DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

28 November 1990

Wednesday, 28 November 1990

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

SEXUALLY TRANSMITTED DISEASES (AMENDMENT) BILL 1990

MR BERRY (10.30): I present the Sexually Transmitted Diseases (Amendment) Bill 1990. I move:

That this Bill be agreed to in principle.

This Bill sets out merely to change the name of the Venereal Diseases Act 1956 and make some consequential amendments to other related legislation. Mr Speaker, the amendment Bill sets out to amend the principal Act in a number of its sections and also to amend the Pharmacy Act 1931, where it refers to "venereal disease", by substituting the term "sexually transmitted disease". That is a more modern approach to describing the ailments which may be transmitted by sexual means, and it seems to the Labor Opposition, at least, that it is a more appropriate way to describe those diseases.

There is very little more to say, other than to point out to the Assembly that we have consulted, as is normally the case with the Australian Labor Party, those areas of the community which would be concerned with this matter, including the Australian Medical Association. I understand that the Government will have no difficulty with the matter. I have discussed the issue with the Minister for Health, Education and the Arts, Mr Humphries.

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

PUBLICATIONS CONTROL (AMENDMENT) BILL (NO. 2) 1990

MR STEVENSON (10.32): Mr Speaker, I present the Publications Control (Amendment) Bill (No. 2) 1990. I move:

That this Bill be agreed to in principle.

Canberra is tagged "the porn capital of Australia". The Publications Control (Amendment) Bill (No. 2) 1990, which is tabled in my name, will bring the ACT into line with the Australian States, all of which have banned the sale, hire and distribution of X-rated videos. It will rid Canberra and the ACT of the blight of X-rated videos and the shame and ridicule associated with that dreadful tag.

Let us establish just what X-rated videos are. They are commonly referred to, by people who profit from pornography, as non-violent erotica - a term which is both inaccurate and misleading. The *Macquarie National Dictionary* contains the following definitions: "Erotica ... literature or art dealing with sexual love"; "pornography ... obscene literature, art, or photography, designed to excite sexual desire", and "obscene ... offensive to modesty or decency; indecent; inciting to lust or sexual depravity; lewd ... ". Key terms in these definitions are "sexual love" and "sexual desire".

X-rated videos are not about love or affection; they are obscene publications about lust and raw sexual desire. X-rated videos are not erotic; they are pornographic. Some which are legally available in Canberra plumb the depths of depravity and perversity with subjects such as urination and defecation as their central themes. Others, by their titles and contents, infer incest, child participation and adultery. These products are banned in the Australian States because they are offensive to decency and because of the harmful effects that they produce.

The evidence that pornography can lead to rape, child abuse and other sex offences has been shown. The extent of this effect is impossible to determine, but psychologists have established a link between pornography and criminal sexual acts. There is absolutely no evidence to suggest that the withdrawal of pornography will incite crime - - -

MR SPEAKER: Order! Mr Stevenson, I am having problems with this Bill of yours. I am looking at standing order 136, which is about a Bill or a motion of the same substance as any question that has been resolved in the previous calendar year. Quickly scanning the Bills, I cannot see any difference between the Bill that you have already presented to this Assembly this year and this one. Is there a substantial difference?

MR STEVENSON: Yes, indeed there is, Mr Speaker. Four clauses have been deleted and two have been added.

MR SPEAKER: Are those extra two substantially different?

MR STEVENSON: There are differences. The four that were deleted are substantially different. They affect the whole way in which the Bill is seen to operate and the effects that it would have.

MR SPEAKER: Please proceed with your speech on this matter; but I would ask you to bear that in mind when you present this Bill, to make it obvious to me that you are not breaching standing order 136.

MR STEVENSON: There is absolutely no evidence to suggest that the withdrawal of pornography will incite crime; therefore, this Bill will bring about a reduction in the incidence of rape and other sex offences.

Pornography degrades both men and women. Men are shown to be lustful and unable to control themselves; women are depicted as playthings to be used anywhere and at any time. Lesbianism is presented as being quite commonplace. According to pornography, women are always available to any man and eager to please in any way, often with multiple partners. This unrealistic portrayal of sexual behaviour can lead to unreasonable expectations and demands by men and, in turn, place unreasonable pressure on women to act in a manner that is distasteful to them.

Child pornography is already refused classification in this country and is therefore banned. However, many pornographic videos have titles which deliberately suggest involvement by and with very young people. They will appeal to those who already lust in that direction and, by heightening desire in those people, the risk of sexual abuse of children is increased.

There are no morals in the sex portrayed by pornography. Anything goes; there are no limits; excess is the order of the day. Past great civilisations have fallen because of excesses in the community and declining moral values. Consequently, governments have a responsibility to provide moral leadership, especially for the young. Moral leadership is dependent not on deep religious conviction but on just a sense of what is right and what is definitely wrong.

Some regard the laws restricting availability to persons over 18 as a sufficient safeguard against the inherent dangers of pornography. There are several reasons why they are not. Firstly, there is an assumption that persons of that age will be unaffected, but educators agree that visual stimulus is the most powerful of all. Secondly, the great bulk of the material is sold by mail order, but the distributors cannot determine that the recipient is over 18. Thirdly, there is nothing to stop an adult obtaining the material on behalf of a minor. Finally, control over the material is lost after the sale. Pornography can, and does, find its way into the hands of children through sheer negligence.

