



DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

29 May 1990

Tuesday, 29 May 1990

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

QUESTIONS WITHOUT NOTICE

Federal Funding for the ACT

MS FOLLETT: My question is to Mr Kaine in his role as Treasurer. I refer him to the very irresponsible comments made yesterday by the Deputy Chief Minister, Mr Collaery, when he said that the rejection by the Federal Government of an additional year to the real terms funding guarantee would bankrupt the ACT. Will the Treasurer publicly release the letter which he received from the Prime Minister relating to this matter?

MR KAINE: First of all, Mr Speaker, I reject the proposition that anything that the Deputy Chief Minister said yesterday was untoward or out of order. The premise of the question, I think, is typical of Labor's opposition to everything that is done in this Assembly. I have indeed got a letter from the Prime Minister rejecting my suggestion and proposal that the transition period should be extended by one year to allow us to get our budgetary house in order.

The treatment we are receiving contrasts markedly with that accorded to the Northern Territory on its transition to self-government. I have no objection whatsoever to making the letter available, if that is the wish of the Leader of the Opposition. I table the following document:

Commonwealth general purpose funding - copy of a letter from the Hon. R.J.L. Hawke, Prime Minister, to Mr Kaine, dated 17 May 1990.

X-rated Videos Tax

MR STEVENSON: My question is to the Chief Minister. Mr DUBY was reported in the Canberra Times on 18 May as saying that a 35 per cent tax on X-rated videos would be introduced. I have been contacted by many Canberrans who are very concerned about the possibility that this Government would profit from pornography. Would the Chief Minister be kind enough to allay the concerns of Canberrans with a clear statement that the Government will not attempt to profit from - using his words - "loot from lust", by the introduction of taxes on the porn video trade?

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MR KAINE: No, Mr Speaker, I cannot allay the concerns of anybody in the community on that score. The Assembly has twice considered private members' Bills, one which would have banned X-rated material from the Territory completely and the other which would have restricted its availability within the Territory. Both of those Bills were rejected by this Assembly. Given that, I doubt that the Assembly is of a mind to change this view. There is very little justification for allowing the business to go untaxed in a free enterprise system. It should be expected to pay its share of the cost of government, just as other elements of business do, and the Government will be introducing a Bill accordingly.

MR STEVENSON: I have a supplementary question, Mr Speaker. In the house on 21 November last year Mr Kaine said:

Mr Speaker, this community finds it totally unacceptable to legalise video pornography. I believe it finds it equally unacceptable and repugnant to legitimise it by institutionalising it as a legitimate source of tax revenues. No State has done so; we cannot either. The Liberal Party opposes the Bill ...

That unequivocal statement was recorded in Hansard on page 2738. My question is: how can the people of Canberra have confidence in him as the Chief Minister or in other members of the Alliance who stood on that day to defeat the attempt by the Labor Party to profit from pornography?

MR KAINE: Very simply, Mr Speaker, my view personally is still as expressed then and now read by Mr Stevenson. If I had my wish, X-rated videos would be banned from the Territory. Unfortunately I am a member of an Alliance Government and a 17-member parliament which do not support that view.

Taxis for the Disabled

MS MAHER: My question is directed to Mr Humphries as Minister for Health, Education and the Arts. In the area of disability I have had numerous representations from constituents concerning the ACT taxi scheme and the waiting list for that scheme. What is the ACT Government doing to ensure equity of access to the ACT taxi scheme for all people currently on the scheme's waiting list?

MR HUMPHRIES: Mr Speaker, I thank Ms Maher for her question and I acknowledge the concern in some sections of the community about the operation and the scope of the taxi scheme for the disabled. A waiting list for eligible people was initiated on 1 April last year to limit the demand on the funds available before the 1988-89 financial year. Unfortunately such restrictions will have to be a

permanent feature of the ACT scheme, at least for the time being.

Interim arrangements are under way to make amends for the previous Government's failure to address the necessary policy issues and to provide adequate funding in the budget for that scheme. On 2 April of this year, 40 people with specialised transport needs were transferred from the waiting list to the scheme. I am very glad to see that we have been able to expand the operation of the scheme to that extent.

To maintain the operations of the scheme for current members and to provide access for those with special transport needs, it has been necessary to increase each member's contribution towards his or her next fare by \$1 per trip. I do not, of course, like to see that kind of increase imposed, but in the circumstances I believe it is the fairest way of ensuring that the scheme is adequately widened to cover more people than it presently does. I might indicate also that this increase in the cost of each trip was the preferred option expressed at a public meeting of persons interested in this scheme in December last year. In consultation with consumer groups, additional measures are being developed at this present time to streamline the scheme so that equity of access for eligible persons can be assured on an ongoing basis.

School Consolidations

MRS GRASSBY: Mr Speaker, my question is to Mr Humphries. Does he agree with the Residents Rally party spokesman, John Gagg, that the community has not been given enough time, sufficient information or an adequate framework to comment on school closure proposals? Mr Gagg says that the Rally really wants time for a properly considered debate.

MR HUMPHRIES: The answer in broad terms is no. I do not agree with that view. However, as Minister for Education in the Alliance Government which includes members of the Residents Rally, I am prepared to discuss the ways in which the Government might ensure that concerns of the kind expressed by Mr Gagg are properly addressed. The Government is presently examining the issues surrounding such things as the time available for members of the community to comment on the Government's proposals, the criteria that we released about three weeks ago and other issues that affect the way in which the Government will proceed with the program to consolidate schools in the ACT.

If there are better ways of ensuring that the community understands what it is that the Government is about, if there are better ways of ensuring that the community has adequate time to ensure that its views are properly conveyed to the Government and the Government has time to respond to those views, then of course we, as a responsible

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government, will pick up those issues and ensure that they are implemented.

Ministerial Responsibility

MR MOORE: My question is to the Chief Minister, Mr Kaine. Can the Chief Minister advise the Assembly whether he requested - and, if so, what criteria he used to request - the resignation of Mrs Nolan from her position as Executive Deputy? Has he considered applying the same criteria to Mr DUBY as a result of the Minister's recent brush with the law, or is the Chief Minister considering creating a new set of criteria to apply specifically to Mr DUBY's case to allow him to retain his ministry?

MR KAINE: Mr Speaker, as is often the case with questions from Mr Moore - the question rests on an incorrect presumption, and that is that somehow the position of a Minister and the position of some other person in this parliament are the same. They are not the same. First of all, Mrs Nolan had no ministerial responsibilities. I have been making that quite clear since day one, although members of the opposition do not choose to listen. She had no executive responsibility. So the positions are really quite different. To try to draw them together as though there is some kind of comparability, as members of the opposition have attempted to do, is quite erroneous and quite spurious. As to Mrs Nolan's position, I discussed her situation with her after the court ruling recently and she determined that she would resign from her position as Executive Deputy.

MR MOORE: I have a supplementary question, Mr Speaker. My question was about criteria, Chief Minister. I wonder whether you could start by answering the question and whether you could identify clearly the different criteria that you have applied to Mrs Nolan. Have you applied any criteria at all to Mr DUBY's situation?

MR KAINE: Mr Speaker, I am prepared to answer that question, as I always do, in a straightforward manner. I did not apply any criteria to Mrs Nolan. She chose to resign her position. In the case of Mr DUBY I applied the normal rules of ministerial responsibility and the conditions under which Ministers in other parliaments stand down or are required to resign from their position. I applied the same rules that other parliaments apply.

Federal Funding for the ACT

MR STEFANIAK: My question is to the Chief Minister. I have heard further reports from the media about the rejection by the Prime Minister of an additional year of transitional funding for the Territory. How will the Government respond to this action by the Commonwealth?

MR KAINE: The Prime Minister's determination not even to allow discussion on that matter and his determination that the unilateral decision of the Commonwealth would stand were a little disconcerting. It is a bit difficult to say just how we at our level of government might be able to deal with it. My proposition to the Prime Minister was fairly straightforward. It simply said that a three-year transition period, if applied from the date of self-government rather than a year prior to that, might have been reasonable but it was not reasonable given that the transition period began a year before self-government. I think the Leader of the Opposition has put the same argument to the Prime Minister, so I am not being inconsistent there or taking a partisan view on the matter.

I thought that, while a three-year period perhaps arguably was a reasonable period, it had to date from the date of self-government - from the time at which this Assembly had control over its own affairs. By declining to accept that, the Prime Minister is saying to us, in effect, that in a two-year period we have to adjust our budget to take up the additional funding currently being put into our revenue by the Commonwealth. This was assessed by the previous Minister for Finance at something in the order of \$100m a year. We do not know whether that is a good figure or not but, even if it is close to that, to be required to make that kind of adjustment over a two-year period is, in my view, totally unreasonable. I would have thought that the Prime Minister would at least have agreed to meet with me and discuss the proposition rather than just reject it out of hand.

I was asked what the Government might do about it. I think I will have to again ask the Prime Minister to discuss this matter. It has been arbitrarily set aside without even any debate to find out what the position of this Government is, what we have done, what we are attempting to do to close the gap to start with, and what might be done to close the gap further. Secondly, I think that I and the other 16 members of this Assembly and the community generally ought to be putting a certain amount of pressure on our four Federal members and senators. Three of them are members of the Labor Government and one of them is a Minister in that Government. They do, after all, represent this community. I would think that we and, as I suggested, other members of this community ought to be applying as much pressure as we can - - -

Mr Berry: Why don't you just properly manage the Territory? That will do.

MR KAINE: I know that the big mouth over on the other side would not do that because he is not interested in having our budgetary situation set right. He would just like to spend \$210m or so on fixing a hospital that we do not need. That is his approach to balancing the budget. We have heard from him before.

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Mr Berry: Just get on with managing the place instead of whingeing about what other people do.

MR Kaine: That is exactly what we are on about, Mr Speaker, but of course the members of the Opposition do not like that. We are showing what they could have done if they had chosen to a year ago. They ignored the problem; they set it aside. Mr Berry could not even figure out how to go about fixing the hospitals. That was all too hard and he simply hoped that it would go away. It did not go away. We are dealing with the problem that you did not have the intestinal fortitude to deal with, Mr Berry, and that fact will not go away either. I suggest that, if you have got any sensitivity at all to the needs of this community, you will be talking to your representatives at the Federal level, as I will be talking, to get them to persuade their Government and yours to change their approach and treat the Territory fairly.

Conduct of Member

MR Connolly: Mr Speaker, my question is directed to you. Did Mr Stevenson give you an assurance that he had never lived in his Legislative Assembly office, and did you later discover - - -

Mr Stevenson: Well timed.

MR Connolly: I am glad to see that Mr Stevenson has returned. Did you later discover that this assurance was not correct?

MR Speaker: I would like to point out that I requested Mr Stevenson to advise me whether he was living in the Assembly. My choice of words there, on reflection, was not one I would have used. Mr Stevenson replied to me that, no, he was not. Unfortunately my wording was such that he was not, in fact, lying to me, but he misled me by omission, and I took objection to that. I raised that with Mr Stevenson formally on paper. Mr Stevenson acknowledged that he had, in fact, lived in the Assembly at some previous time and he apologised to me for that issue.

School Consolidations

MR Wood: I direct a question to the Minister for Health, Education and the Arts. Mr Humphries, how much money do you want to save in the education budget?

MR Humphries: I am astonished by the lack of permeability on the part of the members of the Opposition to the often repeated explanation of that very question that I have given to them or in their presence. I suppose I should

welcome one more opportunity to try to make that issue clear, but I am getting a little bit sick of repeating myself on this matter. As I have said many times before, it is the Government's intention to establish the criteria under which the Government can save money through a process of consolidation of schools.

Ms Follett: How much?

MR HUMPHRIES: If I may answer Ms Follett's question, that depends on the amount the Government seeks to make in the way of savings in the education budget. If the Government sought to make, for example, \$1m worth of savings, we would obviously have to close a relatively small number of schools. If it sought to make \$6m worth of savings, it would obviously have to close a very large number of schools. Members opposite apparently want me, as Minister, and the Government as a whole to embark on the process of working out how much we want to save at this point before we have established what it is exactly that we would need to do in order to close schools and what it is that the community would accept in the way of a closure program.

This is not the way this Government sees things. We see it as important first of all to establish the criteria under which the Government can close schools at all, and then to establish what circumstances that would entail and how we would go about doing that. Having established that, we would then set about the task of identifying what it is the education budget is expected to deliver in the way of general savings to the Government. We would then seek to work out how many schools that would be in terms of the amount of savings required. I make no apologies for this process. I see it as vastly preferable to a process which has us naming schools before any amount has been established. I believe this is the responsible path to go down.

MR WOOD: I have a supplementary question, Mr Speaker. Mr Humphries, is it not then the case that you have embarked on a destructive course with absolutely no idea about what you want to achieve? You do not know what the figure is and you are upturning the whole system.

MR HUMPHRIES: That is a political point more than anything else, Mr Speaker. I think it is vastly more responsible of this Government to canvass carefully the issues associated with this closure of schools before we get to the process of naming schools or identifying how much money will come from the closure of individual schools.

Ms Follett: Why?

Mr Kaine: It is called "community consultation". You talk about it so much and do nothing about it.

MR HUMPHRIES: Mr Kaine sums it up exactly; it is community consultation about the issues to begin with. I could go to

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the community and say: "I am going to raise \$4m from the education budget come hell or high water. I do not care what you say about the criteria. How I do it is irrelevant to me. I do not care how much damage I do in that process". I would be justly chastised by the population of the ACT and I would not expect to hold my position in those circumstances.

Mr Wood wants to be told what the Government is going to do in the way of a budget decision. That is a decision you will have to wait for, Mr Wood. That is a decision that no opposition can reasonably ask a government for ahead of time. I would have thought that you would realise that, having been in government for seven months last year.

Priorities Review Board

MR JENSEN: My question is directed to the Chief Minister. Why did the Government find it necessary to commission an external report such as that for the Priorities Review Board? Why was sufficient information on existing services not available within government agencies?

MR KAINE: I have spoken earlier today about the unfair and discriminatory way in which the Commonwealth has treated the Territory in its transition from Commonwealth Government funding to local government funding. I have said that the figure of \$100m a year has been put as the shortfall by the former Minister for Finance. I have also indicated that I do not know whether that is a good figure and I do not think anybody knows what that figure is at the moment.

Mr Moore: So why do you use it so much?

MR KAINE: I use it because the figure was put forward by the man who should know - the Commonwealth Minister for Finance. I only know what the Commonwealth Grants Commission and other bodies have told me. There have been three inquiries by the Commonwealth Grants Commission already, and in its last report it put the figure at around \$80m. That is as a result of a very comprehensive study, so I have to assume that three years ago that figure was accurate.

There has been no further study done in that detail since then and we do not have the resources to undertake it, but the Commonwealth Finance Minister, who presumably does know, put a figure of \$100m on it. That is the source of the information, and I took the good senator at his word.

Ms Follett: No-one else did.

MR KAINE: It is interesting that the Leader of the Opposition says that nobody else did. Here we have a Labor Commonwealth Minister for Finance who puts a figure on the

Commonwealth additional funding for the Territory and she says that nobody believed him. I took Senator Walsh to be a man of integrity. I believe that he was then and I believe that he is now. The fact that he has been disowned by his Labor colleagues does not affect his integrity. I accept his word. He is in a better position than any of you on the other side of this house to determine the figure.

Having got that figure, our problem is how to get from where we are now to where we are going to be on 30 June next year. Now, contrary to what the present Opposition members did when they were in government, this Government is absolutely determined not to make ad hoc, knee-jerk decisions about how to go about fixing it. Our problem is to find the underlying causes of our budgetary situation and to attack the underlying causes, not to attack the symptoms.

The fact is that identifying the full range of options which might be available to the Government was something that we did not have the internal resources to deal with. For that reason I sought and obtained external advice from people with the experience and the qualifications to look at the way this ACT Administration does its business and to give us independent, external advice as to where the problems lay and how we could go about fixing them.

The simple answer is that, despite the excellence of the members of the ACT Government Service, they have not the resources internally to be able to deal with that kind of inquiry. That is not their job. They have got full-time jobs now and they could not carry on their full-time jobs and perform this inquiry that has just been completed. I think it would have been unreasonable and unrealistic to have expected our public service managers to take that task on as well as continuing to run the Territory.

So, first of all, we needed the information. We had to get it in a form that would be acceptable to the community. It had to be independent advice. It had to be advice from people who were qualified to make the judgments - and I believe that this is the case - and it had to be provided by people who had the time and the opportunity to acquire the information, put it together and then produce some comprehensive recommendations. That is what we needed and that is what we have done.

School Consolidations

MR BERRY: My question is directed to Mr Humphries. Incidentally, Mr Speaker, he informed 100 or so people at a school meeting last night that the Chief Minister opposite was responsible for some of the input to the last three Grants Commission inquiries, which probably explains some of the figures that we are having so much difficulty with.

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I will put Mr Humphries on the spot. He has waffled on about the issue of how much the school closures will cost. What is your estimate, Mr Humphries, of the net savings of closing 15 to 25 schools? If you have an estimate, would you kindly tell us what the money will be spent on?

MR HUMPHRIES: Mr Speaker, Mr Berry's questions border on the stupid on occasions, and this is certainly one of them. In fact, it more than borders on it; it goes right into the middle of stupidity. I have made it quite clear that it is impossible to estimate accurately, in any sensible fashion, the sorts of savings you are going to make from closing schools until you know which schools you are going to close. That follows pretty logically from any analysis of the costs and the benefits of closing schools. You cannot just say that an average school saves this much, an average high school saves that much, and therefore you can get an average figure for a saving on 15 to 25 schools. That is a stupid way of proceeding and it is typical of the way in which the Opposition seems to have been handling all the economic questions we have been debating on this and other occasions in this house. There is no basis for making those kinds of assumptions. I certainly will not be getting into the process of estimating for Mr Berry's benefit which schools might be closed so I can give him some notional figure.

I can supply Mr Berry with figures on the amount of savings that were actually produced in the round of closures that occurred at the end of 1988. As I have indicated publicly, they were in the order of \$1.2m. Those are not hypothetical figures; they are real savings that occurred as a result of the closure of five schools - four primary schools and one high school - at the end of 1988. I therefore believe, Mr Speaker, that it is perfectly possible to say that there are eventually going to be those sorts of savings from a further round of school closures.

School Counsellors

MS FOLLETT: I would like to ask Mr Humphries a follow-up question on that. I wonder whether Mr Humphries can tell the Assembly what is the cost of school counsellors who are working with children who are located in new schools as a result of the most recent round of school closures. What is the estimated cost of counsellors for the proposed closure of up to 25 schools?

MR HUMPHRIES: As Ms Follett is well aware, I cannot possibly take that question other than on notice, and I will do that. I do not see any reason why the cost of a school counsellor in an ordinary school, a school which has not recently been consolidated, should be significantly different from that of one in a school which is in the situation of having been recently consolidated.

Mr Wood: You heard people last night say that there were more kids who needed counselling.

MR HUMPHRIES: Well, that might not be true.

Education - Priority

MRS NOLAN: I have a question also for the Minister for Health, Education and the Arts. I refer the Minister to comments by Senator McMullan in a letter to the editor of the Canberra Times which was published only yesterday. The letter accused the Government of not giving priority to education. I would like to ask the Minister whether he can inform the house of the priority that the Government gives to education within the budget rationalisation process.

MR HUMPHRIES: Yes, I can. If members opposite are happy to describe their Federal colleagues as "not to be believed", then they might also use the same description of Senator McMullan. It appears to be a case of whatever one wishes to believe one accepts and what one does not wish to believe one rejects. I think Mrs Nolan's question very properly raises the question of priority within the whole education budget in the ACT. Rather than directly state that, I think I should simply quote the Chief Minister on this subject when he addressed the Australian Society of Accountants fairly recently. He said:

... we recognise the quality of the ACT education system and do not intend to do anything that will reduce our acknowledged level of excellence. We will not raise maximum class sizes. We will retain teacher-pupil interface levels. We expect, over time, to expand the curriculum available to students through resource consolidation.

The high priority that we place on education is a fundamental value of this Government. Where we differ from our colleagues opposite is that we do not see education simply in terms of grounds and buildings, but rather in terms of teachers and programs and the preservation of those things.

Ms Follett: Children?

MR HUMPHRIES: They all affect the clients, who are children in this case, Ms Follett. We consider that the first option to meet the financial demands on the ACT should be to rationalise our capital resources, not our teaching resources. The other alternatives - and the discernible alternatives that the previous Government pursued while it was in office, such as sacking teachers, increasing class sizes or curtailing programs - would have, in our view, a greater impact on education than anything we have proposed. Senator McMullan was quoted in the paper yesterday on that subject, and I think we can all take what

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he said with a large grain of salt. But I do recall that yesterday he spoke on the Pru Goward show and he said:

... the difficulty is to measure the impact firstly of the national capital implications for Canberra and things like the neighbourhood schools system that were built into the original national plan and maybe if we started from square one we wouldn't have done it quite the way we did - we'd still have a lot of local schools but perhaps not distributed exactly as they are ...

I think that is a very significant comment on his part and I think it is an acknowledgement on his part that, even though he thinks that moving away from the neighbourhood school model shows a lack of commitment to education, there are weaknesses and there are flaws in that model. That is what this Government has conceded and argued, and that is what the Opposition refuses even to concede exists. The assumptions based on their arguments to date have been that there are no flaws with the present education system; nothing that can be changed in any way to effect an enhancement and an improvement in the quality of education.

I believe that we have to emphasise the important things in our education system, not the fringe or peripheral things, and this means pursuing this course of action that we have adopted.

MR KAINE: I ask that any further questions be placed on the notice paper.

Mr Berry: On a point of order; I wish to seek leave to move a motion of censure. Now, I refer to page - - -

MR SPEAKER: Order! What is your point of order?

Mr Berry: It is the practice of this house to refer to House of Representatives Practice in relation to points of order. I refer the Speaker to page 340. I will just read from House of Representatives Practice.

MR SPEAKER: Order! You will not read from anything, Mr Berry. You will make the point of order or you will sit down, please.

Mr Berry: The point of order is that, in accordance with House of Representatives Practice, it is customary for governments to consider censure motions as matters of priority before other business. I will refer to page 340, where it states that the importance of such motions - - -

MR SPEAKER: Order! Thank you for that observation, Mr Berry. I believe you would have to move a motion on that issue or seek leave. The Chief Minister is on his feet, so I would ask you to put that before the house at a later date.

Mr Berry: I did seek leave. I have the call. I move that so much of standing orders be suspended as would allow me to - - -

MR SPEAKER: Order! Mr Berry, you have raised a point of order. That point of order has now been overruled. Please proceed, Chief Minister.

Mr Berry: I move that so much of standing orders be suspended as would allow me to move a motion of censure.

MR SPEAKER: Order! The Chief Minister has the floor.

Mr Berry: I move that so much of standing orders be suspended - - -

MR SPEAKER: Order! Mr Berry, you do not have the floor at this stage. The Chief Minister has the floor. He also raised a point of order. Would you please resume your seat. The Chief Minister has raised a point of order. He has the next call. Chief Minister, you raised a point of order. Do you wish to proceed with that?

Mr Kaine: No, Mr Speaker, but I would like to be allowed to get on with government business.

Mr Berry: What is the point of order?

MR SPEAKER: There is no point of order. Thank you, Mr Berry. Are you running this Assembly or am I? Please resume your seat. Chief Minister, please proceed.

Mr Berry: I am moving the suspension of standing orders and I expect to be dealt with honourably by the Speaker.

MR SPEAKER: Resume your seats, please. I will take advice on this issue.

I stand by my original statement, Mr Berry. The Chief Minister was on his feet. Please proceed, Chief Minister.

PRIORITIES REVIEW BOARD Ministerial Statement and Papers

MR KAINE (Chief Minister), by leave: I thank members of the Assembly for allowing me to do this. In tabling the report of the Priorities Review Board I propose to outline the steps which the Government will be taking to encourage community comment and debate on the report and the measures which the Government has already put in place to get under way the process of restructuring the ACT public sector. I will also comment on some budget decisions taken by the Government which must be put into effect from 1 July 1990.

As members of the Assembly will be aware, the ACT is facing a very difficult financial situation. That situation has

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been exacerbated by the actions of the Commonwealth Government in the lead-up to and following self-government. The Commonwealth had, over a period of years, neglected needed investment in the infrastructure of the ACT, allowed a run-down in the assets of the Territory, failed to address the emerging issues of changes in service demands and left the ACT a public sector with high costs and inadequate productivity.

More than this, the Commonwealth has short-changed the ACT both in terms of the periods allowed for the transition to full responsibility under self-government and in terms of its approach to the resolution of financial matters which should have been settled at the time of granting self-government. Having left the ACT with a very difficult budget position, the Commonwealth promised three years of Commonwealth funding in which the Territory could adjust to self-government. The first year was squandered by the Commonwealth, with the result that only two years were available from the date of self-government for the incoming Territory Government to balance the books.

By contrast, when self-government was granted to the Northern Territory by the then Liberal Commonwealth Government, a period of seven years for the phase-out of transitional funding assistance was provided. The Northern Territory had enormous natural resources which it could turn to its advantage. The ACT lacks those resources. There is also a long history of the smaller States, such as Tasmania, receiving special financial assistance from the Commonwealth.

As I have said, the ACT has been grossly and deliberately short-changed by the Commonwealth Labor Government. I can assure members of the Assembly and the ACT community that the Alliance Government will continue to press the Commonwealth for a proper financial deal for the ACT. We are not seeking unfair handouts; we are simply asking for time and equity. We have sought one-off funding to offset the specific disadvantages which the Commonwealth has imposed on the ACT and we have sought an extension of the transitional funding arrangements. This will allow us to bring ACT finances into line in an orderly way and in a reasonable time frame by any standard, without major impact on the ACT community.

The members of the previous Follett Government were unable to impress upon their Labor colleagues the need for an urgent response on these funding arrangements. Many months of argument on these points by the Alliance have still not produced a satisfactory response from the Commonwealth. It was only last week that we received formal advice from the Prime Minister that the Commonwealth had rejected our reasonable request for a longer transitional funding period.

It is not an encouraging sign, Mr Speaker, that the Commonwealth Treasurer has already foreshadowed the

likelihood of further cuts in Commonwealth funding to the States and, by implication, to the ACT for the fiscal year 1990-91. While continuing to press our case, we must therefore prepare realistically for the likelihood that the Commonwealth will continue to ignore the financial needs of the Australian Capital Territory. In the jargon, we must of necessity plan for the worst case scenario.

In her budget last year, the present Leader of the Opposition adopted a defensible, if limited, approach to the budget task. She had her hands tied, of course, by ideological Labor policies. All schools had to remain open and three public hospitals had to be maintained, apparently regardless of the loss in education and health services that would inevitably result and regardless of the fact that future budgets simply could not sustain the financial burden flowing from that approach.

Mr Connolly: Honouring election commitments, not like your lot.

MR KAINE: You were not in the election; how can you speak?

As a result of the Labor Government's unwillingness to take any hard decisions, the forward estimates for 1990-91, which are nothing more than a projection of the budget inherited from Labor, indicate that, to achieve a balanced recurrent budget in 1990-91, \$27m has to be found. As indicated in my budget strategy statement, to make a further, very modest contribution to our overfunding problem of \$10m, this figure rises to \$37m.

As Leader of the Opposition, Ms Follett has retreated to the indefensible line that nothing significant should be done - absolutely nothing. We can only presume that her approach this year would have been again to trim at the edges, threaten service quality and impose a quite unupportable tax burden. She would have found it impossible to achieve a balanced budget by taking such limited decisions. Indeed, by pursuing this line she would have exacerbated the budget problem in future years even more. Labor's approach does not address the fundamental issues. To pursue their line further would inevitably lead to bankrupting the ACT economy.

There are no easy options, Mr Speaker, for dealing with the situation in which the Commonwealth has placed the Australian Capital Territory. It presents a daunting task for even the most experienced of governments and treasurers. We cannot afford to mortgage our children's future by borrowing to pay for current expenditures. The States which went down that path have learnt from bitter experience that it leads to far greater problems in future years. Equally, I have made it clear that the Alliance Government is not willing to rely on increased taxes as the principal means of adjustment. To do so would place an unacceptable burden on ACT families and small businesses. It would also put at risk our strategies for promoting

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essential private employment growth and encouraging the continuing economic development of the Australian Capital Territory. We simply cannot become a high tax island within New South Wales and hope to maintain the prosperity of the Territory.

The Territory's problems must, therefore, be overcome principally by reducing the cost of government programs. In this context the Alliance Government views it as most important that we do not respond by making ad hoc cuts. We cannot afford to take a short-sighted view or adopt a traditional across-the-board approach to cutting expenditures. To do so would not address the underlying features causing our budget imbalances and would place at risk the quality of all the public services provided to the ACT community.

What is required is a planned, logical and ongoing commitment to improving the cost-effectiveness of government services, to better target our programs to meet the community's priority needs and to make the best possible use of all the resources available to the ACT Government, including, in particular, the excellent and dedicated staff of the ACT Government Service. What is also required is a government with the commitment and the courage - and we did not have this last year - to make hard decisions and to face up to the need to change the way in which some services are delivered. The Alliance Government has the commitment and, despite the words from the Opposition, it has the courage. We have already set about the task in a rational way by acquiring information about our situation as a basis for decisions that must be made.

Mr Speaker, before I deal with the Priorities Review Board report and the Government's intentions regarding the report I would remind Assembly members of two points. Firstly, I wish to emphasise that I am not presenting a budget today. I am merely amplifying the Government's forward-looking budget strategy which I presented on 29 March in the light of the additions to our knowledge provided by the Priorities Review Board report. Inevitably, of course, we are defining our budgetary restraints more precisely, and some elements of the 1990-91 budget revenues which must take effect from 1 July 1990 are signalled. But the 1990-91 budget itself will not be brought down until September. Questions by the members of the Opposition to find out what is going to be in that budget will be unanswered until September.

As members of the Assembly are aware, the Government has already taken the initial major steps to address the financial difficulties which have been inherited from the Commonwealth. In particular, in connection with the hospitals, we faced up to the health system shambles that the Commonwealth Government left behind when it gave the ACT self-government and which Mr Berry, despite his loud words, did not address. We have a system of three hospitals where 200 high-quality public beds at Calvary

Hospitals have been left idle for years through Commonwealth indecision; a system where years of neglect have left a need for massive capital investment; a system in which there is a huge backlog of maintenance work to be done; and a system where costs are out of control and where the Commonwealth has failed to address longstanding inefficiencies.

The implementation of the one principal hospital concept and the transfer of services from the Royal Canberra Hospital to the Woden Valley and Calvary Hospitals has been announced. The first of these transfers will occur in July with the movement of 60 beds from Royal Canberra to Calvary Hospital. Staff at Acton will be offered the opportunity to move with full preservation of their existing entitlements.

