say that.

Could the Minister give us the details of that team, its performance and, above all, the date and time on which we

will join him and them in celebrating their admirable success? If I were allowed to ask a supplementary question - and I probably would not be - I would ask, somewhat philosophically: is it true to say that this athletic event could properly be described as "fun"?

MR BERRY: Thank you, Dr Kinloch, for your question. The Acting Clerk of the Legislative Assembly was one member of the team - the senior member, I should add - the Serjeant-at-Arms was one-third of the team, as well as me. I did not sight the Serjeant-at-Arms' legs, Dr Kinloch, after the starter's gun sounded because he scampered off into the distance and easily crossed the line in about 40 minutes, I think.

I was four minutes or so behind, and about the same amount of time behind, I think, Mr Piper came in. It was a good thing for the Assembly because it showed that we are real people and participate in people's events such as the fun run. I can say to you that it is really fun for those who have put a bit of time into training for it. I am sure all of those members of the team who were in the run on Sunday enjoyed themselves and they would also agree that it was fun.

In terms of a celebration, I am not quite sure what the result of the competition between us and the Canberra Times team turned out to be, but there was a challenge issued by the Canberra Times. I have not seen the coordinated results of the fun run.

Car Parking at Dickson

MR MOORE: My question is addressed to the Minister for Housing and Urban Services. Is she aware that, on the introduction of short-stay parking at the Dickson shops, only 20 or so long-stay parking spots were available for use by staff employed by various businesses at the shops? According to what projections of business activity in the area has the Minister determined that future employment levels will fall to the point at which no more than 20 or 30 people will need to park at the shops?

MRS GRASSBY: Thank you, Mr Moore. When the decision was taken to put in short-stay parking at Dickson we consulted the shop owners with the complaint that people could not park there because other people were staying there all day. It was decided, after talking to them, that they needed a lot more parking than was thought at first, and that is why most of it was taken up in short-stay parking. But, as Dickson is to undergo new development in the future, we will possibly be looking at long-stay parking for people who are working in the area. At the moment we are waiting to see what is happening with the development at Dickson.

Sports Hall of Fame

MR STEFANIAK: My question is to the Minister for sport. The health Minister might even make it into this, with his time of 44 minutes. Has the Government given consideration to the establishment in the ACT of an ACT sports hall of fame?

MR WHALAN: The nomination process, I understand, Mr Stefaniak, does require certain levels of achievement. The sporting heritage of any region needs to be catalogued both for historical reasons and for a proper understanding of the development of a particular sport. In the Australian context sporting events and sporting individuals have assumed the same level of importance as historic places and, indeed, national heroes. The cities of Melbourne and Sydney have established their respective sports persons halls of fame, and recently the city of Bowral undertook a major project in establishing the Sir Donald Bradman museum.

In Canberra the Australian Sports Commission has established an Olympic hall of fame. Canberra has a sporting tradition that predates Federation, with some historical data indicating that sports persons from the region trained for the first Olympics of the modern era. Regrettably, much of that history has not been properly recorded, nor would it appear that there is sporting memorabilia from that period in existence.

One sport, for example - rugby league - has been able to catalogue the history of the game since its inception in the region in the early 1920s. I have asked the ACT office of sport, recreation and racing to actively support any group wishing to undertake an historic study of its sport in the Canberra region. I have also asked the office of sport, recreation and racing to provide me with advice on the establishment of an ACT sports persons hall of fame. I envisage that the office will be able to provide suitable display areas in new office accommodation at Tuggeranong for such a venture.

I would actively encourage members of any sporting organisation that has any historical data or memorabilia relating to their sport to contact the ACT office of sport, recreation and racing. I am sure that in that category, Mr Speaker, a pair of Mr Stefaniak's shorts would be a worthy historical object.

Environmental Impact Assessments

MS FOLLETT: May I add a tiny bit to an answer that I gave to the very last part of Mr Collaery's multi-part question on environmental impact. He asked whether I had seen an environmental impact statement on any project. I have, of course, seen the social impact study which was done some

time ago on the proposed section 19 development. It is my understanding, on advice now, that that social impact study does form part of the EIS process under Commonwealth legislation. I have, of course, seen that.

Mowing Equipment

MRS GRASSBY: I have an answer to a question asked by Mr Stefaniak on 26 October, concerning the delivery of five Hustler lawn-mowers. My answer to the member's question is as follows: to date two have been received, a third will be delivered this week, and the remaining two will be delivered over the next two weeks.

Mr Moore: What colour are they?

MRS GRASSBY: I think we are having them pink with yellow spots. I rather like those colours.

PUBLIC HOSPITAL REDEVELOPMENT
Ministerial Statement and Paper

MR BERRY (Minister for Community Services and Health), by leave: In 1987 the first strategic plan for ACT health services proposed that the development of services across the three public hospitals should be complementary, and it suggested a scheme to rationalise the distribution of services between them. The plan envisaged that Royal Canberra and Woden Valley Hospitals would continue to operate at around the same capacity.

In 1988 an independent review of ACT health services by Dr Brendon Kearney recommended the adoption of a "one principal hospital" concept and the establishment of a steering committee to review the options for implementing the proposal.

The steering committee examined 10 major options, ranging from the status quo to construction of a single 1,000-bed hospital to replace all existing facilities. Between these two extremes the committee identified a number of alternatives which focused on a principal hospital of between 600 and 700 beds and one or two community hospitals. Full details of these options were included in the steering committee's report which I tabled in this house on 24 August this year.

The steering committee strongly supported the concept of a principal hospital, and it recommended that Woden Valley Hospital be developed for this role. It provided two distinct options for the provision of associated community hospital facilities. The first involved the expansion of Calvary Hospital to its current capacity of around 300 beds and the closure of Royal Canberra Hospital. The second

option provided for the retention of all existing public hospital sites, with Royal Canberra being developed as a community hospital of around 250 beds and Calvary Hospital being maintained with about 150 beds.

After receiving the steering committee report, the Government consulted widely with the community. Many issues and concerns were raised, and these were addressed by the Government before making its decision. The Government has decided that the redevelopment of the ACT public hospitals must focus on the creation of an integrated and comprehensive system. This system will retain the three existing public hospitals, although in a revised, more effective and efficient form.

The integrated hospital system which the Government will develop will provide the 1,000 public hospital beds estimated to be required in the year 2000. A major feature of this integrated approach will be the collocation of high-level services and technology at Woden Valley Hospital. Collocation of the major specialties will mean that all high-risk patients will be treated there. This means that high-level support services, which are both costly and difficult to staff, would be needed at only one site.

The advantage of collocating the high-level services include: reduced duplication of services with consequent savings in expenditure; improved cover by medical and surgical specialists who currently have to work across two or more sites; enough specialist medical, nursing and other professional staff in one place to provide good opportunities for education, training, research, peer review and quality assurance; greater professional job satisfaction and consequent improvements in recruitment of scarce specialist human resources; ability to attain more easily the proposed levels of complexity of services which will improve services available in the ACT; increased viability of high-level services because of the volume of specific cases being seen in one place and consequent improvements in clinical practice; an extensive range of basic, common services across all three hospitals; and, of course, reduced duplication of services.

In reaching its decision on the development of a new and revitalised hospital system, the Government has paid careful heed to a range of factors, including capital and recurrent operating costs and social justice considerations. The Government recognises that the existing three public hospitals system is an integral part of the ACT community and a feature that affects more residents in one way or another.

Retaining the three public hospitals, albeit in a more effective format, will maintain diversity of services and client choice offered by our hospital system. The provision of services at all three sites will allow the development of different philosophies of treatment and

greater choice for clients. Because Calvary Hospital is managed by the Little Company of Mary, there is concern that for medico-moral reasons particular services would be available at only one hospital if either Woden Valley or Royal Canberra were closed. Continued provision of hospital services at three sites will maintain the accessibility of the system no matter where Canberrans live. It will also provide an improved capacity to expand to accommodate additional hospital beds when the need develops.

One other issue which has emerged in the consultation process and recent media reports is training for the medical profession. There is clearly a need to ensure that the proposals of the ACT tertiary institutions are developed in ways which maximise benefits to the Territory and are not competitive, but are soundly based on educational, health and resource grounds.

As an important component of the proposal to upgrade and revitalise the public hospital system, the Government will develop Acton Peninsula for improved community use. At present the peninsula is largely inaccessible to the general public. The Government has decided to proceed with the construction of nursing home beds on the site. As well, the Government will investigate the provision of convalescent and hospice facilities and a birthing centre.

Without infringing sensitive planning controls, the Government will move quickly to promote the development of a limited range of recreational facilities which will greatly enhance its value to all residents of the ACT.

The redevelopment of the ACT public hospital system is urgent and essential, and the Government's decisive action in dealing with this complex issue will enable the quality of hospital services available to the citizens of Canberra and the surrounding areas to be rapidly improved and expanded as necessary over time.

What is proposed by the Government represents a major capital investment of $200m to $210m for the ACT community. Given the best circumstances, the planning and construction of the extensive range of work required will take between five and seven years to complete. Through this program, the Government will provide a public hospital system that will incorporate design and technology fully in keeping with contemporary standards, and the quality and range of services to be offered will be enhanced.

As well, it will be more efficient in design, and substantial ongoing operating cost savings of over $5m will be achieved without in any way affecting the quality or level of services provided. This will be of considerable assistance to the Government in seriously addressing the $13.4m above-standard expenditure in health services identified by the Commonwealth Grants Commission in its 1988 report into ACT finances.

Planning for the upgrading of Woden Valley and Royal Canberra Hospitals to meet the requirements of their new roles will commence immediately. This work will take up to a year to complete and will heavily involve staff and unions, as well as provide an opportunity for the community to contribute to the planning process. This will help develop better ways of delivering services.

Mr Speaker, in planning and managing these changes special attention will need to be given to such important areas as continuity in the delivery of services, revised staffing arrangements and structures, and the development of systems of operation that will ensure minimum disruption during the restructuring phase and set the scene for the future. I present the following paper:

Public hospital redevelopment - Ministerial statement, 31 October 1989

and move:

That the Assembly takes note of the paper.

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

DOG CONTROL LEGISLATION
Ministerial Statement and Paper

MRS GRASSBY (Minister for Housing and Urban Services), by leave: Mr Speaker, following a question from Mrs Nolan on 24 October I wish to inform the Assembly of progress on dog control legislation. There is a strong view in the community that dog control laws need to be strengthened so that responsible pet owners are protected and irresponsible people are made to do the right thing. As I have mentioned before, the Government is reviewing current ACT dog control laws. Information is being collected on the legislation in the States, and this is being analysed.

So far our review has shown that the ACT dog control laws are not as strong as legislation in other States. Particular areas we need to address are: requiring dogs in public places to be on leads; simplifying the process of dealing with dogs that attack people or other animals; and increasing penalties.

I would like to stress that, before making any changes based on the review, the Government would like an indication of the community's feelings. As a result, we have decided to circulate a questionnaire throughout the community through a number of outlets. I am sure that all members are aware that dogs and dog control laws are a very emotive issue for the community. There are two sides to the question. Many people derive a great deal of pleasure and companionship from their dogs. However, not all people

want to do the right thing about keeping their dogs under control and out of mischief.

In recent weeks the Government has sponsored a dog control community awareness campaign with the cooperation of the media, and the theme has been "Your dog ... your responsibility". The campaign attempted to make people realise that the responsibility for their animals' behaviour and the consequences of their actions rested with them. Too many people are not prepared to believe that their beloved pets can frighten people, attack other pets, cause traffic accidents and be a pest around schools and shopping centres. Mr Speaker, I might say that in Cabinet this morning somebody said we could put "child" there instead of "pet".

Mr Kaine: Who said that?

MRS GRASSBY: I couldn't tell, Mr Kaine. The community survey which I mentioned earlier will list the major proposals for change which have been raised by individuals and groups interested in this issue. It asks people to indicate whether they agree with, disagree with or are undecided about proposed changes to the law, and it asks people to note any other issues they believe are important. The questionnaire will be collected through our Office of City Management shopfronts and ACT Parks and Conservation depots.

As I said earlier, the sorts of changes we are asking the community to comment on include tougher penalties for offenders, on-the-spot fines and making it compulsory for dogs to be on leads in public places. We also want to know people's views on the law covering the seizure and destruction of savage and nuisance dogs and ways in which we can make access to dog registration more freely available - for example, at the point of sale in pet shops.

Another suggestion is that the Government should establish an advisory group to assist us with the development of policy on dog control. I think this idea has merit.

Mr Kaine: You could be a DAG - a member of the dogs advisory group.

MRS GRASSBY: Behave yourself, Mr Kaine. It would be a way for dog owning and training groups and the general community to have an ongoing say on the problem. Mr Speaker, my friends from the RSPCA have told me that problems caused through pet owners not accepting their responsibility are worse in Canberra than in other capitals. There are probably many reasons for this, but our Government wants to join with the community in trying to change that very unsatisfactory reputation.

As soon as we have feedback from the community, we will produce draft legislation to change the dog control laws. We do not believe that the issue is one for political point

scoring. We will allow for wide discussion of the proposed legislation with all parties before we proceed.

Mr Speaker, this is not a rapid process, and I make no apology for that. Dog control is a complex issue, and the Government wants to ensure that we are operating on the basis of the majority view. We started the ball rolling with our awareness program, and we are now giving everybody a chance to have a say. We will then produce our legislation. We will proceed as rapidly as our commitment to consultation allows. I present the following paper:

Dog control legislation - Ministerial statement, 31 October 1989

and move:

That the Assembly takes note of the paper.

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

MEDICARE INCENTIVE PROGRAM
Ministerial Statement and Paper

Debate resumed from 29 June 1989, on motion by **Mr Berry**:
That the Assembly takes note of the following paper:

Medicare Incentive Program - Ministerial statement, 29 June 1989.

MR MOORE (3.24): It is a long time since this ministerial statement was made, so my comments will be relatively brief. Many of the comments that I had to make had to do with a birthing centre, and that matter, interestingly enough, was addressed in the statement made by Mr Berry earlier today. Allow me to say that the concept of incentives to reduce stay in acute hospital beds is a very important matter for the community as a whole, because the acute hospital beds are a very expensive proposition, so methods that can be found that reduce stay in hospital are a fund saver for the community and therefore have a great advantage to all members of the community. It is very important for us to look at the economies in the health sector, because the health sector is one of the most expensive parts of our budget and of the budget right across Australia.

In this instance the Federal Government has given the ACT $461,000 towards post-acute and palliative care. Palliative care, which was also addressed by Mr Berry as a possible use for the Royal Canberra Hospital site, is particularly important and has broad-based support within the community. The existing system is satisfactory in the sense that many community members are giving their own time to assist in providing palliative care, but it is totally

unsatisfactory in the sense that it is underfunded and does not achieve the sorts of goals that the volunteers who run it are attempting to achieve.

I particularly wanted to comment on the midwifery early release scheme, and I draw from my own experience with my own family. It was my wife's wish after she had our first child to spend eight days in hospital, which she did and that was very satisfactory. But her choice with our second child, and similarly with our third child, was to spend a much shorter time in hospital. Some of the most important reasons for that had to do with the psychological advantages of being at home with the other children. She herself felt well enough under both those circumstances to decide to come home.

Mr Berry in his statement pointed out that, naturally, the mothers will continue to receive support from community nurses as is normal in the ACT. Let me compliment the community nurses who have provided that support. But when people are encouraged to be at home one questions whether that support will be enough under the current community nursing scheme or whether the community nursing scheme needs to be expanded in order to provide that support.

The paper that Mr Berry presented emphasised that it would be the woman's choice, that nobody would be forced to leave hospital, but there was certainly some inclination of encouragement. I have no difficulty about that encouragement. I think that encouragement must come with the extra support - not the standard support, but the extra support - for those women and hence for the community nursing program. There is no point shifting the responsibility from one sector out of hospital into community nursing without also providing some extra support for the community nursing facilities. I think that is a most important factor.