There is an argument that these publications are useful in helping people with sexual inhibitions or hang-ups. This is akin to showing people who have difficulty accepting death videos about wanton killing. People with sexual hang-ups are surely the most unlikely to be psychologically capable of handling pornography. A similar argument is advanced that pornography assists the release of sexual tension. Is not the more likely effect an increase in sexual desire, leading to possible sexual crime? Even the argument that pornographic videos can inject life back into a failing or boring relationship is fallacious. The desensitising effect of pornography is more likely to increase dissatisfaction with the partner who may not be as young and attractive or as unrestrained as those portrayed in the video.

Those who would oppose this Bill point to the right of individuals to choose what they watch in the privacy of their own homes. Individual freedom is a cherished right in a democracy, but it must always be tempered by the overriding requirement to ensure the common good and to protect the rights, freedoms and safety of all citizens. An example of this is the fact that, for the common good, certain types of pornography are effectively banned already by being refused classification. The question is not: Do we have censorship? Censorship is already in place and operating in this country; it enjoys majority support. The question here is one of degree; that is, where to draw the line.

Perhaps the most prevalent argument against banning X-rated videos is that the distribution could go underground and thereby involve criminal elements. The corollary of that line of thought is that child pornography should be legalised to bring it out into the open. Even if child pornography were available on the black market, most people would have no idea how to obtain it, and those who might be interested may not want to draw attention to themselves by trying to find out. The mere fact that pornography would be difficult to obtain, after the distribution became illegal, would be enough to stop most people seeking it out.

With a very small market available, the profit potential would be too small to provide incentive for criminal distribution, and stiff penalties would further reduce any remaining incentive. The threat by the distributors to take their distribution centres to another Australian Territory, or even to New Zealand, should not deter this Assembly either. Soon this dangerous rubbish will be banned there also.

A number of people in the ACT may lose their jobs when this Bill is passed. Once again, the overall benefit to the community is the primary consideration. There are also people in the ACT who are employed in the drug trade, but that does not prevent governments and the police from working to stamp out the trade in illicit drugs. Emerson said:

> We must hold a man amenable to reason for the choice of his daily craft or profession. It is not an excuse any longer for his deeds that they are the custom of his trade. What business has he with an evil trade? Has he not a calling in his character?

This Assembly should be working to increase employment opportunities in more productive and positive pursuits.

Unfortunately, many of these videos already exist in Australia, and this Bill will not and cannot make them disappear. However, the existence of these videos is not an argument against a Bill to prevent the further proliferation of harmful pornographic material.

There is nothing to justify the existence of pornographic videos; they have no artistic, literary or therapeutic value. Conversely, there are compelling reasons to prevent them from permeating Australian society - they can lead to sex crimes and child abuse; they degrade both men and women; and they contribute to the decline of moral values and family stability. The supporting arguments advanced by the dealers in pornography are unfounded and easily discounted. The arguments against banning are, likewise, without real substance.

The first responsibility of the ACT Legislative Assembly is to the citizens of the ACT. There is, however, a wider responsibility to ensure that the standards and laws applying in the ACT do not undermine those which prevail in the States. Furthermore, there is a reasonable expectation that Canberra, as the nation's capital, will take a lead in setting standards. The Federal Government, before relinquishing responsibility for the ACT, was remiss in not banning X-rated videos when there were growing calls for such action. This Assembly now has the opportunity to right that wrong, to the great benefit of ACT citizens in particular, and the people of Australia in general. I commend the Bill to the Assembly.

MR SPEAKER: I advise members that I am having my staff look at the similarities between the two Bills at this time. I will report back to the Assembly this afternoon, for us to decide whether, under standing order 170, action can be taken.

Mr Collaery: Before I move to adjourn the debate on this matter, I also take the point about standing orders 136 and 170. I believe that this Bill is out of order. Mr Speaker, this may assist your inquiries. By comparing the Bill that is now before the house with the Bill that was put forward earlier by Mr Stevenson, one finds that substantially all of this Bill is almost a replica. I am not speaking to the Bill yet, Mr Speaker; I am raising a point of order. I propose to adjourn the debate, subject to your ruling this afternoon; but I am taking a point of order. The point of order is that Mr Stevenson is introducing a Bill which is substantially the same as that which has already been dealt with by this house.

Firstly, clause 3 of the Bill that is before us now is the same as clause 3 of the Bill which was defeated in this Assembly. That clause not only is the same but also continues to offend section 23(1)(g) of the self-government Act, which states that the Assembly has no power to make laws with respect to, inter alia, the classification of materials for the purposes of censorship.

It is, and always has been, our argument that clause 3, subclause (b) of this Bill before us and the earlier Bill offends, in part, the self-government Act, and is ultra vires. Clause 7 of the earlier Bill is clause 4 of the present Bill; clause 8 of the earlier Bill is clause 5 of the present Bill; clause 9 of the earlier Bill is clause 6 of the present Bill; clause 10 of the present Bill is similar to clause 7 of the earlier Bill; clause 11 of the earlier Bill is clause 10 of the present Bill; clause 12 of the earlier Bill is similar to the new clause 9, and it goes on.

Mr Speaker, on the face of it, and deferring to your decision to rule on this matter this afternoon, the Government takes the view that the standing orders are offended, as quoted, and that this Bill is out of order. Nevertheless, I will move that the debate on the Bill be adjourned.

Ms Follett: I thought that was a point of order.

MR SPEAKER: That was a point of order. If anyone else wants to speak to it, he or she may do so.

Ms Follett: We do not usually speak to a point or order.

MR SPEAKER: In certain circumstances it is quite proper.

Mr Wood: We are getting very selective rulings lately, are we not?

Mr Collaery: On a point of order, Mr Speaker: Mr Wood has said that you have made a selective ruling.