Our decision to establish a principal public hospital at Woden was a very difficult one - and Mr Berry would know how difficult the decision was because he could not bring himself to make it - but it was unavoidable. Development of the principal hospital at Woden will provide a full range of health services to the people of Canberra and the region at a price that this community can afford. We must now get on with developing two public hospitals of excellence, both well located to serve their respective catchment populations. The Minister for Health, Education and the Arts will make a statement on this matter later today if the Opposition will do him the courtesy of listening.

The Government has invited comment on the need to restructure the schools system by consolidating a number of our primary and high schools. This will cut the overheads of our school system but, more importantly, it will enable the Government to maintain and advance the quality of education. The alternative would be to face falling educational standards as we battle to spread available resources over too many schools with too few pupils.

In releasing for public comment our suggested criteria for a consolidation program, the Minister has demonstrated the Government's commitment to involving the community in the development of our educational strategies. Some constructive comment has already emerged, but not from the Opposition, I must say. We trust that the debate on these priorities will move constructively towards a shared realisation that all sectors of the community must contribute to a revitalised and socially responsible government.

Some time ago I also established a joint working party to review the provision and financial management of TAFE services in the ACT. The working party included business, union, TAFE management and student representation. The working party has recently submitted its report to me. Its recommendations point to further steps which can be taken to generate additional revenue, reduce costs and put

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technical and further education services and finances on a sound, sustainable, long-term basis. I will be tabling that report later today for public information and discussion.

The Government has already announced its intention to transform the Mitchell Health Services Supply Centre into a government owned business operating on a commercial basis. The new business will make its services available throughout the region in both the public and private sectors. The corporatisation of the Mitchell centre will provide a base for greater output and productivity from this major public asset. It will also, over time, produce significant budget savings. The Minister for Health, Education and the Arts has announced the appointment of members of the interim board and will be making a statement on this matter and the development of the principal public hospital also later today.

As a result of a review of government vehicle usage which I initiated in December, decisions have now been made to reduce the number of cars operated by ACT Government agencies and to manage the remaining vehicles more effectively. I expect that as a result of these measures it will be possible to reduce the size of the government car fleet by more than 10 per cent - a reduction of 110 cars from the public fleet. This initiative will free up some \$1.4m in capital and achieve significant ongoing maintenance and running cost savings. This will be achieved without affecting community services. For example, staff members such as community nurses who need cars to service the community will still have them.

ACTION management has recently announced the transfer of the ACTION depot from run-down sheds at Kingston to new, high-quality and well-equipped facilities at Tuggeranong. This management decision - and it was a management decision - which happens to be consistent with the Government's decisions in other functional areas, will mean that more buses will be garaged and serviced close to their main passenger sources. This will produce economies for ACTION with no adverse effect on services.

I turn now to proposed revenue measures. The Leader of the Opposition has made much of the fact that the Government has concentrated only on cutting expenditure. She has been wrong all along. Contrary to that expressed belief, the Government has not been focusing its attention only on cost savings. It has also been looking closely at opportunities to raise additional revenues. You cannot look at only one side of your budget.

Constitutionally, it is theoretically possible for the Territory, unlike the States, to impose a retail sales tax. Most American states and Canadian provinces rely on such a tax as an important revenue source. The question has been raised by certain people recently that perhaps the Government ought to be raising additional taxes to maintain

our schools and our hospitals at their present levels. If such a tax were used to raise the \$100m which the Commonwealth's former Minister for Finance estimates as being our overfunding, a sales tax of 3.4 per cent on everything sold in the ACT would be required. If essential commodities such as food, housing and health care were excluded from such a tax, a rate of 5.4 per cent would need to be applied to the sale of all other commodities.

Such a tax would have grave economic implications, raising Canberra's retail prices by something of the order of 3.4 per cent or more. Household expenditure would rise on average by \$21 a week and the impact on low income earners would not be offset by social security adjustments. The Commonwealth would not adjust its benefits here to take account of local taxing policies. Raising prices in the ACT relative to surrounding areas would also have adverse effects and perhaps would sound the death knell for some local businesses, particularly small businesses. People would simply take their business somewhere else.

My judgment is that such a tax regime would not be generally acceptable and should not be contemplated as an option. I repeat, as I have said many times before, the Alliance Government does not accept that raising new taxes or charges provides an easy or acceptable answer to our problems. I know that is the policy of Labor in opposition; they would tax us out of existence. It is not the course taken by the Alliance Government because I do not believe it is an acceptable one. From this point of view I wish to make it clear that the Government will be rejecting the Priorities Review Board's suggestion that compulsory fees be introduced for attendance at preschools. We opposed such fees in opposition and will not countenance them in government. Similarly, we will not be taking up the board's suggestion for introduction of fees for secondary colleges. Canberra can be justly proud of its college system and, at a time when much greater attention is being paid nationally to the importance of lifting retention rates, we have no wish to impose a charge which might reduce our present outstanding performance at that level.

By reviewing some of its current revenue sources, however, the Government has identified measures which will raise an additional \$23m in a full financial year. So much for the claims of the Leader of the Opposition that we have not looked at the revenue side of our budget! She must think we are almost as stupid as she is. This will have a significant effect on the projected budget deficit but will still leave a major task ahead in reducing expenditure. It has been the Government's hope that we could consider reducing the tax burden on business, having regard for the difficult situation currently existing nationwide, but the clear messages from the Commonwealth indicate that no budgetary relief for the ACT is likely to come from that source. Accordingly, I must defer consideration of any tax reductions on the business community for the time being.

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There are a number of revenue measures which the Government has been forced to take and which we will implement with effect from 1 July. In connection with rates and land tax, we have to set the values for the 1990-91 financial year. In connection with rates, our municipal finances have relied far more on borrowings in the ACT than is the practice in local government generally across Australia. The Alliance Government is committed to keeping our borrowings to no more than 50 per cent of capital expenditure. That is in our policy statement and we will live with it. To achieve this and to provide the scope to maintain a high level of municipal services, rates will rise by 16.6 per cent in 1990-91, an increase in real terms of 9.6 per cent. With this rating level, average household rates will be no more than on a par with the Australian average.

There will be no across-the-board cuts in municipal services. While economies will be sought, they will be the result of specific decisions, not cuts by stealth as were imposed last year under the Labor Government that left Canberra with long grass and other obvious signs of neglect. The Government will also use the increased rate revenue to respond to the waste recycling proposals recommended by the Standing Committee on Conservation, Heritage and Environment recently.

Mr Berry: Like closing the Ainslie Transfer Station. That was a brilliant move!

MR KAINE: If you want to know where we are going to raise extra revenues, why not just sit and listen and I will tell you.

Land tax in the ACT is well below State levels. I well appreciate the difficulties facing business in the present economic climate. As I said before, if I could reduce their tax burden, I would. However, given the financial burdens placed on us by the Commonwealth, the Government has no option but to raise the land tax rate for commercial property. Being conscious of the additional burden that this will place on business, particularly retail tenants, we will raise the rate by only 0.25 per cent - from 0.75 per cent of unimproved capital value to 1 per cent. This rate will still be well below rates in other parts of Australia.

I come to the question of X-rated videos that Mr Stevenson was so interested in earlier. X-rated videos will now be taxed. Many members of this Government, including me, would prefer to see these videos banned. The Assembly has twice rejected legislation that would have restricted distribution of such material or that would have banned it. I see no likelihood that the Assembly will change its views on that matter in the foreseeable future. We will therefore tax these videos at the high rate of 40 per cent of wholesale revenue - double the rate proposed by the

Follett Labor Government. This is projected to raise \$4m in a full year. We make no apologies for this level of taxation because the X-rated video industry has no claim on this Government for protection. The Government will be introducing the relevant taxation legislation later in this session.

The Government will also simultaneously introduce legislation imposing severe restrictions on the open trade in X-rated video material. This will restrict the availability of these videos in the ACT and will generally tighten the prohibition on availability to minors anywhere in Australia. The Deputy Chief Minister will be releasing details of these measures.

The Government has reviewed parking charges in Civic and Woden, and increases of 25 per cent overall will apply from 1 July 1990. At the same time bus fares will rise overall by 8.6 per cent. The much lower increase in bus fares is directly aimed at increasing the attractiveness of using the bus for commuting instead of cars.

Motor vehicle registration for a standard passenger vehicle will rise to \$150 from 1 July 1990. The combined ACT registration and third party charges will still be well below NSW rates. The low sum total of registration and third party insurance is largely due to reductions in third party insurance premiums determined by the third party insurance advisory committee. The Minister for Finance and Urban Services will be announcing the details separately.

A new scale of TAFE charges will be introduced as from second semester this year. Currently TAFE charges contribute 2.5 per cent to the overall costs of running the TAFE. The Government intends this to increase to 10 per cent of TAFE costs within three years. At the same time concessions have been reviewed to ensure that access and equity issues are fully addressed. The Director of TAFE is announcing the details of these new charges today.

Mr Speaker, I come now to the Priorities Review Board. As I said earlier, our financial situation is such that ad hoc, knee-jerk, short-term decisions are not acceptable.

Mr Berry: They are the order of the day for you lot!

MR KAINE: Well, you could not make any, so you should not talk.

Longer-term strategies, fully thought through, are needed. I will repeat this for Mr Berry's benefit: longer-term strategies, fully thought through, are needed. In developing such longer-term and more comprehensive measures to address the ACT's budget problems the Government was determined to have available the best possible information on the magnitude of the problems and the options available for addressing them.

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The Canberra Times observed quite rightly on the first anniversary of self-government that the Government had been amassing information. We certainly have and I make no apology for it. Considering the dimensions of the dilemma with which we are faced, it would be a short-sighted and foolish government which attempted to develop strategies without access to adequate information. That is what happened last year. As I have already said, the Alliance Government is not looking for quick fixes and cobbled together measures to get us through the next budget. Government members are determined to address the underlying problems of the ACT public sector and to develop solutions which protect the interests of both the community and ACT Government Service employees.

The major challenge for the Government is to devise measures which protect the quality of services while enabling the ACT to live within its means. Developing community understanding and acceptance of the steps necessary to achieve this must depend on providing the community with comprehensible information on the problems and the options which are available. It was for this reason that within two weeks of the formation of the Alliance Government I moved to establish the Priorities Review Board to undertake an examination of the management of ACT government programs. This complemented the important work which I had initiated earlier by pressing for the establishment of the Else-Mitchell review of Territory assets and associated public debt - a report which I will be tabling later this week.

As members would be aware, the terms of reference established for the Priorities Review Board required the board to advise the Government on steps which could be taken to improve the efficiency and effectiveness of the ACT Government Service and on appropriate arrangements to ensure ongoing commitment to improvements in public sector management in the ACT.

In establishing the board, the Government was particularly pleased to obtain the services of Mr Bob White, director and formerly, for 10 years, chief executive of Westpac Banking Corporation. He has also been a director of the Electricity Commission of New South Wales and several other major national companies and a former president of the Business Council of Australia. Another member was Professor Di Yerbury, the vice-chancellor of Macquarie University, who is a highly respected authority on public administration and the efficient provision of services to the public. Professor Yerbury was foundation professor of the Australian graduate school of management and formerly a senior officer in the Commonwealth Public Service. I am sure she would be most offended at being told that this committee was a Liberal committee.

They were joined on the board by three very distinguished members of the Canberra community. Rear Admiral Ian Crawford, retired, formerly held senior positions in the

Department of Defence, mainly in the logistics and supply area. He was involved in a number of major reviews of the Defence Department and of the defence forces. Mr Denis Page is a managing partner of the Canberra office of Ernst and Young, management consultants. Mr George Snow is joint managing director of the Capital Property Group and founder of one of Australia's most successful property trusts. Mr Snow has been involved in business and community activities in Canberra for many years.

I selected these people, Mr Speaker, because I wanted considered views from people with management experience. That is why I appointed them; this is what I got. Between them they have brought a balance of public and private sector experience and of local and national perspectives to the work of the board.

The Priorities Review Board has over the last four months carried out a most ambitious and far-reaching review of ACT Government Service functions. In doing so the board has been most ably assisted by its executive officer, a senior and experienced private sector consultant, Mr James Lumbers, and by staff seconded from ACT Government agencies, as well as by a number of specialist consultants. On behalf of the Government and the ACT community - and I hope that the Leader of the Opposition will join me in this - I would like to thank both the board and all those who so ably supported it in its work for their very considerable efforts.

My Government has been kept in touch with the board's work but I received its report only on Friday of last week. In line with my commitment to make the information which the review has gathered available to the community as soon as possible, I have taken this opportunity on the first available sitting day to table this report in the Assembly. Over the next few days the Government will be making copies of the report available to the community as well as to business groups and staff and their unions.

The report is clearly a most valuable addition to the public debate on the Territory's financial situation and on the future of the ACT public sector. It will provide a basis for government and community considerations of the options available to meet the Territory's adverse financial situation. The report is of particular value in highlighting the variety of measures which can be taken to achieve economies in government operations without directly impacting on the quality of public services. It points the way for the ACT to shape a public sector of excellence that does not burden the community with high taxes and crippling debt. It points to steps which can be taken to maximise the benefits in terms of responsiveness and flexibility and minimise the potential diseconomies which flow from the relatively small size of the ACT public sector.

Together with the other reviews which have been commissioned by the Government over recent months, plus the

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development internally of savings options within the ACT Government agencies, the Priorities Review Board's report will be a key input to the development of the 1990-91 budget, to future budget strategies and to ongoing public sector reform programs.

Over the next months in the lead-up to the presentation of the 1990-91 budget, the Government will be considering the specific recommendations made in the Priorities Review Board report. In doing so the Government will seek the views of community and business groups, the unions and the managers and staff who make up the ACT Government Service. We are committed to consultation with unions and staff on matters which affect them in the workplace. We seek their cooperation and active assistance in achieving improved productivity with maintenance of standards of service to the community.

The Government, Mr Speaker, will give careful consideration to the responses it receives on the report as it decides its position on the various recommendations. In tabling the report I, however, do wish to outline the Government's attitude to a number of the key recommendations contained in the report, in particular in connection with the ACT Government Service employment arrangements.

While protecting the professionalism of the ACT Government Service as a career public service, the Government will be looking to incorporate into its operations more of the competitive discipline and commitment to ongoing service and productivity improvement found in the private sector. We will be giving a particular priority to the development of management skills and to investing in the training and development of ACT Government employees with the aim of achieving additional and cumulative productivity and performance improvements.

Striving for innovation and excellence in our public sector does not, in the Government's view, require us to break the current links between ACT Government Service employment and the Australian Public Service. Indeed, there are important advantages in retaining the existing high level of mobility that allows staff to develop their skills and experience across both the ACT and Commonwealth public sectors. The Government therefore has no plans for the foreseeable future to establish a separate ACT public service. We will also, as part of our ongoing moves towards single stream employment within the ACT Government Service, explore with the Commonwealth opportunities to bring additional categories of ACT Government Service staff under the Public Service Act.

The Priorities Review Board has recommended the establishment of a public sector management board to provide an ongoing focus and source of advice for the Government's public sector reform program. The Government has decided to take immediate action to give effect to this recommendation. The public sector management board will be

chaired by the Secretary of my department and will include five other members. The deputy will be from the business sector and the board will also include two heads of ACT Government departments or authorities, a person representing the community and someone from the trade union movement. I will be announcing the appointments as soon as I can get qualified candidates to fill those positions.

Mr Berry: They will not be lining up.

MR KAINE: I am sure the trade unions will be happy to talk to me, even though Mr Berry seems to think they will not.

Mr Berry: I do not think they will be happy.

MR KAINE: They will.

This board will have responsibility for advising the Executive through the Chief Minister on such matters as the management of the ACT public sector; changes that should be made in order to improve the efficiency and effectiveness of public sector operations; the ongoing review of the efficiency and effectiveness of ACT Government agencies' programs; public sector management improvement programs; and appropriate general policies and priorities in relation to human resource management in the ACT Government Service.

Our decisions on these matters will address immediate needs to provide a measure of reassurance to ACT Government employees regarding their future employment and career prospects. The board will also provide an enhanced capacity for the Government to assess the conclusions and recommendations of the Priorities Review Board and the other reviews and investigations which have been commissioned by the Government. This will in no way close off the opportunities for community, union, business and employee comment on the report and input to our overall reform program; rather it will facilitate such interaction.

The Priorities Review Board has made a number of recommendations which relate to planning and land administration policy. The Government has already announced its decision in relation to betterment payments, and we see no reason to vary that decision in the light of the comments made by the board. We will refer the board's other recommendations on planning, land administration and related matters to the process which we have already established for consideration of proposed planning and land administration legislation, all of which we hope to have in place within a matter of weeks.

In connection with administrative arrangements, the Priorities Review Board has suggested that there is potential for service improvement and rationalisation, streamlining of procedures and reduction in overhead costs by the regrouping of programs into a lesser number of agencies. The board has suggested a total of five departments together with a number of independent boards

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with the responsibility for major areas of service delivery.

The board's suggestions do not reflect the arrangements inherent in the accord entered into by the members of the Alliance Government. I have asked my ministerial colleagues for their views on the board's proposals, and the Government will, over the next two weeks, consider how the present organisational arrangements might be changed to take account of the board's recommendations and findings.

The Government has already announced its intention to formally create and grant executive powers to the ACT Hospital Board. As I have already pointed out, the Minister for Health has indicated that the Government intends to transfer control of the Mitchell Health Services Centre to a publicly owned company controlled by an executive board and with a charter to compete more widely for work on a full cost recovery basis.

Consideration is now being given to the transferring of management responsibility for the car and truck maintenance services at present provided by the ACTION special vehicle workshop to the Mitchell board, and to consolidation with other similar organisations carried on by ACT Government Service agencies. Any services transferred would be expected to operate on a competitive footing but, because I am involved in ongoing discussions with some of the unions involved and those discussions are currently taking place, no decision will be made until those discussions have been completed.

Mr Berry: Do not give them any more secret papers.

MR Kaine: Every time I mention the word "unions" Mr Berry goes into a knee-jerk reaction.

Mr Berry: I just wondered whether you were going to give them any more secret papers.

MR Kaine: Just sit quietly, Wayne. I have got better relationships with the unions than you have.

The Government will be actively looking to place further "common services" on a similar cost recovery and competitive basis. At the same time the Government proposes to progressively move to review the need for continued existence of the full range of current ACT statutory authorities. The relevance of many of these bodies under a self-governing arrangement needs to be examined. It is my expectation that, over time, it will be possible to achieve a significant reduction in the number of authorities, both by deregulation and by absorbing the functions of some authorities within normal departmental structures.

Mr Speaker, the Government is not attracted to proposals such as the subsuming of the Treasury into the Chief

Minister's Department or the transfer of the Housing and Community Services Bureau to some other department. However, the Government will be looking at proposals to achieve some reduction in the number of government departments and combine agency corporate services aimed at achieving the potential savings identified in the board's report. It will be looking at incorporating into the Chief Minister's Department responsibility for economic development and industrial relations together with the creation of an office of public sector management to coordinate the Government's ongoing public sector reform program.

The Government will be looking at the possibility of putting in place administrative arrangements which bring together the Government's planning, environment and land management resources. This would ensure that environmental and land management issues would be integrated appropriately within considerations of planning and land use. The Territory Planner, of course, would continue to have full independence for the performance of his or her statutory responsibilities within those arrangements. We would be looking at refocusing the Department of Urban Services to give it expanded responsibilities for the provision of "common services" to ACT Government agencies and for the oversight of the corporatisation of the Mitchell services complex and the Government's other business undertakings.

In conclusion, Mr Speaker, I would like to reiterate the Government's appreciation of the board's thoughtful, incisive and independent assessment of the ACT public sector. The board's report will provide the Government and all those with an interest in the ACT public sector - and I commend it to Mr Berry - with most useful information not only on our obvious financial problems but on the constructive measures which can be taken to overcome them.

The Government is committed to reform but it is equally committed to providing an opportunity for the community to be aware of the issues and to have their say before decisions are made. The Government is particularly concerned that in the process of change it protects the interests of Government employees and recognises the valuable contribution which they have made to the well-being of the ACT. As I have said, the Government will be seeking to involve those employees and their unions in the planning and management of change.

I strongly urge all those with an interest in the good government of the Territory to take the opportunity to look at the report and to contribute to the development of proposals for ongoing improvements in the management of Government programs.

Mr Speaker, the Alliance Government has been branded by the Opposition as a conservative government, but the real conservatives in this Assembly are the Labor Party members

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sitting opposite. It is the Labor Party which is genuinely opposed to change. In its view, nothing can change - not the schools, not the hospitals, not the way the ACT Government Service does its business. The Labor members are the ultimate reactionaries to every necessary change suggested by the Government. Mr Speaker, if we are conservative then the Labor Party members are ultraconservative. As well as opposing change, they refuse to even recognise that change is necessary. They are wrong, Mr Speaker, and will be proved to be so by events over the next three to five years.

Mr Speaker, I present the following papers:

Priorities Review Board -
Ministerial statement, 29 May 1990.
Priorities for improved public sector management -
Consultants reports to the board.
Report, dated May 1990.

I move:

That the Assembly takes note of the papers.

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

TAFE SERVICES - PROVISION AND FINANCIAL MANAGEMENT

MR KAINE (Chief Minister): Mr Speaker, I ask leave of the Assembly to make a ministerial statement.

Mr Berry: On a point of order, Mr Speaker; I was well on my feet.

MR KAINE: So was I.

MR SPEAKER: Order! The house will come to order. Mr Berry, resume your seat. The Chief Minister did not sit.

MR KAINE: Mr Speaker, I ask leave of the Assembly to make a ministerial statement on the findings, inclusions and recommendations of a working party convened by the Chief Minister to review the provision and financial management of TAFE in the ACT.

Leave not granted.

Suspension of Standing and Temporary Orders

MR KAINE: Mr Speaker, I move:

That so much of the standing and temporary orders be suspended as would prevent Mr Kaine making a

statement on the findings, conclusions and recommendations of a working party convened by the Chief Minister to review the provision and financial management of TAFE in the ACT.

MR SPEAKER: The Chief Minister may speak to the motion.

Mr Berry: Well, is he going to speak to the motion?

MR KAINE: I presume I can speak to the motion.

MR SPEAKER: You may speak to the motion.

Mr Berry: Well, you will have to ask the Speaker; he is yours, not mine.

Mr Collaery: Mr Speaker, I ask you to direct that that comment be withdrawn.

MR SPEAKER: I ask you to withdraw that, Mr Berry.

Mr Berry: He is part of your Government, not mine.

MR SPEAKER: Order! There was an imputation, Mr Berry. Please withdraw it unequivocally.

Mr Berry: I withdraw the imputation.

MR SPEAKER: Please proceed, Mr Kaine.

MR KAINE: I find it rather astonishing that from time to time, when it is feeding time at the zoo, the members opposite jump to their feet - - -

Mr Moore: On a point of order; that is an imputation on the whole Assembly. That is the Chief Minister's attitude to the Assembly and the community's attitude too.

MR SPEAKER: Mr Moore, do not debate the issue. Please withdraw that comment, Mr Kaine.

MR KAINE: I withdraw the comment about the zoo, Mr Speaker. The members opposite jump to their feet and say, "The Government has not got any business to perform. They are light on for business. We want to continue work and the Government has not got any business". Mr Speaker, here we are today, with a full agenda of Government business, all of it important, such as the Priorities Review Board. I thought the members opposite were interested in education. I would like, Mr Speaker, with the approval of the Assembly, to table a report that has to do with the continued management and the provision of - - -

Mr Berry: He would not want to defend Craig Duby in parliament because he knows he cannot. He is going to have to vote on it.

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Mr Collaery: On a point of order, Mr Speaker; this gentleman, Mr Berry, is persistently and wilfully ignoring your instructions. I refer you to standing order 202.

MR SPEAKER: Thank you for your observation. Please desist, Mr Berry.

MR KAINE: We had a performance some time ago because they did not want me to present the report of the Priorities Review Board. I think that if they had bothered to - - -

Mr Berry: I raise a point of order on relevance.

MR SPEAKER: It is overruled. Please proceed, Chief Minister.

MR KAINE: I am attempting to get the approval of the Assembly to present some Government business. This is the second time this afternoon that the Opposition has attempted to prevent Government business going ahead. I have presented the comprehensive report of the Priorities Review Board on the way ahead for the ACT Administration. I would now like to present a report on the way ahead for technical and further education, but it sounds to me as though the members opposite, despite their high-sounding words about their commitment to education and the like, do not want to know what should be done in terms of technical and further education.

This report has been compiled by a working party consisting of trade union representatives and student representatives from the TAFE system, among others. These people have come up with a very reasoned report that recommends the way ahead for our TAFE system. I submit, Mr Speaker, that the members opposite ought to be very interested in this. To deny me the opportunity to present it so that it can then lie on the table and lead to public discussion - - -

Mr Connolly: Present it after the censure motion, as every other Chief Minister in every other parliament would do.

MR SPEAKER: Order! Mr Connolly, please desist.

MR KAINE: We are back to that feeding time again, Mr Speaker.

I submit that we have here a clear refusal on the part of the Opposition to deal with matters of major importance to this community. I hear a lot of yapping about a censure motion. I do not hear any scream from the community out there for such a motion.

Mr Connolly: Read the Canberra Times editorial on Saturday, Trevor; you have never seen one like that, have you?

MR SPEAKER: Order! Mr Connolly, I warn you. No more outbursts please.

Mr Collaery: On a point of order, Mr Speaker; Mr Connolly clearly has not taken his tablets today and he is unable to control himself.

MR SPEAKER: Order! Mr Collaery, would you please withdraw the comment about the tablets.

Mr Collaery: I withdraw any suggestion that Mr Connolly is on medication.

MR KAINE: I have been trying desperately for the last two or three minutes to establish the case for a suspension of standing orders so that I can present this important report that hundreds of people out there in the community are waiting for. If I succeed in doing it, it will clearly be over the opposition of the people sitting opposite who do not want to know about the things that concern this community. I would commend to them that they set their minds to the issues that really have been confronted by the Government in terms of the community. I exhort them to give me leave to present this paper.

MR BERRY (3.58): The reasons why this suspension of standing orders should not be allowed go to the gutlessness of the Government to accept public scrutiny over the performance of its Ministers. This suspension of standing orders should not be allowed and a further suspension of standing orders, which I will move thereafter, should be carried to enable a censure motion to be moved against Mr DUBY, the Minister for Finance and Urban Services.

Mr Speaker, this Government is in trouble. It has, as part of its numbers, members who have been convicted of very serious criminal offences. The Government has a moral obligation to ensure that the people of Canberra can hear the debate about - - -

Mr Kaine: On a point of order, Mr Speaker; I do not hear the member opposite giving us anything that would substantiate the refusal of my motion of suspension of standing orders to prevent an important piece of Government business. He is debating some other matter.

MR SPEAKER: Order! Thank you for that observation. Relevance is required.

MR BERRY: If you had taken the time to listen, Mr Speaker - - -

MR SPEAKER: Order! I was trying to support your position, Mr Berry, if you would give me the opportunity to do so. Please proceed.

MR BERRY: I am just a little bit concerned about the kiss of death, Mr Speaker. The fact of the matter is that this suspension of standing orders has been moved and leave was denied because this Government is dodging the issue of the censure motion in relation to Mr DUBY - a censure motion

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that should be carried to encourage Mr Kaine to properly manage his Ministers and sack those who are irresponsible.

Mr Kaine: Mr Speaker, I rise on a point of order. The member is not debating the standing orders suspension; he is debating another matter altogether.

MR BERRY: Sit down. I am trying to tell you why it should not be carried.

MR SPEAKER: Order! Mr Berry, relevance is an issue. Please proceed to the point being debated.

MR BERRY: The relevance, of course, Mr Speaker, is whether or not the motion ought to be carried. It should not be carried because it is about this Government dodging its responsibility to wear censure motions when they become necessary and to have them debated.

Mr Speaker, I refer you and members opposite to page 340 of House of Representatives Practice. At the same time, I refer members to the standing orders, which of course rely to a certain extent on House of Representatives Practice. They might relate that practice to the behaviour of the Government members opposite. On any interpretation, House of Representatives Practice has set out on page 340 the most crucial motions which a government has to consider. They are those which involve censure. This Government is clearly running away from that. Its members have stood in the way of every move this afternoon to bring to the attention of the community in Canberra a serious flaw in the ability of the Government opposite to manage the affairs of this Territory - that is, that a Minister has been convicted twice - - -

Mr Collaery: On a point of order, Mr Speaker; he is debating a substantive motion and not the motion to hand.

MR BERRY: There is no substantive motion - - -

MR SPEAKER: Order! The point is overruled.

MR BERRY: One of their ministerial numbers, who has committed a serious criminal offence, remains in office and is responsible for the management - - -

Mr Kaine: You have been poorly advised by your colleague behind you, I suppose.

MR SPEAKER: Order!

MR BERRY: They are getting edgy and fidgety, and no wonder - they are very nervous. I cannot say that I blame them because they are in deep trouble up to their ears and, of course, they are trying to dodge it.

Mr Speaker, this motion must not be carried if this Assembly is going to have any credibility in the community,

because one of the most important motions that can be considered by any government is the issue of censure against its Ministers. It must not be carried.

MR MOORE (4.03): We should get on with the business of the censure of this Minister.

Mr Kaine: On a point of order, Mr Speaker; there is no motion of the kind described by Mr Moore before this house. There is another motion before the house. I submit that we had better debate the one that is before us.

MR SPEAKER: Mr Moore, please remain relevant.

MR MOORE: It certainly is relevant, Mr Speaker. What we are debating is whether we are going to proceed with the business that Mr Kaine suggested or proceed with a censure of Mr DUBY; that is what we are talking about. A totally frivolous point of order was raised by the Chief Minister, who is feeling particularly nervous because he does not even know how his own team is going to vote because he knows that he has yet to act in the way he ought to act, in the way the people of Canberra would expect him to act.

What we have in front of us is a motion to suspend standing orders. He has sought leave. The Assembly has not given him leave, and the reason it has not given him leave is that there is something that the Assembly should be giving priority to. That is what this is about. It is not that we do not want to hear what Mr Kaine has got to say about TAFE - we really do - but there is a priority, and this is what you do not bloody understand. There are certain priorities in this community, there are certain priorities in this Assembly, and the priority in this case is to get rid of this man from the ministry because he does not belong to the ministry. He does not belong in a ministry - that is what we are on about - because he is a fake.

What we are after here is just the opportunity to debate this particular motion and this particular censure motion. This is what should take priority over the TAFE. We are very interested in hearing your statement on TAFE but, first of all, we have to debate the censure motion as per parliamentary practice. We should deal with the foreshadowed censure motion on Mr DUBY. The surprising part to me is that the censure is not of the Chief Minister who should have booted him out.