The Medicare incentive program also addressed the intraocular lens implant programs and several other programs, but it is some time since this was tabled and I want to just make a couple of small comments on that Medicare incentive program. I feel that the comments there on the midwifery program in particular are most important, but also I would like to take the opportunity to emphasise that one of the alternatives that we have, another method of saving money as far as this goes, is to look much more carefully at the birthing centre possibilities.

I welcome Mr Berry's statement today - now that he has returned I will re-emphasise it - that they will be looking at a birthing centre. The emphasis of that birthing centre should be on allowing mothers to have their choice in ante and postnatal care as well as birthing care, and should also look particularly at staffing primarily by midwives. There is already in Canberra a body which is called the Birthing Network. If that Birthing Network is part and parcel of the sorts of consultations that I know have

already taken place, then I think that the community could find not only another choice for women in how they go about having their children, but also a choice for women that will wind up saving the community a considerable sum of money in terms of long-stay acute hospital beds.

MS MAHER (3.30): My party welcomes the Medicare incentive program outlined in the Minister's statement of 29 June 1989, which was so long ago. The program will be of benefit to the community at large as many patients will be able to decide for themselves their length of stay in hospital.

Firstly, I would like to refer to the early discharge program. Although it is not the most desirable program in terms of services provided for our community, it will certainly be welcomed by most women. Homebirth is an experience that many women would like to participate in but cannot do so fully because of their financial situation, because of their state of health, or because the health of their unborn child is at risk.

In addition, I am told that, as well as the obstetrician's fee for attending a homebirth, there is a fee charged by the midwife for attending of approximately $500, which a lot of families just cannot afford. I note that the Government is planning to establish a birthing centre in the ACT, and I am sure that this initiative will be welcomed by many families. The birthing centre would not only provide a home environment for women giving birth, but also it would have immediate access to emergency care should the need arise, thereby reducing the risk of complications as a result of a delay in medical intervention.

Overall, I believe that the early discharge program is a compromise between hospital and home births because it gives women the advantage of having medical care available during the birth but if they so wish they can go home after the delivery. As the Minister has indicated, in Newcastle up to 30 per cent of those women eligible have taken part in the program, subsequently vacating hospital beds much earlier, not forgetting that there is postnatal care available for them for a week after discharge. This scheme will be successful in Canberra provided that the workload of visiting midwives is not excessive. Perhaps in future there will be a need for extra staff to be employed. The palliative care program presently operating from Calvary Hospital allows for terminally ill patients to be discharged from hospital and cared for by the community groups. I am happy to see provision in the Government's budget to allow patients who are suffering from terminal illnesses, other than cancer, to benefit from this scheme.

The day procedures program is an excellent one. The elderly who are in desperate need of improving their eyesight and who at this stage have to wait for long periods before booking into hospital will have a chance to

lead a fuller life and have improved quality of life. The Minister has shown by his example of Mrs Ruby Rawlings' case how effective this scheme can be.

In conclusion, my party welcomes the Medicare incentive program as no doubt it has the potential in the long term to diminish the cost burden of health care to the community as a whole. I would like to add that perhaps this money saved could be better spent on and made available to other health programs which are in need.

MR BERRY (Minister for Community Services and Health) (3.34), in reply: The Medicare incentive program provides valued services for the people of the ACT in all of those areas which previous speakers have mentioned and which I mentioned in my ministerial statement some time ago.

I would like briefly to go over some of those issues which are dealt with in the program to finish off the debate today. The Medicare agreement provides funding for post-acute, palliative care and day surgery initiatives. I think they are important matters for the people of Canberra. The total sum made available to the ACT was $449,000.

The broad aims of the incentive package are to utilise more effectively existing hospital resources. Ms Maher referred to that in relation to the early discharge program when she spoke just a moment ago. That comes about as a result of reducing the length of stay in hospitals and improving the availability of services.

The home based palliative care program is very important for the ACT. With no hospice facilities in the ACT, although a matter for later consideration, I am sure, the home based palliative care program provides the only non-hospital choice for terminally ill persons. Demand is high and exceeds the capacity of the existing program. As has been said, that program operates from Calvary Hospital. The case load is limited to 18 to 20 persons, and in an average year about 110 clients are cared for by the program. The expanded program will enable the case load to rise to 25 clients, about 140 a year, and it will increase by the equivalent of 3.2 staff, plus vehicles and equipment.

Current resource constraints mean that only cancer patients are accepted into the program. The program expansion, as was announced, will allow persons suffering from other conditions to be cared for. This program also allows for cost savings in the hospital sector by reducing length of stay but at the same time providing desirable and first quality care for those clients.

The day surgery program in relation to intraocular lens implants related to about 100 mainly elderly Medicare patients who were awaiting eye surgery to restore their vision. The application of the Medicare incentive program

to that service was a very important one for those clients of the hospital service. But I think the most important one, and the one that will be open to most people is the issue of the obstetrics early discharge program.

Yesterday I announced the commencement of what is described in the ACT as the mid-call program, where early discharge from hospital, after one or two days, will be available to women following a normal birth. It has been shown in many countries, and now in Australia, to be viable and a preferred alternative for some mothers to the traditional stay in hospital of between five and seven days. I am sure that some of us can remember when 10 days was a common stay in hospital for at least the first birth. I recall that in relation to my own children.

It is considered that up to 20 per cent of mothers may participate in such a scheme in the two major ACT public hospitals. At risk mothers will be identified through screening and will be excluded from the program, and participating mothers are prepared in that program for early discharge through an antenatal education and counselling process. But the most important feature of the program is that women who decide that they do not wish to leave hospital will not be forced to do so - it is a matter of choice - and they will be able to stay in the hospital system for the traditional length of stay if that is what they choose to do.

Each hospital will be staffed by an antenatal midwife coordinator-educator and the equivalent of one full-time midwife seven days a week. Early discharge mothers and their babies are visited at their homes by midwives from discharge day until about the seventh day following birth. So there is security in this system for mothers who choose to go home early. One of the requirements is that they have adult support at home when they choose to take early discharge. But after the early discharge program has concluded on about the seventh day, care is transferred to the regular community nursing service.

It is expected that in the ACT there will be 2,600 fewer bed days as a result of the program and there will be recurrent annual savings of around $135,000. But the most important issue is that it increases the options for women and ensures that they can exercise an option other than the traditional stay in ACT hospitals. I think that will be welcomed by the community at large.

The Medicare incentive program is a very important program for the provision of health services in the ACT and I think speakers in this debate have generally endorsed the program. I conclude by welcoming the complimentary comments of Assembly colleagues who supported the Medicare incentive program.

Question resolved in the affirmative.

SUPPORTED ACCOMMODATION ASSISTANCE PROGRAM
Ministerial Statement

Debate resumed from 5 July 1989, on motion by **Mr Berry**:

That the Assembly takes note of the following paper:
Supported Accommodation Assistance Program - Ministerial statement, 5 July 1989.

MR KAINE (Leader of the Opposition): I do not wish to continue the debate on that paper, Mr Speaker.

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

That the order of the day be discharged.

OCCUPATIONAL HEALTH AND SAFETY BILL 1989
Detail Stage

Consideration resumed from 26 October 1989.

Clause 27 (Duties of employers in relation to employees)

MR STEFANIAK (3.45): Mr Speaker, I move:

Page 11, line 33, omit subclause 2(a)(ii).

This amendment also relates to adequate facilities for welfare at work. My comments on this subclause are exactly the same as those I made last week in relation to my amendment No. 4, and I do not wish to bore the Assembly by reiterating those.

MR WHALAN (Minister for Industry, Employment and Education) (3.46): The Government opposes the amendment, Mr Speaker.

Amendment negatived.

MR STEFANIAK (3.47): Mr Speaker, I move:

Page 12, line 4, omit ", in appropriate languages,".

The committee considered this question at great length. We went to a number of sites, we observed a fair amount of machinery with international signs on it, and we spoke to a number of workers, employers and indeed other persons and organisations in relation to this problem.

A number of witnesses expressed their concern to the committee over the requirements to provide information, instruction, training and supervision in appropriate languages. Some witnesses felt it was particularly onerous to provide training and supervision in an appropriate language and it was intimated to the committee that such

provisions as set out in this paragraph could possibly be used as a deterrent to engaging non-English speaking employees, which was something the committee clearly did not want to see happen.

However, the committee, on its site inspections, noticed the use of international safety signs on machinery, and was pleased to see this. The committee believes that the reference to "in appropriate languages" can be deleted from the paragraph without detracting from an employer's responsibility to provide the necessary information, instruction, training and supervision to employees to enable them to perform their work in a manner that is safe and without risk to their health. Accordingly, the committee suggested an amendment to the Bill to give effect to that matter, and this amendment has been put forward. I commend it to the Assembly.

MR WHALAN (Minister for Industry, Employment and Education) (3.49): The proposal to remove the requirement for an employer to make instructions and information available to employees in appropriate languages is regarded by the Government as unfortunate. To remove it takes from the legislation the only recognition it has that, for a significant proportion of the work force, English is not their first language. So if an employer employs workers who speak other than English, the employer has a duty of care to those employees to ensure that, as far as it is necessary to use equipment safely, there be instructions given that they can understand in their own language. The original proposal in the Bill only sought to clarify that responsibility, and for that reason the Government would still prefer to see its continued inclusion.

MR COLLAERY (3.50): I wish to add a few words in support of what Mr Whalan has said. Mr Speaker, the use of appropriate languages, if you go to some sections of the United States, especially the Hispanic areas, is found everywhere. In the Rally's view, it would be appropriate to require an employer to use appropriate languages. The legislation is sufficiently loose to make it difficult to secure a conviction because it uses the words "appropriate languages". It has intent, but it does not have absolute prescription. In my view, an employer who has just put someone on would hardly be likely to be convicted because he has not had his labels made yet.

There are some significant cost aspects, in the Rally's view, if everything has to be labelled and looked at, but the Rally's view is that it should go into law. The working side of it can be looked at in further reviews of the legislation. The intent is there; the message is there to employers. I think of a case that I handled in the last two years where a Serbo-Croat did not read an English sign on an articulated Case tractor. He was alone, with someone else in a sand pit, out near Bungendore getting a load of sand, and the sign said, "Do not stand on articulated linkage while hydraulic pumps are working". He stood on

it; he had his foot crimped off. He was there for hours. It was an horrific accident. Part of the case will be that he could not read the sign. I think international companies like that, knowing the way machinery is used, could well afford to add a $10 or $20 label in multi-languages to equipment. We support the retention of the words "in appropriate languages".

MR MOORE (3.52): I am extremely disappointed at what I perceive to be a sudden turn. The recommendation of the committee was quite clear. We were given a paper by the Government last week that indicated that the Government would agree, and I quote from it, "as it is believed that the duty of care will adequately cover this requirement". I believe it is true that a duty of care will just as certainly apply. The anecdotal evidence that Mr Collaery gave is horrifying but is very relevant. I do not believe that this requirement - in appropriate languages - will change that situation. I believe that sort of situation will still exist. Unfortunately, by leaving "in appropriate languages" in the legislation, it draws the matter to the attention of the employer so that the employer can think, "This is an extra burden that I'm going to have to deal with. Therefore, I won't employ a certain person because of the language he speaks".

Employers may, in fact, employ somebody who has English as his second language. They may employ somebody who speaks Greek, for example. They may next employ somebody who speaks French as his first language. Then somebody may come along who speaks an Asian language. At what point will they say, "Well, I'm going to have to provide these instructions in all these languages. I'm compelled to provide these instructions in all these languages. How am I going to do that?".

The committee spent a great deal of time determining how we could put that responsibility back on the Government in order to provide the sort of assistance that a business person might have. One example we came up with was that the occupational health and safety group would be the focus for an employer to bring a document - a training manual, or something like that - for translation. The employer would not have to go out and find the time and make the effort to seek to make a translation into Mongolian. It would be up to the occupational health and safety group to get that translation through the embassies or somewhere like that.

We went right through that procedure. We spent a tremendous amount of time discussing this point. I made that point in the in principle stage of the debate. I emphasised the sort of balance that the committee had tried to find in removing this. After a great deal of discussion - I see Mr Wood is not here, but he was part and parcel of that discussion - the result was that on balance we would do a disservice to those people who have English as a second language if we were to retain this phrase.

I ask the Rally, the No Self Government Party and the Abolish Self Government Coalition to consider this
amendment very carefully. This recommendation of the committee has not just arisen from a couple of minutes' discussion but from a great deal of discussion. Instead of going back and trying to find out what this was about, we had an indication first from the Government that it would go along with the recommendation of the committee. So we were not given an opportunity to go and explain these sorts of reasons which I have given very briefly now. Let me emphasise that we believe this will wind up doing a disservice to people who have English as a second language. If the intention is to clarify the position and to do them a service, this wording could well do more damage than good.

MR DUBY (3.56): My party supports the committee recommendation that the words "appropriate language" be removed from the legislation. Mr Moore has spoken most eloquently on the matter and has pointed out, as we all agree, that the duty of care still remains on the employer whether there is a sign in the native tongue of the worker or not. The cost to employers, especially in this multicultural society, of having to have signs in languages other than English could come to quite a tidy amount.

Finally, as he pointed out, it would wind up as a disservice to people from non-English speaking backgrounds in obtaining employment. What employer will hire folk if he knows that every time they go to use a particular piece of machinery he has to put a sign on it, whether it be in Greek, Italian, Serbo-Croat, Turkish, Vietnamese or whatever it may be? For those various reasons we support the recommendation of the committee.

MR STEVENSON (3.58): I agree with the points so well made by Mr Moore. He is in a position, which did not apply to some of us, of having been a member of the committee that looked at the matter. Certainly we all agree that people should work in a safe environment, but there have to be limitations here and some commonsense should prevail. There were indications, before, that perhaps international safety signs could to some degree cover the matter. Perhaps more attention should be given to this area and very solid training given on that matter.

Mr Collaery mentioned that the working side of it could be looked at while operating, and I well understand his concern that something be done and be done soon. But we must take the point that the care responsibility is already there with most businesses. I think it fairly obvious to say that the vast majority of businesses, if not all, are extremely concerned about the welfare of their employees. It makes absolutely no sense whatsoever not to take full responsibility and ensure that your employees are well looked after. Everyone knows that one needs a harmonious working environment to be able to produce well. There is no real suggestion here that there is a major problem with negligence from an employer point of view.

In our role as legislators we must look at the point of view that we do not create more problems than we resolve. Mr Moore and others have mentioned the point: how many languages; how many dialects? If it has to be in different languages, if you have one person in an organisation of perhaps 100, or someone coming in there for a shorter period of time as an employee, once again that would be a legal liability if there were a problem.

As far as Mr Collaery's well-made point is concerned, that an international company probably would not find it difficult to spend a few more dollars, or even a few more hundred or even a few more thousand, to put various signs on equipment, well, that is true, but the point is that this legislation does not just cover international companies. It refers to "an employer". We know the lack of limitation on the size of an employer, and we must be cognisant of the fact that it is the small business area in Canberra that is going to make the difference between Canberra moving on successfully into the future and not doing so. So we must not place unwise burdens on small businesses.

I agree absolutely with Mr Moore that, if we allow this legislation to pass containing those three words, "in appropriate languages", it would bring about the non-hiring of people with other languages. Obviously that is not what we want to get involved in. I, too, ask people to really have a look at this with perhaps a new viewpoint. If there are any problems, why not use education more than legislation?

I think one of the problems we have to some degree, and governments have in general, is that we tend to rush into legislation before fully looking at the details. I notice Mr Whalan laughing and I wonder whether it has anything to do with what I am saying. Perhaps Mr Whalan feels that the idea is to legislate, legislate, legislate. I think a lot of people are concerned that these things are done without due viewing of the problems, certainly without due consultation. It has been brought out in this Assembly recently that there has not been fair consultation in this area.