Mr Wood: Like one yesterday.

Mr Collaery: There is an imputation so far as the Government is concerned. There has been no caucus between the Government and Mr Speaker about this Bill, which we are seeing for the first time.

MR SPEAKER: Mr Wood should pay more attention to standing orders and parliamentary procedure. I assume that he, of all people in this chamber, would have some knowledge in that area. For his education, I will point out to him and all other members that if a point of order is raised on a substantive issue, such as that raised by the Attorney-General, it is quite proper in all parliaments of the world to debate the point of order.

Mr Wood: Do you always allow that?

MR SPEAKER: Thank you for your observation once again, Mr Wood.

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

POLICE OFFENCES (AMENDMENT) BILL 1990

Debate resumed from 24 October 1990, on motion by **Mr Wood**:

That this Bill be agreed to in principle.

MR CONNOLLY (10.50): Mr Speaker, the Labor Opposition is proposing the repeal of the amendment to the Police Offences Act, the so-called move-on powers, not because we are in any way soft on street crime or favour unruly behaviour on the streets but because we believe that it is a fundamentally bad and unnecessary law which will have the effect of creating more conflict between young people and the police. Before I get onto our effective critique of the Bill, I want to refute allegations, which I know will come from the Government, that Labor is in some way soft on crime or uncaring about the effects of criminal activity on law-abiding citizens.

Mr Speaker, the Labor Party in this Territory is the only party that has publicly indicated that it favours implementation of the United Nations Declaration of Victims' Rights which has been implemented by the Government of South Australia but no other government. The Labor Party made its position clear on that some six months ago, but we have heard not a peep from the Government. Certain members of the Government, in particular, are keen on rhetoric about getting tough on law and order and supposedly getting tough on persons who are seen to break the law, but we have seen no movement towards the implementation of the Declaration of Victims' Rights. I commend to the Government that instrument and positive activity to address the concerns of victims rather than get-tough law and order rhetoric.

Mr Speaker, the proponents of the move-on powers legislation are keen to create the image that, without the move-on powers, Canberra will be a lawless place and that there will be havoc and chaos on the streets. That is simply not so. Before the move-on powers were introduced, there were, we say, effective means of dealing with unruly street behaviour and unruly and unreasonable behaviour by any persons in Canberra who are harassing their fellow citizens.

In the Opposition's view, the report of May 1990 from the Australian Federal Police, which explains the use of the move-on powers and documents each use of the powers, demonstrates that the move-on powers are unnecessary, because in each instance we can show that the situation that was dealt with by the use of the broad and arbitrary move-on powers could have been dealt with under the pre-existing law and the ordinary exercise of police discretion. Our concern is on the basis of civil

liberties. It is a fundamental objection to arbitrary and broad discretionary police power and a concern about bringing young persons, in particular, into unnecessary conflict with the police.

I noted the irony some months ago when I thought I might be called on to make remarks on the move-on powers. We were instead debating the ethics committee proposal of the Leader of the Opposition. On that day the Attorney-General was indicating that, while there was some merit in having an ethics committee, it was unnecessary to give it the powers proposed by the Opposition. He referred to that ethics committee as an attack on civil liberties which he, as Attorney-General, was always vigilant to defend. Mr Speaker, this is a prime example of an unnecessary attack on the civil liberties of Canberra citizens. It is a bad law which will have bad effects on police-community relations.

Mr Speaker, the many minor public place offences which had existed in the Police Offences Act 1930 and which traced their origins back to colonial New South Wales legislation were repealed in 1983 by the Police Offences (Amendment) Act of that year. That did not, however, mean that Canberra became some sort of haven for petty criminals or street violence. There are pre-existing provisions in the laws in place in the ACT which cover many of the instances that are cited to support the move-on powers.

The Crimes Act 1900 of New South Wales, as amended in its application to the Australian Capital Territory, makes provision, in section 61, for prosecutions for common assault. As the Attorney-General and Mr Stefaniak would well know, "assault" is a wide term. A definition from a standard text on criminal law by Watson and Purnell, Criminal Law in New South Wales, defines assault as an offer or attempt to apply force or violence to the person of another in an angry or hostile manner.

Mr Speaker, it is clear from that definition that "assault" covers not only the laying of hands on a person but also the offering of hostilities. That offence would cover many of the unruly street crime activities that are cited to defend the move-on powers. So, we have a pre-existing offence of assault that would cover that type of activity.

In 1983, at the same time as the old street offences provisions were repealed, a less serious offence was created by section 546A of the Crimes Act, which provides that a person shall not in, near, or within the view or hearing of a person in, or near, a public place behave in a riotous, indecent, offensive or insulting manner. A monetary penalty is provided. This provision, Mr Speaker, was inserted at the time the equivalent offences in the Police Offences Act were repealed in 1983.

In addition, section 351 was inserted in the Crimes Act, which effectively provides for detention of drunken persons who, in a public place, are behaving in a disorderly manner, behaving in a manner likely to cause injury to themselves or to another person or damage to property, or are incapacitated due to their being drunk and in need of physical protection.

Mr Speaker, these pre-existing provisions in the Crimes Act should provide a legal basis for effective policing in each of the circumstances cited in the Australian Federal Police review of the use of the move-on powers. When confronted with potential trouble in the circumstances set out in annex E, the police can use those offences either to make an arrest or to caution persons that, unless they desist, an arrest will be made. That latter proper exercise of police discretion is, in our view, the best way of avoiding trouble.