MR SPEAKER: Order! The time for the debate has expired.

Question put.

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The Assembly voted -

AYES, 9

Mr Collaery
Mr Duby
Mr Humphries
Mr Jensen
Mr Kaine
Ms Maher
Mrs Nolan
Mr Prowse
Mr Stefaniak

NOES, 7

Mr Berry
Mr Connolly
Ms Follett
Mrs Grassby
Mr Moore
Mr Stevenson
Mr Wood

Question so resolved in the affirmative.

Ministerial Statement and Paper

MR SPEAKER: I call Mr Kaine.

Mr Berry: Well, I think you noted my - - -

MR KAINE (Chief Minister) (4.10): Mr Speaker, I must say that I am gratified - - -

MR SPEAKER: Order! Mr Berry, there is a misunderstanding here. The vote has just been taken to give Mr Kaine permission to speak. Do you have a point of order?

Mr Berry: No, I was going to move a further suspension of standing orders.

MR SPEAKER: You have not got permission to do that at this time. I believe that is inappropriate.

MR KAINE: I must say that I am gratified at the good grace and courtesy with which the Opposition has granted me the right to make this statement on this very important subject!

Mr Speaker, members will recall that in February this year there was some public concern at apparent restrictions on offerings and enrolments at the ACT Institute of TAFE. In response to this concern, I met with a deputation of employer and union representatives and in the light of that discussion I established a working party to examine and report on the implications of the 1989-90 budget for TAFE's 1990 academic program and to consider funding strategies and priorities for TAFE in the ACT. I notice members of the Opposition are not very interested in this, but perhaps they should listen.

The working party, which comprised two representatives of employer organisations, two union representatives and representatives of the TAFE student association and the Vocational Training Authority, met regularly through

February, March and April. It undertook a thorough review of all aspects of TAFE in accordance with its terms of reference. I received the report in late April, and last week I met with the committee to discuss their findings. I commend the working party on the energy applied to their task, the thoroughness of their analysis and the constructive intent of their recommendations. There is wide community interest in the performance of the ACT Institute of TAFE, given the important role that TAFE plays in the industrial and social fabric of the ACT. I therefore believe that many organisations - employers, unions, students and community bodies - will have a keen interest in the working party's findings and proposals. Accordingly, the Government has decided to make the report public to facilitate such broad consultation.

I have asked the advisory committee of the institute to facilitate such consultation and to report to me on the outcomes by early July. The Government will then reach its decision on the report with the benefit of broad community involvement. I present the following papers:

TAFE services - provision and financial management -
Ministerial statement, 29 May 1990.

Report on the findings, conclusions and recommendations of a working party convened by the
Chief Minister, dated April 1990.

I move:

That the Assembly takes note of the papers.

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

SUSPENSION OF STANDING AND TEMPORARY ORDERS

MR BERRY (4.12): I move:

That so much of the standing and temporary orders be suspended as would prevent Mr Berry from moving a motion of censure of Mr Duby (Minister for Finance and Urban Services).

Mr Kaine: If you seek leave to make it, we will probably give it to you.

MR BERRY: No, thank you; no gifts from you, Mr Kaine. We will just move the suspension of standing orders because we want to talk about the gutlessness of the Government.

I am reluctant to go over some old ground that was talked about earlier when the Government was demonstrating its unwillingness to be subject to scrutiny on the issue of the performance of its Ministers - and I refer in particular to the behaviour of the Minister for Finance and Urban

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Services, Mr DUBY. Of course, it is necessary that I also refer to the camaraderie that exists between those Ministers opposite. We see, not surprisingly, that Chief Minister Kaine supports Mr DUBY because he relies on Mr DUBY to stay there for his Chief Ministership. The stability of the show opposite in some way interests Mr COLLAERY because he, too, relies to some extent on Mr DUBY for his position. What does surprise me is that the usually sensible Mr HUMPHRIES - well, the sometimes sensible Mr HUMPHRIES; I should not say "usually" - has supported Mr DUBY and has opposed and resisted to all lengths any consideration of a censure motion against Mr DUBY. I cannot see that those so-called small "I" liberals that Mr HUMPHRIES says he has his support from would be too happy with him supporting opposition to consideration of a censure motion which is of such significance for a government.

I have referred in the past to House of Representatives Practice and I noticed that Mr COLLAERY, who keeps the green book quite close to him, quickly scurried and picked it up and referred to it. I know now that Mr COLLAERY would have closely scrutinised the contents of that page and Mr COLLAERY would agree with me at the conclusion of his scrutiny that this issue should have been dealt with immediately after question time. It should not have been deliberately delayed by the activities of the Government opposite. I do not see any signs of emotion from Mr COLLAERY in relation to the matter, but it is an important area of precedence and it is important for the credibility of this Assembly that that sort of precedence is observed in the way that this Assembly behaves.

If Ministers and the Government members opposite are too frightened and too gutless to allow scrutiny of their Ministers by way of a censure motion, then I expect that the community would think badly of that, understandably, I should say, because I would expect somebody like Mr COLLAERY, who alleges that he has close community links - although I understand that they are diminishing somewhat if Mr MOORE's words are close to the truth, and I think they are - to support this motion to suspend standing orders so that the censure motion can go ahead.

This has been the subject of much publicity. It is an issue of public importance and it is an issue that ought to be considered without delay. I look for support from any responsible members of the Government opposite who can be found to support this motion to suspend standing orders, in order that all of the facts can come out and a proper debate can be carried on in relation to the behaviour of the members of the Executive who are responsible for the future of this city.

MR COLLAERY (Deputy Chief Minister) (4.18): Mr BERRY quotes page 340 of House of Representatives Practice. The motion that the Opposition have clearly foreshadowed is a motion that was not brought forward when the Chief Minister

commenced to speak on the report of the Priorities Review Board. The Chief Minister had an interrelated paper on the TAFE review which impacts quite substantially on the Priorities Review Board report and, of course, Mr Humphries has a report to give which, it will be shown, is vitally relevant to the Priorities Review Board report. It is vitally important to the people of the ACT that this afternoon they receive a very clear picture of major concerns affecting both the economy and the social fabric of the city.

There has not been a breach of convention, I suggest, Mr Speaker, in this matter. House of Representatives Practice does not indicate that the matter is prescriptive. This is a situation that we have long foreshadowed and we have clearly indicated to the community that there would be a substantive report affecting the whole future of the Territory. Mr Kaine has given one part of it. He has now given the second part of it and Mr Humphries wants to give the third part of an overall economic report on the circumstances of the Territory. Instead, Mr Speaker, we have seen motions moved that have effectively delayed the business of this house. Quite clearly, the motion of censure will come on, one presumes, but the Government sought to ensure that we did not give an articulated and broken statement on the economic circumstances of the Territory. Clearly, Mr Speaker, it is incumbent upon the Chief Minister and his Minister - in this case the Minister for Health - to make these statements as part of the overall picture that the public needs to get.

I suggest that a part of the Opposition's tactics today in moving this motion - I only speak to the motion - is to fragment the delivery of these important ministerial statements. The motion of censure can come on in due course after this package of important public statements has been made.

MR CONNOLLY (4.20): Mr Speaker, I strongly support the suspension of standing orders in these circumstances. This is an extraordinary situation in this parliament this afternoon where a censure motion against a Minister, clearly foreshadowed and clearly of substantial importance to the community, the subject of a major and damning editorial by the major metropolitan morning newspaper, is being ducked by the Government.

I put it to you that in no parliament of a State or Territory of Australia nor in the Federal Parliament would this be allowed to happen, because governments always are prepared to take it on the chin. They are prepared to have the matter debated straight off after question time. If they have got the numbers - which they usually have - the censure is defeated, but they are prepared to face the arguments and you are not. You want to keep giving these long statements in order that the press will have no time to file their stories tonight. This is a matter that the community of Canberra and the media demand to know about.

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It is quite proper to say that the media should focus their attention on the events of this place. This place is the chamber in which matters of public importance concerning the citizens of Canberra should be agitated, and should be agitated in the full glare of the media. That is perfectly proper, and I would be astounded if the Government thought otherwise.

In every other parliament, knowing that interaction between the press and the Parliament, the government is prepared to face a censure motion, particularly when an opposition - and I would suggest that this Opposition does act responsibly in this way - does not bring a censure motion on at the drop of the hat, every day, every week, week in, week out. Censure motions are reserved for matters of substantial importance and ministerial impropriety.

The Chief Minister, of course, is not paying attention, which he chastised us for not doing some time ago. An allegation of ministerial impropriety should be the most serious matter before the Chief Minister's attention. When the press in Canberra suggest that Ministers in his Cabinet have acted improperly and should not be in his Cabinet, he should take that on very seriously. He should want that to be debated and agitated in this house in the full glare of the Canberra community because as leader of this parliament, as Chief Minister of the Australian Capital Territory, he should be able to get up and defend the standards of his Ministers.

He is just not prepared to do that. Last week he retreated to the bunker. They tried the old tactic of the ostrich: put your head in the sand and ignore public comment; do not talk to the press and maybe they will go away. I tell you, Chief Minister, the press are not that silly. I am surprised that you even thought they were. They were not going to ignore the matter because you ignored them. They continued to agitate it and it continued to attract significant public attention. At functions which members of this Assembly have attended, particularly last week at the business function put on by the Civic Advance Bank, a number of senior persons in business have approached me and expressed their concern over this. I am sure that Mr Kaine's supporters in the business community have been speaking to him on this matter.

Mr Kaine: Yes.

MR CONNOLLY: I am sure that his supporters in the Liberal Party are expressing their concern at keeping Mr DUBY in the Cabinet with this charge, but they just do not want to face a debate in the full glare of publicity. That is a matter that they should be as ashamed of as the continued retention of Mr DUBY in the Cabinet. These two ministerial statements - and, we are told, Mr HUMPHRIES is to make another statement this afternoon - are designed - - -

Mr Kaine: Yes.

MR CONNOLLY: He says "yes", very proud of himself. These statements are designed to continually delay this Opposition censure motion. No other government in Australia's history in any State or Territory or federally would duck for cover. Every other government takes a censure motion on the chin when it is raised. It is taken up after question time. This performance is pathetic. You will stand condemned by the people of Canberra for this performance this afternoon.

MR STEVENSON (4.25): Mr Speaker, it is appropriate that leave be granted for this matter to be debated. I think that it is reasonable to assume that there are fair grounds for such a censure motion to be debated. It is a grave matter and it should be done without further ado.

MR JENSEN (4.26): Mr Speaker, I am afraid that Mr Connolly should have L-plates on tonight because page 346 of House of Representatives Practice, which has been quoted to us this afternoon, says:

While the standing orders provide that a motion of want of confidence in the Government may attract precedence over all other business if it is accepted by a Minister as a want of a confidence motion, there is no similar provision in respect of a motion of want of confidence in a Minister. The motion is, therefore, treated in the same way as any other private Member's motion, including the speech times applicable to an ordinary motion.

Mr Speaker, this motion of censure is in relation to the want of confidence of a Minister. That is what a censure motion is all about. As I said, Mr Connolly has got up and made all these clear statements. All we are doing, Mr Speaker, is going through important Government business. Then Mr Connolly will have his opportunity to make his statements in the house.

MR SPEAKER: The time for the debate has expired.

Question put.

The Assembly voted -

AYES, 7

Mr Berry
Mr Connolly
Ms Follett
Mrs Grassby
Mr Moore
Mr Stevenson
Mr Wood

NOES, 9

Mr Collaery
Mr DUBY
Mr Humphries
Mr Jensen
Mr Kaine
Ms Maher
Mrs Nolan
Mr Prowse
Mr Stefaniak

29 May 1990

Question so resolved in the negative.

PUBLIC HOSPITAL SYSTEM AND MITCHELL HEALTH SERVICES SUPPLY CENTRE

MR HUMPHRIES (Minister for Health, Education and the Arts): Mr Speaker, I seek leave of the Assembly to make a ministerial statement on the implementation of Government plans for the redevelopment of the public hospital system and the corporatisation of the Mitchell Health Services Supply Centre.

Leave not granted.

Suspension of Standing and Temporary Orders

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

That so much of the standing and temporary orders be suspended as would prevent Mr Humphries making a statement on the implementation of Government plans for the redevelopment of the public hospital system and the corporatisation of the Mitchell Health Services Supply Centre.

MR BERRY: At the risk of going over old ground - - -

Mr Collaery: You have done it three times.

MR BERRY: Well, Mr Speaker, it needs to be drawn to the attention of the members opposite over and over again. They are rather thick, and it does take a little time, but there is an issue of public concern that needs to be debated. While I stand in this Assembly and while matters of such public importance lie before the Assembly, or are about to lie before the Assembly, I will continually rise to draw this to the attention of the Government members opposite. I will not back away from it, not ever. It is in the public interest for it to be debated and for all of the issues to come out in the open. It is also in the public interest that the behaviour of the Government members opposite is highlighted. It is in the public interest to ensure that the community, the ACT residents, see this Government opposite, which is scurrying away from its responsibilities, being open to public scrutiny in relation to ministerial behaviour.

I have to say, Mr Speaker, that nobody in Labor's ranks gets much joy out of the predicament in which two members of the Government opposite found themselves, but the issue is that they are in responsible positions and the community demands high standards. The community also deserves to be

informed about what the Chief Minister, the head of the Government, is likely to do about Ministers who do not behave according to the standards which are required by the community. The Chief Minister himself needs to be open to scrutiny.

The Chief Minister, of course, has been around this town for a long time and, as I said earlier, he is responsible for some of the information that was put to the Grants Commission - which might explain some of the dud figures.

MR SPEAKER: Order! Relevance, Mr Berry.

MR BERRY: The issue is that the Chief Minister needs to lay all the cards on the table and explain to the community the reasons for his actions. It is in the public interest. Nobody has denied that; not one of the members opposite has denied that it is not. Mr DUBY has not denied that it is - -
-

Ms Follett: He thinks it is a joke. He is laughing.

MR BERRY: Yes. Well, Mr DUBY does not have much to worry about because his "use by" date is a fairly permanent thing. Of course, he is just a little bit worried about an earlier "use by" date.

Mr Moore: He is worried it might come earlier.

MR BERRY: Quite correct, Mr Moore.

Mr Collaery: There is one party headed for destruction in this country.

MR BERRY: If Mr Collaery were not so preoccupied with anti-Labor sentiment we might be able to get some sense through all of his meanderings. The fact is that Mr Collaery, who alleges he is a responsible member of this community, sits there and argues against the Ministers opposite being put under public scrutiny and information about the performance of those Ministers being brought out for public scrutiny. Mr Collaery himself opposes that.

Mr Collaery: I do not.

MR BERRY: He has repeatedly voted against it and has supported the Government's filibuster to prevent this important issue coming before the Assembly and therefore to the community.

Mr Humphries: Prime time television.

MR BERRY: Well, it does not matter, Mr Humphries, about prime time television because all of the community are aware that you support this man. Not only are they aware that Mr Humphries supports this person who is in deep trouble, but they are also aware that an honourable person amongst the Liberal ranks has stepped down from a similar

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position because of a conviction that she had. They can see the disparity in the performance of the people opposite. That is why it is extremely important that the entire Government bench opposite be open to public scrutiny in terms of a debate about the censure of one of its Ministers.

MR HUMPHRIES (Minister for Health, Education and the Arts) (4.34): Mr Speaker, there is no question that the issue that Mr Berry has been trying, forlornly, throughout today to raise should be debated at some appropriate point in the course of the business of this Assembly. No-one has argued that should not be the case but - - -

Ms Follett: You have just voted against it three times.

MR HUMPHRIES: I have voted against its being debated right now, Ms Follett. I do not believe this is an important time to be debating that issue. Now, you say that other responsible governments would not have stood in the way of debates on such issues at such points in time. I ask you to consider what would happen if someone jumped up in the House of Representatives as the Treasurer was about to deliver his budget statement for the year and said, "I want to move a motion of censure on Mr So and So, or Miss Such and Such".

Of course that would not be tolerated, nor should anybody tolerate an interruption to the Chief Minister's tabling of and response to this very important document, the report of the Priorities Review Board. The document has been long and anxiously awaited by members of this Territory and I think that it is an appropriate document to give some latitude to. That is exactly what we have done.

The statement I am about to deliver, for which leave is being denied by those opposite, follows on from the Chief Minister's statement and outlines the decisions the Government has made in respect of the plans for the redevelopment of the public hospital system and the corporatisation of the Mitchell Health Services Supply Centre. They go hand in hand with that and they ought not be interrupted by the trivia that those opposite seek to bring forward.

I say "trivia" advisedly, because this issue of such burning importance, of such magnitude, of such enormity to the future of the Territory has lain before this Assembly since 9 April. Mr DUBY's conviction was recorded in the magistrates court on 9 April. There have been at least two sitting weeks since that time. If this is such a vitally important issue, why has the Opposition not seen fit to raise it before? Why has it waited until the day on which the Priorities Review Board report has come down to raise an issue of such so-called importance? The simple fact is that Opposition members want to grandstand. They want to grab a few of the headlines that will probably go to the Chief Minister in respect of that report. That is the

simple, sole reason for it. Those members opposite can wait their turn and have the opportunity when the time comes to put their own largely deluded points of view. I think this is an extremely important day, there are many important issues before the Assembly, and the so-called motion of no confidence is not one of them.

MR SPEAKER: The debate is now closed.

Question put.

The Assembly voted -

AYES, 9

Mr Collaery
Mr Duby
Mr Humphries
Mr Jensen
Mr Kaine
Ms Maher
Mrs Nolan
Mr Prowse
Mr Stefaniak

NOES, 7

Mr Berry
Mr Connolly
Ms Follett
Mrs Grassby
Mr Moore
Mr Stevenson
Mr Wood

Question so resolved in the affirmative.

Ministerial Statement and Paper

MR HUMPHRIES (Minister for Health, Education and the Arts) (4.39): Mr Speaker, as the Chief Minister has indicated, the Alliance Government is intent on providing the highest quality health care system for the people of Canberra. I believe that our community must have access to a comprehensive range of high-standard health services that provide for the needs of the very young, the increasing numbers of frail aged and many other groups who have specialised needs.

The challenge for this Government has been to balance the ability to provide the best possible health system with a cost that the community can afford and that does not adversely take resources away from areas of the budget important to preventing ill-health.

The public hospital service is an important part of this system. Whatever progress is made on preventing illness, there will always be emergencies and the need for care of the complex or chronically ill. At these times of trouble and acute pain we need to know that the best possible care is at hand. In my view, the first place to look for the resources necessary for the highest quality health care is in targeting existing inefficiencies.

As an important initial step in the program of reform, I announced in March the Alliance Government's decision to

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corporatise the Mitchell Health Services Supply Centre. The Health Services Supply Centre occupies 9.1 hectares at Mitchell on prime industrial land valued at \$1.2m. The complex was constructed in the mid-1970s and is probably the best of its type in Australia. The centre represents an investment of about \$32m, employs approximately 220 staff and has an annual operating budget of \$13m.

Due to earlier population projections having been grossly overestimated, the centre was designed to service hospitals for a population twice the size of what we now expect for the ACT in the foreseeable future. This means that this excellent public facility is grossly underutilised and the community has not had the opportunity to derive the full benefits of its investment. Rather, it is costing the community money.

I note, Mr Speaker, that not one member from the opposition benches is present in the chamber as I make this important statement about the future of health services and other things related to it in the ACT. Their concern really shines at this point!

Mr Kaine: I think they are having a caucus meeting.

MR HUMPHRIES: Having a caucus meeting, yes. One of them has come back. The shame has reached even him. (Quorum formed)

At present the Mitchell Health Services Supply Centre is fully funded to provide services to the health portfolio. It charges only external clients and therefore its revenue is less than \$1m per annum. Also the costs to the community of the services are higher than they should be because of the inefficiencies resulting from underutilisation and diseconomies of scale.

Mr Speaker, as I said in my original statement, it will not be possible for the centre to access the private sector markets which are essential for expanding production to economic levels while it operates within departmental frameworks. The centre must be able to develop commercially if it is to meet the efficiency levels which the ACT community has a right to expect. It is for this reason that the Alliance Government decided to corporatise the centre and now is the time to implement this decision.

Last Saturday I announced the establishment of an interim board of management to assist the Government with the early transformation of the centre to a corporate business, operating in a truly competitive environment and developing new marketing and employment opportunities which will benefit the people of Canberra generally. The interim board will be chaired by Mr Jim Service, a prominent ACT property manager and consultant. He will also be joined by Mr Ross Divett, General Manager, Australian Property Group; Ms Lesley Piko, a certified public accountant; and Mr David Ritchie, Assistant Secretary, ACT Trades and Labour Council.

I expect the interim board to move quickly to recruit a chief executive for the new corporation and to develop a firm proposal for the future structure and operation of the enterprise. I am hopeful that this new and exciting business will be in place before the end of the year.

I am sure the Assembly will agree that the Commonwealth Government has failed over many years to meet its responsibilities in the ACT. It has handed over to the people of Canberra a public hospital system which is run down and costly and in need of substantial restructuring and upgrading. The previous Government sought special funding from the Commonwealth to assist the ACT community to meet the cost of essential works. This Government has pressed the Commonwealth to provide \$150m to help us upgrade and modernise our public hospitals. So far this has not brought a response - and it is quite some time, I might remind the Assembly, since that original request was made.

In the face of significant economic pressures, the ACT Government has recognised the importance of providing high-quality health services in Canberra and has made a major financial commitment to upgrading our public hospitals. This commitment involves the development of a principal hospital at Woden Valley with 600 to 700 beds. This arrangement will markedly improve the quality of services by providing increased opportunities and encouragement for teaching, research, peer review and quality assurance processes.

The transfer of services from Royal Canberra to create the principal hospital and contribute to the expansion of Calvary to a fully developed 300-bed hospital is an important part of this strategy. Expanding Calvary public hospital to its full capacity will result in the closure of the 50 private beds presently operating within the building. In order to achieve an appropriate public/private mix of services, approval has been given for the development of a new private hospital of around 150 beds to be located in north Canberra. This means that the capacity of the private sector to provide services complementary to those of the public sector will be maximised and brought more into line with the level of private services available in other States.

The steering committee report on public hospital redevelopment emphasised the need to take action quickly to commence work on the redevelopment program to ensure that people in Canberra and surrounding regions have access to improved quality services at the earliest possible time. By quickly expanding Calvary to its full capacity and fast tracking planning and design for new facilities, we will complete this massive program of upgrading and improving our public hospitals within the shortest possible time frame.

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The project itself will be among the largest and most exciting hospital redevelopment schemes ever seen in Australia and it will present a significant boost to employment in the building industry in the ACT. However, as is the case with all such major developments, some people may be asked to confront greater change than others. This will be so for the staff of our public hospitals, in particular Royal Canberra.

The Government will guarantee absolute preference of employment for all staff of our public hospitals as services are progressively moved to new locations. As well, the Government is taking the necessary steps to ensure that staff involved in these transfers, including those to Calvary Hospital, will not be disadvantaged in terms of their employment conditions and entitlements.

There will be an overall reduction in staff numbers as we move to a more efficient and better public hospital system. This reduction will largely be met by natural attrition and redeployment. Where necessary, the Government will offer appropriate voluntary redundancy arrangements. There will be no compulsory separations.

In the planning of the redevelopment program and in the progressive introduction of change, trade unions and staff will be fully consulted before decisions are made about implementation. As the Chief Minister has already said, the Government is moving quickly to implement this important transformation of the public hospital system into one offering higher quality, improved opportunities for training and research and greater professional satisfaction for all staff.

I announced recently the Government's decision to establish a planning committee to guide and monitor the medical and health aspects of the upgrading and redevelopment work for our public hospitals. Appointments to this committee are being finalised now and I expect it to commence its work within two weeks.

Detailed planning for the hospitals will start immediately. This detailed exercise will be conducted with the assistance of expert private consultants and it will provide the opportunity for health professionals and other staff to be engaged actively in the planning for all new and upgraded facilities.

The Government is anxious to move quickly to achieve the improvements in quality and efficiency that the redevelopment program guarantees. The first step in the transfer of services from the Royal Canberra site to Woden and Calvary will occur in July this year with the movement of around 60 beds from Royal Canberra to Calvary. This will be followed by a similar move later in the year.

A detailed program for the transfer of all services from Royal Canberra will be developed quickly in consultation

with hospital boards, medical practitioners and other key groups. This program will set out the timetable for moves to occur later this year and throughout 1991, with the expectation that the transfers will be completed around the end of next year.

Planning and design for a new diagnostic and treatment block to be constructed on the Woden site at a cost of around \$65m will commence immediately. This will enable work on construction to begin by the middle of 1991. Bringing forward design and construction in this way will allow the ACT's new principal hospital to be brought on line at the earliest possible date.

It is inevitable that there will be considerable disruption to hospital services as redevelopment gets under way. Let people be on notice about that. There is no way that this can be avoided, but the certain promise of modern, well-equipped facilities designed to the standards of the 1990s will make this inconvenience worth while.

I know that, given the Government's genuine commitment to this program, staff and patients alike will lend the full weight of their support to this exciting and challenging project.

I present the following paper:

Public hospital system and Mitchell Health Services Supply Centre - Ministerial statement,
29 May 1990

I move:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

SUSPENSION OF STANDING AND TEMPORARY ORDERS

MR BERRY: Mr Speaker, I move the suspension of standing orders - - -

Mr Kaine: You do not have to; just seek leave.

MR BERRY: No, I want to move the suspension of standing orders. I move that so much of standing orders be suspended as will - - -

Mr Kaine: We will not agree to the suspension of standing orders. We will allow you to bring it on. Save your breath.

MR BERRY: I move that so much of standing orders be suspended - - -

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MR SPEAKER: Order!

MR BERRY: I wish to move a motion to suspend so much of standing orders as will allow a censure motion to be debated.

Mr Kaine: Seek leave to move it and we will grant it.

MR BERRY: I move:

That so much of the standing and temporary orders be suspended as would prevent Mr Berry from moving a motion of censure of Mr Duby (Minister for Finance and Urban Services).

Mr Speaker, the reason for this censure motion - and I am running over old ground but it is important that this issue be well-canvassed - is to place on the record the issue of ministerial behaviour in the Government. In my view and in the Labor Opposition's view, sooner or later the Government must express its willingness to have its Ministers come under - - -

Mr Kaine: Don't you want it to come up? Is that why you are moving the suspension?

MR BERRY: It will be demonstrated in your vote on the suspension of standing orders, and I know that there is a certain sensitivity to being "bulldozed" from the Government benches opposite. Now if Mr Kaine chooses to oppose the suspension of standing orders to allow this very important censure motion to come on this evening - - -

Mr Kaine: I will then move to bring on your motion.

MR BERRY: Be it on your own head, because you are just playing games.

Mr Kaine: Debate it under standing orders and we will do it.

MR BERRY: The Government has moved to suspend standing orders to make ministerial statements which are mere repeats of repeats.

Mr Kaine: You would not give us leave. If you seek leave, we will give it to you.

MR BERRY: Well, we do not want any gifts from people like you, Mr Kaine. We will do it the hard way because we are used to that.

Mr Kaine: No, you will not, because you will not get leave to do it your way. We will not suspend standing orders.

MR BERRY: Well, you will do it the hard way.

Mr Kaine: You can debate it under the standing orders or not at all. Please yourself.

MR SPEAKER: Please proceed, Mr Berry.

MR BERRY: Thank you, Mr Speaker. It is quite obvious that the Government is oversensitive about this issue and - - -

Mr Kaine: You can debate it under the standing orders.

MR BERRY: It is about time he was warned, I think, Mr Speaker.

MR SPEAKER: Please proceed, Mr Berry.

MR BERRY: It is quite obvious that the Government is oversensitive about this issue. I have forgotten how many times I have been to my feet today to try to force the Government to place itself under scrutiny in relation to its ministerial performance. It has thus far refused to do so, and that is a matter of record. It is now playing games about how the standing orders might be applied. Yes, Mr Kaine, leave might be granted in some circumstances, but the easiest way for you to do that is to vote for the suspension of standing orders - - -

Mr Kaine: No, it is not, and it is not necessary.

MR BERRY: It is about time Mr Kaine was warned.

MR SPEAKER: Order, Chief Minister!

MR BERRY: Mr Speaker, the real test for the Government opposite is to support a motion that will allow the censure motion to come on. As soon as they have done that, we can get on with placing the ministerial performance of the Government under the microscope so that there is a debate about the performance of Government Ministers. It seems to me that Mr Kaine does not want the community to have access to this information. He has blocked all moves today to get this information in the media so that the public can be fully informed. I can understand why you are nervous about that, Mr Kaine, because I would be nervous, too. In fact, I would be deeply ashamed - - -

Mr Kaine: I am not a bit nervous, mate. I have my speech here that will rock you to the socks. So get the motion on the table.

Mr Moore: I refer to 202(e), Mr Speaker.

MR SPEAKER: Order! Please proceed, Mr Berry.

MR BERRY: Mr Speaker, they are cringing, because they are embarrassed about what has been said thus far about the Government opposite. They have got a right to be embarrassed. It is a very serious issue. They have a Government that has corrupted itself through power and it

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needs to be addressed. The real test for the Government is whether or not it will support a motion which ends up in the censure motion that I propose to put before this house for in-depth debate.

Mr Kaine: Just propose it and you will get it - - -

MR BERRY: I have proposed it.

Mr Kaine: But not by suspension of standing orders.

MR COLLAERY (Deputy Chief Minister) (4.57): In responding to this motion to suspend standing orders, I would like to put it on record that the Government will grant leave for Mr Berry to move his censure motion against Mr DUBY. Mr Speaker, it has taken us a while to work out what is going on, but it is clear that the Opposition are divided on this issue. They wanted us to fall for some tactic to prevent the motion coming on. We have not. We have put the economic restructuring of the Territory to the people. We are now willing to hear your motion, Mr Berry.

It is very significant that the Labor Party does not want to work within the rules. Its members want to suspend standing orders. They have got some machination or other that they have worked out in that room down at the end there where they work. They have this notion that they are going to secure some advantage out of it and probably do a filibuster, further waste public moneys and the time of this Assembly with this motion.

I submit that if they do wish to bring this motion on, mistaken though it is, they do so now at the first available opportunity, as they argued earlier, so that we may hear whether this motion has any substance to it.

MR CONNOLLY (4.58): Mr Speaker, standing orders should have been suspended to allow us to move this motion of censure at 3.00 pm today, as we have said repeatedly. There was - - -

Mr Jensen: Read page 346 of House of Representatives Practice.