Perhaps the union standpoint has carried the day, instead of having an across-the-board look at it and valid consultation with people - not only the people that are doing the work, but the people that are enabling those workers to have a job, the employers, whom this legislation affects. So once again let us have a look first of all at the need for the legislation, but let us make sure that we do not create more problems initially than we solve.

MR WHALAN (Minister for Industry, Employment and Education) (4.03): Mr Speaker, I have had discussion with my advisers. It has been confirmed that the Government does see the point raised by Mr Moore and Mr Duby. We accept

that view, that removal of the words "in appropriate languages" would still provide protection, because we see this as being picked up in the duty of care which is demanded by that part of the legislation.

Amendment agreed to.

MR STEFANIAK (4.05): I move:

> Page 12, line 12, omit the comma and the words "and welfare", substitute after "health" and before "safety" the word "and".

Effectively, this amendment just takes out the reference to welfare. As I have already spoken, Mr Speaker, I will not speak further.

Amendment negatived.

MR STEFANIAK (4.06): I move:

> Page 12, line 30, omit "or any involved union".

I would indicate to members - and I never expected the Australian Labor Party to have anything to do with removing involved unions; that is unfortunate but it is not surprising - that a number of other people in this Assembly, I believe, made a very grave error in supporting the Government in relation to this issue when we debated clause 5 and the definition section last Thursday. I would indicate that this is the first of 11 further references to involved unions in a substantive part of the Bill.

I urge members who voted to retain in the Bill the term "involved unions", thus enabling a third party to force its way into what are designed to be agreements between employers and workers at the shopface, to reconsider. If indeed they see the light and reconsider, this and the remaining 10 other references to "involved unions" can come out of this Bill. We can then go back, pursuant to standing order 187, and reconsider part I prior to voting on the Bill as a whole, and delete the definition of "involved unions".

I formally advise the Assembly that, if the Liberal Party is unsuccessful in having the words "involved unions" deleted and they remain in this Bill, we will move amendments to this Bill ourselves to include involved employer groups.

In addition, I wish to quote a couple of comments from CARD. A person in CARD has given me permission to have this recorded:

The private sector has agreed to the need for occupational health and safety legislation, and what they did not agree to is to the intrusion that unions will be allowed under this legislation

> as drafted to interfere with workplace arrangements. Duty of care is very much an employer's responsibility to his employees and in some cases vice versa. This should remain so. In relation to involved unions, this is where problems will commence. One has only to study the industrial situation in the ACT over the last ten years to define where our industrial unrest occurs. We believe that the legislation in regard to involved unions will prop up a declining union movement and give it scope to flex its muscles under another piece of legitimate legislation.

He goes on to say that they agree with the need for occupational health and safety legislation for the ACT private sector. They believe in civil liberties for employees, indeed the right of individuals to belong to a union and the individuals' right to approach a union on health and safety should they so desire. They do not believe that Government should facilitate the strengthening of a movement's power base through legislation. This would be so for the union movement in this proposed legislation, if this and the subsequent amendments are now agreed to. If the private sector is to fulfil its role in the provision of jobs for Canberra's young it cannot afford to be tied to restrictive pressures which will result from the unintended consequences of this legislation, that is increasing union power to interfere in the running of the workplace.

As I said last week, Mr Speaker, it is up to the private sector to be the main thrust behind future growth in Canberra. If we take steps that make it difficult for the private sector and indeed destroy sections of the private sector, there will be fewer jobs for our youth, fewer jobs for workers, and that surely is contrary to everyone's intention in this Assembly. I again urge members to delete the reference to "involved unions".

MR MOORE (4.10): I would just like to emphasise again, as I have expressed in this Assembly on a number of occasions on this matter, that my understanding at the time the committee report came out was fallacious and that in this respect I was wrong. So I will continue to support the inclusion of unions and the words "involved unions" in the legislation. Therefore, in spite of the fact that it was a recommendation of the committee, and partially through my own influence, I will continue voting in such a way as to ensure that the words "involved unions" are included in the legislation.

MR STEVENSON (4.11): The term "involved unions" is really a misnomer for, after all, it applies to organisations or businesses where unions are not involved, as it were. To continue with this part of the legislation will ensure that the union movement will have a far greater effect in places where there has been no problem, where businesses have been able to operate very well with their employees, and there

is no need to widen the net. But, as Mr Stefaniak says, if that is to happen, there should also be involved employer groups. It is obviously not just to have workers represented by unions on the one hand and employers represented by nobody on the other. If it is to be one, it should be the other. If it is the one, "involved unions", or if it is the both, "involved unions and involved employer groups", there is perhaps a concern that we set up the possibility for confrontation. That is not necessary in an area as important as occupational health and safety. So I agree with Mr Stefaniak that this should be removed and I agree that, if it is not, we certainly should have involved employer groups.

MR WHALAN (Minister for Industry, Employment and Education) (4.13): Our position remains the same as previously stated in relation to this deletion.

MR JENSEN (4.14): The Rally retains the position that it adopted during the debate on involved unions in the past.

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.

Clause, as amended, agreed to.

Clause 28 (Duties of employers in relation to third parties)

MR COLLAERY (4.17): I have no amendment to move in relation to penalties, Mr Speaker, as I think someone will be addressing the house on that topic.

MR WHALAN (Minister for Industry, Employment and Education) (4.18): The Government gives notice of its intention to refer to the Assembly's Bills committee recommendations 6 and 7 of the report of the Select Committee on the Occupational Health and Safety Bill 1989. This will give the Bills committee the task of reviewing penalties

generally in legislation with specific reference to the Occupational Health and Safety Act.

MR STEFANIAK (4.19): Perhaps I should just say something on that at this point. It is the intention of my party to have several of our recommendations on penalty dealt with today. The three we see as the most important that can be dealt with today are my recommendation 13 on a new clause 47A; recommendation 16, which, if agreed to, would not affect the question Mr Whalan and Mr Collaery refer to; and finally my recommendations 26 and 27 which relate to what we certainly regard as the most blatant and dangerous breach one could make of this Act, where the penalty, we believe, is inappropriate with the rest of the Act. That, I think, is something that can be dealt with today.

In relation to the rest of my proposed amendments and the amendments of my party in relation to penalty - and those are amendments 15 and 17 to 25 - we do not have any problem with those being looked at by the committee. They are really more in the form of adjustments which can be dealt with by the community generally on penalty. I would flag, however, the fact that, should there be any huge problems, we would reserve the right to bring any of those back before the Assembly by way of a further Bill if the need arose. However, we have no objection to those particular ones being looked at by the committee along with some suggestions Mr Collaery has made and along with the question of penalties for this legislation generally.

Clause agreed to.

Clause 29 agreed to.

Clause 30 (Duties of employees)

MR STEFANIAK (4.20): I move:

> Page 13, lines 32-33, omit paragraph 2(a), substitute "(a) between the employer and his or her employees; or".

Unlike Mrs Grassby, I do not think I was inoculated with a gramophone record when I was born, and I would be terribly repetitious if for the third time I were to reiterate our opposition to the inclusion of involved unions. I merely emphasise what I have said. I am very concerned that Mr Collaery and his party have seen fit not to go back on their stance of last week. Again, I urge members to agree with this committee recommendation.

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.

Clause agreed to.

Clauses 31 to 35, by leave, taken together, and agreed to.

Clause 36 (Small employers not affected)

MR STEFANIAK (4.28): I move:

> Page 17, line 29, omit "10", substitute "20".

Mr Speaker, this amendment refers to the question of the designated work group. All major employer groups who appeared before the committee and addressed the problem of the size of the designated work group, as it affected them, recommended a designated work group of at least 20.

I would point out to members that New South Wales has a designated work group of 20. There is a lot of commonsense in businesses in the ACT and New South Wales with commonality between them having the same designated work group. It probably behoves the Assembly to take a little bit more notice of our sister city of Queanbeyan. We seem to have forgotten it in a few things we have done. Let us not forget Queanbeyan in relation to this piece of legislation.

I would also indicate to members that in Queensland there are 30 members in a designated work group. Indeed, the New South Wales Act, which was enacted in 1984, and the Queensland Act, which was somewhat later, indicate an increasing size for the minimum requirement for a designated work group. I have spoken earlier about problems experienced in some of the other States where there is a very small designated work group and about some of the non-health and safety issues that have been raised. Industrial matters which have got nothing to do with health and safety have caused problems, partially caused by a very small designated work group. Perhaps I should quote from several bodies who appeared before our committee in relation to this. I quote from the transcript of 9 June 1989. Mr Rowe, representing CONFACT, stated:

> The figure that has been put forward is 30 and my understanding was that was still the figure in New South Wales, but I take your further advice that it is 20, because essentially in that regard one of the other things that we initially thought would be the case with the legislation is that it would mirror New South Wales and we felt that there were some very valid reasons for doing that.
>
> We are in very close proximity to New South Wales and a lot of things that happen within that state that surrounds us do have an impact upon the Territory and certainly in regard of that fact I do not think we should forget that Queanbeyan is just across the border and in terms of any legislation we have, particularly this one, we certainly would not want to get into the position where this legislation, for example, created a disincentive for business to establish in the territory.
>
> So that is our position and I think we now - and sort of overview in the legislation as it now stands, it is not terribly reflective of the New South Wales Legislation at all.

They have 10 in their designated work group.

A further person who appeared before the committee on 7 June 1989, was Mr Williams from the Master Builders Association. When asked questions, he stated that in Queensland the figure is 30. He then went on to say:

> That is fairly recent legislation. I think within the last few months the Queensland Legislation has come in. South Australia has been around for a few years. We have indications of where all the problem areas are and that is why in the Territory we are establishing agreements that just counted the number of people on site and said, "Look, you get more than 20 people on site then you have a formal arrangement for that particular site". And that, in our view, seemed to be a more recent approach than trying to set up this administrative regime.

And I quote from a further person who appeared that day before the Assembly, Mr Winnel, who stated:

The Bill contains a provision for a work force in excess of 10 to be a work force which requires the formation of these formally structured arrangements. The trend in Australia has been with South Australia at the lowest and the Northern Territory, I suppose, the most deregulated, and Queensland at 30 and New South Wales at 20, the trend has been that as experience

of this legislation have come through the numbers have increased.

We come almost at the end of the process in Australia and we go against the trend of the experience of other states and we reduce the number to 10. We believe that imposed an oppressive burden on business which with 11 and 12 employees are capable of talking to their employees without the structures imposed within this Bill and we are operating within the environment of New South Wales.

Whenever there are revenue measures we are told the reason we have got to pay additional revenue is because we need to be consistent with New South Wales. When we get to a matter like this we are wondering where the consistency with New South Wales comes about, why is industry in the Territory required to go through those structured arrangements, as against obligations of health and safety, those structures consultative arrangements, with a work force as low as 11.

There were a number of written submissions also put in in relation to the size of the designated work group, all stating that it should be at least 20. They appeared in the CARD submission. The Southern Cross Club submission, the CONFACT submission and the Master Builders Housing and Construction Industry Association's submission all say that the minimum work group in the ACT should be 20.

I reiterate that we are an island within New South Wales. Now that this Assembly has deemed that involved unions are going to remain in this legislation, the necessity for the efficient running of business in the Territory makes it more important than ever that the designated work group be at least 20. Accordingly, I commend this recommendation and this amendment to the Assembly.

MR WOOD (4.33): May I put into the record again the view of something like 57 unions and 50,000 members who consolidated all their various views into one report, that 10 is a reasonable number. Indeed, I think those groups would have preferred that no particular number be referred to but were accepting a compromise to make it 10. Even with that number of 10, something like 87 per cent of private sector employees in this town, that is almost all the private sector employees, will not be covered. So the provisions in this Bill are indeed moderate and modest, and let us remember that.

Another point to remember is that all these procedures in what looks like a fairly complex Bill are designed to produce a relatively informal structure. It is not proposed to establish some sort of mammoth bureaucracy or even a minor bureaucracy. It is proposed to establish at local level an informal and workable system. The proposed

amendment is quite unnecessary bearing in mind the perceived problems, and I might mention I have not done the research. I have got all the submissions on my table here, but I would think that a goodly number of the employer groups, as I recall from our hearings, were not concerned about this matter. It is not as though this is the unanimous view of all the employers. It is a reasonable proposition and I ask members to support what is in the Bill at this stage.

MR MOORE (4.35): I have decided not to move the suggestion of the committee. The compromise of 10 had been reached. Mr Stefaniak has pushed since then for 20, and we now have his amendment. When I originally suggested that the figure 12 be applied, it was pointed out to me it would be a case of 13 employers having to fit in with the workplace arrangements and that 13 was an unlucky number. I think the educational disincentives by having a figure of 13 associated with occupational health and safety overrode the issue, and it was brought back to 11. At that time we were not given the information that has come through more recently about the statistical comparisons and information related to other States. I think, with that extra information about statistical comparisons, it would be pointless to have an extra one person put into the legislation, and therefore the number should remain at 10.

When Mr Stefaniak presented his view and the view of the business community, he did a series of comparisons. It is important to understand that comparisons are very difficult between this legislation and legislation in other States because often in other States we are not talking about designated work groups but about occupational health and safety committees. This is a different form of legislation to what one finds in other States. Those comparisons really are not valid. The provisions in those States are different from what is in this legislation.

It was further emphasised when Mr Stefaniak said we must consider ourselves an island within a State. If we take that argument to the extreme, why bother legislating at all? Let us just adopt all New South Wales legislation and go with them. We have a different legislation. It is different in lots of ways.

Mr Kaine: That is probably a good idea.

MR MOORE: It would do you out of a job as Leader of the Opposition. Therefore, I believe that there is a series of very good reasons for retaining the figure of 10. Firstly, it is the compromise position. Businesses have said that, if they are going to have it, they prefer 20. The unions would prefer to have nothing. Therefore, 10 is the compromise position. It allows for easy statistical comparison. Therefore, I believe that we ought vote against any amendment to this clause.

MR DUBY (4.38): My party was originally prepared to accept the amendment of the legislation to make a designated work group comprise 11 rather than 10. We felt that that was the compromise that had been agreed within the committee. Having listened to the arguments first of all from Mr Stefaniak, which are put from the Liberal Party point of view, that the DWG should comprise 20 members, I am compelled to say that I am opposed to that. The situation is quite clear, to be perfectly honest. There is a difference between designated work groups and safety committees. So, as Mr Moore said, it is foolish to compare the situation that we have in the ACT with that which applies within New South Wales.

Secondly, I think even with DWGs of 10, it is my understanding that something like 85 per cent of employers will not fall under those provisions. In other words, only 15 per cent of employers will be required to initiate the actions that are forecast within this Bill. If we move the figure to 20, my understanding is that 95 per cent of employers within the ACT do not fall within that category. Having moved the size of DWGs to 20, what on earth is the point of having occupational health and safety legislation at all? It simply means that the larger companies are the only ones that will have to take up the provisions of this Act.

Although I do not wish to sing the praises of larger companies, in most cases large companies - because of the size of the jobs that are involved and the fact that the unions do get involved in negotiations with the larger companies, generally speaking - have a pretty reasonable safety record. It always needs tightening up, et cetera, but in most cases where there are more than 20 employees the accepted OH&S practices are in place and the safety of the workers is not a matter of great concern.

If you were to keep the DWG at 20, I could think of many construction jobs around this city where the number of employees on the site would never get near 20. As a matter of fact, even to get more than 10 you are turning it into a biggish job. So with 15 men on site, or workers - some of our female apprentices or tradespersons could well be working on the site - you have got a largish job which does require the provisions of occupational health and safety to be in place, otherwise the safety of workers is in jeopardy.

Accordingly, if the decision of two of the committee members is that the original recommendation of the committee shall not be implemented - in other words, that we shall not go for 11 persons for the size of the DWG - we are prepared to accept that the figure for a designated work group should be 10, and not 20, as Mr Stefaniak proposes.