In effect, the policeman says - I will paraphrase the words that a policeman would be likely to use - "Listen, you blokes, if you do not clear off, we are going to have to charge you". That exercise of discretionary policing has been used traditionally in the ACT and in all other States to deal with situations of potential trouble.

Mr Speaker, I want to go briefly through some of the examples cited in the Federal Police report and instance how these could have been dealt with without the use of the move-on powers to achieve broadly the same result. Let us look at the second example cited in annex E of the police report. There was an incident on 13 November 1989 at 7 o'clock in the morning at Garema Place in the city, outside licensed premises. Fifteen to 20 persons were present. The police report says:

> Police were called to a disturbance and one person was taken into custody. As police were conveying this person away, the remainder of the persons in the area commenced exchanging verbal threats between themselves, and towards police. Police had an apprehension that further violence would occur. The persons were directed to move-on. They dispersed without further incident.

There we have an incident in which people were making verbal threats to police. That in itself is an offence covered by the Crimes Act. The police had the discretion either to arrest the person or to say, as I said, "Listen, you blokes, cut it out. Clear off or I will be forced to arrest you". They would have dispersed in that manner without the need for any further action.

Another example was on 13 January 1990 at Mawson. Eight persons were present, again at 7 o'clock in the morning. As Mr Stefaniak noted, most of these instances in which the move-on powers have been used occur in the early hours of the morning.

Mr Collaery: To which police report are you referring? What is the date?

MR CONNOLLY: It is the May Australian Federal Police report, which I clearly identified earlier in my remarks. If the Attorney had been present in the chamber or listening, he would have been aware of that. But I am quite happy to repeat my remarks for Government members who are not listening. In relation to the incident in Mawson on 13 January, at which eight persons were present, the report states:

> Police were called to a report of a brawl involving persons leaving a private party. As a result of initial enquiries one person was taken into custody. Due to the demeanour of the others present, police believed that further acts of violence would occur. A direction to move-on was given and the group dispersed without further incident.

So, again we had a group of persons acting in a threatening manner, lurking about by the police car, and the police had an indication that further acts of violence would occur. Again there was a brawl, and the police arrested one person but decided not to arrest others. They have the discretion either to arrest other persons for substantive offences or to use the time-honoured and effective discretionary police action of saying to the persons concerned, "You have the choice - you can clear off, or we will implement the law and arrest you for a substantive offence".

Mr Speaker, I could go on. There was another incident on 11 February at 3.00 am at Belconnen, outside licensed premises again. As Mr Stefaniak noted, it is often outside licensed premises that these offences occur. A group of 10 persons were seen fighting as police approached. So, Mr Speaker, there you have a substantive offence. There is a brawl going on, and police approach and identify individuals who are fighting; so the police have a basis for arrest. The report states:

> The fight stopped on police arrival, but there was no indication of the group dispersing. Due to the demeanour of the persons, police believed that the fight would start again as soon as they departed. A direction to move-on was given. All persons moved on without further incident.

Again, there was an actual offence in place when the police arrived. The police have the discretion either to make a substantive arrest for the actual offence or to use the possibility of making an actual arrest for a substantive offence to indicate to those persons that they have the choice - they either cut it out or move on.

Mr Speaker, what I am saying to those Government members who do not listen or perhaps do not understand is that there have been pre-existing provisions in the law, which cover the situation and which should make the streets of Canberra as safe as possible for citizens.

Mr Stefaniak: Unfortunately, they do not, Terry.

MR CONNOLLY: Mr Stefaniak says, "Unfortunately, they do not". That is true; the streets of Canberra are not perfectly safe, nor are the streets of any city or country town, nor are they any safer with this law in place. In our view, there are a number of incidents in which a young person may be with a group of people emerging from licensed premises, from a disco, and there is a fight or some activity on in the street. A person having no connection with that, not indulging in any illegal or threatening behaviour, may view the melee. Police arrive and the young person is moved on. That young person who was doing nothing illegal will carry for many years resentment at a police officer ordering him or her to move on when, in his or her view, he or she has done nothing. That brings the youth into unnecessary conflict with the police.

Mr Collaery: Produce the evidence.

MR CONNOLLY: The first prosecution for failure to move on was dropped. It involved the son of a former member of this place. In the public statements made by the person concerned and by his father, the position of the person charged was that he was in exactly that situation. He had been drinking in licensed premises in Civic. It was 3 o'clock or thereabouts in the morning. The individual concerned was a young person and was perhaps dressed in a manner that Mr Speaker would rule out of order if we came into this Assembly so attired. Perhaps he looked to a police officer like someone who might cause trouble, whatever that means in the discretion of a police officer. This person was ordered to move on, and he took great offence at that. He took the view that he had been doing nothing illegal, which indeed he had not, in my submission. He resented the fact that he had been ordered to move on. He took that as an arbitrary use of police power. That sort of thing can occur repeatedly with this type of legislation.

It is apparent - I think there would be agreement across the chamber - that one of the biggest problems that the police confront in dealing with urban crime is establishing a proper relationship with young persons. The Federal Police is certainly working hard on that, and we in the Opposition broadly support the initiatives that have been taken by the Federal Police in the last couple of years to move its focus to community policing rather than the apparently isolated police officer patrolling in a car and being seen to be cut away from the community. The Federal Police is well aware that if it is to make Canberra a safer place in which to live the police have to be seen by the

community as part of the community, and relations with the whole community, but particularly with young people, need to be improved.