MR CONNOLLY: I am very grateful to Mr Jensen for that intervention because I was about to direct him to that very page. There was much hilarity from the members opposite and reference to "one who should be wearing L-plates" because they thought they had caught us out. They thought that we had been suggesting that standing orders require precedence to be given to a motion of censure. That was not, and never would have been, our point. Our point was that the practice is for a government to take a motion of censure straightaway. Mr Jensen says, "Read 346", where it is said:

After notice of a motion has been given, it is often the practice for the Government to suspend standing orders to enable the motion to be moved forthwith.

Often it is the practice of the Government to have the guts to accept suspension of standing orders, to move suspension of standing orders themselves, to allow the Opposition to move a motion of censure.

That is the practice that I was referring to. Mr Jensen in his amusing little interjections about learner plates and reading 346 failed, unfortunately, to read beyond that. He saw that it was not in the standing orders. He did not see the practice, and it is the practice that is important because this debate, if we ever get to it, on censure is all about standards, propriety, and practice. For two hours this afternoon, members opposite have evaded the standard parliamentary practice in every parliament and forum in Australia. It is appalling.

MR MOORE (5.00): The issue here and the issue about the suspension, I think, have to do with the credibility of the Government. The Government has brought down a series of economic statements and it has done so at a time when its credibility is at its very, very lowest. It has absolutely no credibility amongst the people - - -

Mr Collaery: I raise a point of order, Mr Speaker, on relevance.

MR SPEAKER: Overruled, Mr Collaery. Please proceed, Mr Moore.

MR MOORE: It has absolutely no credibility amongst the people of Canberra, and part of that also has an overriding effect on the Assembly as a whole. The Assembly as a whole is also losing its credibility along with the Government. But first and foremost is the credibility that is lost with Mr DUBY himself, and that follows through to the Liberal Party. The Residents Rally has never had any, anyway, for the last six months.

This matter ought to have been brought on as soon as possible so that the credibility could have been established and Mr DUBY could have been suspended from the ministry following a vote by the Assembly. Then the economic statement could have been brought down in an atmosphere where we could see that the Government actually deserved to be given credit for having some sense of propriety instead of the farce that it is producing under these sorts of circumstances.

I think it is quite appropriate that we do suspend standing orders under these circumstances, that we follow what Mr Connolly has just drawn out as normal parliamentary practice and that we continue with this suspension, because normal parliamentary practice is what we are on about. One wonders how this parliament is to get any credibility at all. It is going from low to lower to lowest - at this stage that is about what it is - and perhaps this was Mr DUBY's intention.

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Perhaps in one area you actually might get some credibility, because it may be that your sneaky, very carefully devised intention all the way along has been to bring this Assembly into such disrepute that you hope to have it dissolved. You have the assistance there of the Chief Minister and the Deputy Chief Minister to do so. I think it is a great shame that they should continue to support you in this way. We ought now to have a suspension of standing orders to debate this matter further.

Question put.

The Assembly voted -

AYES, 6

Mr Berry
Mr Connolly
Ms Follett
Mrs Grassby
Mr Moore
Mr Wood

NOES, 9

Mr Collaery
Mr Duby
Mr Humphries
Mr Jensen
Mr Kaine
Ms Maher
Mrs Nolan
Mr Prowse
Mr Stefaniak

Question so resolved in the negative.

MINISTER FOR FINANCE AND URBAN SERVICES
Motion of Censure

MR BERRY (5.08), by leave: I move:

That, noting that for the second time within two years the Minister for Finance and Urban Services, Mr Duby, has been convicted under the Motor Traffic (Alcohol and Drugs) Act 1977, and noting that Mrs Robyn Nolan took the honourable path and stood down from the position of Mr Duby's Executive Deputy following a conviction under the Commonwealth Taxation Administration Act, this Assembly censures the Minister for Finance and Urban Services, Mr Duby, for failing to resign as Minister.

As I have said repeatedly, this is a very important issue. If the Government does not see that it is important for its own existence, then it should see it is an important issue for the credibility of the Assembly. I will go over some historical events which are well known but which, nevertheless, I think need to be put on the record.

Mr Duby has had two convictions under the Motor Traffic (Alcohol and Drugs) Act in two years. That is a serious enough issue on its own for any member of the community but

for a member of a government, and particularly for a Minister, it is a very important and serious matter. But it does not seem that the Chief Minister considers it to be so serious. In the ACT there are dozens of people killed and injured on our roads. There is strong evidence to suggest that much of that is caused by the consumption of alcohol - and here we have a Chief Minister supporting a Minister who has been convicted of very serious offences under the Motor Traffic (Alcohol and Drugs) Act in the ACT.

Mr Duby refused to be subjected to the provisions of that Act, refused to take a breath test, which in itself is treated as a very serious offence, and was thus charged. Other issues that come into the consideration of this matter are also worthy of discussion. First of all, Mr Duby pleaded not guilty but then changed his plea to guilty. I say that those sorts of behavioural patterns - leave aside Mr Duby's change from what was once a No Self Government Party to an independent party - cast a very dark shadow over the Government opposite.

Mr Duby was subsequently found guilty, fined \$900 and his licence was cancelled, as would be the case, I expect, with any other member of the community who was charged with this sort of offence. What was most interesting about it was that there was not a sound from the Chief Minister. Does that mean, Mr Speaker, that Mr Kaine was not concerned about it?

Mrs Nolan was involved in legal proceedings at the time, and in relation to the Opposition's consideration of the Duby matter it would, in my view, have been inappropriate to have had a long, drawn-out debate which may have been construed to have affected or interfered with the consideration of Mrs Nolan's case. I think that Mr Humphries, as a solicitor, would be aware of the sort of influence that that sort of debate may have had over the consideration of Mrs Nolan's case. Mr Humphries, it is a matter of deep shame that you suggested we should have got stuck into this issue when Mrs Nolan's case was before the court. Shame on you!

Mrs Nolan's drawn-out court case over the tax issue has come to a conclusion, with her being convicted and fined \$1,100. There was no distinction in the courts between the two cases. They were heavy fines for very serious matters. As I have said earlier, Opposition members get no joy from seeing people in trouble with the law. But when it comes to the issue of government and to the performance of this Assembly and its credibility in the community, I for one will rise to do something about it, as will all of the members of the Labor Opposition. It is important to us and in the interests of democracy and this Territory that this Assembly, in some way, claws its way back to a position where it is held as a responsible organisation by the rest of the community.

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I do not see there is much chance of that while we have got Ministers like the Chief Minister, Mr Kaine, who ignores these things; Mr Collaery over here, who ignores these things; Mr DUBY over here, who does not care about the future of this Assembly because he is not coming back here and is not likely to resign; and Mr Humphries over here, who alleges that he will be back as a Liberal. Well, if his association with these sorts of people opposite is judged by the community, then I am sure he will not be back.

Mrs Nolan, in the light of the court matter, took the honourable course and stood down. Not surprisingly, with behaviour that could be considered honourable, she called for Mr DUBY's resignation, and rightly so. According to the Canberra Times, she criticised her Alliance colleague Craig DUBY for failing to step down as Minister for Finance and Urban Services after his conviction six weeks ago on a charge of refusing to undergo a breath analysis test, and she went on to say that it was her view that he should have taken similar action to that which she had taken.

I agree with that because Mr DUBY has very serious responsibilities in relation to road safety in the ACT. But still, Mr Speaker, there has been not a sound from the Chief Minister, Trevor Kaine, about what is right and what is wrong. I think he knows what is right and what is wrong, but his Government is just hanging together and he is prepared to sacrifice Government responsibility and a bright future for the Assembly in the ACT because of his own personal wish for continued power. We know that Mr Kaine probably will not bother coming back next time either.

Mr DUBY is the Minister responsible for transport and roads in the ACT and he is the person who is supposed to ensure safety on our roads. We have even got to the stage where the Canberra Times has called for Mr DUBY's resignation, calling him a hypocrite. It is unheard of in recent times that one of the Assembly members would be called a hypocrite. There is plenty of reason to call Mr DUBY a hypocrite in relation to his performance as a politician. Though nothing much has been said in the past, this issue has focused the media's attention on his outrageous behaviour, and the Canberra Times castigated the Chief Minister for his refusal to act. He was clearly accused of simply trying to hold onto power at any cost.

Again, the Canberra Times took the view that, by not forcing Mr DUBY's resignation, the Government was seen to be accepting drink-driving and refusing a breath test as acceptable social conduct. For heaven's sake, I was talking to a senior police officer last night who was telling me about the effectiveness of random breath testing in the ACT. How can it ever be effective when a government which is just about to take over responsibility for police accepts it as normal behaviour for Ministers?

It is outrageous, ugly and immoral. All you have to do, Mr Kaine, is go out and have a look at a few of the twisted and torn bodies at a motor vehicle accident and smell the alcohol on the injured. That might brighten you to your senses on this issue, although I doubt it.

We have come to the stage where self-government has fallen into disrepute because of the actions of this Government. Mr Collaery is considering an ACT gaol and I must say that, in the light of the Government's behaviour, it will probably be an expensive gaol with lots of plush appointments, because at some time in the future, if this sort of behaviour is allowed with Ministers, it will have to cope with Ministers carrying out their duties in a gaol - - -

Mr Humphries: Mr Speaker, I would ask that the member withdraw that remark.

MR SPEAKER: Order! I request you withdraw that.

MR BERRY: Withdraw what?

Mr Humphries: The reference to the members of the Government ending up in gaol.

MR BERRY: I will not withdraw it, Mr Speaker, and I just draw to your attention what I said. I made it clear that it was about the Government fixing up a gaol which might at some point in the future house Ministers.

MR SPEAKER: Order! Mr Berry, there was an imputation on all members of the Government. I ask you to withdraw that imputation.

MR BERRY: I withdraw it inasmuch as it might affect members of the Government opposite.

MR SPEAKER: Thank you.

MR BERRY: The gaol would be designed so that the work of a government might continue, it seems to me, because that is the level of behaviour that the Chief Minister finds acceptable. He must know that the Liberal Party's electoral chances have been mortally damaged by the Duby-Nolan affairs and yet he seems more concerned with power. If he is sitting back waiting for Mr Duby to react responsibly - Mrs Nolan became frustrated by it and broke ranks - he should not hold his breath because I do not think Mr Duby would act responsibly in any way in this Assembly. He has not done so thus far. There are a number of precedents in the Federal Parliament. Ian Sinclair stood aside during his court case.

Mr Kaine: You thought he was terrific for seven months. He was one of your mates.

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MR BERRY: Do you remember George? You would know him well.

Mr Kaine: No, I am talking about Mr Duby, one of your mates.

MR BERRY: He is having a shot at Mr Duby now.

Mr Kaine: No, I am having a shot at you.

MR SPEAKER: Order! Mr Kaine, please address your comments through the Chair.

MR BERRY: You would remember George Ian Sinclair, would you not? Mick Young stood aside in relation to the Combe-Ivanoff affair. He stood down over the Paddington Bear affair. Michael MacKellar, one of your mates, failed to disclose to Customs that the TV was colour and not black-and-white. Then in April 1982 there was the Customs Minister who told John Moore not to worry about the breach of Customs regulations. Both men lost their ministries over their actions. And what does this Chief Minister do? Nothing. It is outrageous. The people of Canberra are aware of the situation and they will be more aware of it as this debate goes on.

The issue of ministerial impropriety is paramount if this Assembly is to achieve anything for the future of Canberra. There are a number of people in the Government opposite who do not care about the future of the Assembly because as far as they are concerned it has got no future. But, as I have said before, I and the remainder of my colleagues in the Labor Opposition do care about the future of self-government in the ACT. We will work hard to ensure that issues such as this are brought to public attention, and we will make sure that in the future they unload the people who are at the centre of it.

It is an outrage to the people of Canberra that we should have a hypocrite as a Minister. This man has been described in the media as a hypocrite. He has behaved as a hypocrite politically and he has behaved as a hypocrite in relation to this matter of the drink-driving offence. It is a serious matter and, as the Canberra Times rightly said, his hypocrisy in this matter far surpasses his hypocrisy in standing as a No Self Government Party candidate, but it really comes down to the issue of Mr Kaine's behaviour in the matter.

After discussions with Mrs Nolan, it was clear to the public that there was pressure on Mrs Nolan to resign. Mrs Nolan obviously cares about the Liberal Party and she cares about its future, in the same way as Labor Party members would care about the future of the Labor Party. We might not have similar views about the future of each other's parties, but Labor Party members are concerned about the Labor Party and Mrs Nolan is concerned about the future of the Liberal Party. She is concerned about the future of

self-government in the ACT and I say that that is why Mrs Nolan was pressured into standing down.

That was a serious move for her, yet it was an honourable move and a move that one would expect in any government throughout this country. Mr Speaker, this motion must be carried to ensure that the credibility of this Assembly is improved amongst the Canberra community.

MR KAINE (Chief Minister) (5.25): Mr Speaker, this sudden outbreak of moral rectitude on the part of the Opposition is absolutely staggering. These latter-day moralists seem somehow to have emerged like butterflies, or perhaps like codling moths, from their chrysalises all of a sudden. What we have seen over the last few days has been an attempt by the newest member of this Assembly, wearing his L-plate, to redefine the concept of ministerial responsibility. In my view, the arrogance of such an undertaking is absolutely breathtaking. Let us be in no doubt, Mr Speaker; there is no point of principle involved in this debate. It is all about politics, and politics that have been very poorly played. Mr Berry and his Labor mates in this Assembly have been seething ever since Mr Duby parted company with them and joined with us to form an Alliance Government. Of course, he had good reason to part from them because they gave him nothing.

Ms Follett: That is his price, is it?

MR KAINE: There was no price. But you people talk about morals. You thought that his company was great for seven months and now, all of a sudden, he is a social outcast because he pulled the rug out from under you lot and you got what you deserved. I must remark on this, Mr Speaker. The Opposition saw no difficulty in having Mr Duby support them in government, despite his earlier brush with the law that Mr Berry now makes so much of.

Ms Follett: He was not a Minister.

MR KAINE: This moralistic tone was not adopted when he was propping you lot up. It is only since he pulled the rug out from under you that you have suddenly got so very moral about all this. There is no question that the intensity of the attack on Mr Duby over the past five days derives from the fact that the Opposition dropped the ball on this matter back in April. The only new ingredient in that situation is that we now have Mr Connolly on the scene, and he has been blatantly encouraged and steamed up over the last few weeks to use this situation in an attempt to make a name for himself. The rest of you dropped the ball so you have got to get the new boy on the job. He is not going to make a name for himself, except as a very dubious-quality lawyer.

Mr Connolly: It is a personal attack. Dodge the issue, attack the personality. That is very statesmanlike!

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MR KAINE: That is what you are doing.

Mr Connolly: He has got a criminal conviction.

MR KAINE: Mr Speaker, that man just said that Mr DUBY is a criminal. He should be required to withdraw it.

MR SPEAKER: Order! He did not say that, Mr Kaine.

MR KAINE: He did. He said he was a criminal.

Mr Connolly: I said he had a criminal conviction.

MR KAINE: These are the great moralists; they are very moral. They can throw rocks, but nobody can throw them back. This will be a boomerang, as a lot of the other things that you have started have turned out to be.

Let us examine the facts, Mr Speaker. Mr DUBY pleaded guilty to an offence in April. It is fair to say that at the time public and media reaction was critical, but there were no calls for his resignation, and nor were there from you lot, absolutely none. But, seven weeks later, this has suddenly become a moral issue and we now have to ask him to step down. For seven weeks there was dead silence. The Labor Party now says Mr DUBY should resign. Labor members seek to justify their failure to make this point in the first place on the ground that they did not wish to seek Mr DUBY's resignation while Mrs Nolan's trial was pending.

This is an equally breathtaking position and one which is absolute nonsense and which could only have been put forward by Mr Connolly. Mr Connolly as a lawyer ought to know that there is absolutely no connection whatsoever between the two cases. To argue now that they kept silent for seven weeks because some other case involving some other person was in the offing is absolutely rubbish. Mr Connolly knows it, we know it, the general public knows it and, what is more important, the legal profession in Canberra know it. They are well aware of the absolute ineptitude of Mr Connolly when it comes to the law. To put forward now that there is some link between the two cases is sheer hypocrisy - and that is the term you used, "sheer hypocrisy".

It is clear from the practice in British and Australian parliaments over the past 40 years that the resignation of a Minister can be sought only in three kinds of circumstances: where there has been a clear breach of personal propriety involving criminal activity or use of office for personal gain; where there has been a serious administrative error for which the Minister accepts personal responsibility; or where there has been a clear attempt to mislead the parliament. It is clear that none of these circumstances applies in Mr DUBY's case. No-one has suggested that Mr DUBY has misled the Assembly, has caused an administrative error, or has been involved in an impropriety of the kind referred to.

If the Opposition suggests that Mr Duby should resign because his offence relates to his area of ministerial responsibility, then again there is a serious flaw in their argument. What essentially they are saying is that this kind of offence would be acceptable from anyone else in the Assembly except Mr Duby. Again, with respect, Mr Speaker, it is ridiculous. It does not hold up, and the great practising lawyer over there knows that it does not hold up.

Let me examine further, Mr Speaker, the issue of the appalling double standards of the Opposition and, quite frankly, the Canberra Times on this issue. Several weeks ago the Commonwealth Minister for Justice made a statement which had the effect of aborting a criminal trial. He was the Minister for Justice and this was a serious personal error. I do not recall any loud calls or even suggestions from any of you on that side of the house, or from the Canberra Times, that the Minister for Justice should stand down. Where were your great moralistic standards then? They did not exist because that was not important.

Only last week a Federal Government backbencher of your political persuasion was convicted of an offence involving serious personal impropriety. Once again, there has been no call for his resignation from the house.

Ms Follett: He is not a Minister.

MR KAINE: He is a member. You want to draw distinctions. There has been no call for his resignation, and certainly not from you lot over there; your double standards are starting to show. The Federal Minister who is responsible for taxation matters failed to lodge a tax return. According to the Opposition's definition of ministerial responsibility, the Treasurer should have resigned. The Opposition and the press cannot have it both ways, and I challenge them to state their position on all of the cases that I have just referred to - and particularly the budding genius lawyer, Mr Connolly.

I suggest to Mr Connolly and his colleagues that the hardheads who run the Federal Government over the lake there would be aghast at his redefinition of why Ministers should resign. His new definition of ministerial responsibility is out of whack with what his colleagues over the lake would agree with. I suspect that they would counsel him - and the verbose Mr Berry - that his inexperience is making a rod for his own back. If by some miracle Mr Connolly ever attains ministerial office, I would suggest that it is inevitable that circumstances will arise which will provide him with an opportunity to repent at leisure his extravagant claims on this matter last week.

What this is all about is that Mr Connolly has belatedly identified himself with an opportunity by which he can make a name for himself. I advise him to pause and reflect on

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the lack of wisdom in making himself a hostage to fortune. You will live to regret it, old chap. The media and the community will see this outbreak of moral rectitude for exactly what it is - a case of pure political opportunism, something which the Opposition has turned into a virtue after only recently attempting to portray it as a sin. It depends which side of the house you are on and it depends entirely on your point of view, does it not, Leader of the Opposition?

MR CONNOLLY (5.34): I rise more in shame than in anger to second this motion. It is a shameful day for this Assembly and for this Territory when we are forced to move a motion to censure a Minister who refuses to stand down from the ministry following a conviction before the magistrates court in these circumstances. It is doubly shameful that we have had to wait two hours to move this motion because of the Government's desperate attempts to avoid confronting the issue.

Mr Speaker, ministerial responsibility is a fundamental element in self-government. We have inherited a system of government here which models that in Britain and that in the other States of Australia. Although ministerial responsibility is nowhere set out in a statute, it is clearly accepted as the elementary basis of parliamentary proceedings.

I cite a case with which the Attorney-General would be familiar and to which he referred some time earlier, the famous Engineers case in 1921 where in a majority decision the principle of ministerial responsibility was referred to as the "greatest institution which existed in the empire and which pertains to every constitution and establishment in the empire".

In later cases Justice Isaacs referred to it as being "of paramount importance to Australia as a self-governing community", and more recently, in 1975, Sir Garfield Barwick in McKinley's case said:

The Australian Constitution is built upon confidence in a system of parliamentary government with ministerial responsibility.

Mr Speaker, this Government's refusal to accept those principles of ministerial responsibility reflect shame on this Assembly, every member in it and every citizen of this Territory.

The citizens of Sydney were treated on Sunday morning over their cornflakes, when they read the joke page on the back of the Sun Herald, to a reference to this Minister representing the ACT in Perth at a ministerial conference to discuss reduction of the blood alcohol limit. They read how this Minister remains a Minister in this Government despite his conviction. That is what this Government's approach to ministerial responsibility has led to - the

citizens of Sydney having a chuckle over their cornflakes at Mr Duby's situation and this Government's refusal to act.

Now what of this offence? Mr Collaery said on Pru Goward's program on Friday morning that in the scheme of things this was not a criminal offence. This I can only describe as a bizarre statement, although I must give Mr Collaery credit. He did say earlier in the interview that it was a very serious matter but not a criminal offence. How can that be reconciled? I will look forward with great interest to Mr Collaery's attempt to reconcile that.

It is clear that a second offence under the Motor Traffic (Alcohol and Drugs) Act 1977 can carry not only substantial pecuniary penalty and a cancellation of licence, which is what occurred in Mr Duby's case, but a term of 12 months' imprisonment; a first offence can carry a term of six months' imprisonment. The magistrate in having regard to the antecedents of the person before him can choose to impose a term of imprisonment. He did not in Mr Duby's case, and it is to Mr Duby's credit that he was not imprisoned. But for the offence he has committed he could have been. That, in my understanding and in the understanding of any other person that I have spoken to, must make this an offence that must be described as a criminal offence. I wonder at how the magistracy in this Territory regards Mr Collaery's statement that, in the scheme of things, this is not a criminal offence.

Mr Collaery, as he is fond of reminding me, was a practising lawyer before the magistrates court. I was not a private practitioner in this Territory. I was practising government law and constitutional law and was before other courts. But as Mr Collaery well knows, day in and day out, the sad procession appears before the magistrates courts of persons charged under this Act for these sorts of offences. The magistrates are doing their best to impress upon those defendants, and through the pages of the Canberra Times and the other media upon every citizen in this Territory, the seriousness of road traffic alcohol offences.

What an appalling situation it is that those offences are now described as "in the scheme of things, not criminal offences". How do the magistrates feel about that? How do the police who are out there in the dark of night and on wet and rainy days pulling people over for random breath tests feel about being told that, in the scheme of things, this is not a criminal offence? How will the magistrates react to defendants who, when faced with these charges, get up and say: "Well, in the scheme of things, this is not serious, this is not a criminal offence. After all, it is all right for a Minister to do this". That was an extraordinary statement from the Attorney-General.

The Chief Minister last week did not come out of the bunker but did eventually issue a statement, and he had three points in defence of Mr Duby. His first point was that

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this is not a serious matter. He was trying to distinguish this offence from the offence that Mrs Nolan found herself facing and, as Mr Berry said, Mrs Nolan, in our view, did precisely the right thing. She stood down immediately upon conviction. I do not know whether she is going to proceed with an appeal. If she does and she is successful, of course she is entitled to return to a more responsible position than a backbencher.

The courts regarded Mr Duby's offences as serious enough to warrant a \$900 penalty on one offence and cancellation of licence. Mrs Nolan suffered a \$1,100 penalty on three offences. There was very little difference, as I would put it, in the seriousness of the offences. Mr Kaine then said that it is not regarded in the community as a serious offence. Well, that is an appalling statement from the Chief Minister. Again, how will the magistrates, the police, the responsible road traffic authorities who are constantly trying to remind us that we should not drink and drive, react to the Chief Minister's view that it is all right, in effect, to be done for drink-driving or done for refusing a breath test?

In the case of refusal to undergo a breath test - not exceed 0.08 in this case - in effect, refusing a direction from a lawful authority, a policeman, how would Mr Kaine in his previous profession, that most honourable profession of a commissioned officer in the Australian Military Forces, have treated a subordinate officer who refused a lawful duty? To an officer's code of ethics, that must be as serious a matter as can be contemplated. But Mr Kaine believes that it is not regarded by the community as serious for a person to refuse a police direction to take a breath test. That is appalling.

The third and rather more desperate defence was that this was merely a political stunt by the Opposition; that we had done nothing earlier on. When Mr Duby first came before the courts and was charged on 9 April, reported on 10 April, Ms Follett in statements to the media called for his resignation. But at that time it was well-known in the Canberra community and had been reported on the front page of the Canberra Times that Mrs Nolan was facing a hearing before the magistrates.

For the Opposition to have launched a full-blooded attack on standards of ministerial responsibility and to have made the point, as we have consistently made today, that a Minister who is convicted of an offence must resign, would have put us in a very difficult position with an Executive Deputy before the courts. We would have been in some danger of being thought to be prejudicing that matter, and in my view the proper, cautious approach was taken. A more politically opportunist approach would have been to go in hell for leather and ignore any adverse effect on the other trial of a member of this Government. It is unusual for an opposition to have to make that choice because it is unusual for a government to have two members facing the

courts. This is unprecedented. In five to six months in office, you have done two Ministers - a new Australian record.

Mr Kaine: Mrs Nolan was not a Minister.

MR CONNOLLY: Well, a new Australian record involving a Minister and an Executive Deputy. Today we have some new defences. One is that this happened before he entered the ministry and therefore he should not stand down. Well, you knew the charge was pending when you appointed him to the ministry, so that does not hold up. Is it the standard that applies under a Kaine Government that a Minister done for refusing a breath test which occurred while he was a Minister should resign but that a Minister done for refusing a breath test before he became a Minister is all right? What an extraordinary and convoluted approach you have, Mr Kaine - what an extraordinary and shameful approach to ministerial responsibility!

We are quite happy to maintain our view that, if you have a criminal conviction, you are not fit to serve in the ministry. The community is behind us on this. The media understand that this is the case because you would never get away with it anywhere else. Mr Humphries said that this has happened before. Let him name one example of a person done for alcohol related road offences who remains a Minister.

MR WOOD (5.44): First of all, it might be important to rule on a matter of definition. Government members seem incapable of determining the difference between a Minister and member of parliament. There is a significant difference. The Minister has a high responsibility, has high leadership roles and is therefore so much more responsible to the parliament and to the community. Ministers historically and properly are not treated in the same way as members of parliament. We have made no call for either Mrs Nolan or Mr DUBY to resign from the parliament. We have made calls and charges about the ministry, and maybe those opposite ought to understand that and not seek to confuse the issue by blurring over any distinction.

Let me go to the matter of Senator Tate. On this the Government appears to want the best of both worlds. It wants to use its arguments in two ways that are quite incompatible. Senator Tate was in strife, and properly so, because his statements prejudiced a trial.

Mr Kaine: He did not resign.

MR WOOD: No, let me clear this up. It was a marginal case. He was close to having to resign or to the Prime Minister taking action. If you line up Mr DUBY's offences and Senator Tate's offences, it is very clear that Mr DUBY's offences are so much more serious.

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Let me get back to the two standards you have on this. Senator Tate was in trouble because his statements would have prejudiced a trial. You want to criticise us because we refuse to make statements that would prejudice a trial. You cannot have it both ways, because you will be quite hypocritical if you do. So the arguments you used about Senator Tate are quite spurious, on two grounds.

Let us go back to the matter of behaviour of members of this parliament and of the ministry. I do not think it is expected that we should be paragons of virtue. I believe the community would expect us to be subject to the same frailties as anyone else. We are not held accountable when we meet and do not always face well the difficulties common in society. We are not held responsible for family breakdowns or for our children finding themselves in strife. Our personal lives are not in such close scrutiny, nor should they be. As an exception, if I were to stand up here and rave on about moral issues and then outside conduct myself in a totally different way, then I should rightly be criticised. Other than that, my personal life is not particularly a matter for this Assembly.

But our behaviour in matters of law is different. There is a very clear requirement on members of parliament, and more especially on Ministers, to set some standard or, better, to meet some community standard. I have not gone into the parliamentary literature. I have not researched the book on parliamentary procedures or anything else, but I came into this place setting one clear standard for myself, and I believe it is a sensible one. It is this: the 17 of us here are responsible for making the laws. On that basis we must observe and have respect for those laws. If we fail to do so, we must pay the penalty. I think that is clear, it is simple, and I do not think that can be disputed.

Where does Mr Duby stand in relation to that clear principle? He failed to observe the law once, when he was not in this parliament - so that is of no account.

Mr Humphries: It depends on what the law is.

MR WOOD: It was not the law that was broken?

Mr Humphries: No, it depends on which law is broken; that is what I am saying.

MR WOOD: It depends on which law?

Mr Humphries: Yes.

MR WOOD: Well, you draw up for me a list of the different laws that we can and cannot break.

Mr Humphries: Normally traffic offences. Have you been convicted of a traffic offence before? Have you? No answer to that question.

MR WOOD: Well, we have got categories here, it seems. But Mr Duby broke the law while serving in this parliament and the court regarded it as a very serious offence. The community, as expressed through the columns of the paper, regarded it as a serious offence. The Government and the Minister himself did not so regard it.

Let us compare it with other offences by Ministers who have had to resign. Mr MacKellar has been mentioned, as has Mr Young. Mr Garland's offence was that of trying to influence, as I recall it, the considerations of an electoral commissioner, and he was required to resign. Mr Sinclair resigned while a matter was before the court. He was ultimately found not guilty, but while the matter was before court he stepped aside. Mr Phillip Lynch at one stage stepped aside because of connections that may have been made to some land deals in Victoria. There is some National Party Minister in New South Wales, whose name I cannot recall, who resigned because he did not write on a piece of paper all the interest that he had.

If one lines those up against the offences of Mr Duby, I do not think there is much doubt that Mr Duby's offence is the greater - in part, significantly, because it included a threat, a hazard to other people. Weigh the offences, if you like, of Mrs Nolan and Mr Duby. Again Mr Duby's offence was one where there was a potential for danger to other people. If there is a scale in the matter of offences, surely that is much more serious. Mrs Nolan did the honourable thing and resigned. Mr Duby, in that much more important position of Minister and, in my view, in relation to a more serious offence, did not. I think that says it all. The Minister has not shown the respect for the law which is required of a member of this Assembly and which is especially required of a Minister of this Government. Mr Duby, in the deliberations here, is not just voting on the laws that are put into place; in the case of alcohol readings he is framing those laws. This is simply an unacceptable standard.

Mr Collaery: That's not true.

MR WOOD: Are you going to do that?

Mr Collaery: I do it.

MR WOOD: Okay, that is fine, but there are four of you sitting around a table in Cabinet who will one day put the mark on it.

Mr Humphries: There are 17 of us doing it.