MR STEVENSON (4.42): When we mention a figure of 20 employees, it is very important to understand that this

includes part-time employees - not full-time people alone. "Employee" means a "natural person who is employed under a contract of service". Although "contract of service" is not defined within the legislation, it obviously means an agreement and includes part-time people. So apart from the fact that you may not find even 10 people on a construction site, as Mr Duby mentions, particularly after knock-off time, the truth of the matter is you could indeed find 10 people on a somewhat smaller building site, say, a house. I have been involved in that area and I would not think that is necessarily uncommon at all. They may not be there all at the one time, but as part-time employees they could certainly be there.

It has also been said that the 10 employees was a compromise. Well, that is not quite the truth of the matter. The 20 was the compromise. Mr Kleinig of CARD said that he believes it should be 30, but as a compromise we would accept 20.

A figure of 20 is what the business community appears to be prepared to accept as a compromise. Indeed, it was prepared to accept the entire report as a compromise. But once the committee's judgment was not accepted, then we entered into other areas, which is fair enough.

The organisations have been most prepared to compromise. There are a number of things within the report of the select committee which they were not particularly in agreement with, but they were prepared to make that compromise. But the matter of involved unions, which was not a recommendation of the committee for change, throws the area open to new understandings. So I recommend that the figure should be 20.

MR COLLAERY (4.44): The Rally supports the motion and believes that the group should be 20. The Rally supports that, not because we disagree with what Mr Duby, Mr Moore or Mr Wood said, but because we believe, in relation to Mr Duby's comments, that the duty of care applies regardless of the size of the group.

We take the view that what we are really talking about - the unstated fact in a lot of this debate - is union activity in the building sector. That union activity has at times been unacceptable to any reasonable person in this town, and the Rally serves notice on the BWIU that this legislation can pass with 20 at this stage.

In due course the Rally will support an amendment to come back down to another size, but at this stage we believe this new legislation in the ACT should be phased in, in industrial harmony, against a background of impending further developments in the city. It should not be used to create any industrial disruption for purposes affecting those one or two union groups that are prominent in union disturbances in this town and who bring discredit on the vast majority of the union movement in the city.

The Rally supports 20 at this stage as a salutary measure to see just how the legislation will be phased in by, specifically, the building unions. If the legislation works and is harmoniously phased in, then the Rally is here and the Rally makes a commitment to support an amendment to reduce it to an agreed figure compatible with the earlier debate in this house. At this stage the Rally is not confident of the reaction to this legislation by a narrow group in the union movement.

MR WHALAN (Minister for Industry, Employment and Education) (4.46): This is an absolutely outrageous proposal and it strikes at the very heart of the legislation. It is clearly an expected position from the Liberal Party, which is essentially a party driven by its sympathies for the employer class and its opposition to the trade union movement. They can be forgiven for the position that they have taken on this legislation but, as for the Residents Rally party, it is clear that as a result of the disruptions within the Residents Rally party there has been a dramatic swing to the right. They have gone over the edge, their pendulum has swung past the Liberal Party and they have adopted a position that was previously occupied by only one other member of this Assembly to the right of the Liberal Party. Now they are sitting there with Genghis Khan.

This deplorable situation has been provoked, I think, by the bitterness and hatred felt by certain members of the Residents Rally party towards the Building Workers Industrial Union. We know that there has been ongoing rancour. We know that this has been reflected in other actions outside this place by the Residents Rally party. We know that this is the motivation for this extreme right wing, anti-union, anti-worker position which has been taken by the Residents Rally party.

Mr Speaker, the consequences of this particular amendment, if carried, will be several. It will require a greater number of government inspectors to enforce and police the occupational health and safety legislation, because the work of ensuring that occupational health and safety is observed will fall to two groups of people - either the occupational health and safety representative in the workplace or the government inspector.

It clearly follows that, if you have fewer occupational health and safety representatives at the workplace level, then you must have more government appointed inspectors - and that is what the consequence of this legislation will be. It is going to increase the cost of the administration of the legislation.

Under the legislation as it stands without the amendment, every employer who has more than 10 employees will be required to convene a workplace committee and that committee will appoint a workplace representative. That

workplace representative, as we know, will have certain responsibilities, but the thrust of his role will be to ensure the welfare and the safety of people in the workplace.

Deny them that right and you jeopardise the welfare and safety of people in the workplace, and that is what the Residents Rally party is deliberately doing by the position that they have taken here. They are deliberately placing in jeopardy the employees of 95 per cent of the employers in this Territory. Let me state it again: the Residents Rally party are placing in jeopardy the employees of 95 per cent of the workplaces in this Territory by virtue of the position that they have taken here.

Quite clearly, to deny them this protection under this legislation is to strike at the very heart of the whole purpose of this legislation. It has always been the stated intention of the Residents Rally party, before its massive swing to the right in recent times, that they were concerned about the welfare of workers. Now they have been exposed in their true position. They do not care and they will allow a personal vendetta between the leader of the Residents Rally party and a particular union to colour their whole approach to protective legislation.

I urge all members to keep in mind the difference between the ACT legislation and legislation in other places. In Victoria, for example, and in the Commonwealth legislation, there is no minimum number of employees for the appointment of a safety representative. In New South Wales, which was quoted by Mr Stefaniak, there is in fact quite a cumbersome position. It has not been terribly well received by quite a large number of employers because, where they have a workplace with more than 20 employees, they are required to appoint not a representative, such as we have here in the ACT legislation, but rather a committee. Each member of this committee has to be trained in occupational health and safety issues.

This is quite a cumbersome process. If there is an incident which requires action in relation to occupational health and safety, you do not have it being examined by one person, as you do under the ACT legislation, but you have it being examined by a committee which may consist of five, six, seven or eight members. So it is a much more cumbersome process. It is also much more expensive, in that there is a greater amount of training required and it is less responsive to specific instances because there are more people involved.

I would urge that the Assembly support the draft legislation, the provision in the Bill, and vote for the protection of workers.

MR JENSEN (4.54): Mr Speaker, the Rally totally rejects the assertions by the Deputy Chief Minister, that the Residents Rally has moved to the right, for a start - which

is quite a ridiculous statement to make - and that the Residents Rally is not in any way supportive of or involved in assisting the union movement.

Mr Speaker, I would remind members of the debate on this matter when the matter of involved unions was raised. We were encouraged to remove that particular element from this legislation. People were pleading with us to remove it. The Residents Rally rejected that request because we support the right and the role of unions to operate in all workplaces.

Mr Whalan: But you eliminated them by another mechanism.

MR JENSEN: We will come to that, Mr Whalan.

Mr Whalan: You have eliminated the unions by a backdoor method.

MR JENSEN: Am I allowed to continue, Mr Speaker, or are we going to let the Deputy Chief Minister continue on? The Residents Rally has undertaken, as we have already indicated, to review this matter in relation to the size of the designated work group. We are happy, as my colleague Mr Collaery has already said, to move towards a slower change in this area. The building unions need to show the members of this Assembly that they are prepared to operate with this particular legislation in the best interests of the total performance of the building industry. There is no personal vendetta by the Residents Rally against the Building Workers Industrial Union. I have had a number of cordial discussions with Mr Berry of the Building Workers Industrial Union in recent times and we have discussed a number of areas. We may agree to disagree at times, but these discussions have been cordial and there have been no problems.

The Residents Rally's position on this issue is quite clear. We reject entirely the rhetoric of the Deputy Chief Minister in this area, the outrageous statement that the Residents Rally has moved to the right and is not interested in or concerned about union workers in the ACT.

Mr Kaine: He is just trying to intimidate you. Do not be intimidated.

MR JENSEN: Mr Kaine has said that the Deputy Chief Minister is trying to intimidate me. That is a bit of a joke. Better men than Mr Whalan have tried to intimidate me and they failed. There is no problem as far as that is concerned. The Residents Rally will support the amendment proposed by Mr Stefaniak in this matter, and you can rest assured that we will be watching both sides very carefully - the unions as well as the employers - to make sure that this legislation is operating effectively and efficiently for all people of the ACT.

DR KINLOCH (4.58): I would like to endorse Mr Jensen's remarks. "Bitterness" and "hatred" are not words that I like to hear addressed towards anyone in this Assembly. We do not feel bitterness and hatred. I hope that all of us here would reject such notions. I hope we can deal with all our colleagues, whether in the Labor movement or outside the Labor movement, with all the affection we can muster.

My father - and I am going to be personal about this - was unemployed during most of the Depression. He was a member of the boilermakers union all his life. Into his eighties and early nineties he still kept his annual card, and he had messages as a brother of the union, as a comrade of the union. All through my academic life I was a member of the union. I tried, as some of you know, the moment I entered this Assembly to join the public service union, but I was told that was not possible. I am sorry about that. I am hoping I might come into the union movement through the ABC union. So I am not going to be told that I am unsympathetic to the union movement.

We do indeed uphold legislation for the safety of workers. I can quite see the problem of numbers here. Are 10 too few? Are 30 too many? Here we have a chance to put in place a useful piece of legislation. We are giving this a good try, a good shot, to make it 20. We have undertaken to look at this in the future, if necessary, and I commend this particular amendment.

MR BERRY (Minister for Community Services and Health) (5.00): Mr Speaker - - -

Mr Kaine: You are not going to speak in favour of the trade unions are you, Wayne, by any chance?

MR BERRY: Predictably, Mr Kaine, I am going to speak in support of the designated work groups applying in respect of groups of employees of 10 or more on any job site. One of the interesting things that struck me from this debate was the complexion of the politics of various people as they approached this issue. As my colleague Mr Whalan mentioned, the position of the Liberal Party, of course, was expected. Although he offered some forgiveness for the expectation that they might not support the trade union movement, I am not as forgiving as Mr Whalan.

One of the most interesting things that I heard from the debate, particularly as it was put by Mr Stefaniak, was his reference to Queensland. There are some connections, of course, between that part of the debate and the Residents Rally, and I will come to that in a little while. But in terms of Queensland, the issue of groups of employees of 30 was raised as having some relevance to this debate. Most Canberrans would disagree that there was any relevance between the sorts of policies that ought to be adopted in Canberra and the sorts of policies that have been developed in Queensland by the very conservative governments in that State.

It is particularly interesting that even the State of Queensland has come out of the Dark Ages and is supporting daylight saving. I understand that, since the politics have changed up there, those who manufacture curtains do not expect an increase in business because of the change to daylight saving. I expected the new Queensland policies and period of enlightenment, in political terms, to have been expressed by the Liberal Party in their approach to this very important aspect of occupational health and safety legislation.

I said that I would try to relate the Queensland experience to the Residents Rally, and I know that the members of the Residents Rally party are most concerned about their links with the "Joh for Canberra" campaign.

MR SPEAKER: Minister, please remain relevant.

MR BERRY: Indeed I am, Mr Speaker, because I think it is very important to the debate, and I know they are very sensitive about that.

Mr Collaery: This is storytelling. He is telling stories. This is fiction.

MR BERRY: As one who tells a few stories, you would be the first to know. I do not see that there is any fiction in the connection between the Residents Rally party and Queensland politics, because - - -

MR SPEAKER: Order! Minister, that really is not relevant.

MR BERRY: Mr Speaker, with the deepest respect, I think it is relevant because we see that, in relation to the designated work groups, the Residents Rally have taken a very conservative line on this issue.

Mr Moore: Temporarily conservative.

MR BERRY: Well, I am very happy to hear that it is only a temporary aberration, as Mr Moore quite rightly puts it. I hope that, by the end of the debate on this very issue, the Residents Rally will have turned around and seen the reason of the debate which is being fostered by the Government. I think it is most important that we use all of our energy to try to convince the Rally to do a turnaround on this issue.

I must say, with due regard for my colleagues who associate with the Residents Rally party, that they are to be congratulated on their stand in relation to the involved unions. I am sure that the unions that are to be involved in this process would appreciate that, even the Building Workers Industrial Union. Any of those workers in those unions or any other union - and I go to the point that was raised by Dr Kinloch - would unfortunately be in a position of bitterness and hatred, I would suggest, if they felt that the policy of the Residents Rally party in relation to

the designated work groups had resulted in an occupational health and safety hazard not being removed from the workplace.

So I suggest that, while you might try to make light of what I am saying by suggesting that it is some sort of a story, Mr Collaery, the issue is very clear. The Residents Rally should recognise the fundamental importance of designated work groups in the workplace. I think that the temporary aberration in the Rally that has turned up in relation to the Rally's policy on this issue should be put to rest, and a turnaround on the issue needs to be promoted and discussed amongst your colleagues. I would encourage you to do that.

I am a little disappointed that the building unions were targeted for criticism in this debate, because, after all, the building unions have gone to a lot of trouble and effort to defend their members in relation to occupational health and safety on building sites throughout this Territory for many, many years. I would hope that by the time we have finished debating this very important Bill the building workers will have no need for criticism of the Residents Rally party because of its stand on this particular issue. I also hope that no building workers will be injured and have any reason for bitterness or hatred towards the Residents Rally party because of the absence of designated work groups in their particular workplace to protect them from injury.

MR WOOD (5.07): I would caution the Rally to have a look at the principle that they are establishing today, and that principle, as stated by their leader, is this: we are not going to consider the merits of this Bill - that is what Mr Collaery said, in my words, not his, of course - we are considering another matter, a matter of alleged union misbehaviour. I think Mr Collaery and his colleagues in the Rally ought to consider this and ought to adopt a very clear principle, that every Bill that comes into this house will be considered on its own merits.

I believe this is of the utmost importance. To hold out some sort of threat over a union or a group of unions and say, "We will not provide important legislation for some other reason, whether rightly or wrongly", is a very poor approach to take in what ought to be a most deliberative and sincere chamber. So I do urge that there be no support for that sort of approach. It is not even consistent.

The Rally looked at the matter of involved unions earlier on in this debate, and they supported it. Now, suddenly, we have a shift. I can only surmise that the reason for this is to have the appearance of having an independent stance - not to support the Government on everything - or for some other unknown reason. But it is a very dangerous path to tread. With the next legislation that comes before us, are you going to consider that legislation, or are you going to make some statement that is provisional upon some other entirely unrelated activity?

A further point I want to make is that the Building Workers Industrial Union, which has been singled out, is a well organised union in this town. It knows how to look after its members. I do not think the proposal by Mr Collaery will worry it. What is of concern is that the smaller and the less well organised unions will have members who may suffer as a result of this. It is not the powerful union which you are concerned about, Mr Collaery, that will be the sufferer as a result of this, but the smaller, disorganised unions. So on all these grounds I do suggest that you review your decision.

MR COLLAERY (5.10): I believe the Rally should respond to a number of comments made, particularly those by Mr Wood. I draw the attention of the house to a press release issued on 27 October 1989 at the conclusion of the debate last week on this Bill. In that press release the Rally spokesperson on industrial relations, Mr Jensen, mentioned amongst other things that the Rally will support the amendment to increase the number from 10 - it was 11 then - to 20. The Rally went on to say that it will support a gradual extension of the statutory duty of care imposed on employers by this Act to all workplaces, not just those employing 20 or more. In other words, the Rally expects that industrial harmony will result in a phased reduction of the numerical limitation.

In other words, Mr Speaker, this was not a sudden decision on the floor. This was a party room decision looking at all aspects of the matter. The BWIU, indeed, is a strong union and it is there and it has an exemplary role. It is the Rally's view that it has not always acted in an exemplary role. We were not criticising unions such as the carpenters and joiners, the painters and decorators and the others per se; we were referring specifically to the exemplary role that the BWIU should play in this matter.

It is clearly a matter of surprise to the Deputy Chief Minister and the members of the ALP that the Rally has this role in the Assembly. It is not undertaken for any power gamesmanship because clearly the Rally cannot win votes either way out of the position it has taken. It is a very difficult position to sit in the middle on issues like this. The Rally has taken a principal view that the BWIU has an extreme duty upon it; it bears the onus of acting as one of the leading unions or perhaps the most prominent and powerful union in this town in the implementation of this legislation.

I indicated very clearly that the Rally will support an amendment in due course so long as the Act is phased in and is seen to be established and accepted in the industrial workplace.