Our concern is that this type of legislation, with its arbitrary move-on power, is damaging those efforts and creating needless conflict between police and young persons. In the incidents cited there has been violence, either actually applied or offered to be applied, and insulting or abusive language offered. That is another instance that is often cited in support of this legislation. It is said, quite properly, that ordinary citizens of Canberra are entitled to attend a restaurant or films or a theatre in the city of a Saturday evening and walk to their car or through the streets of Civic without being threatened or abused by persons in the streets. Indeed, they are entitled to have that expectation.

It is an offence to so threaten or abuse a person or act in an indecent, offensive or insulting manner, in the words of the Crimes Act. Persons so acting can be either arrested and charged or, in effect, spoken to and cautioned by police and told, as I think a policeman would say, "Listen, you blokes, if you do not stop it, if you do not clear off, I will charge you with offensive language", or whatever the matter is. In those instances, the persons being spoken to have their attention directed to precisely what it is that they are alleged to have done and have the choice. They can either accept the policeman's suggestion that they desist and clear off or stand on their digs and face being charged with a substantive offence. If they maintain that they were not doing anything wrong, they can get up before a magistrate and seek to establish that.

The problem with the move-on powers is that they are broad and arbitrary; they are so broadly encompassing that they catch a lot of people who are not engaging in unlawful activities and bring many of those people into conflict with police.

The real concern with this police report, from the Opposition's point of view, was the fact that when this report was compiled in April - I am sorry, I said "May", but it was compiled on 20 April - - -

Mr Collaery: Now you tell me. That is why I could not find it.

MR CONNOLLY: It was signed by Mr Collaery on 2 May and released to the Legislative Assembly on 2 May.

Mr Wood: Just by chance.

MR CONNOLLY: Mr Collaery, just by chance, could have found it if he had looked. He clearly knows what I am talking about. At that stage, when the legislation had not been in force for that long and dealing with a reporting period between September 1989 and the end of March 1990, in excess

of 700 people had been moved on. If the alternative approach had been adopted, of the police using the existing law and in effect cautioning persons who were seen to be offending, no-one would suggest that 700 would have been so dealt with. A much smaller number of people would have come into contact with police.

We are talking overwhelmingly, Mr Speaker, about young people. We are talking about teenagers, adolescents, people with whom the police are concerned to have good relationships. Statistics show that criminal activity peaks in adolescence, in late teenage years.

Mr Collaery: What?

MR CONNOLLY: That is right, Mr Attorney. I can refer to some papers and studies, I think again by Dr Wilson, about young people. They involve minor offences, not serious criminal activity. It is not bank jobs and break and enters, murder or serious assault; but it is the petty criminality, the minor offences, of perhaps unruly young people growing up. People grow out of crime, which is what the individual study to which I am referring found.

It is those people on whom we are wanting to focus if we are to build better bridges between the police and the community to have a really effective community policing strategy, which I am sure is the common goal of both the Government and the Opposition. In the Opposition's view, Mr Speaker, this type of arbitrary power, this move-on power, is an active deterrent and disincentive for good relationships between the police and the community. For that reason, it should be opposed.

MR COLLAERY (Attorney-General) (11.09): The Government opposes this Bill and will reject it. I think the answer to the Opposition's approach is in Mr Wood's first comments when he introduced the Bill on 2 May this year. He said:

> That power should never have been written into that Act. The background for that action and the thoughts behind it were based on narrow prejudice, preconceived and unproven ideas and entirely wrong opinions.

Clearly, despite the mass of information that I have made available, direct from police files, to the Opposition - - -

Mr Wood: Under pressure.

MR COLLAERY: Not under pressure at all, Mr Speaker.

Mr Wood: It came out on the day I spoke, did it not?

MR COLLAERY: Through you, Mr Speaker: Mr Wood, as your colleague read out, the report had come to me in April, shortly before I signed it. It was coincidental that you

introduced the Bill on 2 May. We have tabled other reports in this Assembly without request. Mr Speaker, this is a churlish response. It is unusual for Mr Wood to take that line.

The Labor Party's view on this is clear - it has an ideological objection to the move-on Bill. When it was introduced by Mr Stefaniak as a private member, it was amended quite considerably. Indeed, a select committee of this Assembly examined some of the issues that Mr Connolly, in his natural, youthful vigour, has resuscitated for this Assembly. I believe that Mr Connolly referred to section 546A of the Crimes Act, which allows people to be arrested, as he conceded, for offensive and insulting words, manners and the rest. I do not know whether he referred to the other provision, in the Protection of Property Act, section 10 or 11 as I recall it; but that, again, provides for an extreme penalty for youthful indiscretion.

The fundamental difference that I have with the Labor Party on that is that I have been there for many years defending these people, often losing because there is no other witness but the police.

Mr Berry: More often.

MR COLLAERY: More often losing, yes. It is a very difficult task. Mr Speaker, section 546A is one of the most vexed provisions in our criminal code. It allows a policeman who believes that he has been insulted to arrest someone.

One of the last matters that I handled involved the son of someone who is well known in this house, who had been arrested for saying some insulting words to a policeman outside the Ainslie Football Club. No-one else was present but his peers and young constables. In the evidence of the three constables one conceded that my client had used a word that he often heard in his police station and he did not find it offensive. Nevertheless, the magistrate convicted this youngster. He found the charge proven on the basis that it offended him. It was a misreading of the law because the test should be what offends the public. Nevertheless, despite the fact that 20 years ago in South Australia Mr Justice Zelling found that a provision like section 546A, which allowed the police constabulary to impose their concept of insulting language on the populace, was something that we did not need in modern criminal codes, Mr Connolly is accepting and endorsing it and endorsing the fact that he believes that the correct process is to arrest people.