MR WOOD: After Cabinet?

Mr Humphries: After Cabinet, yes.

MR WOOD: Thank you. I think the facts are clear that Mr Duby has not met the standards and should resign. If he does not resign he should be sacked.

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Sitting suspended from 5.53 to 8.00 pm

MR COLLAERY (Attorney-General) (8.00): Mr Speaker, I am taking the opportunity as well to state, as the Attorney, what standard of ministerial conduct we should adopt. The Chief Minister has distilled the British and Australian parliamentary practice, and I will repeat it so that we can rejoin the debate clearly: where there has been a clear breach of personal propriety involving criminal activity or use of office for personal gain; or where there has been a serious administrative error for which the Minister accepts personal responsibility, which is the doctrine of ministerial responsibility; or where there has been a clear attempt to mislead the parliament.

I endorse what my colleague Mr Connolly said in relation to the statements in the Engineers case about the duties and obligations borne by a Minister of the Crown. Those concepts are beyond dispute, in my view, but what is the real issue before us tonight? The mover of this motion, Mr Berry, said on television only a short while ago tonight, "There is a Minister who morally should not be here". They are Mr Berry's exact words.

Mr Moore: Exactly, right. Well spoken.

MR COLLAERY: So, the real issue - and I note that Mr Moore accepts that - is a moral argument. The real issue is, as has been put to us, that there is a duty on Mr DUBY as a Minister. I suppose they are saying that he has no ordinary professional calling; he is a Minister, and that is special. No-one disputes that. You are saying that he is obliged, among other things, to uphold the criminal law. As Mr Wood has put so succinctly, Mr DUBY is allowed to display the accepted frailties of life. In other words, this Assembly does not have to be a meeting of the paragons of virtue of Canberra, does it, Mr Wood?

Mr Wood: Repeat all that I said and put it into perspective.

MR COLLAERY: Certainly. This raises the question of what standard this house should apply to its own members, including its Ministers. It is a standard that we set in Canberra against the background of our social fabric. You have already seen, Mr Speaker, that Mr DUBY's conviction is not within the conventional prescriptions enunciated by the Chief Minister in those statements which have not been attacked.

Mr Connolly: Murder is not for personal gain, but you would sack him for that.

MR COLLAERY: Mr Speaker, I repeat for Mr Connolly's advice that one of the first prescriptions is "where there has been a clear breach of personal propriety involving criminal activity". I would suggest to Mr Connolly that that includes murder.

What is the case for this Assembly applying another new moral test, as Mr Berry puts it? Mr Wood referred to a number of cases in which politicians had stepped down or had otherwise been removed. Without exception, to my knowledge, those incidents came within the accepted code outlined by my colleague the Chief Minister. But does Mr Duby's offence carry with it a moral stigma such that we and the community might find it too much for us to share his company as a Minister? Hardly, I suggest, Mr Speaker.

Apart from ministerial company, there is another profession which has set high standards on the pain of exclusion, and that other group or company of persons, apart from us politicians, is the Bar, the senior Bar, the barristers.

Mr Moore: Not Mr Duby's bar.

MR COLLAERY: I trust that Mr Moore's comment about the bar will go on the record; he might need it one day. In the High Court Mr Justice Kitto said of a senior barrister who was convicted of a drink-driving offence which involved a very serious accident and injury to someone:

The conviction is of an offence the seriousness of which no one could doubt. But the reason for regarding it as serious is not, I think, a reason which goes to the propriety of the barrister's continuing a member of his profession ... it does not warrant any conclusion as to the man's general behaviour or inherent qualities. True, it is a conviction of a felony; but the fact that as a matter of technical classification it bears so ugly a name -

we note, Mr Speaker, that Mr Connolly constantly calls it a criminal offence -

ugly because the most infamous crimes are comprehended by it, ought to be disregarded, lest judgment be coloured and attention diverted from the true nature of the conviction.

This is a driving conviction. He continued:

It is not a conviction of a premeditated crime. It does not indicate a tendency to vice or violence, or any lack of probity. It has neither connexion with nor significance for any professional function.

Mr Moore: What year, Mr Collaery? Are you game to say what year?

MR COLLAERY: Mr Speaker, the rabbit keeps bobbing up, and I am trying to concentrate. If you say that those values expressed by one of Australia's great High Court judges in 1957 is not appropriate - - -

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Mr Moore: 1957?

MR COLLAERY: That is probably the year during which we were unfortunately inflicted with the member for Reid. If you say that Mr DUBY compromised his portfolio duty with his offence, let me say for the record, because Mr Connolly did not make that clear on a radio program - he said the opposite the other day - that I administer the legislation under which Mr DUBY was convicted, and the record should show that. As for the semantics about whether Mr DUBY has been - - -

Mr Moore: Then why did he go to Perth?

MR COLLAERY: Mr Speaker, I believe it most inappropriate for Mr Moore to behave in this way in front of members of the community. He is putting the Assembly down again.

MR SPEAKER: Please proceed. Mr Moore, please desist.

MR COLLAERY: As for the semantics about whether Mr DUBY is convicted of a criminal offence, let me remind you again of what Mr Justice Kitto said and let me remind you, Mr Speaker, and through you, Mr Connolly, of the common practice of our courts, which I have mentioned on numerous occasions. They are not to regard these convictions as serious criminal convictions in the accepted realm of the word "criminal". I will come back to that.

When I referred to the realm of matters on the Pru Goward show I said clearly that we were concerned and dealing with the distinction between motor traffic and alcohol convictions and true criminal convictions. Mr Speaker, any lawyer knows that in the common law a person does not incur criminal liability unless his behaviour discloses both that prescribed act and a guilty state of mind.

You well know, Mr Speaker, that some new crimes, as it were, have been created in recent years by statute. One of them is failing or refusing to provide a breath sample. There is a whole range of what are called "offences of omission" in the law. I will give you some examples - failing to report taxable income, wilful neglect of a child, and failure to report prescribed diseases in stock to a stock inspector. They are sins of omission. They are offences certainly and, if you want to confuse the public, you can call them criminal offences, but they are known by all of us who practise in the law to be in a different category.

I believe that Mr Connolly should take great care if he does get to the bar and does practise, if he ever gets to defend a person on a drink-driving charge, because the words will haunt him when he describes the offence as a serious criminal offence. Certainly it is serious, Mr Speaker, but those of us in the profession have long understood drinking to be a social problem and the

legislation dealing with traffic offences to create a statutory order of conduct, misconduct, but there is no evidence here - and why should we set this chamber up to retry Craig Duby when there is no evidence - that his character or his inherent qualities are in doubt.

We should be very wary, I suggest, about using a newspaper which is not used to daily competition in this city to set community standards. Mr Connolly put great measure on the Canberra Times editorial. I remind the house that the Canberra Times and the ALP MLAs have been unremitting in their pursuit of Mr Duby, by letter, caricature and personal comments. I accept the Canberra Times editorial as a legitimate viewpoint but not as a societal benchmark. Only a very shallow politician will quote a newspaper purely in support of a case.

I do not accept the nasty manner in which this debate is being used in an attempt to lower Craig Duby into the criminal ranks. That is what is being attempted, Mr Speaker. In performance and humanity Mr Duby ranks beside the best of us and, I would suggest, the best of you. It is entirely improper conduct to involve this motion now, two months after the first opportunity - - -

Mr Moore: On a point of order, Mr Speaker; there was an imputation there that members on this side and other members have been guilty of a criminal offence, which is not the case, and I ask him to withdraw that imputation.

MR SPEAKER: I uphold the comment from Mr Moore if that was the imputation.

MR COLLAERY: Mr Speaker, if there was any imputation that members on the other side have committed a criminal offence, I withdraw it. I am absolutely lost as to how that imputation could have arisen.

MR SPEAKER: Your time has expired, Mr Collaery.

MR MOORE (8.11): Mr Speaker, what is at stake here is the credibility of not only this Assembly but also the Alliance Government and the Liberal Party. The credibility of the Liberal Party is taking a major dive over this issue. It is quite clear that when Mrs Nolan did the appropriate thing and stepped down from a minor responsibility, as the Executive Deputy position is really a pretence position, it was recognised throughout Canberra that she had the courage to act appropriately and had helped to set standards, and those standards should have been followed.

The situation is clearly that Mr Duby is in a position of much greater responsibility and should have immediately stepped down for a similar offence. In lots of ways Mr Duby's offence is much worse because not only did he totally fly in the face of the law but also, as we in the community are all becoming more aware, a drink-driving offence has with it the risk of the death of people and is

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not, as Mr Collaery attempted to describe, some minor offence. He had to go back to 1957, when the community had accepted different drink-driving legislation and had very different attitudes to drink-driving, to try to justify his weak and pathetic attempt at a defence of his position and that of his Government rather than his notion of Mr Duby.

Mr Collaery talked about a moral perspective as opposed to a criminal perspective, and I think that notion of a moral perspective must be taken in there. The morals have to do not with Mr Duby but with how this Assembly is perceived, and they have to do with turning around - - -

Mr Collaery: They have to do with paying your debts, too. Have you paid your debt to the Rally yet?

MR MOORE: I missed the interjection. Do you think we should ask him to repeat it?

MR SPEAKER: Please proceed, Mr Moore.

MR MOORE: So when we talk about moral perspective - - -

Mr Collaery: He talks about morals! Look at him, the great user.

MR MOORE: You will not get any money out of me, Mr Collaery. Take me to court if you want to. Take me to court; we will sort it out there.

MR SPEAKER: Order! Mr Moore, please proceed.

MR MOORE: If Mr Collaery wants to take me to court, he can. I could stand up and defend myself against him and win without any trouble at all.

MR SPEAKER: Order! Relevancy, Mr Moore.

MR MOORE: The Chief Minister must be very embarrassed when he hears Mr Collaery talking about practising lawyers because he is not a practising accountant, and that is reflected in his budget statements, his Priorities Review Board and all those sorts of things. How do you feel about being a non-practising accountant, Chief Minister?

Mr Kaine: I was a practising accountant for years, mate, before you were born.

MR MOORE: Well, you have not been for a long time; that is pretty obvious. You asked us about Senator Tate. I am happy to call for his resignation. He should have resigned. It was totally inappropriate. I have no hassles about it at all.

Mr Kaine: Why didn't you?

MR MOORE: Because it is not a position of this Assembly. If I were in that Parliament House, I would be happy to

call for it. I mentioned it publicly, I mentioned it to members of the media, but they were not interested in doing it, and you can verify that if you like. But the point is that he should have resigned, and it was for a much lesser offence than Mr Duby's. Senator Tate did not commit a criminal offence.

I had reason to call Mr Collaery's Law Office the other day to ask a question about criminal offence and where the term comes from. I was asking about decriminalisation of marijuana so that I could understand what is meant by the term "decriminalisation". It was very carefully explained to me by one of his lawyers. Just a short while ago he said, "Just ask any lawyer". I asked a lawyer and got a very different opinion from the one that this supposed practising lawyer gave. That was that the term "decriminalisation" is, if anything, a journalist-style term; it is not one that is used in the law because any offence that carries a criminal penalty - - -

Mr Collaery: What has this got to do with it?

MR MOORE: This is what your Law Office told me - any offence that carries a penalty like that is, in that perspective, a criminal offence. So here we have another one of Mr Collaery's little dance arounds - a shade this way, a shade that way. Mr Duby's offence was a criminal offence. There is no debate about it. There are no two ways about it. It is a criminal offence because it carries with it that sort of punishment that makes it a criminal offence. There is no distinction between it and the others.

So this sort of farce that Mr Collaery is presenting is absolutely ridiculous and indicates why he was able to win so few cases when he was practising. It is an absolute farce. Using 1957 legislation is absolutely ridiculous. He went on to talk about a guilty state of mind and so forth. Mr Humphries' notion was: "Have you committed a speeding offence? Is that a criminal offence?". This is very different. Mr Duby refused to obey the instruction of the police officer to take a breath test. A similar situation in terms of a speeding offence would be if you refused to pull over when you were instructed to do so after you had been speeding. That is another story.

Let us get back to exceeding 0.08 because this is a particularly serious matter. It is considered to be very serious by the community, and it is being considered more and more as a serious matter - not exceeding 0.08 on its own, but exceeding that and then driving. That is a significant thing, and that is what it is about - a combination of drink-driving - - -

Mr Duby: I take a point of order, Mr Speaker. I object most strongly. Who did that, Mr Moore? Answer the question, Mr Moore.

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MR MOORE: What is your point of order? Sit down if you do not know your point of order.

Mr Duby: He is maligning me.

MR SPEAKER: Order! I would ask you to withdraw that, please, Mr Moore. That charge is concluded. There is an imputation.

MR MOORE: Mr Speaker, there are two offences of which Mr Duby has been found guilty. The first one is a drink-driving offence, and that carried exactly what I said. It is combined with this second offence in a very short period which the magistrate has taken into account. So the first time it was you, Mr Duby. Do not weasel out of it. You are a hypocrite, and you know it.

Mr Duby: You're a liar.

MR MOORE: The point is that this Chief Minister does not have the guts to get rid of you because you are just a number, and that is all there is to it.

MR SPEAKER: Order! Mr Duby, would you please withdraw the comment. You called Mr Moore a liar. I do not believe that is appropriate language.

Mr Duby: I withdraw it.

MR SPEAKER: Thank you. Mr Moore, please proceed.

MR MOORE: On that matter, I withdraw any consideration that the second part of Mr Duby's offence included driving; apparently it did not. To summarise the situation, Mr Duby is clearly in breach of the law and has clearly been found guilty of criminal conduct. It is only appropriate that, if this Assembly is to retain any credibility at all, which is pretty debatable anyway, and if Mr Duby is not prepared to resign - I imagine he has a similar attitude to that of Richard Farmer at the weekend - then the responsibility rests fairly and squarely on the Chief Minister or his Cabinet colleagues who should have the guts to remove Mr Duby.

It is quite simple: it is appropriate that he be removed. There is no point in trying to cross this airy-fairy area between fantasy and reality, as Mr Collaery so often does, and trying to explain his way out of it. The reality is that his credibility has been doubted; the Alliance Government's credibility is at risk; the Assembly's credibility is at risk; and the responsible thing for the Chief Minister now to do is to call for Mr Duby's resignation. The appropriate thing for the Chief Minister to do is to set the same sorts of criteria as he did when he asked Mrs Nolan for her resignation.

Mr Kaine: I did not. That is an outright lie, Mr Speaker. I would like it withdrawn.

MR MOORE: No.

MR SPEAKER: The point of order was that you maligned the Chief Minister.

Mr Kaine: He told an outright lie, and I would like him to withdraw it.

MR MOORE: Mr Speaker, as a personal imputation, I was called a liar. I would ask the Chief Minister to withdraw that.

Mr Kaine: You did. I refuse to withdraw it because he uttered an absolute lie not more than 30 seconds ago. If he wants to be a liar, he can be accused of being a liar. I will not withdraw it, Mr Speaker.

MR SPEAKER: Thank you, Chief Minister. You may request to make a personal explanation at the end of the speech. Your time is up, Mr Moore.

MR HUMPHRIES (Minister for Health, Education and the Arts) (8.22): Mr Speaker, members of the Assembly have whipped themselves into a great frenzy of morality on this issue.

Ms Follett: On your side?

MR HUMPHRIES: That is because we have more sense and realise that these issues seem bigger than they actually are, Ms Follett.

Mr Speaker, there has been a great explosion of morality and righteousness in the Assembly in the last few hours. It is not inappropriate that we should be looking very hard and very cautiously at the underpinning of that outbreak of righteousness - that frenzy of morality, as I put it. We really need to be calming ourselves and asking ourselves in a very dispassionate fashion just what it is that Mr Duby is alleged to have done which constitutes grounds for his resigning from the ministry.

Ms Follett: I would have said "proved".

MR HUMPHRIES: I will come straight to the point that Ms Follett raises. Ms Follett seems to be repeating a point that was made earlier by Mr Wood, who has now left the chamber, and repeated by Mr Moore. The point seems to be that, if a person breaks the law, that person cannot retain the position of Minister in a government. That seems to be the principle being stated by the Opposition. It is simply not a principle that is borne out by any precedent. It is certainly true that where members of ministries elsewhere have been accused of breaking, or have actually broken, particular laws those members have been asked to resign, or have voluntarily resigned, their positions, and that is entirely appropriate. But it depends on which law we are talking about. Not all laws, in this sense, are in the same category.

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I think, Mr Speaker, it is worth bearing in mind that there are many people casting stones around this Assembly who probably live in glasshouses. We have all, at various times, broken laws. I do not think anyone is going to rise in this place and say that he or she has not broken a law. I have certainly broken laws. I have traffic infringements against my name. I am sure that everybody else in this chamber has. The question becomes at what level a particular offence is serious enough to constitute a ground for someone's resignation.

I have looked at the practice in this area to try to find out what the precedents are. Those quoted by members opposite simply are not satisfactory. They cited the case of Mr Sinclair, who resigned during the period that he was on trial for a particular matter. The offence with which he was charged was an extremely serious one. It was a charge, I think, of forgery. He resigned for the duration of his trial because, had the offence been proven, he would undoubtedly have had to resign his place in the ministry.

Mr Duby was never required, nor ought he have been, to resign in the course of the proceedings against him because, even if a conviction had been recorded at that point, he would not have committed an offence serious enough to constitute his withdrawal from the ministry. That is the simple, indisputable fact about this matter. No precedent was cited by members opposite for a member of a ministry having to resign for an offence similar to that brought against Mr Duby.

Mr Connolly: What about allowing him to stay in the ministry? Do you know of one who could stay in the ministry following this sort of conviction?

MR HUMPHRIES: I am glad you asked that question, Mr Connolly. I cannot find any directly analogous case. No such cases come to my attention.

Ms Follett: That's right. It's interesting.

MR HUMPHRIES: I very much doubt, Ms Follett, that there have been no cases in the last 20 years in which a Minister of the Crown, at some place in Australia, has committed a drink-driving offence. I am positive that could not have been the case. It is highly unlikely to have been the case. What is more likely is that a person was convicted of an offence such as that but was not asked to resign and did not resign because there was no expectation in the place in which he sat that he should resign.

There are two cases, since Mr Connolly has raised the matter. I think it was in the early part of last year, although I am not quite sure about the date, that Mr Ted Pickering, the New South Wales Minister for Police, was convicted of a fairly serious traffic offence, and that was not just his second offence but one which constituted a

further addition to a traffic record which I understand went for three or four pages. He did not resign. There was, moreover, not even so much as the faintest call from members of the Labor Opposition in New South Wales for that Minister to resign.

Mr Connolly: What was the offence, Gary?

MR HUMPHRIES: I have indicated already, Mr Connolly - you should have listened to what I was saying - that it was a fairly serious traffic offence. I do not know what it was. I do not have the information.

Mr Berry: Negligent driving, the same as if you run up the back of a car.

MR HUMPHRIES: It was negligent driving, I am told by my colleagues opposite. I think that is pretty analogous to a charge of failure to take a breath test.

Mr Collaery: They say negligent driving is not a serious offence. They just said it.

MR HUMPHRIES: Negligent driving is not a serious offence? I think we see something of the double standards of those opposite.

Mr Moore: And Bernard is lying to you.

Mr Collaery: On a point of order, Mr Speaker; Mr Moore just uttered from behind the pillar, "Bernard is lying again". I ask that he withdraw it.

MR SPEAKER: Please withdraw that, Mr Moore.

Mr Moore: Mr Speaker, that is not what I said, but it was similar to that, and I withdraw it.

Mr Collaery: That is a qualified withdrawal. That is what he said, Mr Speaker.

MR SPEAKER: He has withdrawn it, I believe.

Mr Moore: That is not what I said. That is a lie.

Mr Collaery: I ask that he be asked to withdraw it in an unqualified fashion, Mr Speaker.

MR SPEAKER: Order! Mr Moore, what did you say, please? I did not hear it.

Mr Moore: Mr Speaker, I will withdraw whatever he thinks I said. It is an unqualified withdrawal, Mr Speaker.

MR SPEAKER: Thank you, Mr Moore. Please proceed, Mr Humphries.

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MR HUMPHRIES: Mr Speaker, another case that comes to my attention concerns Mr Paul Zammit, a Liberal member of the New South Wales Parliament, who was chairman of the parliamentary Staysafe Committee which deals with road safety in New South Wales. That member of the New South Wales Assembly was convicted of a speeding offence by a court and fined. He tendered his resignation, but the resignation was declined. Not only was there no call by members of the Labor Opposition in New South Wales for Mr Zammit to stand down but also there was support for him from Labor members of the New South Wales Parliament. I want to quote from a press statement by Mr Brian Langton, a Labor member of that committee. After Mr Zammit's conviction Mr Langton said:

Perhaps it might make him probably even better aware of some of the problems drivers face on the road. Not only in regard to speeding but in regard to sign posting and in regard to the placement of Police Radar and it may even enable him to do an even better job.

I do not think, Mr Speaker, that the very high standard of rectitude and propriety adopted by Labor members of this place really matches the standards being set by Labor members elsewhere in this country. Mr Pickering's offence was, I think, quite analogous, Mr Connolly, and there was no call whatever for his resignation in those circumstances.

I also dispute the assertion that some of the offences that have been referred to elsewhere were not serious offences on the part of Labor members. I think I heard one member opposite say that Senator Tate did not commit a criminal offence. I think members opposite ought to be aware that if Senator Tate had made his remarks - - -

Mr Connolly: Mr Speaker, I draw your attention to the matter that it is inappropriate in - - -

MR SPEAKER: Order! Do you have a point of order?

Mr Connolly: I draw your attention to the fact that it is inappropriate in any parliament under parliamentary privilege.

MR SPEAKER: What is your point of order, please?

Mr Connolly: He is alleging that - - -

MR SPEAKER: Order! Mr Connolly, do not speak over me. What is your point of order?

Mr Connolly: I am sorry. Mr Speaker, I am drawing your attention to the fact that this speaker is about to allege that a criminal offence was committed by a person who is under no charge by a court. He is using parliamentary privilege to commit an act of contempt. He said Senator Tate committed a criminal offence.

MR HUMPHRIES: No, I am not. I did not say that. Listen to what I am saying.

MR SPEAKER: Order! Mr Connolly, resume your seat. That is absolutely ridiculous.

MR HUMPHRIES: I suggest that Mr Connolly listen to what I am saying. I was going to say, Mr Connolly, before you sprang to your feet in outrageous defence of your Labor colleague, for whom there has not been defence elsewhere tonight, that had Senator Tate made those remarks outside the Senate chamber, where he did not enjoy privilege, he would certainly have committed a criminal offence.

Mr Connolly: He made the remarks in a press statement.

MR HUMPHRIES: In that case, he committed a contempt of court and would have been liable and is liable in those circumstances for a charge of contempt of court. That, Mr Connolly, is a criminal offence, is it not? Mr Connolly goes quiet in the circumstances. (Extension of time granted)

As I have indicated, the standard being applied by members opposite is simply not consistent with that being applied by their colleagues elsewhere in Australia. I think Senator Tate's offence - I use "offence" in a loose sense - - -

Mr Connolly: Never charged; never convicted. You're the only person who is saying it is a criminal offence, under parliamentary privilege.

MR HUMPHRIES: I am sorry, but I think that the evidence is quite clear that what Senator Tate did constituted an offence which is punishable as a crime. Contempt of court is a criminal offence, unless the law has changed since I practised it. What is more, the consequences of what Senator Tate did were serious, and they bore down on his responsibilities as a Minister of the Federal Government. His remarks led to the aborting of a trial of a person, I believe in Sydney - - -

Mr Doby: A drug baron.

MR HUMPHRIES: Yes, a so-called drug baron, and they led to a new trial having to be ordered. It was a very serious consequence of Senator Tate's actions. Nothing of that magnitude can be said to flow from anything that Mr Doby has done, and I think members opposite really ought to ask themselves whether they are applying double standards in these circumstances. There was the case of Mr Keating, the man responsible for the administration of tax laws in this country, who handed in an extremely late tax return. Again, I think Labor members gloss over, with great aplomb, the seriousness of those things but do not seem to realise that colleagues of theirs and ours in other parliaments in Australia simply do not see things the way they see them.

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If I felt that Mr Duby had committed an offence that was, by any standard applicable anywhere else in Australia, of a kind that ought to compel him to resign, I would be the first one to say to my leader, the Chief Minister, that I believe he should ask Mr Duby to resign. I think Mr Duby may be the first one to go to the Chief Minister and suggest his own resignation in such a circumstance. Quite frankly, that ridiculously high standard simply has not been breached, and there is therefore no reason to ask Mr Duby to resign.

The other cases cited by the Opposition simply do not hold water. There is a strange inconsistency in what the Opposition members have been saying also about their proceedings with this matter. Firstly, Mr Berry got up and said that they refrained from commenting when Mr Duby's case first came to their attention because of Mrs Nolan's case. He said, "We did not want to interfere in that matter, we did not want to prejudice that matter, so we made no comment".

Mr Collaery: He wasn't even in the chamber.

MR HUMPHRIES: Indeed. But then Mr Connolly said that Ms Follett did make a comment. Which is it, Mr Speaker? Did the Opposition make a comment or did it not make a comment? Personally I think Mr Berry is right. I have not seen any statement by Ms Follett, and I rather doubt that any serious attempt was made to project any particular view about Mr Duby's conviction at the time it was brought forward. I think Mr Duby's matter was glossed over quite deliberately at the time because there was no view on the part of the Opposition that any serious matter had arisen and that the matter should be pursued.

It was only after Mrs Nolan's conviction and resignation - in the circumstances, quite rightly - from the Government's Executive Deputy ranks that the Opposition members suddenly realised that there was a point here that they had missed, six weeks before or whenever it was, so they suddenly decided, "We'd better do something about this. We have overlooked a bit of a goldmine here". They put their latest recruit onto that trail. I am afraid that the trail is quite cold and quite unproductive, and it will not advance the rectitude of this Assembly, the status of members of this Assembly or the position of democracy in the ACT to pursue it. Quite frankly, they are barking up the wrong tree. I do not believe that we should be raking over Mr Duby's reputation in this shameful way. I see no reason for it to occur.

Ms Follett: His reputation? You're kidding!

MR HUMPHRIES: Ms Follett laughs with gay abandon. She was quite happy to stand by Mr Duby when he sat on her side of the chamber. Now that he no longer does that, apparently she is content to denigrate him, slur his name and drag his

name through the mud. Now he does not matter because she is no longer on his side. I think, Mr Speaker, that this matter deserves no more time of this Assembly. We should proceed as quickly as possible to a vote and get over this stupid incident.

MRS GRASSBY (8.37): Mr Speaker, I believe that the Labor Party has established today the seriousness of Mr Duby's offence. It is unfortunate that Mr Duby has not had the intestinal fortitude to resign. This is not a joking matter, and it is not a laughing matter. This is something that we and the community take very, very seriously.

The Liberal Government obviously believes that its survival is more important than the standards of ministerial behaviour that it sets for the community. This is unfortunate, not just for the Alliance Government but also for the whole Assembly. It is unfortunate for self-government in the ACT.

This Minister was elected on the basis of making a laughing-stock of self-government. Through his own actions and his failure to resign, he has managed to ensure that self-government will continue to be held in contempt, despite the best efforts of many people in this Assembly to raise its profile and its standards. Mr Duby is not capable of raising his standards.

Magistrates and police in this Territory are constantly striving to impress on the Canberra community the seriousness of alcohol related driving offences. For the Attorney-General, Mr Collaery, our first law officer, to claim that refusing a breath test was an indiscretion, not a criminal offence, undermines their efforts. To make such a statement reflects poorly on Mr Collaery's understanding of the law.

Refusing a breath test can carry a maximum penalty of \$1,000 and six months' imprisonment, or where there has been a previous conviction for a drink-driving offence, as in Mr Duby's case, a maximum penalty of 12 months' imprisonment is available. It may be that the community is reluctant to accept drink-driving as a serious criminal offence. However, in the eyes of the law it is a criminal offence.

It is improper for a Government Minister to break the law in regard to drink-driving and maintain responsibility for transport and road safety. It is outrageous for that same Minister to be responsible for negotiating the changes to drink-driving limits. It is absurd to suggest, as Mr Humphries did in his speech, that Mr Duby's offences can be equated with minor traffic offences. Minor on-the-spot parking or speeding tickets in no way compare with the offences for which Mr Duby was convicted, which carry very substantial fines and which may involve imprisonment.

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We would not suggest that a Minister who overstays a 30-minute meter or receives a speeding infringement notice should resign. Mr Humphries made much of the fact that many members and Ministers may have had such minor convictions in the past. I am sure that many of us here have. I am sure that we have all had, from time to time, a parking or speeding ticket. Could Mr Humphries, however, point to one serving Minister in any government in Australia who was allowed to remain a Minister following a drink-driving offence? The courts, the police and the community generally understand the fundamental difference between these types of offences.

In summing up, let me quote from the editorial of the Canberra Times of Tuesday, 22 May 1990. The article is headed "Nolan and Duby", and states:

It is just as well that MLA Robyn Nolan, who was convicted and fined yesterday on charges of omitting income from her tax return and falsifying the identity of a person with intention to deceive or to mislead the Commissioner for Taxation, relinquished her job as Deputy Executive advising on, amongst other things, business and employment. The two were as inconsistent as having a Minister for Urban Services, under suspension from driving for his second drink-driving offence, advising on transport issues, such as whether the ACT should have a 0.05 blood alcohol limit.

I think this is a very serious offence. We are the law makers, and we expect all of the people of the ACT to obey the laws. We who sit in this place make the laws and are expected to obey them. Mr Duby should resign, Mr Speaker. If he had any principles at all, he would resign now.

MS FOLLETT (Leader of the Opposition) (8.42): Mr Speaker, the motion of censure of a Minister is always a very serious matter. Under the traditions of Australian parliaments it is not undertaken lightly by an opposition, and it is certainly not treated lightly by a parliament. This censure motion is undertaken seriously by the Labor Party because we believe it concerns the most fundamental question which might be asked about a Minister, and that question is the fitness of a Minister to hold office. There are many reasons why a Minister must set the highest standards of personal and public behaviour. I would just beg to differ with Mr Collaery's example when he was speaking of a barrister. The case of a Minister is quite different, and I am surprised that Mr Collaery, as Attorney-General, appears not to understand that difference.

Mr Speaker, the responsibilities of a Minister, in supervising the public administration of the community's affairs, require that he or she maintains the highest standards of honesty, integrity and respect for the law. The community must expect that a Minister is a fit and

proper person to administer that law. The Labor Party, the Canberra Times and most of the Canberra community consider that Mr Duby is not fit to hold office. You have only to walk through a supermarket, go into a library, speak to people in any sphere in the ACT to know that that is their opinion. They are horrified that Mr Duby continues to hold office. That view is held not just by Labor supporters; I have had it expressed to me by business people and people of all political persuasions.