MR STEFANIAK (5.13): To close off the debate, I just remind members, especially Mr Duby, who seems to be under some misapprehension in relation to this Act, that mention

has been made of the duty of care, and there is a statutory duty of care. In fact, part III deals with duties relating to occupational health and safety and imposes a number of duties on employers in relation to employees. Nothing is mentioned there in relation to the size of designated work groups. They appear in part IV, which is about workplace arrangements, under division 1, "Health and safety representatives". For Mr Duby's benefit, clause 36, which we are considering, states:

This Division applies only in relation to an employer who employs more than -

whatever number of employees. That division goes to clause 49. So it is only that division that relates to designated work groups, Mr Duby.

Question put:

That the amendment be agreed to.

The Assembly voted -

AYES, 9	NOES, 8
Mr Collaery	Mr Berry
Mr Humphries	Mr Duby
Mr Jensen	Ms Follett
Mr Kaine	Mrs Grassby
Dr Kinloch	Ms Maher
Mrs Nolan	Mr Moore
Mr Prowse	Mr Whalan
Mr Stefaniak	Mr Wood
Mr Stevenson	

Question so resolved in the affirmative.

Clause, as amended, agreed to.

Sitting suspended from 5.17 to 8.00 pm

Clause 37 (Work groups designated by employers)

MR STEFANIAK (8.00): I move:

Page 17, line 33, omit "14", substitute "21".

Mr Speaker, there are several amendments along these lines which I have put in. I would submit to the Assembly that this particular clause, which relates to work groups designated by employers, says that an employer on the commencement date should, within a certain period of time and by notice in accordance with the Act, establish a designated work group. That person has to establish that designated work group also if that person becomes an employer - and that relates to my next amendment - and has to do so by notice within, at present, 14 days.

Now, given the legislation in various areas in the Territory, 14 days is a very short period of time. In a lot of our legislation people are allowed 21 days or 28 days - - -

Mr Whalan: It is a long time in politics.

MR STEFANIAK: It is a hell of a long time in politics, Deputy Chief Minister. Seven days is a long time. In this Assembly five minutes could be a long time.

Out there in the workplace and in the community 14 days is a fairly short period of time, especially as this particular clause deals with the start of a work group being established in accordance with the clause. I feel it would be more in line with general legislation and the general and realistic time periods for certain things to happen, for "21 days" to be inserted there rather than "14 days", 14 days being just a little bit too short a time period. It is a little bit unrealistic when one looks at the modern workplace. That is the reason why I put up that particular amendment.

MR WHALAN (Minister for Industry, Employment and Education) (8.03): We oppose this, Mr Speaker. It is an extraordinary tactic on the part of the Liberal Party in relation to this legislation. Having failed in their objective of having no occupational health and safety legislation introduced, they are now in the process of dismantling the legislation to such an extent that it becomes hardly worthwhile implementing.

We have done a bit of costing during the meal break - just on the back of an envelope - as to what the decisions that were made by the Residents Rally party earlier tonight are going to cost. The cost to the taxpayer as a result of those decisions by the Residents Rally party in their support for the Liberal Party's dismantling of the legislation will run into millions of dollars.

This nitpicking way of saying that 14 days is too short a period to prepare a notice and put it up is just unacceptable. To extend that to 21 days is not acceptable to the Government, and we will be opposing that.

MR KAINE (Leader of the Opposition) (8.04): Mr Speaker, the Minister's last statement cannot go unchallenged. The Liberal Party has never had an objective of no occupational health and safety legislation, and the Minister knows it. That was never our objective. Our objective is to have occupational health and safety legislation that is fair to the employee and the employer. I think that the Minister, if he were fair, would acknowledge that.

MR MOORE (8.05): It comes as some surprise to me, Mr Speaker, that this person who is inoculated with a gramophone record - not a gramophone needle but a gramophone record - Mr Stefaniak, should come around with this now because - - -

Mr Stefaniak: It is in the committee report. Read it. It is on page 20.

MR MOORE: Is this your recommendation, Mr Stefaniak?

Mr Stefaniak: Yes.

MR MOORE: Yes, but it was something that was barely discussed, if at all, in the committee. It is in Mr Stefaniak's recommendations; I am aware of that. To bring about this sort of change now seems to me to be totally pointless. It is not necessary for the legislation. Having resolved this particular problem in the committee, why bring up this particular amendment again and again, as we will see later, unless there is something planned with other people? On this particular occasion I have to support the Deputy Chief Minister in saying that, having had reluctantly to accept this legislation, the Liberals have now started to see how they can make it less and less effective by weakening it in any way they can. That is all we are seeing here.

MR DUBY (8.07): I was going to say, Mr Speaker, on this matter of 21 days, that we have got the situation now where the designated work groups have been extended to 20 people. We have now got three weeks for an employer to walk in with 19 or 20 people and do a job. There are many, many, many jobs around this town that could be done by a team of 20 people within 21 days and, according to the amendment put up by Mr Stefaniak, they would never come under the category of this legislation. To me it is ludicrous to suggest that we should extend the period of time from 14 to 21 days. My party opposes it.

Mr Kaine: I think it is very sensible indeed, Mr Duby.

MR DUBY: Well, from the point of view of the employers, Trevor, certainly it is extremely sensible.

Amendment negatived.

MR STEFANIAK (8.09): Mr Speaker, I move:

> Page 17, line 38, omit "14", substitute "21".

I move this for the same reasons I have mentioned before.

Amendment negatived.

MR STEFANIAK (8.10): I move the following amendment:

> Page 18, line 27, omit all words after "consulting", substitute "such of the employees as the employer considers appropriate.".

This one actually caused my friend Mr Collaery some problem, so we will see what happens there. Again, Mr

Speaker, this relates to involved unions. It means now that an employer should not establish or vary a DWG without consulting each involved union. The committee recommendation was to take that out. I reiterate what I have already said in relation to involved unions.

MR WHALAN (Minister for Industry, Employment and Education) (8.11): We will be objecting to it.

Question put:

That the amendment be agreed to.

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.

Clause agreed to.

Clause 38 (Work groups designated by Registrar)

MR STEFANIAK (8.13): I seek leave to move two amendments together.

Leave granted.

MR STEFANIAK: I move:

Page 19 -
Line 8, omit "25%", substitute "50%"; and
Line 13, omit "25%", substitute "50%".

The committee report in relation to this matter, under the heading, '"25%" of employees' stated:

> Concern was expressed to the committee by a number of witnesses that, in some circumstance, a small number of employees, (25%) in any work place, could make demands of the Registrar to:

(a) establish a DWG in lieu of that established by the employer;
(b) vary a DWG established by an employer; and

(c) replace a health and safety representative.

The committee agrees with the concerns expressed to the effect that a minority is being given legislated power to act in a manner that could be seen to be against the wishes of the majority.

In the interests of natural justice the committee is of the opinion that the Registrar should only be required to take action pursuant to clauses 38 and 40 on a written request signed by at least 50% of the relevant employees.

And accordingly -

In the schedule attached to this report the Committee suggests amendments to the bill to give effect to this deletion.

Amendments agreed to.

MR STEFANIAK (8.15): I move:

Page 19, line 20, omit all the words after "consult", substitute "such of the employees affected as the Registrar considers appropriate.".

This relates to involved unions again and I merely reiterate what I have already said.

Question put:

That the amendment be agreed to.

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.

MR STEFANIAK (8.19): I move:

Page 19, line 26, omit "14", substitute "21".

This is the same situation as I have mentioned earlier in relation to my amendments 8 and 9, and I reiterate those arguments.

Amendment negatived.

Clause, as amended, agreed to.

New clause.

MR WHALAN (Minister for Industry, Employment and Education) (8.20): I move:

That the following new clause be inserted in the Bill: Page 19, line 32 -
"Work groups on construction sites
38A.(1) In this section -
'building and construction work' has the same meaning as in the Long Service Leave (Building and Construction Industry) Act 1981;
'construction site' means a workplace at which building and construction work is, or is to be, performed.
(2) Where -
(a) a person (in this section called the 'principal contractor') engages but does not employ another person (in this section called the 'sub-contractor') to carry out building and construction work for the principal contractor on a construction site; and
(b) the sub-contractor employs another person (in this section called the 'worker') to perform that work;
the Registrar may, on application by the principal contractor, declare that this section applies to that site.
(3) The Registrar shall not make a declaration unless the Registrar believes on reasonable grounds -
(a) that -
(i) the principal contractor has, or will have, substantial control over the performance of the worker's work on the construction site; or
(ii) but for an agreement between the principal contractor and the sub-contractor, the principal contractor would have, or would have had, such control; and
(b) that -
(i) the principal contractor has, or will have, substantial control over the performance of other building and construction work on the site; or
(ii) but for an agreement between the principal contractor and any other sub-contractor, the principal contractor would have, or would have had, such control.

(4) An application for a declaration shall be made in writing and given to the Registrar.

(5) A declaration shall be made by notice in the Gazette.

(6) While a declaration is in force -

(a) Divisions 1, 2 and 4 of Part IV have effect in relation to the principal contractor and the worker -

(i) as if a contract of employment existed between them in respect of the performance of the work by the worker on the construction site; and

(ii) as if, unless the contrary intention appears, a reference in any provision of those Divisions (other than in subsection 44(3), paragraph 47(1)(aa) and subsection 58(4)) to an employer or employee were a reference to the principal contractor or worker, respectively;

(b) sections 7, 8 and 81 and the Schedule have effect in relation to the principal contractor and the worker as if, in respect of the performance of the work by the worker on the construction site, a reference in any of those sections or the Schedule to an employer or employee included a reference to the principal contractor or worker, respectively; and

(c) for the purposes of Divisions 1 and 4 of Part IV (other than subsection 44(3), section 47 and subsection 58(4)), the sub-contractor shall not be taken to be the worker's employer in respect of the performance of the work by the worker on the construction site.".

Mr Speaker, this particular amendment relates to the formation of a single DWG on a construction site. It is quite a fundamental piece of legislation and its importance has increased enormously as a result of the role of the Residents Rally party in supporting the Liberal Party in their anti-union stand.

The anti-union stand of the Residents Rally party in relation to the figure of 20 in clause 36 - the DWG minimum number was changed from 10, which was in the original legislation, to 20 - has had quite a dramatic effect in terms of its implications for certain sets of circumstances. It has increased the need for this Assembly to support this particular amendment.

I have been informed that, when the committee was looking at this, there were a number of representations in support of this particular proposal and I have no doubt that that will emerge from the discussion of those people who served on the committee. Certainly it was supported not only by the unions who support occupational health and safety legislation, but also by responsible employers who see the need for workable and effective occupational health and safety control on building sites. Such organisations

include the AFCC, who have vigorously supported this particular proposal, and the Building Workers Industrial Union. They are examples from each side of those who support it.

On a building site you have a head contractor. Section 38, which is going to be opened with ceremony this week, I understand, was under the control of Civil and Civic. Civil and Civic would in turn have engaged a significant number of subcontractors who would have been engaged in a wide range of activities. It is in this context that I would like to draw attention to the earlier change in the number of employees necessary to justify a designated work group. As a result of the Residents Rally party's support for the doubling of the number from 10 to 20, the effect is quite dramatic.

What happened was that on a job like section 38, which was until recently our largest construction job in the Territory but which is now winding down, you could have found, for example, 200 employees working on that site in what is recognised as potentially quite a dangerous area of activity. The building industry is dangerous but it enjoys a good record because of the vigilance of the trade union movement and those various trade unions that are engaged and, of course, the sense of responsibility of employer organisations like AFCC who do support the introduction of occupational health and safety legislation.

This is what could happen on that particular site as a result of the 20 figure: there would probably be 15 different contractors. You could imagine all of them employing fewer than 20 members - all of them employing somewhere between 10 and 15 employees - and, if this clause is not introduced, as a result of the earlier amendments to the legislation, we would see that on that site there would not be one representative elected in relation to occupational health and safety - not one. So here we could have the biggest construction site in Canberra and in it, because of 20 being the designated work group, there would not be one DWG created there.

On the other hand, you could have the extraordinary situation, if we do not support this legislation, that there could be 15 contractors on the site, each of them with over 20 employees and so we would have 15 separate designated work groups and 15 separate occupational health and safety representatives. You would have the extraordinary situation of 15 safety representatives walking around the site. The potential for conflict could be enormous. The potential for different approaches and different training of the occupational health and safety representatives could make it quite difficult to manage efficiently the operation of the site while maintaining those objectives which are set out in this occupational health and safety legislation.

You could also imagine a situation with an unscrupulous head contractor. I do not believe that there are any such people in the building industry, certainly none that would be members of responsible organisations like AFCC. You would not find such unscrupulous employers in the Territory at this point of time. But what you could find is a head employer who, if this legislation is not approved, could stipulate to his subcontractors that they must keep the number of employees below 20. If they have no more than 19 employees they ensure that the OH&S legislation does not come into effect.

So here are a number of different scenarios that could apply if we do not support this amendment tonight. It is a reasonable proposal. It has the support of the industry as represented by the employers and by the trade unions that are involved, and it will clearly achieve the objective of safety in one of our most potentially dangerous industries.

MR STEFANIAK (8.28): Perhaps the Minister has been speaking recently to different employers from those I have spoken to. In relation to the idea behind his legislation - I do not think anyone would have any huge problem with it, and I will come to that shortly - there are problems with it as it is drafted. Industry, business and some employer organisations certainly have problems with this particular clause. We have faxed it around to a number of them.

I think the history of this goes back to before this current piece of legislation, which is, after all, a second draft. There was a first draft which could have been written by the TLC and which was changed prior to this draft being put out. In that draft there was an attempt for subcontractors to be deemed to be employers, which, thankfully, is not in this legislation. It was about clause 6 in the old draft, and there were various clauses there effectively putting subcontractors in that role, the idea being to effectively get rid of subcontractors and force them into unions. That was a huge problem with that early draft and that is something worth bearing in mind, because one of the possible effects of this particular clause and the way it is drafted is for that effectively to come back into play and be a real possibility.

In the second Bill, the draft which became the Bill which we are now considering, that reference was taken out. During the committee, the members of the committee asked a number of people - I think, most employers and certainly several trade union representatives - about forming one designated work group on a large site, because that idea certainly has a lot of merit and a lot of commonsense. I do not think anyone would quibble with that, and it is certainly true to say that that idea, which was just floated as a good question to ask in the committee, did get support from the majority of people who were asked that question. I do not think anyone should have any problems with that.

Looking at this particular drafting of the new section 38A, I think there are a lot of problems with it. My party believes that this clause should be taken away; it should be rejected tonight and redrafted by the Minister's department to ensure that it does only cover those large sites where there are a large number of employers and their employees working, so that they form one large designated work group, because when one looks further into this there are some problems. For example, take the subsection 38A(1), which says:

In this section -

'building and construction work' has the same meaning as in the Long-Service Leave (Building and Construction Industry) Act 1981;

'construction site' means a workplace at which building and construction work is, or is to be, performed.

So what is a construction site? It is a workplace at which building and construction work is or is to be performed. Building and construction work is defined in the Long Service Leave Act 1981 as follows:

"building and construction work" means work performed in the Territory in the building and construction industry -

(a) of the kind usually performed by, or by an apprentice or assistant to, a carpenter, joiner, bricklayer, plasterer, slater, roof-tiler, tilelayer, painter, decorator, bridge and wharf carpenter, stonemason, plumber, gas fitter, asbestos cement fixer, drainer, signwriter, crane driver, electrician, plant operator or builders' labourer;

(b) of the kind usually performed by a construction labourer;

(c) under a contract of employment by a person acting as a foreman, sub-foreman or leading hand in the supervision of the performance of any work of the kind referred in paragraph (a) or (b) or as a clerk of works or construction supervisor; or

(d) of a prescribed kind;

One of the problems with this would be that you may well have a fairly small site, perhaps a couple of units being built, and it may have more than 20 people working on it at some stage. You might have the brickie, the builder with a couple of brickies and some brickie's labourers. There might be five or six of them. You might have on that site roof tilers, painters, plumbers, carpenters, plasterers, subcontractors, perhaps with one or two employees, and that would easily amount to more than 20. These people would not normally form a designated work group because usually

they would have no more than five employees at the most working with them.