I fundamentally agree with this approach, Mr Speaker. There has to be a balance. I have asked the police to monitor it very carefully, to see whether, since we brought in this move-on power, there has been a diminution in the numbers of arrests for offensive behaviour, which is the section 546A-like offence. According to the document that

was tabled in the Assembly when we last discussed this matter, dated 17 October 1990, and the police report - I noticed that Mr Connolly did not have the good grace to quote it and acknowledge it - last year there were 159 such arrests, but this year, in the same period, there were 102, as I read it. That is a drop of 30 per cent in relation to what I have often regarded as a rather noxious charge.

Mr Speaker, I simply take the view that there is a situation of public order affecting this Territory. As the Standing Committee on Social Policy has acknowledged, it has to do with drinking. If you look at annex A of one of the reports from which Mr Connolly has quoted selectively, you will see an incredible correlation. I have told the police that I want to know where these move-on powers are used, such as, at the bus interchange, Garema Place, East Row - you do not need to guess what they are referring to at East Row - Weedon Close and Chandler Street, Belconnen. I will not name establishments - that would be commercially unfair - but I leave it to you to guess.

Mr Wood: It is quite fair. I will name them.

MR COLLAERY: Through you, Mr Speaker: Mr Wood, I will not name commercial establishments at this stage because we are in the process of upgrading our machinery in the Liquor Act. That Bill is to come before the house this week. As you well know, we are toughening up our procedures in relation to these establishments. There is a correlation. I am also responsible for safety, and I receive complaints. I recently received a complaint about loutish, sexist behaviour towards women from patrons of a well-known terrace-type bar in the city. There is a youth justice coalition in the city. Numbers of groups are finely and properly attuned to these civil liberties issues; but I am not in receipt, nor is the public, of any level of complaint about the manner in which the move-on power is being used.

Under the community policing arrangements there is effective and constant dialogue with a community policing unit around the youth centre in Garema Place. The community workers have endorsed the view that this is a new and good development.

I am not going to say that every direction given by a constable will always be properly based. I acknowledge that there have been two complaints to the internal affairs tribunal - one complaint that was alluded to by Mr Connolly, affecting a son of a well-known person, and another complaint in relation to an incident that involved, on my advice, up to 150 people outside a drinking place in Manuka. I am not going to say that we will never have complaints; but, when you look at the statistics with regard to the 117 situations in which the move-on power has been used since its introduction, you will see that 1,670

persons were involved. It is easy to get up to those numbers when you consider the numbers of people present sometimes in and about youthful, drinking, disco establishments.

As Attorney, I am not in receipt of any volume of complaints in relation to this matter. As is reported in the 17 October police brief that was made available to the Opposition, there was a dramatic downturn in the number of formal directions being given in the quarter to the end of September this year. That may account for the cooler months when people are not out on footpaths. But certainly the youth community of the town is aware that the police have a move-on power.

As Attorney, I am watching very, very carefully the implementation of that power. I am on the record in this Assembly as saying that I will support its removal if I am provided with clear evidence that is being misused. Mr Speaker, on that latter point, there have been only 13 arrests in this entire period, since the Act was brought in in September last year. Still, we have had up to 100 arrests or charges in relation to public order of the nature of offensive behaviour.

It is my ambition to reduce the arrests further and to ensure that in police colleges and training sessions the police see that the move-on power, such as it exists - it was greatly watered down in its passage through this Assembly - does not relate to industrial disturbances or any such things, and therefore it should not have engaged the ideological objections of the Labor Party.

Mr Wood: What about your first Bill? What about the first Bill that was proposed, for heaven's sake?

MR COLLAERY: Through you, Mr Speaker: Mr Wood, I am not referring to the first Bill because you well know that that was amended. Mr Speaker, the Labor Party has had an ideological mind-set ever since the first Bill was introduced, but it did not get passage in this Assembly in its original form. It does not relate to those situations involving student- and industrial-type demonstrations.

As the facts show, this is a complement to the policing of our liquor-licensed establishments. That is what it has boiled down to. Mr Wood has to admit that it is a complement to it.

Mr Wood: A complement, yes.

MR COLLAERY: And, to a great extent, it is a compliment to the police who have to be credited for a professional approach to this new power.

Mr Speaker, clearly there is a great element of trust imposed on the police in relation to this power; but, as this community and every country town community know,

police have forever been telling youngsters to move on. In effect, we have formalised what has always been an informal procedure. Under the police directions in the manual that we have insisted be kept, they are required to keep effective field notes and full records of how and where it was used.

I concede that the Act is in the process of judicial interpretation. Magistrate Dingwall, as I recall it, has recently held in a case that the power should not be used in a group situation; it should be used only for an individual direction. I am sure the Opposition is delighted to know that there is a potential loophole in the Act. In other words, where there are 150 people outside a show, and three or four fights going on but only two or three constables in attendance, you cannot get a loudhailer out and say, "Could you all get back inside the doors" or "Go back to your cars" or "Go home".

On this interpretation, which I am still examining from a legal point of view, with the assistance of the Law Office, it appears that we may have to amend the Act if we want to give the power to make a group direction, or accept the fact that it can be used in only a one-to-one situation. That is yet to be resolved both in government and in this Assembly. If it comes back to this Assembly, I am sure that we will have the helpful contributions of those opposite. But I implore the Opposition to try to see this power for what it is. It is a fairly mute power to the police to encourage them not to make those arrests with which Mr Connolly seems to be content.