Mr Duby does not maintain the standards which are necessary for public confidence in his administration. He does not show a respect for the law. He has an obvious problem, which must lead anybody to question his judgment and his ability to manage a portfolio. People are questioning just that. By any standard of decency, by any standard of respect for the public, and indeed with any self-respect, this man should resign. If he does not, he should be sacked.

Mr Duby has been convicted of a criminal offence. It was his second conviction on related charges in a fairly short period. At the very least, that second conviction shows that Mr Duby has no respect for the law and no respect for the community which he is prepared to endanger with his irresponsible behaviour. While members of the Government argue otherwise, we consider that it also shows that he cannot be trusted to administer laws which are inextricably linked to his criminal offence.

Mr Speaker, the pages of history are littered with Ministers who have resigned because of a failure to uphold acceptable community standards of conduct. There are many, many examples which have not involved a breach of the law. You may remember the Profumo affair in England. Mr John Profumo had to resign as much because he breached contemporary morality as anything else. Mr Phillip Lynch resigned in the face of allegations - allegations only - about possible conflicts of interest.

There is also a long history of Ministers who have resigned because they have been accused of, or have actually been charged with, breaches of the law. Some of the names have been canvassed this evening, but there is quite a long list. One of Malcolm Fraser's Ministers, Vic Garland, resigned in 1976 when he was charged over a breach of the Commonwealth Electoral Act. Mr Ian Sinclair resigned from the ministry because he faced charges which were entirely unrelated to his ministerial responsibilities.

Mr Michael MacKellar resigned in 1982 for failing to make a customs declaration about a colour television set. Mr Mick Young was another Minister who failed to make a customs declaration - that time about a teddy bear. You could well think that that is a trivial issue. Most of those resignations, Mr Speaker, could be said to relate to errors of judgment; some of them could even be considered as genuine accidents or mistakes. But in every case the

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Minister did the decent thing and resigned to uphold the standard of ministerial behaviour.

I find the arguments that have been put by members opposite concerning Senator Tate and Mr Keating very interesting. They seemed to be arguing, on the one hand, that both of those Ministers should have resigned but did not, so they have a different standard for Mr Duby. They also obviously have a double standard in relation to Mrs Nolan. Quite clearly, the feeling was that Mrs Nolan's resignation should be accepted. But again there is a difference which exists in their minds only in relation to Mr Duby.

I frankly do not understand the standards which you are setting, and I do not think the community does, nor do I think it accepts them. We have heard Mr Collaery spring to Mr Duby's aid in public with the farcical defence that Mr Duby does not administer the Motor Traffic (Alcohol and Drugs) Act. But Mr Duby is the Minister for transport. He is the Minister responsible for road safety. He is the Minister responsible for licensing drivers. The fact is that Mr Duby, facing these charges, should never have been given or accepted the job as Minister responsible for transport.

Quite apart from his attitude to road safety and to drink-driving, which has been exhibited by a second offence, there is the question of his sitting in judgment of other people. The case of the taxi driver, which has been given some prominence in the media, is a perfect example.

Mr Kaine: Ellnor knocked it back. Put the truth on the table if you are going to talk about that one. There is your double standard coming in all right.

MS FOLLETT: The Chief Minister argues that Mrs Grassby would have knocked that case back as well.

Mr Kaine: She did.

MS FOLLETT: Mrs Grassby had not been convicted of a criminal offence in relation to driving.

Mr Kaine: She rejected the same application that Mr Duby rejected. Where is your double standard now?

MS FOLLETT: Mr Speaker, the facts of the matter are not terribly relevant because the crux of it is that, as was stated in the Canberra Times, it is quite impossible for people to accept the legitimacy of decisions connected in any way with drink-driving which are made by an administration headed by Mr Duby.

The Canberra Times has called Mr Duby a hypocrite for accepting and continuing with his ministerial portfolio and it has suggested that this hypocrisy far surpasses his hypocrisy in standing as a No Self Government candidate and then taking on a ministry. That was a very large hypocrisy

indeed, and would lead anyone to the conclusion that Mr Duby is positively blushproof and is convinced that he is here only until 1992 and is determined to make the most of it in the meantime.

We cannot let pass the fact that this was Mr Duby's second offence in a short period. It calls into question both his respect for the law and his fitness for office. The law requires that a second offence within five years be treated very seriously. The magistrate has no option but to cancel the offender's licence. So we have a Minister for transport who does not hold a drivers licence; he has had his licence cancelled.

It puts the onus on offenders to show that they are fit to return to the road. Again I quote the Canberra Times, which said that a second offence within five years reveals that a person has not learnt his or her lesson, has a disrespect for the law or has a continuing problem with mixing drinking and driving. It went on to say that one offence makes him unfit to be a Minister for transport; two offences make him unfit to be a Minister for anything. That is the view of the public. No matter what sphere you move in at the moment, that is universally the view that has been put in relation to Mr Duby.

His failure to resign should be the last chapter in a sorry tale. He began in this place as a no self-government member; he has progressed now to a no self-drive member, and his failure to resign shows that he has ended up with absolutely no self-respect. Because he refuses to resign, it is now incumbent upon Mr Kaine to dismiss him as a Minister. Mr Kaine can have no credibility when he accepts the resignation of Mrs Nolan as an Executive Deputy but takes no action whatsoever in relation to Mr Duby.

The Chief Minister must realise that Mr Duby's continuing presence in his ministry only helps to achieve the no self-government platform on which Mr Duby originally stood. I am sure Mr Duby is aware of that. His continued presence in the ministry taints Mr Kaine's Government, discredits this Assembly, and fundamentally undermines the process of government.

MR STEVENSON (8.52): Mr Speaker, this matter is about propriety. While Mr Duby was in a position of authority as a member of parliament he refused to obey the law. Having been charged with an offence, he refused to submit to a breath analysis. This takes it out of the area of being a simple offence to one of authority and respect or no respect for authority.

It is one thing to commit an offence as a member of the public; it is altogether another thing to commit an offence while being a member of parliament. These things are seen to be different in our society. Members of parliament, along with members of the judiciary and the police force, are held to have a different and higher responsibility.

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They are dealt with in a much harsher manner, and they should be. They are the makers and the upholders of the laws.

One offence would have been enough by itself, but in Mr Duby's case it was his second offence, and they were not two entirely different offences under different Acts. They both related to being intoxicated while in control of a motor vehicle.

Mr Duby refused to submit to a breath analysis. As you are all well aware, as an ex-member of the police force I have come across many people who were in control of vehicles when they should not have been. Within the force it is known why people refuse to undergo breath analysis. They feel that the resulting charge for the rate of alcohol in their blood and the effect of that in court would be worse than refusing the breath test in the first place.

We do not know whether that was the case with Mr Duby, but it certainly is accepted as being the usual case for someone not complying with the law. This is really one of the major points here. Not only did Mr Duby commit an offence but also he refused to comply with the law. The fact that he is a member of parliament is bad enough. The fact that he is now a Minister of the Government makes it a great deal worse, because we all understand that ministerial responsibility is higher than that of a member, and it should be.

Ministers should be beyond reproach. There has been talk in this Assembly of whether, as Mr Collaery said, we should be paragons of virtue. Mr Wood mentioned that we are not all expected to be perfect. But I suggest that members of parliament should hold, aspire to, be responsible for and be expected to hold a much higher standard. This comes with the job; you do not have a choice.

I do not doubt that being convicted of two offences of this nature in any parliament in Australia, if it is worthy of the name, would result at least in the person responsible standing down from a ministerial position. Many people in this town might be surprised, when they hear of "resigning", to realise that we are talking about standing down from a ministerial position, not resigning as a member of this Assembly. A very good argument could indeed be made for the view that anybody in a similar situation should resign as a member of parliament, not just as a Minister. I feel that the standing down from a ministerial position is a very light result indeed. I truly believe that.

Much has been said in this Assembly about why the motion was brought on and why it was not brought on when the charge was originally found. It is a good question. I think we have a responsibility for not doing that, because we should have. I chose not to do so at the time. In the light of that, I have looked at it again and realised that

I should have spoken up. I believe that we should look at whether we do something from a political point of view or out of a standard and a higher cause. I believe that if there were someone in my party in a similar position I would expect him or her to resign a ministerial position, to say the least. I think that should hold with us all.

I have heard statements from members of the Alliance suggesting that it is perfectly acceptable for Mr DUBY to remain a Minister even though he has been convicted of the two offences. I really find it difficult to imagine them not saying what we are saying on this side of the house if the circumstance were different.

Mr DUBY is in a different position with his offence because he is the Minister responsible for matters of transport, driving, et cetera. At the very least, he should relinquish that position. There really is no doubt about that. If this censure motion is lost tonight, it will be lost not because it was not just but because numbers count and justice does not.

MR DUBY (Minister for Finance and Urban Services) (9.00): Mr Speaker, I have listened to many people talk tonight on this matter of undoubtedly great concern to me, namely, a motion censuring me and calling upon me to resign as Minister. Many people have spoken on many points. Originally I was not going to speak to this motion. I was going to let the debate to-and-fro and let the vote be taken. However, some comments have been made which I feel have to be answered - in particular, comments from the other side that keep drawing upon a number of issues.

One of the major issues that we keep hearing is that I should resign because of the public perception - the people out there want me to resign. The basis of this apparently is an editorial which was in the Canberra Times, I believe, last Saturday. The basis of that editorial, Mr Speaker, was identified, and I think it was one of the major thrusts of Ms Follett's speech. It was that, in my capacity as Minister responsible for, in this case, the allocation of taxi plates, I had refused to provide a man with a set of taxi plates because of a drink-driving conviction that he had incurred in 1983.

Once and for all, Mr Speaker, I want to set the record straight on this matter. Not only is that incorrect but also Ms Follett knows that it is incorrect. I can understand well the editorial writer of the Canberra Times not knowing the facts and going off half-cocked on the basis of what someone had told him. But Ms Follett, of all people, knows that simply is not true. The situation is that in 1986 the then Minister for Territories, Mr Scholes, decided to release concessional licences or, shall I say, taxi plates to what might be termed "senior drivers" who were in the ACT taxi trade.

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Certain criteria were designed, and the drivers who were eligible were those who met those criteria. They included that somebody had to be engaged in full-time driving for four years prior to 16 July 1986, that taxi driving had to be the primary source of income for that person for those four years, that the applicant had to be an ACT resident, the holder of an ACT taxi drivers licence and not the owner of a taxi or a hire-car licence at the time.

Mr Speaker, there were many more applications for the concessional taxi plates than there were plates available. The man to whom Ms Follett referred, a Mr McArthur, was one of the unsuccessful applicants, who failed to meet all of those criteria, and it was a collective package. The fact that he had had a drink-driving conviction in 1983 was coincidental and a mere addendum to the fact that he did not meet the criteria in order to be issued with a licence.

Since being denied those taxi plates in 1986, Mr McArthur has raised the matter with Federal Minister Holding and, I believe, with Federal Minister Punch, and he has taken it to the Federal Court of Australia and the Commonwealth Ombudsman, all of whom have sustained Minister Scholes' original decision.

It is quite ironic because, upon being elected to this place, I and at least two other members of this Assembly raised the matter with the then Minister, Mrs Grassby, and made representations on Mr McArthur's behalf to see whether there was any way that the matter could be looked into or changed. I can repeat that Mrs Grassby, who was the Minister at the time, saw no reason to change the previous decisions of all those various bodies. Yet, Mr Speaker, it is put that, because this man does not have a set of taxi plates, it is my fault. Nothing could be further from the truth.

I should also like to add that Mr McArthur is in no way precluded from obtaining a taxi licence on the open market or from seeking any additional plates which may be made available. That is the first thing that I wanted to say.

Secondly, Mr Speaker, many people have said tonight that I refused to supply a sample of breath to a policeman. Again, Mr Speaker, nothing could be further from the truth. I was asked to supply samples, and I provided them, twice. On neither occasion did the samples in any way affect the colouration of the crystals which are supposed to measure alcohol. I repeat that I did not refuse to comply with a lawful direction of a police officer at any stage.

Ms Follett: What did they convict you for?

MR DUBY: Why don't you shut up and listen? Subsequently, Mr Speaker, the officer with whom I was having these interfaces asked me to go to the police station, for various reasons. I shall not go into that.

Ms Follett: I'd keep quiet about that.

MR DUBY: Mr Speaker, it was raining and I believe the officer wished to get out of the rain. That is the simple fact, and that is the truth of the matter. Having twice supplied breath samples which failed to affect in any way the roadside samples, I saw no reason to be subjected to further detention and refused to supply a sample at the police station. I want that point to be made perfectly clear.

Finally, I have listened to Mr Stevenson telling us that members of parliament are required to set a standard above that of the rest of the community, that we should behave in all ways with great propriety. This is from a man who has confessed that he slept in this building and, Mr Speaker - it is in the Hansard of today - you claim that he misled you in your capacity as Speaker.

There has never been any implication that I have misled the house, that I have behaved in a dishonest way or a way that is supposed to add to my personal fortune or anything like that, and there has certainly never been any implication that I have behaved in an administratively incompetent fashion. The accepted reasons for which I, or any other Minister, should tender a resignation have not been complied with.

Mr Speaker, I do not believe that the seriousness of my offence - and I will not dispute that it is an offence - warrants the tendering of my resignation. I am deeply embarrassed about the whole incident. To those who may feel that something is required I offer a heartfelt apology if they felt that I have brought down the standing of this place in any way. However, I do not believe that the matters that have been raised in this censure motion warrant the tendering of my resignation, and I shall not.

MR BERRY (9.09), in reply: The first member of the Government with whom I would like to deal as a result of this debate is Mr Collaery. It seems to be quite natural lately, Mr Speaker, because of his behaviour. If his behaviour on this issue is any example of what we might expect in the future there will be many other times when people will wish to focus on his performance.

I refer to Mr Collaery's reference to a 1957 matter in relation to this debate. I am very surprised that this was the best that Mr Collaery could come up with, with over a week's notice and all of his resources. There is no possible connection between the standards set for the professional conduct of a barrister, for heaven's sake, in 1957 and those set for a Minister in 1990. A barrister plying his trade, as he or she does, would generally be disbarred for honesty offences. That is fair enough.

In 1957 I should say that drink-driving would not have been so regarded. It certainly would not have been regarded as

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an honesty offence. It was more likely regarded as simply a drunkenness offence rather than what has come to be the realisation of the authorities these days. Mr Collaery tried to mislead this house by using dead references. A Minister of the Crown is expected to meet a higher standard, a point which Mr Duby failed to observe. Refusing a breath test does not go to an honesty issue, but it is a very serious matter.

Mr Speaker, I would like to refer now to some of the comments made by Mr Duby. It seems to me that he missed the point completely when he was referring to the issue concerning the taxi driver. It was not the merits of the taxi driver's case that people were talking about; the issue was about Mr Duby's dealing with it. The Canberra Times stated that it is impossible for people to accept the legitimacy of decisions connected in any way with drink-driving which are made by an administration headed by Mr Duby. Do you get the point yet?

Mr Duby: The decisions were made long before I was there.

MR BERRY: The point that people are trying to make up out of the facts, Mr Duby, is that you should not be heading an administration which deals with issues in relation to driving motor cars or road safety. It is absolutely outrageous, and you should resign.

One of the things that I found most interesting in your explanation of events was how much more it damned you. You would have been better off sitting down and shutting up because you were at least in front from that point of view. You do not even seem to see how serious this issue is in terms of the provision of safe roads in this Territory and in terms of law observance in relation to drink-driving offences in this Territory. You do not even see how serious it is, for heaven's sake.

In a country where thousands of people are killed each year, and many more thousands are injured, at a cost of billions of dollars to the community, we have a government which has supported a person in the ministry - they all seem to agree to sit with him - who has committed a serious offence in relation to an area of his portfolio in which he has to make important decisions, and the community has to have some respect for those decisions. How can it, for heaven's sake, in these circumstances?

Mr Speaker, I would like also to refer to Mr Humphries' speech very briefly. He has developed a bit of a reputation because he does not know anything about the cost of education and he cannot add up the figures in relation to health. It is hardly likely that he will ever earn any credibility about his opinions in relation to such important matters as ministerial propriety, in the knowledge that his mathematics are so poor that the sorts of figures that he would have to add would be rather simple. All he has to do is focus his mind on propriety for Ministers, but he does not seem to be able to do that.

But he did say that Robyn Nolan rightly stood down, and he got it right that time - for once he got it right tonight. He got it right - Robyn Nolan rightly stood down. That is where your Government set the standard in relation to the behaviour of people. Incidentally, she was not a Minister either. Your Chief Minister might well have rejected her decision to stand down if he had observed the same standards as he observed in the case of Mr Duby, who was involved in a very serious offence. We know that the Cabinet has considered this and that it does not think that it is very serious either. So you are all tarred with the same brush, as far as I can make out.

I am quoting from something that the Chief Minister said. To say that this is not regarded in the community as serious is absolutely outrageous. The community regards this as a very serious matter. I have said previously that nobody on this side of the house gets any joy out of people being in trouble with the law and having made mistakes. But we get less joy out of this place being discredited, and that is what is being done by the actions of the members opposite, with the exception of Mrs Nolan.

That is the standard you have set by accepting Mrs Nolan's resignation. All we got from the Chief Minister in this matter was a vitriolic and illogical argument. I say, Mr Speaker, that the Chief Minister is damned for that because he, like the others, has missed the point of the seriousness of Mr Duby's and his actions. Now that Mr Duby has failed to see the gravity of the situation, the Chief Minister has failed to see it as well. Here we have a government that is headed by somebody who has demonstrated his incompetence to manage a government that has anything to do with road safety. But it is this Chief Minister who had confidence in Mr Duby to argue on our behalf about the levels of propriety that should be observed by motorists in the ACT in relation to road safety issues, and in particular the level of alcohol that one might consume before one drives.

I find it difficult to believe that Robyn Nolan was not given the ultimatum: "Robyn, you had better stand down or we will give you the chop". Undoubtedly, Robyn Nolan, concerned for her party and the future of self-government in this Territory, knew very well that it was so serious as to require her to do something which showed an element of good judgment, and I think she did that. As I said earlier, whether or not Robyn joins us in the next Assembly is a matter for the electorate, but in terms of her performance as part of the Government it could only be considered to be honourable. I can understand why she would be feeling pretty miserable about the fact that Mr Duby does not even seem to recognise what he has done. It is surprising to me.

Mr Speaker, this issue comes back to the members of this house having some pride in self-government of the Territory

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and, in so doing, supporting the motion of censure that I have put. It is most important that this Assembly passes this motion, noting Mr Duby's convictions and noting Mrs Nolan's behaviour and, following that, that this Assembly censures the Minister for Finance and Urban Services, Mr Duby, for failing to resign as Minister. Mr Kaine will wear the responsibility ultimately because of his failure to act if Mr Duby does not. But the Assembly now has to make a decision about whether this is important for government in the Territory.

Question put.

The Assembly voted -

AYES, 7

Mr Berry
Mr Connolly
Ms Follett
Mrs Grassby
Mr Moore
Mr Stevenson
Mr Wood

NOES, 9

Mr Collaery
Mr Duby
Mr Humphries
Mr Jensen
Mr Kaine
Ms Maher
Mrs Nolan
Mr Prowse
Mr Stefaniak

Question so resolved in the negative.

LEAVE OF ABSENCE TO MEMBER

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

That leave of absence be given to Dr Kinloch from 29 May to 31 May 1990 inclusive on the grounds of ill health.

INDEPENDENT AUDIT TO DETERMINE ASSETS TRANSFER Extension of Reporting Date

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

That paragraph (2) of the resolution of the Assembly of 28 September 1989 relating to the independent audit to determine assets transferred to the Territory on self-government and the public debt associated with those assets be amended by omitting "18 May 1990" and substituting "7 June 1990".

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

MS MAHER (9.21): I present the following report:

Scrutiny of Bills and Subordinate Legislation - Standing Committee - Report No. 7 of 1990, dated 10 May 1990.

I seek leave to make a brief statement on the report.

Leave granted.

MS MAHER: The report that I have just tabled details the committee's comments on the Police Offences (Amendment) Bill 1990, the Supply Bill 1990-91 and the Stamp Duties and Taxes (Amendment) Bill 1990. Pursuant to the committee's resolution of appointment, this report was circulated to members on 10 May 1990, and I commend it to the Assembly.

REGISTRATION OF INTERESTS IN GOODS BILL 1990

MR COLLAERY (Attorney-General) (9.22), by leave: I present the Registration of Interests in Goods Bill 1990. I move:

That this Bill be agreed to in principle.

I am sure members are fully aware of the role that motor vehicles play in today's society. For many people, they are a necessity for employment and mobility. The acquisition of a motor vehicle represents a major financial commitment, as most vehicles now purchased are financed by credit.

Unfortunately, the present law does not adequately protect some consumers who may purchase a car in good faith, only to find out at a later date that the vehicle is subject to a bill of sale, mortgage or some other financial interest. In such a case, a consumer becomes aware of the existence of the encumbrance only when the vehicle is being repossessed. The consumer is then faced with the possibility of losing the vehicle or is saddled with the additional burden of paying off the debt incurred by the previous owner. Any legal redress that the consumer may have would usually involve prolonged legal action with additional legal costs. In some cases, the consumer will not have any remedy at all, as the original owner may have left the Territory and cannot be found.

The Registration of Interests in Goods Bill 1990 seeks to remedy this injustice to consumers by allowing interests arising under Territory law to be recorded on the New South Wales register of interests in goods. In effect, the Bill will introduce into the Territory the scheme of registration of interests in goods operated in New South Wales under the Registration of Interests in Goods Act 1986 (NSW). This

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means that this Bill will need to be read in conjunction with the New South Wales Act.

Under the scheme a financier will be able to record publicly an interest on the register as evidence to a prospective purchaser of that financier's interest. Likewise, a purchaser will be able to search the register to ascertain the status of a particular vehicle at the time of purchase. Financiers who record their interests on the register will be deemed to have advised intending purchasers of their existence. The Bill as drafted will not place a legal obligation on a financier to register an interest, but failure to do so may see that financier lose the interest in favour of a purchaser who would not have been aware of that interest. Financiers will of course retain their right to pursue the debt against the original debtor.

Participation in the New South Wales scheme of registration will prove the most economic means of establishing a chattel encumbrance register for the Territory. Apart from an initial start-up cost to the Territory of \$110,000, for which funds have already been provided in the 1989-90 budget, the scheme will be self-funding from the income received from charges imposed for the registration of interests and the provision of search certificates.

I should hasten to add, Mr Speaker, that the adoption of the New South Wales scheme does not mean that this Government can or will always accept legislation prepared by other States. This Government is committed to the development of the best possible consumer legislation. On this particular occasion, however, the adoption of the New South Wales scheme provides a unique opportunity of establishing the best possible scheme without any recurring costs.

A written agreement formalising arrangements between the New South Wales and Territory governments will be signed once this Bill is passed. All other administrative arrangements necessary for the commencement of the scheme have been completed. The Director of the ACT Consumer Affairs Bureau has conducted a number of seminars for the benefit of members of the motor and finance industries on how the scheme will operate. The Director of Consumer Affairs has also embarked on a program to encourage all financiers to record their interests on the register in order to gain the protection of the scheme immediately it becomes operational.

Under the scheme, ACT residents will have access to a telephone service which will provide free advice to consumers on whether a particular vehicle has a financial encumbrance registered against it. Consumers will also be able to obtain a search certificate at a cost of \$6, verifying the status of a vehicle, which will be valid until midnight of the day after the certificate was issued. Consequently, a buyer will be able to finalise a purchase within that period without the need to make a further search of the register.

A telephone account service will be available. This will be of particular benefit to the finance and motor industries. An account customer will be able to search the register by quoting an account number and will be invoiced monthly. The invoice will have the same legal effect as a printed search certificate. Compensation will also be available to Territory consumers in cases of system malfunction which results in incorrect search certificates being issued.

To reinforce provisions already existing in the Sale of Motor Vehicles Act 1977, Sale of Goods Act 1954 and Trade Practices Act 1974, the Bill will place a responsibility on motor dealers to ensure that any motor vehicle sold by them to the public is acquired by the purchaser free from any encumbrance. Importantly, consumers will therefore not need to search the register when purchasing a vehicle from a registered motor dealer.

The introduction of a scheme for the registration of vehicle encumbrances has received the unanimous support of consumer groups and the motor and finance industries. Such systems are already operating in Canada and the United States of America. Registers have also been established in most Australian States and the Northern Territory. The Northern Territory entered into an agreement with New South Wales to record its encumbrance information on the New South Wales register and commenced operation on 5 March 1990. As a result of the adoption by the Northern Territory and the ACT of the New South Wales system, 30 per cent of all registered vehicles in Australia will be covered by a single, uniform register.

In summary, Mr Speaker, the establishment of a registration scheme for ACT vehicle encumbrance information represents a significant advance in the level of protection that will be afforded to consumers in the marketplace. The scheme has been endorsed not only by consumer groups but also by industry whose legitimate interest will be protected. This scheme will provide for a simple, cost-effective, reliable and readily accessible system for recording vehicle encumbrance information. Adoption by the Territory of the New South Wales system provides an excellent opportunity for cooperation between the ACT and New South Wales governments, at the same time as providing the best possible scheme for the Territory. Mr Speaker, I now present the explanatory memorandum to the Bill.

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

Adjournment

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

**REGISTRATION OF INTERESTS IN GOODS (CONSEQUENTIAL AMENDMENTS)
BILL 1990**

MR COLLAERY (Attorney-General) (9.30), by leave: I present the Registration of Interests in Goods (Consequential Amendments) Bill 1990. I move:

That this Bill be agreed to in principle.

In order that the registration scheme, which I have already mentioned, operates as intended in the Territory, it is necessary to alter existing law in relation to the registration of an interest in a bill of sale and the requirements for the transfer of title under sale of goods legislation. The Registration of Interests in Goods (Consequential Amendments) Bill 1990 amends the Instruments Act 1953 and the Sale of Goods Act 1954 in order to allow for the operation of the New South Wales scheme in the Territory. Mr Speaker, I present the explanatory memorandum to this Bill.

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

ADJOURNMENT

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

That the Assembly do now adjourn.

Assembly adjourned at 9.32 pm

ANSWERS TO QUESTIONS

MINISTER FOR HOUSING AND COMMUNIST SERVICES

LEGISLATIVE ASSEMBLY QUESTION

Aged Persons Units

QUESTION NO. 76

Ms Follett asked the Minister for Finance and Urban Services on 13 February 1990

(1) What is the exact siting of the proposed Aged Persons Units at Downer for which contract numbers 817 to 819 were notified in ACT Gazette No. 4 of 31 January 1990.

The question was referred for reply to the Minister for Housing and Community Services.

The answer to Ms Follett's question is as follows:

The location of the proposed Aged Persons Units for Downer was an surveyed block known as Part Block 1 Section 73 Downer - Old CSIRO House. A government house on the site administered by the Housing Trust was demolished in 1986.

Preliminary design work under contract numbers 817 to 819 let by the Follett Government has been ceased in order that full consultation can proceed with Downer residents on the future use of the whole of Section 71.

BERNARD COLLAERY.

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**CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
Planning, Environment and Leasehold Management**

QUESTION ON NOTICE N0.83

On 13 February 1990 Ms Follett - Asked the Chief Minister if he had agreed to provide Mr Jensen with copies of all papers he receives in relation to his planning, environment, heritage and leasehold management responsibilities and if not, why not.

Mr Kaine - The answer to Ms Follett's question is as follows:

As Executive Deputy assisting on matters of planning, environment, heritage and leasehold management, Mr Jensen has been provided with all relevant information pertaining to those matters with the intent that he will provide me with an additional source of advice and assistance in these areas.

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CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY

LEGISLATIVE ASSEMBLY QUESTIONS

**Question Nos 88; 89; 90; 91; 92;
93; 94; 95; 96; 97; 98; 99; 100**

Executive Deputies

MS FOLLETT - Asked the Chief Minister and other Ministers a number of questions up on notice on 14 February 1990 in relation to the role and activities of Executive Deputies.

MR KAINÉ - The Chief Minister has provided the following answers to Ms Follett's questions. To assist the Leader of the Opposition I propose to outline the steps followed by the Government in implementing its decision to have Executive Deputies. On 14 December 1989 I announced the Administrative Arrangements Orders for the Alliance Government. I also made a statement in the Assembly about the new positions of Executive Deputies. As part of that statement I tabled a set of guidelines for the relationship between members of the Executive (Ministers) and Executive Deputies.

As with any new Ministry more detailed arrangements for the administrative operation of portfolios took a little time to complete, especially given the normal absences on leave which took place over the Christmas New Year period.

Between 14 December 1989 and 11 January 1990 Ministers and Executive Deputies operated under the guidance of the statement and guidelines made in the Assembly on 14 December 1989.

The legal opinion on the role and position of Executive Deputies as requested in your questions is attached for your information (Attachment A). This opinion indicates clearly that the role proposed for Executive Deputies is within the conditions of the ACT Self-Government Act.

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On 11 January 1990, the Executive considered the operational and reporting arrangements for Executive Deputies. I undertook to provide Ministers and Executive Deputies with some more detailed guidelines describing arrangements which might be followed by Executive Deputies in their reporting processes, correspondence, media and speaking arrangements and other relevant issues.

I considered these to be appropriate as part of the normal arrangements which are followed by any Executive in developing its operational arrangements and its specific party or alliance processes.

On 2 February 1990 I wrote to each Minister providing a copy of the generic statement and guidelines which I had prepared for my portfolio (copy is attached Attachment B). In recognition that each portfolio would need to make some amendments to suit the specific requirements of their respective portfolios, Ministers have been asked to consider the generic statement and provide me with a copy of their proposed arrangements for their portfolios.

These are also attached (Attachments C-E). As can be seen from the outline for the operation of Executive Deputies in my portfolio, they in no way can be seen to have executive responsibility. It is abundantly clear that the arrangements proposed provide an appropriate linkage between the Alliance Executive and its Caucus.