Have a look around any site in Canberra. When you add them all up you will see quite a lot of people do actually work there and they would be forced to form a designated work group. Let us take the case of the little subcontractor, say, the electrician. He has got his little business, he has got a fellow who has just finished an apprenticeship there and he is paying him his award rate. It is a one-man business which employs an employee. What if that subcontractor has to send off his employee as the safety rep for training? He has to bear all the cost of that. That might, with some businesses make a lot of difference as to whether the business continues or not. The job of a safety representative is a very important one. It is one that requires a lot of effort, and it requires training and it requires expense. Under this legislation that falls on the employer, and that could cause problems to the little subcontractor.

There is a further possibility under this suggestion by the Government, of which perhaps Mr Kaine has some personal experience - it relates to these definitions here - which could make small businesses out at Fyshwick come under the ambit of this particular section. The idea espoused by the Minister is fine. It was an idea which was mentioned among the committee members and was then asked of a number of people who appeared before the committee. The idea itself, in terms of large building sites, has a lot of merit.

However, I believe and my party believes that the way this legislation is drafted causes additional problems, some of which have serious potential to have completely different effects to what the Deputy Chief Minister says he is aiming at in relation to this legislation. Accordingly, we would urge the Assembly to vote against this particular clause and the clauses coming after it, and we would ask the Minister to have them redrafted so that the real effect can occur without the possible adverse side effects occurring as well.

MR KAINE (Leader of the Opposition) (8.35): I would just like to take Mr Stefaniak's argument a little further. I am quite sure that the Minister for Industry, Employment and Education does not intend this definition to go as far as it really does go. If members were listening when Mr Stefaniak read the definition from the Long Service Leave Act, they would have noted that it says that construction work is work carried out by a number of people, and it includes, for example, an electrician, a gasfitter and a plumber. Then that definition that the Minister is trying to put into this legislation goes on and it says that a construction site is anywhere where this work is carried out. That means to me, Mr Speaker, that, if I am carrying on business as a plumber and I do not employ anybody - I am just a plumber by definition - when I go to your house to lay some plumbing lines I am on a construction site.

Now that is absolutely absurd. If I am an electrician and I go to your house to put in an additional power outlet, by that definition I am working on a construction site. Your house becomes a construction site. By no stretch of the imagination could that be a reasonable interpretation of what is or is not a construction site. I am not suggesting that the Minister has any ulterior motives. I believe that what he is trying to do is to achieve a useful purpose. But the definition goes way beyond what he intends to achieve. I do not know what the consequences of that are.

Mr Duby: You need 20 people. If I had 20 plumbers at my house, that would be a construction site, I can tell you.

MR KAINE: I am not talking about 20 people or anything else. Mr Duby obviously does not listen very well, Mr Speaker. I am talking about the definition of a construction site. The Minister's proposed amendments to the Bill go on from there, but the basic point is that he is defining a construction site. As I just explained, a construction site by that definition includes my house if I have got an electrician putting in a power point, because an electrician is one of the workmen specified as performing construction work and where he works is, by this definition, a construction site. I do not believe the Minister intended that.

I had just said before I was interrupted that I do not know what the ramifications of that broad definition are. I have not gone into trying to determine what the possible ramifications are in the context of this Bill that we are considering. But I am saying that I do not believe the Minister intended the definition to go that far. All I am suggesting is, as Mr Stefaniak has already suggested, that he should go away, review his definition and see whether that is what he really meant. I suspect that it is not.

Perhaps if he reaches that conclusion he may care to consider it. It is his Bill, not mine. He may care to consider what are the undesirable and unwarranted ramifications of a definition that is that broad. I agree with Mr Stefaniak that, until that definition is clarified and until the Minister is clear about what the definition means, this Assembly should not support it. Members should reject it and say to the Minister, as I am suggesting, "Go away and rethink it. When you have thought it through, come back and we will listen to your argument".

MR MOORE (8.38): On behalf of myself I thought I would comment here. It seems to me that the Liberals are quite confused about what is going on. If, by the definition, we have a construction site and your home becomes a construction site for one worker, the duty of care applies. It should apply. There is no question about that. The occupational health and safety laws should apply.

When we are talking about designated work groups, then we must be talking about 20 people. If those 20 people form the designated work group at a construction site, then this will apply. If there are 20 people working at Mr Duby's house, or my house, or anybody else's house, as indeed we saw the other day when we went to Narrabundah to look at the women's refuge, when you have that number of people working, clearly a construction site is a relatively potentially dangerous site.

If you are dealing with a situation of domestic construction, which appears to be the main concern, then you are probably looking at one of the most dangerous construction sites around the place because they are not very well controlled. When those sites have a large number of workers on them - now it is 20 workers - even if the Rally does see the light and comes to the party in the next three months or six months and changes it to 10 workers, if you have 10 workers on those sites then it is appropriate to ensure that you have the best possible range of safety available to those workers.

It is on those very sites that I personally have seen some rather dangerous work practices, including bricklayers who believe that work boots are the Chinese-style rubber thongs. I have seen that sort of thing. I have seen them operating in those sites. I believe it is appropriate to bring this amendment in. I believe, as the Minister suggested, that in the rush of that particular committee, that first committee of the Assembly, looking at occupational health and safety, this particular aspect was inadvertently left out. It was a very kind way to put it. I accept that this is the appropriate way to put it in.

We did expect Mr Stefaniak and the Liberals to oppose this, of course, because they will oppose whatever comes up as far as this goes. They seem to believe that a risk to workers' health is not a major consideration for employers. But most employers that I have met and the ones we spoke to are actually very concerned about employees' health and would like to think that they are. So they ought not to consider this as a penalty. In fact, it may have some quite significant financial gains to them as far as some of their workers compensation goes and factors like that.

So I would say that this particular amendment that has been put by the Government is a very positive amendment. It deals with a particular situation that requires rationalisation on major work sites, and it also has a place on smaller work sites and domestic-style construction. For that reason I will be supporting it.

MR DUBY (8.43): This amendment to clause 38 is dealing with designated work groups. Mr Kaine, that point must be remembered at all times. What we are talking about is the formation of designated work groups. It is clearly quite possible that any construction site which has more than 20 people working at it is a place which requires a designated

work group. For Mr Kaine to suggest that there could be plumbers, drainers, electrical people, et cetera, working at his property and therefore this requires that it be defined as a construction site and DWGs be formed simply is not the case. That only applies, Mr Kaine, if there are more than 20 people involved on the job, and that is the truth of the matter.

Mr Stevenson: Full-time or part-time?

MR DUBY: Well, it is really immaterial to me whether they are full-time or part-time. If I have got 20 workmen crawling around a place, to me it is a dangerous site. It does not matter whether it is my backyard or yours. Nevertheless, if the job entails that many workers being present on a site, clearly it is a major job. Do not forget, Mr Speaker, that we extended the definition of a work group from 10 persons to 20 persons. We can have the ludicrous situation, as the Minister pointed out, of construction sites where you could have a series of subcontractors each with 10, 12, 15 or even 18 employees working on the site and yet there would be no - - -

MR SPEAKER: Order! Would the members on my right please hold the level of their discussion down. I can hardly hear the member speaking. Please proceed, Mr Duby.

MR DUBY: Thank you, Mr Speaker, I know you want to hear what I am saying because it is a tremendously interesting point.

Mrs Grassby: And important.

MR DUBY: And important, what is more; yes, how true. So what we have got is the situation where it is quite possible that you could have five or six employers each employing 15 workmen under the amendments that we have made to this Act; we would have 75 to 80 people working on the site, but no requirement to bring in DWGs. Now, I think that situation is clearly ridiculous. The argument that seems to be raised, and I think Mr Stefaniak has said it, is that the Liberal Party does not oppose that concept. They accept that that is clearly out of the question - beyond the pale - and they are happy with that. They are worried about single sites where a number of employees come in and perform work, but because the number of employees then rises above 20, but in dribs and drabs of six or seven or lots of three or four each, they are concerned that this would be an undue imposition on the principal contractor for the extensions or whatever work is being done on someone's private home.

I do not accept that argument. If you have got a job that requires that many workmen - more than 20, as we have now determined - to perform particular jobs, it is clearly a place where occupational health and safety should be taken into consideration. Accordingly, I support the amendment and I fail to understand the logic behind those who oppose it.

MR BERRY (Minister for Community Services and Health) (8.46): I support what Mr Duby has said, but I think the most important part of the debate is the strategy of the Liberal Party and the way it has approached this thing. Mr Stefaniak committed a sin of omission by not mentioning clause 36.

Mr Duby: Is that "omission" or "emission"?

MR BERRY: Well, it could be both. Clause 36, of course, is very clear that this division of the legislation applies only in relation to an employer who employs more than 20 employees, as it will be now, with the Residents Rally supported amendment.

Mr Collaery: Sunset amendment.

MR BERRY: I must say I am very pleased to hear the Residents Rally leader's mention of a sunset proposal. I think that, at least, is heartening news for workers who have not had occupational health and safety legislation in the past. But really it comes back to a strategy of the Liberal Party to spike this legislation wherever possible. I think that they are supporting a phantom group of employers because I do not think reasonable employers would oppose occupational health and safety in the workplace. The positive and progressive employers that appeared before the committee, on the information that we have received here tonight, supported strong occupational health and safety legislation. Mr Stefaniak also made it clear in his speech that this sort of proposal was supported by the majority before the committee. So, in essence, that, compounded by the strategy of the Liberal Party to spike this legislation, is sufficient in my view to warrant the support of every single person in the Assembly.

One other issue that I would like to raise is the issue of concern that was mentioned by Mr Stefaniak about the effect on some small business people. What has not been said amongst some of the half-truths that have come before the Assembly is the fact that occupational health and safety legislation will provide a level playing field - to use a term that has been popular here on other occasions in relation to other matters - for those groups of employees. This is because it has application across a broad group of employers, except of course those that have been limited by the fact that the designated work groups will only apply in relation to groups of employees above 20.

I just repeat that this is truly a strategy of the Liberal Party. I, for one, have seen through it, and I am sure that most other members here have seen through it. This amendment can only apply in relation to this division, and the division applies only in relation to an employer who employs more than 20 employees - or 10 as it was originally proposed, but 20 as it has been amended with the support of the Residents Rally party.

Mr Whalan: Temporarily.

MR BERRY: With the sunset clause.

Mr Whalan: The temporary sunset clause.

MR BERRY: No. I think the amendment must be supported.

MR COLLAERY (8.51): The Rally agrees with the thrust of most of the arguments put forward to have proposed section 38A brought into law so that all building and construction sites have a statutory duty of care applied to them. But the fact is that the wording of the legislation, where it says '"construction site" means a workplace at which building and construction work is, or is to be, performed', is awkward. If it was meant to cover all building, as it clearly does in law, as Mr Stefaniak says, it should have said on its face what its effect was. It should really have said "building and construction site" and we would all have been clear. Hopefully, in due course the legislation will be tidied up and consequential amendments will be made to put in the words "building and" to make it clear, because to most of us in the ordinary usage of the language "construction site" means a building site, an intensive building site where construction takes place. To go across to the Long Service Leave (Building and Construction Industry) Act, the definition can involve an addition to a home, a one-bedroom addition to a home, and on the day five contractors could turn up with their apprentices and two workers.

Mr Duby: It seems to be a place where construction workers are working. Fancy that!

MR COLLAERY: Yes. So really the Rally does not object to the notion that the statutory duty of care should apply at all workplaces. We support the amendment, but we do point out that the draftsman's wording is, on the face of it, awkward. It seems to suggest the sort of twist that Mr Kaine saw in it, which was presented to me, too. That is, by using the term "construction site" and going back to a definition, you are roping in domestic working arrangements and minor repair jobs if X number of people happen to turn up. I say that, if and when we reduce the size of the clause 36 required number down to zero - hopefully when there is industrial harmony and it is clearly going to work - or down to 10 or 11, this will become very relevant to the smaller jobs.

Proposed section 38A embraces that. So, Mr Speaker, we support the amendment but we do draw attention to those wording anomalies and to the long-term effect of the provision, which will be to extend the statutory duty of care. This is far better and far safer than the common law duty of care to sites. Both employers and employees will know where they are. Someone said that the Rally wants two bob each way. I think those are very mealy-mouthed

comments. It is not a question of wanting two bob each way; it is a very difficult role and we perceive a public duty in legislation of this nature.

MR WHALAN (Minister for Industry, Employment and Education) (8.54): It has been an interesting debate on this particular point and some funny arguments have emerged, demonstrating a fair lack of understanding of this specific proposal and its relationship to the rest of the legislation. Let me emphasise that the single DWG arrangements that would prevail under proposed section 38A can only be invoked at the request of the principal contractor. Read the legislation carefully and you will find that it can only be invoked at the request of the contractor. It is not something that can be imposed upon the contractor. It is an option which is available to them and they will make up their minds whether to seek to have the single DWG on the site rather than having a number of others - several DWGs or none at all. That is their option.

The second point - and this is one which was an undertaking given during the negotiation and consultation process - is that an undertaking was given to the HIA that subcontractors working alone would not be included. So they are specifically excluded by the legislation.

There has been some discussion about size. I would submit that the point made by Mr Berry is quite correct, in that, as a result of the Rally supported amendment increasing the requirement for there to be 20 employees to form a DWG, this only applies to establishments at which more than 20 employees are engaged, and so it is protected by that particular provision. Mr Collaery responded to that particular argument, Mr Speaker, by saying that on any one day you could be putting a one-bedroom extension onto your house and there could be five contractors working on the job with their three workers or apprentices or something, and that would give you sufficient employees for a designated work group. Again, it is only at the behest of the principal contractor that you can invoke this particular proposal. But more importantly - and this is where Mr Collaery failed to pick up the points - 14 days' notice must be given before a DWG can be established. So, in that context, it would be a fairly slow group of contractors if you were just putting on a one-bedroom extension.

Mr Collaery: Well, Ellnor's crowd took ten weeks to put a bedroom onto a house near us.

MR WHALAN: It would have been done very thoroughly. The Government urges support, Mr Speaker.

Question put:

> That the new clause be inserted.

The Assembly voted -

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

Question so resolved in the affirmative.

New clause agreed to.

Clause 39 agreed to.

Clause 40 (Objections to selection)

MR STEFANIAK (9.00): I move:

Page 20, line 27, omit "25%", substitute "50%".

I just reiterate what I said earlier on behalf of the committee in relation to that.

Amendment agreed to.

MR STEFANIAK (9.01): I seek leave to move the following three amendments together.

Leave granted.

MR STEFANIAK: I move:

Page 20 -
Line 33, omit "7", substitute "14";
Line 38, omit "7", substitute "14"; and
Line 39, omit "7", substitute "14".

Again, this relates to a notice of objection being lodged with the registrar. I would submit that seven days is a very short and unreasonable time; 14 days is more reasonable. The general appeal period for any court of law is 21 days, to give one example, and I would urge the Assembly to allow a 14-day period here as it is more reasonable than seven days. I do not think that there is anything in other types of legislation that forces people to do anything within seven days, as it is a quite unrealistic period.

Question put:

That the amendments be agreed to.

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.

Clause, as amended, agreed to.
Clause 41 (Lists of health and safety representatives)

MR STEFANIAK (9.04): I move:

Page 21, line 17, omit all words after "inspection", substitute "by employees and inspectors.".

This also relates to involved unions and I reiterate what I said before.

Amendment negatived.

Clause agreed to.

Clauses 42 and 43, by leave, taken together, and agreed to.
Clause 44 (Duties of employers)

MR STEFANIAK (9.06): I move:

Page 23, line 31, omit "a health and safety representative to", substitute "and a health and safety representative shall not".

At present in this Act there are a large number of provisions which force employers to do certain things - many of them, we would say, rightly so - but it provides very few penalties, very few things, against employees who do not perform their tasks properly, especially in relation to the health and safety representative.