I accept that Mr Connolly has not practised in the criminal jurisdiction, and I say that with collegiate respect; but I do say to him that it is my very strong personal conviction that we needed to move away from the old concept of insulting language. We often need to give the younger constables, particularly, a slightly thicker skin in dealing with situations.

If, in balance, we empower them to ask groups to move on, and if, with the inquiries that I conduct constantly and the liaison that I have constantly at the youth centre and other places, I do not receive substantive complaints from the youth justice coalition and other like-named groups, then I am content at this stage to stand on this Act. I commend the police for the work that they have been doing to date to break up potentially violent situations, because that is what the Act is predicated on.

Recently on a front page of the *Canberra Times* we saw evidence of a dreadful tragedy. A blow was struck in one of the drinking holes here, and that left someone a quadriplegic. This is a development made for a community-based police force that has a community sensitivity. I commend the present law to the house. I do not support the proposed repeal of it and a return to the nineteenth-century legislative base which Mr Connolly supports but which I do not.

We on this side of the house want to be progressive. I think the Labor Party lives in the past, as Senator Richardson indicated last week. The Labor Party must come to terms with its own ideological mind-fixes before it comes out on this floor with these briefs. I am sure that Mr Connolly was speaking to a brief. I doubt that he believed all of it himself, but the left wing of the Labor Party is certainly ideologically opposed to - - -

Ms Follett: On a point of order, Mr Speaker: I do not believe that the left wing or the right wing or any aspect of the Labor Party is pertinent to the Bill that is under discussion.

MR SPEAKER: I do not think that is a valid point of order. Please proceed, Mr Collaery.

MR COLLAERY: Mr Speaker, the Leader of the Opposition has graced us with her presence.

Mr Berry: Relevance. On a point of order: the issue of relevance is a matter of order in this place. If the Deputy Chief Minister cannot remain relevant in a debate, it seems to me that he ought to be ruled out of order.

MR SPEAKER: Order! Mr Berry, I have ruled that it is my opinion that different political parties and factions within this Assembly do have opinions that are reflected in debate, and I think that is all that Mr Collaery said. I do not think it is a point of order.

MR COLLAERY: Mr Speaker, I seek a short extension of time, having been deprived of my right to finish the speech.

MR SPEAKER: Is leave granted? Please proceed.

MR COLLAERY: Mr Speaker, Mr Wood predicated the introduction of his repeal Bill on the view that the Bill was prejudiced, preconceived - - -

Mr Berry: I think I said no. Leave is not granted.

MR SPEAKER: I am sorry. I did not hear it.

Mr Berry: I said it loudly enough. It is not granted. On a point of order - - -

MR SPEAKER: Order! Mr Berry, with volume, obviously said no. I did not hear it. I apologise to the house for not hearing Mr Berry. I would ask him to speak up in future.

Mr Kaine: I move that so much of standing orders be suspended as would prevent Mr Collaery speaking for a further three minutes.

MR SPEAKER: You have to move only for an extension of time, Chief Minister.

MR COLLAERY: *(Extension of time granted)* I was rounding off and coming back to Mr Wood's statement that he brought this repeal to this house on the basis that the present Act was conceived on narrow, prejudiced, preconceived and unproven ideas. That surely is an ideological perception of the Labor Party, and I believe that it is fair for me to say that those perceptions find a great deal of support at home in the Left of the Labor Party which is usually more unreasoning on these issues.

Mr Speaker, I did want to make a comment about the two current complaints before the Ombudsman and the police internal inquiries. I do not have the reports in relation to either of those matters yet. One relates to the son of the well-known person to whom Mr Connolly referred. The other relates to the arrest of four persons in an incident outside the Bad Habits nightclub in Manuka on 7 October. I await with interest the outcome of those inquiries. I believe that they are being conducted properly and will be reported on to the Government by the Ombudsman.

If there is a chance of continuing to develop, at least on the community policing level, a bipartisan approach to the transitional period of community policing and the values and systems - - -

Mr Berry: The community party! What a joke!

MR COLLAERY: I will make available those reports properly, considering issues of privacy, as I have made all these other reports available to the Opposition.

Mr Berry: What a joke! The anti-community party.

MR COLLAERY: I do not recall being shown any police reports while I was in opposition.

Mr Berry: Kick the community. Kick it in the head.

Mr Jensen: On a point of order, Mr Speaker: we are hearing continuous interjections from Mr Berry, a person who seeks to speak uninterrupted but who continues to interject in the chamber. I suggest that we bring him into line, Mr Speaker. Throw him out if he cannot handle it.

MR SPEAKER: Order! Mr Berry, I would take that. I will put you on warning that this constant nagging interjection of yours at a low level gets everyone on edge. I would ask you to desist. You are on warning on that issue.

Mr Berry: On a point of order, Mr Speaker: I hope that I will be on warning only on issues that you can hear, not those reports of Mr Jensen, because, quite frankly, I do not trust what he would tell you.

MR SPEAKER: Yes, that will be on things that I can hear definitely.

Mr Jensen: Mr Speaker, that is an irresponsible comment by Mr Berry. He is suggesting that I am drawing to your attention matters that are incorrect. He is calling me a liar, and I request that that be withdrawn.

MR SPEAKER: No. I take your angst there - - -

Mr Jensen: It is an imputation, Mr Speaker. It is a personal reflection - under standing order 55.

MR SPEAKER: Order! I believe that the issue will be resolved if we just let that one lie. I exhort you to sit back on that one. I will look to your introspection.

Mr Jensen: If he says it again, Mr Speaker, I will take up standing order 55 again. It is a personal reflection on my integrity.

MR SPEAKER: Please proceed, Mr Collaery.