In response to the specific issues raised in Ms Folletts questions I would refer you to the guidelines for each portfolio which addresses;

signature of correspondence by Executive Deputies

- refer to the guidelines for each portfolio

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provision of briefings to Executive Deputies by departmental officers

- refer to the guidelines for each portfolio. Basically these are to be arranged through the Ministers Office

provision of ministerial submissions or briefings to Executive Deputies

- refer to the guidelines for each portfolio

representation at meetings by Executive Deputies

- refer to the guidelines for each portfolio. In addition we have decided it would be inappropriate for Executive Deputies to represent Ministers at Ministerial Council meetings except where the Executive Deputy has a special knowledge or competence on the matter under discussion. In which case the Executive Deputy may be sent in the Ministers place.

issuing of press releases by Executive Deputies

- refer to the guidelines for each portfolio legal powers or functions delegated to Executive Deputies
- to date no powers have been delegated to Executive Deputies

legal powers or functions delegated to public servants

- .naturally some specific powers have been delegated to assist the smooth administration of government

legal powers or functions delegated to other persons

- none

instructions issued to staff in each agency concerning dealings with Executive Deputies

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the guidelines and statements referred to above have been provided to all agencies for their assistance

furthermore, at the Chief Ministers Portfolio Consultative Committee Meeting the issue of the functions of Executive Deputies was raised by Union Representatives. Information was distributed to the relevant unions with minutes of the meeting held 7 February 1990.

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Mr Speaker, this arrangement involving Executive Deputies is designed primarily to provide a collegiate and co-operative Government involving all members of the Alliance who are participating in the majority government of ten elected representatives in this Assembly.

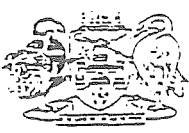
The arrangements set out in the paper are predicated on three basic principles.

One: the over-riding principle that Ministers will be entirely responsible for all matters in their portfolios

Two: that Ministers will be responsible in the Assembly for all matters in respect to their portfolios

Three: that the Executive Deputies role is to provide an additional source of advice and assistance to Ministers in the exercise of their Ministerial authority

Mr Speaker the schedule is a set of guidelines to the relationship between Ministers and their Executive Deputies. I am certain that these arrangements will facilitate all the features of Westminster Ministerial responsibility while enabling the Alliance Government to draw effectively on the particular talents and expertise of all the members involved. By this arrangement, we will have a fully representative and responsive Government acting for the people of the ACT.



Subject: : APPOINTMENT OF EXECUTIVE DEPUTIES

OPINION

I have been asked to advise on the possible role of Executive Deputies and the range of powers and duties that could be allocated to them.

1. The Role of Ministers

The ACT Executive comprises the Chief Minister and 3 other Ministers chosen by him or her. Under s.37 of the Australian Capital Territory (Self-Government) Act 1988, the Executive is given responsibility for governing the ACT with respect to the matters listed in Schedule 4, executing and maintaining ACT enactments and exercising other powers vested in it by ACT laws or intergovernmental agreement.

The Chief Minister is elected by members of the ACT Legislative Assembly and may, at any time, be removed from office by the Assembly [see ss. 40, 19]. The number of Ministers is fixed at 4 under the Self-Government Act [ss.39 and 41(1)], and the powers of the Executive under the Act can only be divided amongst Ministers [see s.43].

The scheme of the legislation is clear. The Executive as a whole and Ministers individually (where matters have been allocated to them) are responsible to the Assembly for the executive government of the ACT.

Nature of Executive Power

ACT Ministers are accordingly vested by the Self-Government Act with what is known as "executive power" in relation to their spheres of responsibility. This enables them to enter into contracts, make appointments, set up advisory bodies, rent offices, purchase supplies etc. The significance of the exercise of such power is that by their actions, Ministers have the capacity to legally bind the body politic i.e. "the Australian Capital Territory". This means that the public monies of the Territory are available to discharge any liabilities incurred in the exercise of the executive power (Subject of course to monies having been appropriated for the purposes in question).

- In my view, only Ministers may exercise such executive power, or authorise its use.

However, it is well settled at common law that a Minister does not have to act personally in administrative matters. It was expressed thus by Denning L J in Metropolitan Borough and Town Clerk of Lewisham v. Roberts ([1949] 2 K.B. 606) as follows:

"Now I take it to be quite plain that when a minister is entrusted with administrative, as distinct from legislative, functions he is entitled to act by any authorised official of his department. The minister is not bound to give his mind to the matter personally. That is implicit in the modern machinery of government."

This principle was confirmed by the High Court in O'Reilly v. State Bank of Victoria commissioners ((1982) 153 CLR 1).

Indeed this principle has been given statutory force by s.54 of the Self-Government Act and the provisions of the Public Service Act 1989 of the Territory. S.54 establishes a public service for the conduct of the public administration of the ACT. The Chief Minister is required to divide the public service into administrative units. S.6 of the Public Service Act allows the Chief Minister to allocate to each administrative unit responsibility for all or any of the enactments and matters for which the relevant Minister is responsible. Thus, public servants are able to exercise executive power within the confines of their Minister's allocation of Executive responsibility.

- It could be argued that this principle could be extended beyond public servants relying on the law of agency i.e. a Minister could choose persons other than public servants as agents to act on his or her behalf. However, the cases have not yet gone this far and the specific statutory provisions noted above militate against this view.

Ministerial Responsibility for Public Administration

Public service administrative units are controlled by the Head of Administration or an Associate Head of Administration (s.54 of Self-Government Act). Administrative units are the basic units for administrative purposes under a number of Acts, and are the basic units for financial management under the Audit Act 1989 of the Territory.

The Head of Administration and Associate Heads of Administration are made responsible "under the appropriate Minister" (ss. 50 and 51 of the Self-Government Act) for the administrative units under their control. The Head or Associate Heads of Administration are thus responsible directly to a Minister. Therefore only a member who is a Minister can be accountable to the Assembly for the operation of an administrative unit. It is by this manner that Ministers have political and legal responsibility for the public administration of the Territory.

Delegation of Ministerial Powers

Section 5 of the Administration Act 1989 of the Territory states: "A Minister ... may, by instrument, delegate to any person all or any of his powers under an Act or subordinate

law", subject to any contrary intention in that Act or subordinate law. A Minister could thus delegate specific powers or duties assigned to him or her by legislation to another person, provided there were no contrary intention in the legislation. (Note: in some cases, the legislation limits the power of delegation to public servants).

2. The Role of Executive Deputies

Against this background, I now turn to an examination of a statement tabled by the Chief Minister in the Assembly on 1 December outlining the intended role of Executive Deputies (See Attachment A). In doing so, however, it will be necessary to consider the effect of the proposed arrangements as a whole. Individual tasks assigned to Deputies may not in themselves create legal difficulties. However, such difficulties might arise if the overall effect of the assignment of a multitude of tasks is such that it can be argued that Ministers have abrogated their responsibilities, contrary to the provisions of the Self-Government Act.

I note that the Chief Minister's statement clearly indicates that Ministers are at all times fully responsible for all matters within their portfolios and that the role of Executive Deputies is to provide an additional source of advice to Ministers in the discharge of their responsibilities. There are then set out detailed guidelines which are consistent with these stated principles. Taken as a whole and individually, the tasks assigned Executive Deputies do not, in my view, infringe the provisions of the Self Government Act.

However, I should like to make the following additional points:

- . Deputies should not sign correspondence on behalf of Ministers where such correspondence purports to be a decision by the Minister which is required by the relevant legislation to be made by him personally or by his or her delegate
- . Deputies may not approve expenditure under the Audit Act 1989 of the Territory
- . Deputies may not establish non-legislative advisory bodies nor make non-statutory appointments.

3. Remuneration for Work Done as Executive Deputies

The Self-Government Act makes provision as follows:

"14.(1) A member vacates office if the member:

-
- (c) takes or agrees to take, directly or indirectly, any remuneration, allowance, honorarium or reward for services rendered in the Assembly, otherwise than under section 73."

"73.(1) In this section:
"office" means any of the following offices:
(a) Chief Minister;
(b) Deputy Chief Minister;
(c) Minister;
(d) member;
(e) Presiding Officer;
(f) Deputy Presiding Officer;
(g) Head of Administration;
(h) Associate Head of Administration.

"(2) A person shall, in respect of services in an office, be paid such remuneration as is determined by the Remuneration Tribunal"

In my view, Executive Deputies could not be remunerated for such positions under section 73 as they are not Ministers and, further, any such remuneration could not be said to relate to their positions as members [see paragraph 73(1)(d)].

Although it could be argued that the duties of Executive Deputies are not "services rendered in the Assembly" i.e. they are performing Executive functions, in my view, such "positions" come within the provisions of paragraph 67(4)(a) of the Self-Government Act which disqualifies a member from holding a seat if he is employed by the Commonwealth, a State or Territory and is entitled to any remuneration in respect of that employment. I believe the Courts would give "employment" in this context a wide meaning and would, in my view, encompass the situation of Executive Deputies.

This disqualification could be removed by altering the Self-Government Act through an ACT enactment, since section 67 states that the qualifications of a person to be elected (of which paragraph 67(4)(a) is one) shall be as provided by enactment. Sub-section 67(2) also states that the following sub-sections have effect 'until provision is made'. However, I would suggest that a number of policy matters would need to be carefully considered before making such an enactment.



Len Sorbello
Deputy Law Officer
Constitutional & Law Reform Branch

20 December 1989

29 May 1990

...

2. Background:

The basic guidelines for the relationship between Ministers and Executive Deputies together with the Chief Minister's comments in the Assembly on 14 December 1989 are attached. These comments highlight the three basic principles behind the arrangements particularly the importance of the role of the Executive Deputies in providing an additional source of advice and assistance to the Ministers in the exercise of their Ministerial authority.

3. The Executive Deputies:

The Chief Minister has two Executive Deputies

Norm Jensen - Planning Environment Heritage and Leasehold Management

Carmel Maher - Social and Family Policy

4. Agencies: - f

Mr Jensen's subject matter involves three agencies which are the direct responsibility of the Chief Minister:

- Territory Planning Office
- Social and Family Policy Division (Environment and Planning Coordination Section). Liaison would be required with the Environment Protection Unit (OEM)
- Development Division (OID)

Ms Maher's subject matter involves the Social and Family Policy Division which is the direct responsibility of the Chief Minister. Liaison would be necessary with Community Services

5. Specific Tasks: - , - .. -

.- Executive Deputies workload will comprise a .. set of specific tasks. For the next three to six months these could be: - .

1746.

b. Methodology

- In undertaking the above tasks, Executive Deputies will focus on:
- the development of detailed policy proposals in accordance with the Alliance Governments policy statements.
- consultation with interested commutator groups.
- guidance and input to inter agency policy development networks part-cal arty in respect to political consider a toils imcor tan t to t.^e Go rumen t.

It would be inancroloriate for Exec-,it-*;ve Deputies to become involved in inter departmental zlc-- ums. Resolute=on Of dis-outes bet-wen agencies is more rrC?erlv handled at t^e head of 7 level or by Minis tees (if -the need arises).

7. Remc=-tincr Process:

- For their respective areas of responsibility, Executive Deputies would:
- endorse major policy proposals before their submission . to the Chief Minister for clearance,
- report progress and developments to Joint Party meetings,,and
- . attend appropriate public forums including those involving discussion between agencies and the community eg:
- public consultations on planning
- Womens Consultative Committee.

8. Material rove gad to the Chief Minister:

To ensure that the Chief Minister is kept adequately informed on all important issues, copies of minutes or submissions from agencies to Executive Deputies in response to requests for briefings or advice should also be provided to the Chief Minister.

29 May 1990

...

- Executive Services will provide the Chief Ministers Office with a regular schedule a of all such correspondence.

Exceptions to this recul--ament could include:

(a) letters to the Prime Minister, other Premiers or the Chief Minister of the Northern Territory.

(b) letters to the Leader of the Opposition and Shadow Ministers in the Assembly.

(c) letters to the

Members of the Opposition and the Alliance

(d) letters to all Members of the Commonwealth and State Parliaments.

(e) letters on matters which the Chief Minister has indicated a personal or continuing involvement.

- if in doubt a check can be made with the Chief Minister's Senior Private Secretary

(f) letters which involve important political issues which may have major political implications or which establish an important precedent.
- including appointments.

(g) letters to leaders in the fields of industry, development, commerce and other major community (usually peak) organisations.

(h) matters involving the administration or structure of the Chief Ministers portfolio or departments.

10. Speeches:

Requests to Agencies within the Chief Ministers Portfolio for the preparation of speeches for Executive Deputies should be made through the Chief Ministers Office in order to assist in the co-ordinated public presentation of Government policies and programs.

12. Media Statements and Engagements:

Similarly, Executive Deputies media statements should be cleared through the Chief Ministers Office. So too should the substance of comments to be made directly to the electronic media.

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13. Meetings Meetings with Councillors and Other Cs:

The Chief Minister should also be kept advised of the content of discussions held between Executive Deputies and councillors, business or other representatives. Where such meetings are attended by an officer from the relevant department he or she should provide the Chief Ministers Office and the Executive Deputy concerned with a written record of meeting by COB on the next working day. The same procedure should also apply in relation to meetings between the Chief Minister and such groups.

14. Acknowledgements

In addition to the matters identified above, Executive Deputies will, where necessary, sign any acknowledgements on behalf of the Chief Minister.

15. Forwarding of letters:

Executive Deputies will sign over their own names eg:

Norm Jensen
Executive Deputy --- --

Planning Environment Heritage and Leasehold Management

or

Carmel Maher
Executive Deputy
Social and Family Policy

Core Correspondence will be prepared on the Chief Ministers letterhead

Chief Ministers Office

January 1990 y

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29 May 1990

OPERATIONAL AND REPORTING OPERATIONAL FOR THE EXECUTIVE DEPUTY FOR EDUCATION AND THE ARTS

Purpose

This paper sets out the nature of the relationship between the Minister for Health, Education and the Arts and the Executive Deputy assisting the Minister.

2. Agencies

Dr Kinloch subject matter involves the Department of Education and includes the Arts.

3. Specific Tasks

Dr Kinloch workload will include a set of specific tasks. For the next three to six months these could be:

oversight of preparation of Green Papers on literacy and numeracy and the development of a Schools Council development of policy on Third Age learning co-ordination of ANCA operation

4. Methodology

In undertaking the above tasks, the Executive Deputy will focus on:

the development of detailed policy proposals in accordance with the Alliance Government's policy statements consultation with interested community groups

guidance and input to inter agency policy development networks particularly in respect to political considerations important to the Government

It would be inappropriate for Executive Deputies to become involved in inter-departmental forums. Resolution of disputes between agencies is more properly handled at the head of agency level or by Ministers (if the need arises).

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5. Reverting Process

For his area of responsibility, the Executive Deputy would:

- . endorse major policy proposals before their submission to the Minister for clearance
- report progress and developments to Joint Party meetings, and
- attend appropriate public forums including those involving discussion between agencies and the community.

6. Material provided to the Minister

To ensure that the Minister is kept adequately informed on all important issues, copies of minutes or submissions from agencies to the Executive Deputy in response to requests for briefings or advice should also be provided to the Minister.

7. Correspondence

Except where special considerations require that correspondence be prepared for the Ministers own attention, the Executive Deputy will sign most correspondence concerning his area of responsibility, both in reply to inward correspondence addressed to the Minister (and, of course, to the Executive Deputy) and outgoing correspondence initiated within the portfolio.

The Executive Deputy will provide the Ministers office with a regular schedule of all such correspondence. Exceptions to this requirement could include:

- a) letter to the Prime Minister, other Premiers or the Chief Minister of the Northern Territory
- b) letters to the header of the Opposition and opposition spokesmen and women in the Assembly
- c) letters to the other members of the Alliance
- d) letters to all Members of the Commonwealth and State parliaments
- e) letters on matters which the Minister has indicated a personal or continuing involvement. If in doubt, a check can be made with the Ministers Senior Private Secretary

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- f) letters which involve important policy initiatives or which may have major political implications or which establish an important precedent - including appointments
- g) letters to peak organisations including unions and heads of higher education institutions
- h) matters involving the administration or structure of the Ministers portfolio or departments

8. Speeches

Requests to agencies within the Ministers portfolio for the preparation of speeches for the Executive Deputy should be made through the Ministers office in order to assist in the coordinated public presentation of Government policies and programs.

9. Media Statements and Engagements

Similarly, the Executive Deputys media statements should be cleared through the Ministers office. So too should the substance of comments to be made directly to the electronic media. Conversely, Ministerial papers/statements should be passed through the Executive Deputys office.

10. Acknowledgements

The Executive Deputy will, where necessary, sign any acknowledgements on behalf of the Minister.

13. Form of Letters

The Executive deputy will sign over his own name, eg:

Hector Kinloch
Executive Deputy
Education and the Arts

Minister for Health, Education and the Arts February, 1990

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EXECUTIVE DEPUTY IN THE MINISTER FOR FINANCE AND URBAN SERVICES PORTFOLIO - OPERATIONAL AND REPORTING ARRANGEMENTS

Purpose

This paper sets out the nature of the relationship between the Minister for Finance and Urban Services and his Executive Deputy.

2. Background

The basic guidelines for the relationship between Ministers and Executive Deputies together with the Chief Minister's comments in the Assembly on 14 December 1989 are attached. These comments highlight the three basic principles behind the arrangements particularly the importance of the role of the Executive Deputies in providing an additional source of advice and assistance to Ministers in the exercise of their Ministerial authority.

3. Executive Deputy

The Minister for Finance and Urban Services has one Executive Deputy:

Mrs Robyn Nolan - Business, Tourism, Employment,
Transport and Rural Matters.

4. Agencies

Mrs Nolan's Subject matter involves two agencies which are the direct responsibility of the Minister for Finance and Urban Services:

- Department of Urban Services - for Tourism, Transport and Rural Matters
- Office of Industry and Development - for Business and Employment

5. Specific Tasks

Mrs Nolan's workload will include the following specific tasks in the immediate future:

- Assist in the development of the Government's proposal for an ACT Tourist Commission
- Liaise with industry and develop policies in relation to programs to assist small business

6. Methodology

In undertaking any such specific tasks, Mrs Nolan will focus on:

- The development of detailed policy proposals in accordance with the Alliance Government's policy statements
- Consultation with interested community groups

- Guidance and input to inter-agency policy development networks particularly in respect to political considerations important to the Government.

It would be inappropriate for Mrs Nolan to become involved in inter departmental forums. Resolution of disputes between agencies is more properly handled at the head of agency level or by the Minister (if the need arises).

7. Reporting Process

For her areas of responsibility the Mrs Nolan will:

- Endorse major policy proposals before their submission to the Minister for clearance
- Report progress and developments to Joint Party meetings
- Attend appropriate public forums including those involving discussion between agencies and the community

8. Material provided to the Minister

To ensure that the Minister is kept adequately informed on all important issues, submissions from agencies to the Executive Deputy are all to be forwarded to the Minister and should be addressed as follows:

MINISTER FOR FINANCE AND URBAN SERVICES

EXECUTIVE DEPUTY

Secretary
Department of Urban Services

Title of appropriate Program Manager

9. Correspondence

Mrs Nolan signs only correspondence replying to letters addressed to her.

10. Speeches

Requests to agencies within the Minister's portfolio for the preparation of speeches for Mrs Nolan should be made through the Minister's Office.

11. Media Statements and Engagements

Mrs Nolan's media statements should also be cleared through the Minister's Office. So too should the substance of comments to be made directly to the electronic media.

12. Meetings with Community, Business and Other Groups

The Minister should also be kept informed of the outcome of discussions held between Mrs Nolan and community, business or other representatives. Where such meetings are attended by an officer from the relevant department he or she should provide the Minister's office with a written record of the meeting by COB on the next working day. The same procedure should also apply in relation to meetings between the Minister and such groups.

13. Form of Letters

Mrs Robyn Nolan
Executive Deputy to the Minister for
Finance and Urban Services for
.....(indicate relevant responsibility)

Correspondence will be prepared on Office of the Minister for Finance and
Urban Services letterhead. .



~~Office of the Minister for~~
Finance and Urban Services

11/10/89

OPERATIONAL AND REPORTING ARRANGEMENTS
FOR THE EXECUTIVE DEPUTY IN THE
DEPUTY CHIEF MINISTER'S PORTFOLIO

Purpose

This document sets out the operational and reporting arrangements for the Executive Deputy in the Deputy Chief Minister's portfolio.

Background

The arrangements have regard in particular to:

the Chief Minister's comments in the Assembly on 14 December 1989, especially the basic principles that:

- Ministers will be entirely responsible for all matters in their portfolios;
- Ministers will be responsible in the Assembly for all matters in respect to their portfolios;
- the Executive Deputy's role is to provide an additional source of advice and assistance to the Minister in the exercise of his or her Ministerial authority;

advice on the legal and statutory parameters of the Executive Deputy's role, prepared by the Government Law Office;

the Chief Minister's recent letter outlining arrangements within his own portfolio.

Executive Deputy

The Executive Deputy in the Deputy Chief Minister's portfolio is Mr Bill Stefaniak, who has responsibilities in relation to two specific subject areas:

- . police and justice
- . sport and recreation.

Agencies

In the police and justice subject area, primary responsibility for policy development and administrative coordination rests with the Administrative Law and Justice Branch of the Government Law Office. Other agencies with specific responsibilities are:

- . Australian Federal Police (ACT Command);
- . Community Programs Branch, Bureau of Housing and Community Services (re corrective and remand services);
- . Director of Public Prosecutions (from July, when ACT component of function transfers).

In the sport and recreation subject area, the primary policy and operational responsibility rests with the Office of Sport, Recreation and Racing within the Bureau of Housing and Community Services. Other relevant agencies are:

- . Administrative Law and Justice Branch (re some racing matters);
- . Bruce Stadium Trust (following handover of function).

Specific Tasks

Mr Stefaniak's tasks will be subject to ongoing review and adjustment, through consultation between him and the Deputy Chief Minister. For the time being, there will be the following specific focuses:

(a) Police and Justice

- (i) Ongoing review and monitoring of the Alliance's 'Police and Justice' policy - advice to Minister on issues, processes and priorities.
- (ii) Detailed development and implementation of community policing arrangements for the ACT.
- (iii) Development of arrangements for the assumption by the ACT of criminal prosecution responsibilities.
- (iv) Development of options for changes to ACT sentencing and corrective services regimes.
- (v) Handle representations and correspondence on specific community policing issues, as and when referred by the Minister.
- (vi) Handle representations and correspondence on specific justice issues (eg., re court proceedings, operation of criminal law system, etc), as and when referred by the Minister.

(b) Sport and Recreation

- (i) Ongoing review and monitoring of the Alliance's 'Sport and Recreation' policy - advice to Minister on issues, processes and priorities.

- (ii) Handle representations and correspondence on grants and funding matters, as and when referred by the Minister.
- (iii) Represent the Minister at sporting functions and meetings, as and when requested.

Additionally, in relation to each of the designated subject areas, the Executive Deputy will provide, as and when requested on specific issues, an additional source of advice and comment to the Minister..

Methodology

In undertaking the above tasks, the Executive Deputy will focus on:

- . the development of detailed policy proposals in accordance with the Alliance Government's policy statements;
- . consultation with interested community groups;
- . guidance and input to inter agency policy development networks particularly in respect to political considerations important to the Government.

It would be inappropriate for Executive Deputies to become involved in inter departmental forums. Resolution of disputes between agencies is more properly handled at the head of agency level or by Ministers (if the need arises).

Reporting Process

For his areas of responsibility, the Executive Deputy would:

- . endorse major policy proposals before their submission to the Minister for clearance;
- . report progress and developments to Joint Party meetings, and
- . attend appropriate public forums including those involving discussion between agencies and the community.

Material provided to the Minister

To ensure that the Minister is kept adequately informed on all important issues, copies of minutes or submissions from agencies to the Executive Deputy in response to requests for briefings or advice should also be provided to the Minister.

Correspondence

Except where special considerations require that correspondence be prepared for the Minister's own attention, the Executive Deputy will sign most correspondence concerning his area of responsibility, both in reply to inward correspondence addressed to the Minister (and, of course, to the Executive Deputy) and outgoing correspondence initiated within the portfolio.

The Ministerial Liaison Unit will provide the Minister's Office with a regular schedule of all such correspondence.

Exceptions to this requirement could include letters:

- (a) to Commonwealth or State Ministers;
- (b) to the Leader of the Opposition and Shadow Ministers in the Assembly;
- (c) to other members of the Alliance;

- (d) to Members of the Commonwealth and State Parliaments;
- (e) on matters which the Minister has indicated a personal or continuing involvement (if in doubt a check can be made with the Ministers Senior Private Secretary);
- (f) which involve important policy initiatives or which may have major political implications or which establish an important precedent (including appointments);
- (g) to leaders of major community organisations.

Speeches

Requests to Agencies for the preparation of speeches for the Executive Deputy should be made through the Minister's Office in order to assist in the coordinated public presentation of Government policies and programs.

Media Statements and Encacements

Similarly, the Executive Deputy's media statements should be cleared through the Minister's Office. So too should the substance of comments proposed to be made directly to the electronic media, whilst the Executive Deputy should similarly keep the Minister's Office informed of all other contacts leading to media comments.

Meetings with Community, Business and Other Groups

The Minister should also be kept informed of the outcome of discussions held between the Executive Deputy and community, business or other representatives. Where such meetings are attended by an officer from the relevant agency he or she should provide the Minister's Office and the Executive Deputy with a written record of meeting by COB on the next working day. The same procedure should also apply in relation to meetings between the Minister and such groups.

29 May 1990

Acknowledgement

In addition to the matters identified above, the Executive Deputy will, where necessary, sign any acknowledgements on behalf of the Chief Minister.

Form of Letter

The Executive Deputy will sign over his name eg:

Hill Stefaniak.

Executive Deputy

Policy and Justice

or

Bill Stefaniak
Executive Deputy
Sport and Recreation

Correspondence will be prepared on the Ministers letterhead.

February 1990

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**ATTORNEY GENERAL FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION**

ACT Legislation

Question No. 102

Ms Follett - asked the Attorney General: on 15 February 1990

What provisions in ACT legislation (both Acts of the ACT Legislative Assembly and enactments within the terms of section 34 of the ACT (Self-Government) Act 1988 [Cwlth] remain uncommenced at the date of answering this question.

Mr Collaery - the answer to the Members question is as follows:

The Government Law Office has advised me that their records indicate that the following provisions of Acts (which have not been repealed) remain commenced

Audit Act 1989 as 6-23

Childrens Services Act 1986 s 103(2)

Commonwealth Functions (Statutes Review) Act 1981 as 3,4,34-40,
89, 90

Credit Act 1985 s 244

Egg Industry (Amendment) Act 1979 s 11

Imperial Acts Application Act 1986 s 4(2) and (3)

Landlord and Tenant (Amendment) Act 1976 s 48

Liquor (Amendment) Act (No. 2) 1987 s 6

Mental Health Act 1983 s 3(2) and (3)

Poisons and Narcotic Drugs (Amendment) Act 1988 the whole

Sale of Motor Vehicles Act 1977 as 27-30 and as 66-71

Teaching Service (Consequential Modifications) Act 1989 s 4(2)

Traffic (Amendment) Act 1987 the whole

Uniting Church in Australia Act 1977 s 11(2)

Water Pollution (Amendment) Act 1989 the whole

Weights and Measures (Amendment) Act 1978 as 6-8

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29 May 1990

**MINISTER FOR HOUSING AND COMMUNIST SERVICES
LEGISLATIVE ASSEMBLY QUESTION**

Public Housing

QUESTION NO 104

Ms Follett - asked the minister for Housing and Community Services - on 15 February 1990

- (1) At 5 December 1989, how many persons were registered on the waiting list for each of the following categories of public housing:(a)bedsitters,(b)1 bedroom flats,(c)2 or more bedroom flats,(d)2 bedroom houses,(e)3 bedroom houses,(f)4 or more bedroom houses,(g)aged persons units, and(h)each other category, including special programs, for which separate waiting lists are kept.
- (2) How many persons in each category at(1)above were considered to be priority applicants.
- (3) What was the estimated waiting time for(a)applicants and(b)priority applicants joining the waiting list at 5 December 1989 for each of the categories outlined at Mabove.

Mr Collaery: the answer to the Members question is as follows:

- (1) (a) 202
- (b) 900
- (c) 672
- (d) 531
- (e) 1058
- (f) 195
- (g) 594
- (h) No other separate waiting lists are kept.

- (2) (a) 0
- (b) 12.
- (c) 20
- (d) 13
- (e) 40
- (f) 9
- (g) 0

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(3) Waiting times for applicants;

(a)4-6 months

(b)30-36 months

(c)6-18 months

(d)24-30 months

(e)12-18 months

(f)12-24 months

(g)24-60 months(one bedroom garden flat)
18 months (two bedroom garden flat)

Waiting times for priority applicants;

(a)Approx 6 weeks

(b)8-12 weeks

(c)6-8 weeks

(d)6-8 weeks

(e)6-8 weeks

(f)6-8 weeks

(g)2-6 months(one bedroom garden flat)
2-6 months(two bedroom garden flat)

BERNARD COLLAERY

AGREED/ S

1990

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29 May 1990

**MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION**

Public Housing

QUESTION NO 106

Ms Follett - asked the Minister for Housing and Community Services on 27 March 1990

- 1) What is the current number, type and distribution of public housing in Hackett, Downer, Watson, Dickson and Ainslie.
- 2) Where is this housing situated, both in terms of block and section numbers and street addresses.

Mr Collaery: the answer to the Members question is as follows: (at 29 March 1990)

1)

Hackett 59 houses 43 flats

Downer 155 houses 10 flats

Watson 105 houses 65 flats

Dickson 119 houses 37 flats

Ainslie 475 houses " 111 flats

2. Given the need to protect the privacy of public housing tenants, it would not be proper to provide details identifying the precise location of the dwellings.

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MINISTER FOR HEALTH, EDUCATION AND THE ARTS

LEGISLATIVE ASSEMBLY QUESTION

Nursing Home Fees

QUESTION NO. 107

MR BERRY - Asked the Minister for Health, Education and the Arts on notice on 27 March 1990:

1. Why has the practice of charging pensioners in nursing home beds in ACT hospitals a maximum of 85% of their pension changed.
2. Will you undertake to reinstate the former practice so that the frail aged in our city are not further disadvantaged.

MR HUMPHRIES - The answer to Mr Berrys question is as follows:

There has not been a change in recent years in the practice of charging pensioners in nursing home beds in ACT public hospitals.

These pensioners continue to be charged a patient contribution of 87.5% of the sum of the standard rate pension plus maximum rental assistance.

As the same proportion is charged in all other States and Territories, pensioners in the ACT are not disadvantaged.

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29 May 1990

MINISTER FOR HEALTH, EDUCATION AND THE ARTS

LEGISLATIVE ASSEMBLY QUESTION

Nursing home fees (Question No 108)

MR BERRY - Asked the Minister for Health, Education and the Arts on notice on 27 March 1990:

1. Does the Minister intend to have section D of the schedule of fees to apply to the ACT under the Public Health Act 1928 (determined and amended in Special Gazette S46 of 21 December 1989 and Special Gazette of 31 January 1990) further amended to allow for a fee to be charged for nursing home beds for those over 16 years of age.
2. What fee has been charged for nursing home beds for people over the age of 16 since 21 December 1989.
3. What fee has been charged for nursing home beds for people over the age of 16 since 31 January 1990.
4. What measures will be undertaken to ensure such errors do not occur in the future.