Now, this particular subclause here at present states:

An employer shall not permit a health and safety representative to have access to information of a confidential medical nature under the control of the employer, being information relating to a person who is or was an employee of the employer, unless -

(a) the person has delivered to the employer a written authority permitting the representative to have access to the information; or

(b) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

There are similar types of provisions in relation to confidentiality of information, especially medical information, in the Act. A penalty of $1,000 for a natural person or $5,000 for a body corporate can be imposed on the employer who permits a safety rep to have information which a safety rep is not entitled to. Yet there is no penalty or no provision on the safety rep if the safety rep gets that information which per se would have to be illegally obtained information; in other words, the employer should not give it to the safety rep - and that is amply covered by this - nor should the safety rep have it. However, the penalty is all one-sided. It is only against the employer. By adding these words it would make both the employer and the safety rep liable in this situation. I would submit that this is even-handed and shows more balance when we are dealing with very confidential material. Accordingly, that is the rationale behind this particular amendment.

MR WHALAN (Minister for Industry, Employment and Education) (9.09): The Government has considerable difficulties with this particular proposal. The amendment raises criminal law difficulties, in that it creates in the one subclause two different offences directed at two different classes of person. If it is amended as proposed, subclause 44(2) would prohibit an employer from allowing a representative access to certain information and, at the same time, would prohibit the representative from having access to that information. The end result is quite confusing. Who actually is subject to the penalties specified at the end of the subclause?

As a matter of policy it is inappropriate to include a measure which qualifies a representative's discretionary powers in a provision which relates to the employer's statutory duties which are enforced by criminal sanctions. The amendment is also unnecessary since clause 43 already limits a representative's access to the information in question.

Amendment negatived.

MR WHALAN (Minister for Industry, Employment and Education) (9.10): I move:

Page 23, line 41, insert at the end the following subclause:

"(3) Where -

(a) a declaration under section 38A is in force in respect of a construction site; and

(b) a worker to whom the declaration relates is the health and safety representative for a designated work group established in respect of employees on the site;

the sub-contractor who employs the worker shall permit the worker to take such time off work, without loss of remuneration or other entitlements, as is necessary and reasonable to exercise the powers of a health and safety representative.

Penalty:

(a) if the offender is a natural person - $1,000; or

(b) if the offender is a body corporate - $5,000.".

This is related to some subsequent amendments and I will not speak further to the others as they are designed to bring arrangements on the large construction sites, where a single DWG has been formed pursuant to clause 38A, into line with the arrangements for all other DWGs. This includes the arrangements for the safety representatives.

MR STEFANIAK (9.11): As Mr Whalan has said, it is an ancillary amendment to clause 38A. I do not propose to speak any further in relation to it. I just reiterate what I have already said.

Question put:

That the amendment 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.

Clause, as amended, agreed to.

Clauses 45 and 46, by leave, taken together, and agreed to.

Clause 47 (Disqualification)

MR WHALAN (Minister for Industry, Employment and Education) (9.14): I move:

Page 24, line 19, after paragraph 47(1)(a) insert the following paragraph:
"(aa) if a declaration under section 38A is in force in respect of a construction site - any employer who is a sub-contractor to whom the declaration relates;".

MR STEFANIAK (9.15): I would make the same speech as before.

Amendment agreed to.

MR STEFANIAK (9.15): I move:

Page 24, line 20, omit paragraphs (b) and (c), substitute the following word and paragraph:
"or; (b) any employee in a designated work group;".

It is involved unions once again, Mr Speaker, and I reiterate what I have already said.

Question put:

That the amendment be agreed to.

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.

Clause, as amended, agreed to.

Proposed new clause

MR STEFANIAK (9.17): Mr Speaker, I move:

That the following new clause be inserted in the Bill:

Page 25, line 13 -

"Actions in bad faith

47A. A health and safety representative shall not take any action that would render the representative liable to disqualification under section 47.

Penalty: $10,000.".

This is a very important clause. Clause 47 refers to disqualification of a safety representative who does not do the right thing and who contravenes this particular legislation. It does not provide any penalty for so doing. There are very few penalties applicable to safety representatives, or indeed anyone else except employers, in this legislation, making it somewhat slanted.

This clause adds some balance in the most appropriate places where a safety representative can be disqualified. According to this legislation, for a person acting in bad faith, and in accordance with this clause, this is the most severe penalty that can occur. Perhaps in certain situations there may be no penalty at all because a safety representative may be quite happy not to be one any more.

At present clause 47 indicates:

> The Registrar shall not disqualify a health and safety representative unless the Registrar believes on reasonable grounds that -
>
> (a) action taken by the representative in the exercise or purported exercise of his or her powers under this Act or the regulations was taken -
>
> (i) with the intention of causing harm to the employer or to an undertaking of the employer; or
>
> (ii) unreasonably, capriciously or otherwise than for the purpose for which the power was conferred on the representative; or
>
> (b) the representative has intentionally used, or disclosed to another person, for a purpose that is not connected with the exercise of a power of a health and safety representative, information acquired from an employer.

I think members can read subclauses (4) and (5) of clause 47 for themselves in relation to other matters to be taken into account. Mr Speaker, I will just read through the clauses where there are penalties imposed on employers for not biding by certain requirements of this Act. They are clauses 27 to 34, 37 to 41, 44, 51, 52, 58, 76 to 78, 84, 85, 91 and 92. Penalties in relation to safety representatives or employees not abiding by the Act are in clauses 30, 47 and 50. In clause 47 there is no fine, as I have mentioned, at present; and in clause 50, a paltry fine of $100. That relates to provisional improvement notices.

Where actions by both employers or employees can attract a penalty, we have clause 66, obstructing an inspector, and clause 67, false information. These two are largely geared against the employer. There are clauses 88, 89 and 90. Clauses 68 and 72 deal with an inspector who does the wrong thing. So one can see from that that the vast majority of clauses on penalties are against employers. This does bring some balance into the Act. This does provide a real deterrent to a safety representative who misuses his power, and that is one of the grave fears of employers in relation to this type of legislation. It is ridiculous to say it has not occurred. Instances were put before our committee of there being abuses in Victoria of similar types of legislation. To say it is not going to occur is really pie in the sky stuff. This at least provides a deterrent, and I would commend it to the Assembly.

MR MOORE (9.21): Mr Stefaniak presented this argument again and again in committee, constantly seeking to ensure that there were penalties put on the safety reps. I guess he sees it as a fair play thing: if you can put penalties on employers then you should put penalties on employees as well under such circumstances. The legislation of course is intended primarily to deal with duty of care and primarily to talk about the responsibilities of the employer, although it does talk about responsibilities of employees as well.

The problem with what Mr Stefaniak is suggesting is that there simply will not be any person or any employee who is prepared to take on the job. Why risk a $10,000 fine? Why take the job on in the first place? What the legislation is really calling for is a volunteer to take on a job to look after the health and safety of the workers. The sort of situation that is suggested here by Mr Stefaniak is a case that will discourage anybody from taking on that role. What it really boils down to is that it is a voluntary role, elected by the group.

Mr Stefaniak, we have been through this again and again. To encourage a penalty of this nature on an individual who is attempting to look after and assist with the occupational health and safety, to assist in reducing risks in the workplace - - -

Mr Stefaniak: I will read clause 47(3) if he does the wrong thing, Michael.

MR MOORE: Mr Speaker, I notice Mr Stefaniak's new found enthusiasm for interjecting, and I take it that he has been appointed by the local Liberal Party to be the ACT's version of Wilson Tuckey. Mind you, this seems a little like sending a rather ponderous sheep to do a wolf's job, and given that Mr Stefaniak has so far shown all the wit and wisdom of a piece of four-by-two, perhaps we should refer to him as "Wooden Bar" Stefaniak.

MR SPEAKER: Please be more direct, Mr Moore.

MR MOORE: "Wooden Bar" Stefaniak was what I was saying. The point is, Mr Speaker, in this case, we could have a situation where our wooden bar would be trying to hammer into the particular workers - but they are volunteers, and we need them; they are important to the legislation; they cannot be under threat of this sort of penalty.

MR WHALAN (Minister for Industry, Employment and Education) (9.25): This is a silly amendment. Under clause 47 you want to be able to hang the safety rep, and you can do that under clause 47. Then you want to introduce a new clause 47A and you want to whip him after he is dead. It is a double penalty. I would like to very briefly adopt the points made by Mr Moore in terms of the role of the voluntary workplace delegate. The whole thrust of this legislation is that it imposes a duty of care upon the employer. It is not appropriate to adopt the argument that, because there are 10 places where the employer who in some way places in jeopardy his duty of care could attract a fine for that, then there have to be 10 places where the employee who takes on the job of being the safety rep could be fined.

The proposal is more dangerous than that. It is a very dangerous amendment, and I am sure that it will not be acceptable to a majority of members of the Assembly. It is proposed that an offence be created where the health and safety representative shall not take any action that would render the representative liable to disqualification under clause 47. The proposed offence is far too uncertain when you talk about any action. That is clearly too wide a proposal. And, of course, to add the words "liable to disqualification" does not necessarily mean that the person has been or even will be disqualified; so it is just some vague set of circumstances where he may be liable to disqualification.

The Bill provides that the registrar shall not disqualify, unless he believes certain matters on reasonable grounds, having regard to a number of criteria. Therefore there is no obligation on the registrar to disqualify even a person who may be liable. For example, a trivial incident or an inadvertent action by the representative could be any matter the registrar thinks relevant. They are in addition to the matters which are specifically set out in the legislation. The effect of this amendment would be to make a person liable to an offence for taking any action which may or may not result in a disqualification.

As for the penalty, the penalty is far too high. Even if the elements of the offence were not so uncertain, we find that $10,000 is used as a penalty for such fundamental matters as non-compliance with improvement notices, obstructing inspectors and not notifying the registrar. The proposed penalty is double that for employers interfering with the workplace notices, and it is 10 times

as much as that for not displaying improvement notices and not allowing a representative to do his job. So I urge the members of the Assembly to oppose this amendment, as the Government does.

MR DUBY (9.28): I sympathise very much, not with the motion, but with Mr Stefaniak's sentiments behind the motion. I can see the problems that he has pointed out, and to me they do tend to stand out like a sore thumb. There is a problem there in the fact that the employers can be fined various amounts of money. When you have a health and safety rep for a group, if you look at the tasks that this person has to do to get disqualified, you would wonder why the builder is looking at just fining him and not chucking him in gaol. The Bill also details the intention of causing harm to the employer "unreasonably, capriciously or otherwise than for the purpose for which the power was conferred" on the rep, or misusing information.

I sympathise with where Mr Stefaniak is coming from. However, a person whom the registrar determines has acted in that fashion is punished, not so much with a financial impediment but is disqualified from holding the position of health and safety rep and can be disqualified for a period of up to five years. Now that certainly removes the troublemaker, that sort of person, or a person who is acting in ways in which it has not been anticipated that a health and safety rep would be acting. It certainly removes him from the scene. The provision is there within the Act for that person to be removed. I have difficulties with the wording of Mr Stefaniak's motion.

Debate interrupted.

ADJOURNMENT

MR SPEAKER: Order! It being 9.30 pm, I propose the question:

That the Assembly do now adjourn.

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

Question resolved in the negative.

OCCUPATIONAL HEALTH AND SAFETY BILL 1989

Debate resumed.

MR DUBY: The wording of Mr Stefaniak's motion, I have been advised, seems to be a bad mixture of legal and administrative functions. I think that the fine is far too high anyway. So, reluctantly, I will not be supporting Mr Stefaniak's motion.

MR JENSEN (9.31): I want to speak very briefly on this issue because I note that clearly both the Minister and Mr Stefaniak are wrong in their assertions in relation to this matter. They are wrong for different but related reasons. Mr Stefaniak says that there are no penalties for the employees, and the Minister refers to this as being a Bill which places all the responsibility on the employer.

Just to make sure that everyone realises that I was not sitting here asleep and that I was paying some attention to what was going on this evening, I thought I had better make this particular point. I refer both members to clause 30 of the Bill, which shows quite clearly why they are both wrong. There, under the duties of employees, it says that "an employee shall, at all times while at work, take all reasonably practicable steps", and then it goes on to list a series of items that they are required to do.

The penalty proposed for that is $20,000 - quite a hefty penalty - which I understand is going to be looked at. Of course, the Minister refers to this as being a Bill that is related to the responsibility of employers only. But I would suggest, Mr Speaker, that that quite clearly shows that employees have just as much responsibility to assist in maintaining a safe and tidy workplace because of this responsibility. I just thought I would make that point for both members.

Mr Kaine: So you will support us on this issue?

MR JENSEN: Mr Kaine, the Residents Rally will not be supporting the Liberal amendment in this particular case.

MR COLLAERY (9.33): We agree with the sentiments expressed by Mr Duby. The amendment that Mr Stefaniak is regrettably caught with, because he has taken the wrong advice somewhere, in my opinion, mixes administrative and judicial powers and could be open to challenge. I do not believe the amendment is worded properly. I agree with the sentiment therein. If Mr Stefaniak is able to come back here with a properly worded and acceptable amendment, the Rally will look seriously at balancing the books, as Mr Stefaniak argued.

MR STEFANIAK (9.34): Just briefly, I would submit to the people here who have said it is badly worded, et cetera, that they are wrong. I took the advice of the legislative draftsman. On that, I would submit to you all that that amendment is quite correctly drafted. When one looks at why a person is liable to disqualification one can see when one looks at clause 47(3) the grounds whereby a registrar can disqualify a health and safety rep. He has to believe those are reasonable grounds. Hence it is quite appropriate that those are the grounds where a representative, if he commits one of those actions, would be subject to this penalty. Accordingly I would say that it is quite correctly drafted.

I would reiterate that a safety rep who was causing trouble by taking these actions can merely be disqualified. Mr Duby said he thought he should perhaps be thrown in gaol if that occurs, but we are not proposing that. Indeed, if there is a problem in that particular workplace he can merely be replaced by another safety representative, who may indeed be no better. It may be no penalty to be merely disqualified. This does put in a real penalty.

Finally, I am glad Mr Jensen has been paying attention. Unfortunately he probably has not been paying sufficient attention. I did indicate three clauses where there are penalties or sanctions for a safety representative, those being 30, 47 and 50. Of course what we have in clause 47 at present is just a sanction.

Question put:

> That the new clause be inserted.

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.

Clauses 48 and 49, by leave, taken together, and agreed to.

Clause 50 (Issue)

MR STEFANIAK (9.40): I move:

> Page 26, lines 5-6, omit "the representative believes on reasonable grounds that".

In relation to this, Mr Speaker, we have here strict liability in relation to actions taken by employers and here at present the safety representative can believe on reasonable grounds that a person is contravening a provision of the Act or is likely to contravene a provision of the Act or the regulations. It states:

> A health and safety representative shall not give a provisional improvement notice to a person unless the representative believes on reasonable grounds that -

(a) the representative has taken all reasonably practicable steps to consult with the responsible person ...

(b) any further such steps are unlikely to result in the rectification of those matters or activities.

I can see no reason why the representative has to believe on reasonable grounds that certain things occur when that does not apply to employers. Again we get to the situation of a safety representative who might not be acting reasonably and there are problems there. Courts determine regularly what is reasonable and what is not. That is what they are going to have to do in relation to a large number of provisions here in relation to employers. This particular amendment is an attempt to balance the legislation and make the provisions of it apply equally to safety representatives and employers.

MR WHALAN (Minister for Industry, Employment and Education) (9.42): The deletion of the reference to the representative's reasonable beliefs about the criteria in paragraphs 50(2)(a) and (b) may have the effect of unduly inhibiting the provision of provisional improvement notices. If subclause 50(2) is amended in the way proposed, the validity of a provisional improvement notice may depend on the representative's having first complied with criteria for paragraphs 52(a) and (b) and whether he or she was aware of matters or not. This may make the provisional improvement notice procedure entirely ineffective. As subclause 50(2) currently stands, a discretionary power to issue provisional improvement notices is contingent upon the representative having reasonable grounds for his or her belief in the facts which led to the exercise of the power. It is therefore not subjective and could not properly be exercised on capricious or arbitrary grounds.

Amendment negatived.

Clause agreed to.

Clauses 51 to 57, by leave, taken together, and agreed to.

Clause 58 (Duties of employers)

MR STEFANIAK (9.44): I move:

> Page 30, lines 32-34, omit the penalty.

I think this is especially important now when we look at a couple of other clauses and the fact that we do not have a 47A and more specifically clause 43, access to information. Subclause (2) says:

> An employer shall not make available to a health and safety committee information of a confidential medical nature relating to a person who is or was an employee of the employer, unless -

(a) the person has delivered to the employer a written authority ... or
(b) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

If an employer transgresses that, he is fined. Clause 43, a very similar clause, states:

A health and safety representative is not entitled to obtain access to -
(a) information in respect of which an employer is entitled to claim, and does claim, legal professional privilege; or
(b) information of a confidential medical nature relating to a person who is or was an employee of an employer unless -
(i) the person has delivered to the employer a written authority permitting the health and safety representative to have access to the information; or
(ii) the information is in a form that does not identify the person or enable the identity of the person to be discovered.

Virtually identical provisions are there, yet for the employer we have a penalty and for the health and safety rep of course there is no penalty. Accordingly, in all fairness and for consistency of the legislation, I believe the penalty in clause 58(2) should be deleted.

MR WHALAN (Minister for Industry, Employment and Education) (9.45): It is far from consistent, Mr Speaker. That is precisely one of the reasons why we oppose the proposal. It would be totally inconsistent with clause 44(2), which is a corresponding provision and which would still carry a penalty. Further, if the penalty were omitted as proposed, the employer's duty to keep an employee's medical information confidential would be quite unenforceable. So we oppose the amendment.

Amendment negatived.

MR WHALAN (Minister for Industry, Employment and Education) (9.46): I move:

Page 30, line 37, add at the end the following subclause:
"(4) Where -
(a) a declaration under section 38A is in force in respect of a construction site; and
(b) a worker to whom the declaration relates is a member of a health and safety committee established in respect of employees on the site;

the sub-contractor who employs the worker shall permit the worker to take such time off work, without loss of remuneration or other entitlements, as is necessary and reasonable for the worker to attend meetings of the committee or, with the approval of the committee, to engage in the affairs of the committee.

Penalty:

(a) if the offender is a natural person - $1,000; or

(b) if the offender is a body corporate - $5,000.".

This follows from clause 38A.

MR STEFANIAK (9.46): It is exactly the same as before, Mr Speaker, and we oppose it.

Question put:

That the amendment 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.

Clause, as amended, agreed to.

Clauses 59 to 65, by leave, taken together, and agreed to.

Clause 66 (Obstructing inspectors)

MR STEFANIAK (9.50): In relation to my amendments 17 to 23, as a result of discussions with Mr Collaery and Mr Whalan and as a result of the whole question of penalties being referred to the legislation subcommittee of the Assembly and because my amendments here are not as substantial or important as some of the other ones I would like debated and discussed by this Assembly tonight, these can be considered by the committee when looking at the question of penalties overall. They need not be dealt with tonight. I will not be proceeding with these particular amendments tonight.

Clause agreed to.

Clauses 67 to 86, by leave, taken together, and agreed to.

Clause 87 (Use of codes of practice)

MR STEFANIAK (9.51): I move:

Page 44, lines 13-18, omit the clause.

This is in relation to use of codes of practice. Basically it is gobbledegook, Mr Speaker, and we had great difficulty in understanding it in the committee. It appears to do what it does not really intend doing.

MR COLLAERY (9.52): I want to say something briefly here, Mr Speaker. I think all members need to be very careful of the current practice of the Attorney-General's Department wherever possible to reverse the onus of proof whenever they can get away with it and slip it in. I think this is another example of the attempt.

Motion agreed to. Clause omitted.

Clause 88 (Protected information)

MR STEFANIAK (9.53): In relation to my amendments to clause 88, Nos 24 and 25, Mr Speaker, again these are in the same boat as my amendments 17 to 23 in relation to penalties. These will be looked at by the legislative subcommittee of the Assembly and accordingly I do not propose to deal with them tonight.

Clause agreed to.

Clause 89 (Interfering with safety equipment)

MR STEFANIAK (9.54): I ask leave to take the following two amendments together.

Leave granted.

MR STEFANIAK: I move:

Page 45 -
Line 10, omit "$5,000" and "one", substitute "$10,000" and "2"; and
Line 12, omit "$25,000", substitute "$50,000.

I would ask members to have a look at this. I will read out the clause in full because, to my mind, and I would hope to the minds of everyone else in the Assembly, this is probably the most serious offence that is created under this legislation and certainly the most dangerous and serious thing that could occur. It is about interfering with safety equipment. The clause reads:

89.(1) A person shall not, without reasonable excuse, interfere with equipment at or near a workplace, being equipment that the person knows, or ought reasonably to know, is provided in the interests of the health or safety of persons at work.
Penalty:
(a) if the offender is a natural person - $5,000 or imprisonment for one year, or both; or
(b) if the offender is a body corporate - $25,000.
(2) In subsection (1), "interfere" means do any act or thing that is calculated or likely to inhibit or prevent the effective operation of the equipment.

What they are talking about here, Mr Speaker, is deliberately interfering with safety equipment, deliberately putting at risk the lives of the workers and everyone else who might enter that workplace as a result. "Sabotage", perhaps, is one word that springs to mind. It has the potential, if people do interfere with such equipment, to lead to deaths in the workplace as a result - deaths due to deliberate acts. Indeed, if a court proved that it was a deliberate act, I would think the person would be facing a charge of murder rather than just this. So it is a very, very serious offence indeed.

Let us just compare it with clause 84, notice of accidents. That states:

Where, at or near a workplace at which an undertaking is being conducted by an employer, there is, arising out of the conduct of the undertaking -
(a) an accident that causes -
(i) the death of a person;
(ii) an injury ... or
(iii) an injury to an employee ... or
(b) a dangerous occurrence;
the employer shall ... give to the Registrar notice of the accident or dangerous occurrence, as the case may be.

If a person, without reasonable excuse, contravenes that clause (1) he can be fined $10,000 or two years' imprisonment or, if it is a body corporate, $50,000. Indeed, these are the penalties I am suggesting for clause 89. I think no-one could logically argue that 84 is a more serious offence than 89. I am suggesting a penalty for 89 the same as for 84.

Perhaps there is a good argument - we can deal with this later - for the penalties in 84 to be reduced. Certainly, I would submit that 89 should carry the same penalty as 84 because the offence created there and the action that is aimed at countering it are much more serious than 84. Accordingly, it should carry that more serious penalty. A

penalty of $10,000 or two years' imprisonment or $50,000 for a body corporate crops up in several other parts of the Bill. But I would certainly commend increasing the penalty for this most serious offence covered by 89, and I would commend members to up the penalty there.

MR WHALAN (Minister for Industry, Employment and Education) (9.57): Mr Speaker, the penalty proposed to be amended is excessive. The comparable penalty in the Commonwealth legislation is only $2,000 or 12 months' imprisonment in the case of a natural person, and $10,000 in the case of a body corporate. In New South Wales the penalty is $2,000. Any sabotage which amounts to a crime is already an offence under part IV of the Crimes Act of 1900, and clause 89 does not need to cover that situation. The proposed amendment would also make clause 89 inconsistent with clause 90, which creates the offence of interfering with workplace notices. Both are equivalently serious, given the objects of the Bill.

MR MOORE (9.58): I have a great deal of empathy with what Mr Stefaniak is saying here. In this particular instance I am not going to support it because I think that we have already committed ourselves to take these penalties to the Bills committee and to have a look at them there. I would like to have it said that I do believe that, on a comparative basis throughout the legislation, this does appear to be out of kilter. I have not supported the changes to any of the amounts in the Bill because I believe that they are going to the Bills committee to try to establish a system of getting a standardised - as much as possible - range of offences. For that reason I would prefer to leave the Bill as it is. But, at the same time, I certainly empathise with what Mr Stefaniak is saying here, and it emphasises even more the need to get a standardised set of penalties - as close as we can, anyway.

MR COLLAERY (9.59): The Rally supports Mr Moore's views and supports Mr Stefaniak's arguments to the extent that we will go along with the argument but we will not support an amendment tonight. We believe it should go to the Bills committee and be properly ordered.

I want to say specifically that I do not really accept the arguments put forward by the Government on this. You can say in relation to any number of things here that they can also produce criminal penalties. The statement that the amendment is similarly excessive is not taken in relation to the overall legislation and, of course, contradicts the Deputy Chief Minister's commitment to have penalties generally referred to the Bills committee. So I think he has taken a conclusion that we are not wishing to take.

Our view is that we empathise with the view. Clearly, there is a very clear conflict with clause 66, where the fine is $10,000 for impeding an inspector in the exercise of his or her powers, and $50,000 for a company impeding an inspector, and only $5,000 or $25,000 for actually

sabotaging equipment. There is clearly an inconsistency and I am certain, without prejudging the Bills committee, that it will take note of the comments made in the house tonight.

Amendments negatived.

Clause agreed to.

Clauses 90-96, by leave, taken together, and agreed to.

Clause 97 (Regulations)

MR STEFANIAK (10.02): I ask leave for the following two amendments to be taken together.

Leave granted.

MR STEFANIAK: I move:

Page 49 -
Lines 18-19, omit subparagraph (2)(s)(iii); and
Line 21, omit "requiring", substitute "relating to".

Amendments agreed to.

Clause, as amended, agreed to.

Schedule.

MR STEFANIAK (10.03): I ask leave that the following amendments be taken together.

Leave granted.

MR STEFANIAK: I move:

Page 51 -
Item 1, omit paragraph (b) from the third column;
Item 5, omit paragraph (c) from the third column;
Page 52 -
Item 1, omit paragraph (a) from the third column;
Item 2, omit paragraph (a) from the third column;
Item 4, omit paragraph (b) from the third column; and
Item 8, omit paragraph (c) from the third column.

All of these relate to involved unions. I reiterate what I have said before.

MR WHALAN (Minister for Industry, Employment and Education) (10.05): We are opposed, Mr Speaker.

Question put:

That the amendments be agreed to.

he 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.

Schedule agreed to.

MR WHALAN (Minister for Industry, Employment and Education), by leave: Clause 79 relates to a body or person declared by the regulations to be the reviewing authority. I would like to table the following documents:

Letters from -

Federal Minister for the Arts and Territories to the Federal Minister for Industrial Relations, dated 9 May 1989.

Federal Minister for Industrial Relations to the ACT Minister for Industry, Employment and Education, dated 10 July 1989.

Federal Minister for Industrial Relations to the President, Australian Industrial Relations Commission, dated 10 July 1989.

That exchange of correspondence is the basis upon which the Minister for Industrial Relations was invited to agree to approach the Industrial Relations Commission to have that body appointed the reviewing authority for the purposes of the Act. His agreement to that approach and his then letter to the president of the Industrial Relations Commission are also included.

We are awaiting a reply from the president of the Industrial Relations Commission. We anticipate that there will be no difficulty with that as the president of the Industrial Relations Commission has already agreed to act in this capacity as the reviewing body for the purposes of the Commonwealth occupational health and safety legislation.

I now refer to clause 97. The regulation making power of this legislation is quite comprehensive. The Government acknowledges the concern of Mr Collaery in relation to this part of the legislation and has undertaken to review further this question of regulation making powers under

this legislation, and indeed under other legislation as well.

Title agreed to.

MR KAINE (Leader of the Opposition), by leave: This Bill is not the Bill that emerged after detailed and careful consideration by a committee as a result of a referral by the Minister himself nearly six months ago. The Liberal Party is in favour of good occupational health and safety legislation, legislation that is fair to all parties concerned. In the course of the detail stage of this Bill, matters that the Government has been waiting for six months to get put back into the Bill have been put back in and a considerable number of recommendations that emerged from the committee itself have been rejected by this Assembly in the detail stage. It is not a Bill, in its present form, that is acceptable to the Liberal Party, and I formally advise you, Mr Speaker, that the Liberals will vote against this Bill, although we agree to a Bill in principle.

Question put:

That this Bill, as amended, 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.

Bill, as amended, agreed to.

ADJOURNMENT

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

That the Assembly do now adjourn.

University of Canberra

MR HUMPHRIES (10.14): Mr Speaker, I want to raise briefly a matter of concern to me in relation to the University of Canberra Bill which has been introduced into the Federal Parliament.

Mrs Grassby: Is this what you have been doing outside?

MR HUMPHRIES: No, I have been doing the fish farm report, Mrs Grassby, but I have had time today to look at this Bill relating to the establishment of a University of Canberra. One aspect of it was of concern to me and I raise it in the Assembly for the interest of members. The new university is to have a council constituted, as all universities have, and membership of the council is set out in the Bill. Clause 11 sets out the membership of council. It says that the council shall consist of the following members: the vice-chancellor; three persons appointed by the Governor-General; two persons appointed by the Governor-General on the nomination of the Minister for the Australian Capital Territory responsible for matters relating to education; two persons appointed by the vice-chancellor of Monash University; a representative of graduates; et cetera.

The purpose of a University of Canberra should be, in my view, to serve the needs of the Canberra community principally and foremost. It is my understanding that part of the process whereby that university is to be created is the satisfaction of that need for the ACT.

It is a matter of concern to me that, effectively, the number of persons appointed by the ACT Government to represent the ACT on that council is only two. I have expressed my concern to our ACT Education Minister and I hope that members of this house, particularly leaders of parties, will take the opportunity tonight to convey their concerns to the Minister. He might then be able to communicate with his Federal counterpart the concern of the Assembly in that it has a relatively small role to play in this new university.

I understand that amendments to expand the number of ACT representatives on that council will be considered tomorrow by the Federal House of Representatives. I hope that when that happens, through the intervention of, in particular, our ACT Minister, that might be accepted by the ACT Government.

University of Canberra

DR KINLOCH (10.17): The members of the Rally would very much like to endorse Mr Humphries' remarks.

Question resolved in the affirmative.

Assembly adjourned at 10.17 pm

ANSWERS TO QUESTIONS

The following answer to a question was provided:

Gifted Children

Mr Whalan: On 18 October 1989 **Mr Moore** asked me the following question:

> What provision is being made to assist gifted and talented children to realise their potential.

My response is: it is the department's task to cater for the full range of abilities of students in public education. This involves making adequate provision for students who are disabled, disadvantaged or who require special programs because of their particular needs, as well as providing appropriate programs for high ability students or students with particular talents.

As far as possible, the department seeks to meet these needs by way of normal program arrangements. Many courses, for example, are available at both normal and advanced levels. This allows students with particular abilities in areas such as foreign languages, mathematics, music or science to undertake very high level studies while at school, and in some areas to gain advanced standing in higher education programs as a result.

The department also provides specific programs for children who have particular talents. An example of this is the media and drama courses at Narrabundah College.

There are also some areas where the department enters into special arrangements to provide courses for students with talents in particular areas. These include the specialised ballet program at Ginninderra High School, the bilingual program at Telopea Park school and the joint School of Music programs at Red Hill and Ainslie Primary Schools.

A number of programs specifically designed for gifted students are also in operation, such as the Lyneham enriched academic program (LEAP) at Lyneham High School. Other programs operate at a range of schools, including eight individual primary schools and two other high schools.

At the system level, the department is developing a package of in-service courses designed to assist classroom teachers to best cater for gifted and talented students.

A parents association for gifted and talented education is also active in the ACT. This association provides counselling, support, enrichment and peer interaction activities for gifted and talented students. Although not

a Government initiative, there is liaison between this committee and the department.

The department thus provides a wide range of programs at all levels and in different areas for gifted and talented students in ACT schools.