MR HUMPHRIES - The answer to Mr Berrys question is as follows:

1. This question incorrectly refers to the Public Health Act.

The correct reference can be found on page 2 of the Special Gazette No. S1 dated 31 January 1990 which refers to the Determination of Fees and Charges of the ACT Community and Health Services Act 1985 pursuant to Section 78.

Corrigendum S15 dated 24 April 1990 amends this Determination to allow for a charge for nursing home beds for residents over the age of 16 years.

2. \$52.55
3. \$52.50
4. This occurred because of a typographical error and additional measures have been put in place to ensure that such errors do not occur in the future.

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MINISTER FOR FINANCE AND URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

WATER POLLUTION

QUESTION NO. 109

Ms Follett - asked the Minister for Finance and Urban Services on 27 March 1990

- (1) How many water pollution traps are there in the ACT.
- (2) What are the locations of the traps.
- (3) What was the date on which each of these traps was last cleared.
- (4) When is each trap next due to be cleaned.
- (5) What quantity of waste is each trap capable of holding.
- (6) To what use is waste material from the traps put after collection.
- (7) What contracts have been let for the cleaning of water pollution traps and at what cost.

Mr Duby - the answer to the Members question is as follows:

- (1) There are a variety of water pollution control structures presently in operation as follows:

Gross Pollutant Traps. There are at present 17 in-ground and nine open gross pollutant traps in the ACT. Gross pollutant traps can be either in-ground or open and typically comprise a concrete basin and metal trash rack. They are designed to intercept and retain coarse sediment, trash and debris and act as the initial water pollution control measure in the stormwater system.

Trash Racks: Independent trash racks are metal racks that are placed across open channels and like gross pollutant traps act as initial water pollution control measures. The racks are designed to intercept trash and debris only and do not have a concrete basin to retain coarse sediment. These have been placed in older established areas where it is impractical to build a gross pollutant trap. There are five trash racks in the ACT.

Water Quality Control Ponds. Water quality control ponds are the final control measure before discharge to the Murrumbidgee River or urban lakes such as Lake Tuggeranong and Lake Ginninderra. Water quality control ponds are designed to trap water for sufficient time to allow for finer sediments to settle, nutrients to be taken up and self purification mechanisms to operate on other contaminants. There are five water quality control ponds in the ACT.

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(2) Refer to Table 1.

(3) Refer to Table 1.

(4) The major proportion of the volume of pollutants retained in water pollution control structures (approximately 90%) is generated from storm runoff up to the 1 in 1 year annual rainfall intensity event (approximately equivalent of a heavy thunderstorm). Therefore, the frequency of cleaning is dependant on the frequency of significant storm flows in a given time period. The traps are not cleaned at regular predetermined time intervals.

Depending on land usage, size and type of development within the catchment some traps are cleaned more frequently than others. During periods of low rainfall it may be necessary to clean traps to prevent bad odours or potential health risks.

Throughout the life of the structures it is estimated that cleaning frequencies for the removal of sediment would be:

In-ground Gross Pollutant Traps 4 times/year

Open Gross Pollutant Traps 3 times/year

Trash Racks 6 times/year

Water Quality Control Ponds every 5 to 10 years

(5) The full capacity of each trap is identified on Table 1.

(6) At present all waste material collected from traps is transported to either Belconnen or Mugga Lane tip. Recycling of sediments such as coarse sand has been considered but is at present impractical due to the high cost of removing rubbish, decomposed vegetation, petroleum based pollutants and domestic pesticides.

(7) At present no contracts for cleaning traps have been awarded due to the uncertainty in annual cleaning frequencies and related costs. All cleaning of in line pipe traps is carried out by day labour and plant from ACT Electricity and Water contracted to the Department of Urban Services. Cleaning of open traps is carried out by the Department of Urban Services. Over the last 12 months a number of mechanical cleaning units have been retained to increase efficiency of the cleaning gangs and existing machinery.

Refer to Table 1 for average annual costs.

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ANSWERS TO QUESTION 109

TABLE 1

LOCATION	LAST CLEANING DATE	NEXT CLEANING DATE	POLLUTANT VOLUME (M3) APPROX	ESTIMATED CLEANING COST (PER ANNUM)
<u>GROSS POLLUTANT TRAPS: CLOSED</u>				
<u>BELCONNEN</u>				
Joynton Smith Drive	20.2.90	Jun 90	8	\$ 1600.00
Luxton Street	20.2.90	Jun 90	12	\$ 2400.00
Rae Street	20.2.90	Jun 90	5	\$ 1000.00
Benjamin Way	20.2.90	Jun 90	5	\$ 1000.00
Lathlain Street	20.2.90	Jun 90	20	\$ 4000.00
Eastern Valley Way	9.1.90	Jan 91	300	\$22000.00
Emu Bank (2No)	-	Jun 90	8	\$ 1600.00
				<u>\$33600.00</u>
<u>CIVIC</u>				
Parkes Way and Barrine Drive (2No)	16.8.90	Jun 90	8	\$ 400.00
Regatta Point	-	Jun 90	2	\$ 100.00
				<u>\$ 500.00</u>
<u>TUGGERANONG</u>				
De Little Circuit	6.3.90	Jun 90	16	\$ 3200.00
Mortimer Lewis Circuit	24.8.89	Jun 90	4	\$ 800.00
Drakeford Drive (2No)	7.3.90	Jun 90	12	\$ 2600.00
Tuggeranong Tafe	21.8.89	Jun 90	6	\$ 600.00
McDonald's Rest	22.8.89	Jun 90	4	\$ 400.00
				<u>\$ 7600.00</u>

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LOCATION	LAST CLEANING DATE	NEXT CLEANING DATE	POLLUTANT VOLUME (M3) APPROX	ESTIMATED CLEANING COST (PER ANNUM)
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GROSS POLLUTANT TRAPS: OPEN

BELCONNEN

Catchpole Street, Macquarie	4.90	Jun 90	-	\$ 7200.00
Dodwell Street, Giralang	4.90	May 90	-	\$14400.00
				<u>\$21600.00</u>

CIVIC

Sullivan's Creek	4.90	Jul 90	-	\$10000.00
Rond Pond	4.90	May 90	-	\$ 6000.00
				<u>\$16000.00</u>

TUGGERANONG

Bowen Park, Barton	9.3.90	Jun 90	-	\$ 9000.00
Wanniassa @ Athllon/Drakeford Drive	23.3.90	Jun 90	-	\$ 6000.00
Kambah @ Athllon/Drakeford Drive	23.3.90	Jun 90	-	\$ 6000.00
Wanniassa Sth Drn Monash	-	Jun 90	-	\$ 6000.00
Trap @ Upper Stranger Pond	3.90	Jun 90	-	\$ 6000.00
				<u>\$33000.00</u>

To clean 17 closed GPTs and 9 open GPTs costs approximately \$120 000 to \$150 000 per annum.

TRASH RACKS

Deakin	8.3.90	May 90	-	\$ 1800.00
Griffith	8.3.90	May 90	-	\$ 1800.00
Kambah	8.3.90	May 90	-	\$ 1800.00
Wanniassa	8.3.90	May 90	-	\$ 1800.00
Yarralumla	8.3.90	May 90	-	\$ 1800.00
				<u>\$ 9000.00</u>

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LOCATION	LAST CLEANING DATE	NEXT CLEANING DATE	POLLUTANT VOLUME (M3) APPROX	ESTIMATED CLEANING COST PER OPERATION
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WATER QUALITY CONTROL PONDS

TUGGERANONG

Tuggeranong Pond	-	1995	54000	\$490000.00
Isabella Pond	-	1996	55000	\$500000.00
Upper Stranger Pond	-	1996	30000	\$270000.00
Lower Stranger Pond	-	1998	25000	\$230000.00
Point Hut Pond	-	1997	60000	\$540000.00

29 May 1990

**ATTORNEY GENERAL FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION**

ACT Regulations

Question No. 113

Ms Follett - asked the Attorney General: on 29 March 1990

- (1) What regulations have been made by the Governor-General under section 31 of the ACT Self-Government (Consequential Provisions) Act 1988.
- (2) Which of these Regulations made modifications to Commonwealth Acts, and which Acts were modified in each case.
- (3) Which, if any, regulations have drawn upon the power conferred by subsection 31(2) of the Act.

Mr Collaery - the answer to the Members questions are as follows:

- (1) The Commonwealth has made the following statutory rules under section 31 of the ACT Self-Government (Consequential Provisions) Act 1988:

Statutory Rule 1989 Nos as amended by 1989 Nos. 52, 88, 188, 209, 210, 234, 298, 299, 304, 391, 392, 394, 395, 396, 397 and 398.

- (2) I attach two lists of the relevant legislation. One list is arranged sequentially whilst the other alphabetically.
- (3) All amendments were made under the regulation making power in subsection 31(1) of the Act.

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Listing of legislation modified by section 31(1) of the
ACT Self-Government (Consequential Provisions) Act 1988
by Gazettal

Name NO. Gazettal Commencement
Broadcasting Act 3/89 25/1/89 25/1/89
ACT Supreme Court Act 52/89 14/4/89 1/7/90 ss8AA
& 53
11/5/89 s28(1)
Director of Public Prosecution 52/89 14/4/89 1/7/90
Seat of Govt (Admen) Act 52/89 14/4/89 14/4/89

Administrative Appeals Tribunal 188/89 6/7/89 11/5/89

Freedom of Information Act 188/89 6/7/89 11/5/89
Economic Planning Advisory 209/89 7/8/89 11/5/89
Council Act
Employment, Education 210/89 7/8/89 11/5/89
and Training. Act
States Grants (Nurse Education 234/89 5/9/89 11/5/89
Transfer Assistance) Act
Parliamentary Contributory 298/89 31/10/89 11/5/89
Superannuation Act
Superannuating Act 298/89 31/10/89 11/5/89
Superannuation Benefit 298/89 31/10/89 11/5/89
(Interim Arrangement) Act
Remuneration Tribunal Act 299/89 31/10/89 11/5/89
396/89 21/12/89
Air Accidents (Commonwealth 304/89 17/11/89 17/11/89
Govt Liability) Act
Commonwealth Motor Vehicles 304/89 17/11/89 17/11/89
(Liability) Act
Sales Tax (Exemptions and 391/89 21/12/89 11/5/89
Classifications) Act
Child Care Act 392/89 21/12/89 11/5/89
Copyright Act 392/89 21/12/89 11/5/89
Environment (Financial 393/89 21/12/89 21/12/89
Assistance) Act
Environment Protection 393/89 21/12/89 21/12/89
(Nuclear Codes) Act
Merit Protection (Australian 393/89 21/12/89 21/12/89
Government Employees) Act

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Protection of Movable Cultural Heritage Act 393/89 21/12/89 21/12/89
Public Works Committee Act 393/89 21/12/89 21/12/89
Snowy Mountains Hydroelectric 393/89 21/12/89 21/12/89
World Heritage Properties Conservation Act 393/89 21/12/89 21/12/89
Disability Services Act 394/89 21/12/89 11/5/89
National Occupational Health and Safety Commission Act 394/89 21/12/89 11/5/89
Australian Bureau of Slats 395/89 21/12/89 11/5/89
Australian Wine and Brandy Corporation Act 395/89 21/12/89 11/5/89
Automotive Industry Authority 395/89 21/12/89 11/5/89
Dairy Produce Act 395/89 21/12/89 11/5/89
Fishing Industry Research and Development Act 395/89 21/12/89 11/5/89
Home and Community Care Act 395/89 21/12/89 11/5/89
Petroleum Retail Marketing Sites Act 395/89 21/12/89 11/5/89
Public Service Act 395/89 21/12/89 11/5/89
States Grants (Nature Conservation) Act 395/89 21/12/89 11/5/89
States and Northern Territory Grants (Rural Adjustment) 395/89 21/12/89 11/5/89
Urban and Regional Development (Financial Assistance) Act 395/89 21/12/89 11/5/89
Judiciary Act 396/89 21/12/89 21/12/89
Prices Surveillance Act 396/89 21/12/89 21/12/89

Public Accounts Committee Act 396/89 21/12/89 21/12/89
Public Lending Right Act 396/89 21/12/89 21/12/89
Racial Discrimination Act 396/89 21/12/89 21/12/89
Referendum (Machinery Provisions) Act 396/89 21/12/89 21/12/89
State and Territory Laws 396/89 21/12/89 21/12/89

and Records Recognition Act

Trade Practices Act 397/89 21/12/89 11/5/89
Telecommunications (Interception) Act 398/89 21/12/89 21/12/89

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Alphabetical Listing of legislation modified by section 31(1) of the

ACT Self-Government (Consequential Provisions) Act 1988

Name of Act	No.	Gazettal	Commencement
Administrative Appeals Tribunal	188/89	6/7/89	11/5/89
Air Accidents (Commonwealth Govt Liability) Act	304/89	17/11/89	17/11/89
Australian Bureau of Stats	395/89	21/12/89	11/5/89
Australian Capital Territory Supreme Court Act	52/89	14/4/89	1/7/90 ss8AA & s28(1)
Australian Wine and Brandy Corporation Act	395/89	21/12/89	11/5/89
Automotive Industry Authority	395/89	21/12/89	11/5/89
Broadcasting Act	3/89	25/1/89	25/1/89
Child Care Act	392/89	21/12/89	11/5/89
Commonwealth Motor Vehicles (Liability) Act	304/89	17/11/89	17/11/89
Copyright Act	392/89	21/12/89	11/5/89
Dairy Produce Act	395/89	21/12/89	11/5/89
Director of Public Prosecution	52/89	14/4/89	1/7/90
Disability Services Act	394/89	21/12/89	11/5/89
Economic Planning Advisory Council Act	209/89	7/8/89	11/5/89
Employment, Education and Training Act	210/89	7/8/89	11/5/89
Environment (Financial Assistance) Act	393/89	21/12/89	21/12/89
Environment Protection (Nuclear Codes) Act	393/89	21/12/89	21/12/89
Fishing Industry Research and Development Act	395/89	21/12/89	11/5/89
Freedom of Information Act	188/89	6/7/89	11/5/89
Home and Community Care Act	395/89	21/12/89	11/5/89
Judiciary Act	396/89	21/12/89	21/12/89
Merit Protection (Australian Government Employees) Act	393/89	21/12/89	21/12/89
National Occupational Health and Safety Commission Act	394/89	21/12/89	11/5/89
Parliamentary Contributory Superannuation Act	298/89	31/10/89	11/5/89

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Petroleum Retail Marketing 395/89 21/12/89 11/5/89
Sites Act
Prices Surveillance Act 396/89 21/12/89 21/12/89
Protection of Movable Cultural 393/89 21/12/89 21/12/89
Heritage Act
Public Accounts Committee Act 396/89 21/12/89 21/12/89
Public Lending Right Act 396/89 21/12/89 21/12/89
Public Service Act 395/89 21/12/89 11/5/89
Public Works Committee Act 393/89 21/12/89 21/12/89
Racial Discrimination Act 396/89 21/12/89 21/12/89
Remuneration Tribunal Act 299/89 31/10/89 11/5/89
396/89 21/12/89
Referendum (Machinery 396/89 21/12/89 21/12/89
Provisions) Act
Sales Tax (Exemptions and 391/89 21/12/89 11/5/89
Classifications) Act
Seat of Govt (Admen) Act 52/89 14/4/89 14/4/89
Snowy Mountains Hydroelectric 393/89 21/12/89 21/12/89
State and Territory Laws 396/89 21/12/89 21/12/89
and Records Recognition Act
States Grants (Nature 395/89 21/12/89 11/5/89
Conservation) Act
States and Northern Territory 395/89 21/12/89 11/5/89
Grants (Rural Adjustment)
States Grants (Nurse Education 234/89 5/9/89 11/5/89
Transfer Assistance) Act
Superannuation Act 298/89 31/10/89 11/5/89
Superannuation Benefit 298/89 31/10/89 11/5/89
(Interim Arrangement) Act
Telecommunications 398/89 21/12/89 21/12/89
(Interception) Act
Trade Practices Act 397/89 21/12/89 11/5/89
Urban and Regional Development 395/89 21/12/89 11/5/89
(Financial Assistance) Act
World Heritage Properties 393/89 21/12/89 21/12/89
Conservation Act

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**ATTORNEY GENERAL FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION**

ACT Ordinances

Question No. 114

Ms Follett - asked the Attorney General on 29 March 1990:

What, if any, Ordinances did the Governor-General make under section 8 of the ACT Self-Government (Consequential Provisions) Act 1988.

Mr Collaery - the answer to the Members question is as follows:

The Governor-General made one Ordinance under section 8. This law was subsequently retitled the Teaching Service (Consequential Modifications) Act 1989.

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29 May 1990

**ATTORNEY GENERAL FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION**

ACT Ordinances

Question No. 115

Ms Follett - asked the Attorney General on 29 March 1990:

Have any laws been omitted from or added to Schedule 3 of the Australian Capital Territory (Self-Government) Act 1988 by regulation made under that Act, and if so what are the details.

Mr Collaery - the answer to the Members question is as follows:

The Commonwealth amended Schedule 3 by statutory rule 1989 No. 86 under sections 34 and 74 of the Australian Capital Territory (Self-Government) Act 1988. The following laws were inserted in Schedule 3 by the statutory rule:

Canberra Institute of the Arts Ordinance 1988
Classification of Publications Ordinance 1983
Evidence Ordinance 1971
National Land Ordinance 1989
National Memorials Ordinance 1928
Police Pensions Ordinance 1958
Reserved Laws (Administration) Ordinance 1989
Reserved Laws (Interpretation) Ordinance 1989
Unlawful Assemblies Ordinance 1937

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**MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION**

Forestry Housing

QUESTION NO 117

Ms Follett - asked the Minister for Housing and Community Services:- on 29 March 1990

- 1) Was control of the houses at a number of ACT forestry settlements transferred from the Forests Branch to the Housing Branch with effect from 1 July 1984.
- 2) Was it a condition of the transfer that tenancies would be allocated from a separate rural housing list with preference being given to people on the list who are employed by the Forests Branch and who have a need to live in the area.
- 3) When was a decision taken to change the basis on which houses at forestry settlements are allocated, by whom, and for what reasons.

Mr Collaery - the answer to the Members question is as follows:-

- 1) Yes 2) Yes
- 3) The Public Housing Rental Assistance Program, prepared in accordance with the Housing Assistance Act 1987, and gazetted on 23 December 1987, now governs the allocation of public housing dwellings.

Forest workers have continued to occupy dwellings at the Pierces Creek, Uriarra and Stromlo Forest Settlements, with substantial rental subsidies provided by the Government. However as there is no longer a need to have forest workers accommodated at these settlements, reassessment of prior arrangements with forest workers is necessary, and is currently the subject of negotiations with the relevant unions.

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29 May 1990

**MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION**

Forestry Housing

QUESTION NO 118

Ms Follett - asked the Minister for Housing and Community Services:-on 29 March 1990

- 1) Is it true that there are two empty houses at the Pierces Creek forestry settlement.
- 2) Is it also true that several forestry workers have applied to live in the vacant houses.
- 3) Have those applicants been refused, and if so, for what reasons.
- 4) What alternative accommodation is being arranged for forestry workers refused access to housing at Pierces Creek.

Mr Collaery - the answer to the Members question is as follows:

- 1) Two previously vacant houses at Pierces Creek were recently occupied by unauthorised tenants. One of the houses was considered unsuitable for habitation and the other had been ready to be offered to a person on the public housing waiting list.
- 2) A forestry worker and his fiancée recently applied to register on the waiting list for government accommodation and specifically requested to be housed at the Pierces Creek forestry settlement.
- 3) These applicants were refused registration as their gross weekly income exceeded the eligibility limit for government accommodation.
- 4) Applicants for government accommodation whose incomes exceed the income limit generally seek accommodation in the private market. The Housing Trust is currently involved in discussions with the relevant unions concerning arrangements for the future management of the houses at the Pierces Creek forestry settlement. The applicants referred to at (3) above are currently occupying a house at Pierces Creek pending the outcome of the discussions with unions.

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**MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION**

Forestry Housing

QUESTION NO 119

Ms Follett - asked the Minister for Housing and Community Services:- on 29 March 1990

- 1) Is the Minister aware of a report in the Canberra Times of 15 March 1990 entitled "Forest homes facing the axe".
- 2) Did the Housing Trust remove a stove, a heater, and weatherboards above the roof flashing from the house known as No 203 Pierces Creek, thereby making the house uninhabitable.
- 3) Does the Minister approve of this action.

Mr Collaery - the answer to the members question is as follows:-

- 1) - Yes
- 2) The previous tenant of Cottage 203 Pierces Creek considered the house unsuitable for habitation, and requested a transfer to other accommodation. The Housing Trust agreed with his assessment and complied with his request. The Housing Trust then arranged for the removal of a number of items for use in other Trust dwellings. These did not include the weatherboards mentioned in "The Canberra Times" article. They did include a stove top fan which a long term Trust tenant had been waiting for some months. As forest workers have now indicated that they are willing to work together to improve this house to a habitable condition, the items removed by the Trust have been replaced.
- 3) Yes

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29 May 1990

CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY

LEGISLATIVE ASSEMBLY QUESTION

Consultancies

Question No 124

MS FOLLETT - Asked the Chief Minister and Treasurer upon notice on 24 April 1990:

What amount had been provided for consultancies in the budget of each agency within the Ministers portfolio.

MR KAINÉ - The answer to Ms Fallouts question in respect of the Chief Minister and Treasurers-portfolio is as follows:

Agencies within the portfolio notionally allocate funds for specific items such as consultancies within their annual budgets. Flexibility is provided to adjust such allocations as required throughout the year.

As a guide, details of notional allocations estimated for the current financial year for each agency are as follows:

Chief Ministers Department

\$570,000 (including \$170,000 in respect of the Priorities Review Board

Office of Industry and Development

\$1,400,000

ACT Treasury

\$360,000

Territory Planning Office

\$1,100,000

ACT Institute of Technical and Further Education

\$250,000

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MINISTER FOR HEALTH, EDUCATION AND THE ARTS

LEGISLATIVE ASSEMBLY QUESTION

Consultancies

QUESTION NO 127

MS FOLLETT - Asked the Minister. for Health, Education and the Arts on notice on 24 April 1990:

What amount has been provided for consultancies in the budget of each agency within the Ministers portfolio.

MR HUMPHRIES - The answer to Ms Folletts question is as follows:

-The Department of Education does not budget separately for consultancies but the estimated expenditure, excluding specific purpose programs, for the 1989-90 financial year is:

Government Schooling \$50,000

Arts \$5,000

Non-Government Schooling 0

The Department of Health does not allocate funds for specific items such as consultancies in its budget.

As a guide however, expenditures on consultancies up to April this financial year total \$447,800.

Based on this figure, it is expected that expenditure for 1989-90 financial year will be close to \$550,000.

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29 May 1990

CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY

LEGISLATIVE ASSEMBLY QUESTION

Travel

Question No 128

MS FOLLETT - Asked the Chief Minister and Treasurer upon notice on 24 April 1990:

What amount had been provided for travel and travelling allowance in the budget of each agency within the Ministers portfolio.

MR KAINE - The answer to Ms Folletts question in respect of the Chief Minister and Treasurers portfolio is as follows:

Agencies within the portfolio notionally allocate funds for specific items such as travel and travelling allowance within their annual budgets. Flexibility is provided to adjust such allocations as required throughout the year.

As a guide, details of notional allocations estimated for the current financial year for each agency are as follows:

Chief Ministers Department

\$83,000 (including \$4,000 in respect of the Priorities Review Board)

Office of Industry and Development

\$215,000

ACT Treasury

\$100,000

Territory Planning Office

\$12,000

ACT Institute of Technical and Further Education

\$150,000

Casino Surveillance Authority

\$10,500

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MINISTER FOR HEALTH, EDUCATION AND THE ARTS

LEGISLATIVE ASSEMBLY QUESTION

Travel Expenditure

QUESTION NO 131

MS FOLLETT - Asked the Minister for Health, Education and the Arts on notice on 24 April 1990:

What amount has been provided for travel and travelling allowances in the budget of each agency within the Ministers portfolio.

MR HUMPHRIES - The answer to Ms Folletts question is as follows:

The Department of Education does not budget separately for travel and travel allowances but the estimated expenditure, excluding specific purpose programs, for the 1989-90 financial year is:

Government Schooling \$293,000

Arts \$5,000

Non-Government Schooling 0

The Department of Health does not allocate funds for specific items such as travel and travelling allowances in its budget.

As a guide however, expenditures on travel and travelling allowances up to April this financial year total \$473,100. Based on this figure, it is expected that expenditure for 1989-90 financial year will be close to \$590,000.

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29 May 1990

MINISTER FOR FINANCE AND URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

Workers Compensation - Consultancy

QUESTION 132

Ms Follett - asked the Minister for Finance and Urban Services-

- (1) Has the Government commissioned Coopers and Lybrand or any other consultant to report on ACT workers compensation matters.
- (2) What is the object of this consultancy.
- (3) What are the terms of reference.
- (4) Which groups or individuals were consulted about the terms of reference.
- (5) What is the cost of the consultancy.
- (6) What is the reporting date.
- (7) What groups or individuals will be consulted during the course of the consultancy.
- (8) Will the Minister give an undertaking that all affected groups will be consulted prior to any recommendations being implemented.

Mr DUBY - the answer to the Members question is as follows:

1. The Government has engaged the Coopers and Lybrand Company to examine and report on ACT workers compensation arrangements.-
2. The object of the consultancy is for the Government to be provided with technical advice on which decisions can be made and a consultative process established in determining future workers compensation arrangements for the ACT.
3. The terms of reference for the consultancy are attached.
4. No groups or individuals outside the ACT Government were formally consulted about the terms of reference.
5. The maximum cost of the consultancy will be \$90,790.

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6. The consultant is due to report by July 1990.
7. The review team will seek the views of major interest groups during the fact finding stage. In addition, any interested person or organisation can forward a submission to the consultant through the Labour Division.
8. A consultative process will be established once the Government has considered the Coopers and Lybrand report to enable the views of all interested parties to be considered before any recommendations are implemented.

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29 May 1990

TERMS OF REFERENCE

The consultant will be required to:

(a) Undertake a review of and make recommendations on the operation and administration of workers compensation covering areas of employment for which the ACT Government has responsibility. The review should:

include an evaluation of experience gained from the New South Wales, Victorian, South Australia, Northern Territory and Commonwealth schemes;

cover compensation arrangements for both the ACT Government Service and the ACT private sector; and

meet objectives of providing a cost effective scheme for adequate compensation for workers pending return to gainful employment.

(b) Take into account the need for any suggested scheme to be acceptable to government, private employers and workers (unions).

(c) Provide a comprehensive report giving options on recommended changes to the conditions/benefits provided under the scheme and is particular to address the following issues:

the need for workers compensation to complement occupational health and safety legislation and systems; .

rehabilitation of workers (including how rehabilitation services for work related disabilities should be provided); journey claims; common law claims -retain fully, partially or abolish;--_.

alternatives to the current adversary system of handling disputed claims through the Magistrates Court; benefits of a fully funded or pay as you go scheme; and Ining of running costs for the scheme.

(d) Ensure that any changes proposed provide for expeditious handling of claims.

(e) Consider the possibility of there being one or a limited number of insurers which could be either a government insurer or private insurers or a mix of both.

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**TREASURER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION**

Public Authorities

Question No 133

MS FOLLETT - asked the Treasurer upon notice on 24 April 1990:

(1) What public authorities have been declared by (a) a law of the Territory, or (b) a regulation under sub section 87(2) of the Audit Act 1989, to be a public authority to which a Division of Part IX of the Act applies.

(2) What Division applies to each of the authorities so declared.

MR KAINÉ - The answer to the members question is as follows:

(1) & (2) - No public authorities have been declared to be public authorities to which a Division of Part IX of the Audit Act 1989 applies.

This Government has given its approval to the preparation of legislation which will have the effect, by a law amending the enabling legislation of the public authorities listed below, of bringing these authorities under the provisions of a Division of Part IX of the Audit Act 1989.

This legislation, which will be retrospective to Self-Government Day, will reflect in the ACT the audit situation for these authorities which applied under the Commonwealth regime. Exceptions to this are the elimination of the Bush Fire Council which has been subsumed into an on-budget program, and the inclusion of the Casino Surveillance Authority which is a newly created body.

The legislation will also clarify the timing of the preparation of financial statements and reporting for the transitional period from 1 July 1988 to 10 May 1989 and from 11 May 1989 to 30 June 1990.

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29 May 1990

PUBLIC AUTHORITIES WHICH WILL BE BROUGHT UNDER PROVISIONS OF DIVISIONS
OF PART IX OF THE AUDIT ACT 1989

AUTHORITY DIVISION

Australian Capital Territory Electricity 1 and 2
and Water Authority
Australian Capital Territory Gaming 1 and 2
and Liquor Authority
Australian Capital Territory Schools 1 and 3
Authority
ACT Institute of Technical and Further 1 and 3
Education
Building and Construction Industry Long 1 and 2
Service Leave Board
Canberra Theatre Trust 1 and 3
Casino Surveillance Authority 1 and 3
Community and Health Service 1 and 3
Legal Aid Commission (ACT) 1 and 3
Milk Authority of the Australian 1 and 2
Capital Territory
National Exhibition Centre Trust 1 and 2
Public Trustee for the Australian 1 and 3
Capital Territory
Trustees of the Canberra Public 1 and 3
Cemeteries

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Division 1 of this Part refers to its interpretation and application.

Division 2 contains provisions for public authorities required to keep accounts in accordance with commercial practice, covering the opening and maintaining of approved bank accounts, the investment of moneys, keeping of proper accounts, audit and financial statements and annual reports.

Division 3 contains provisions for public authorities not required to keep accounts in accordance with commercial practice, covering the opening and maintaining of approved bank accounts, keeping of proper accounts, audit and financial statements and annual reports.

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29 May 1990

MINISTER FOR FINANCE AND URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

Ainslie Transfer Station

QUESTION NO. 140

Ms Follett - asked the Minister for Finance and Urban Services:

(1) During the last year, what quantity of recyclable (a) glass and (b) paper and cardboard was collected at the Ainslie Transfer Station.

Mr Duby - the answer to the Members question is as follows:

(1) The quantity of glass collected at the Ainslie Transfer Station in the past year is estimated at 187 tonnes.

The quantity of paper and cardboard collected at the Ainslie Transfer Station in the past year is estimated at 858 tonnes.

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