MR COLLAERY: Mr Speaker, the artful dodger is certainly someone who will dodge the move-on powers, but he will not dodge the fact that this Act is going to remain in place because there is no evidence to suggest that it is causing any harm. The evidence suggests empirically, before you in this house, that this Act has proven its social worth.

Ms Follett: What a load of rubbish!

MR COLLAERY: The Leader of the Opposition says that it is a load of rubbish. She contributes very little to debates, Mr Speaker. Last night, we had 2 hours from them, saying that the Community Development Fund should not be abolished.

MR SPEAKER: Order! Relevance.

MR COLLAERY: At the end of that debate we found out that their policy was to abolish it. Extraordinary!

In conclusion, Mr Speaker, I am going to continue to make available to the Opposition the full and voluminous reports on the use of the move-on powers. They have been made available. Although the Opposition's Bill will be defeated, it will be in a position to bring forward emotions and bring to the attention of the public any concerns that it may have.

Mr Connolly: On a point order, Mr Speaker: pursuant to standing order 47, I claim to have been misquoted or misunderstood in Mr Collaery's remarks.

Mr Collaery: Misquoted or misunderstood?

Mr Connolly: I think I was misquoted, but I was probably also misunderstood. He repeatedly was alluding to the Opposition's proposal as being to encourage the use of

arrest, whereas it was quite clear from my remarks to anyone who had listened to them that we were proposing the pointing out of the existing offence and, in effect, cautioning the offender, with the possibility of arrest.

Mr Collaery: On a point of order, Mr Speaker: he is debating the issue. He is trying to rectify a debating mistake. It is not a point of order under standing order 46.

Mr Connolly: I have never indicated that more people should be arrested, which is what Mr Collaery said.

MR SPEAKER: Order, Mr Connolly, please! Mr Collaery, what is your point of order?

Mr Collaery: My point of order is that he can obtain leave to explain matters of a personal nature.

Mr Moore: No. It is the wrong standing order. It is under standing order 47.

Mr Collaery: Under standing order 47 he is claiming that he has been misquoted or misunderstood. Mr Speaker, no-one misunderstood his words. He is standing up to redebate the issue. He clearly said that the arrest provision should be used.

Mr Moore: If you did not misunderstand it, you are misrepresenting him.

Mr Collaery: He said that the arrest provision should be used, and Hansard will show that.

MR SPEAKER: Order! Thank you for your observation. I will protect the house against debate on this issue. Have you finished, Mr Connolly?

Mr Connolly: My point was that I have never said that people should be arrested. I pointed out that people should be advised of that provision and cautioned.

Mr Jensen: Let the record show, Mr Connolly.

Mr Connolly: The record is clear and will show what I said originally.

MR MOORE (11.32): Mr Speaker, I think that the concern here is to balance the damage that this Bill causes against its advantages. Mr Collaery has pointed out a number of the advantages of this Act which provides the police with these extra powers. That side of it has been clearly explained, and Mr Connolly has gone some way to dealing with the damage caused by this Act.

The damage side of that equation is to do with the relationship between our young people and the police. In any community there is always a difficulty in the

relationship between those who are in authority in some way and, particularly, the younger members of our society. Having been a teacher of people up to the age of 18 for a number of years, I have had to deal with the same matter.

The goal that Mr Collaery claims is achieved is that the police can avoid taking the harder step by asking people to move on; therefore avoiding arrest. Mr Connolly has made it quite clear that that option always existed for the police, in the way of a caution in relation to a particular offence, which can be directed and understood clearly. It is the nature of young people in particular to question what is going on and to want a reason why a particular order is being given. It has to be given in this case because the police happen to feel that it is the best way to deal with the situation; whereas that would be a totally unsatisfactory reason for young people in particular, who tend to see matters in black and white much more than those of us who have dealt with issues over a much longer period.

I think that where the very conservative Alliance Government is coming from is most clearly illustrated by the support of big Bill Stefaniak - big Bill "Bully" Stefaniak who came out in support - - -

Mr Stefaniak: On a point of order, Mr Speaker: I would ask that the word "Bully" be withdrawn. It is an imputation. It is not very nice.

MR SPEAKER: That is a personal reflection, Mr Moore.

MR MOORE: Mr Speaker, it is quite clear that the support for a curfew and support for - - -

Mr Stefaniak: On a point of order, Mr Speaker - - -

MR SPEAKER: Order! Mr Moore, that is not - - -

Mr Stefaniak: I will give him warning about claiming to be misrepresented, too.

MR MOORE: Surely, the term "bully" is anything but unparliamentary, Mr Speaker.

MR SPEAKER: Order! It is a reflection under the circumstances in this debate - - -

MR MOORE: I think I have qualified it, Mr Speaker. His support for a curfew is a notion to bully young people, and I think the notion of big Bill "Bully" - - -

MR SPEAKER: Order! The imputation was that the member is a bully, his size aside. You cannot say that, Mr Moore.

Mr Stefaniak: Yes, standing order 46. Also, I will give Mr Moore notice that I will be making a personal explanation at the end of this debate on another thing that he has just said.

MR MOORE: Mr Speaker, I withdraw any imputation on my good colleague and the very likeable Mr Stefaniak.

MR SPEAKER: Thank you, Mr Moore.

MR MOORE: The very big Mr Stefaniak - that is because I am terrified of him. I think that one of the things that have established their position is Mr Stefaniak's coming out in support of the notion of a curfew. He reacted this way when the people of Port Augusta in South Australia voted overwhelmingly to support a curfew in that town.

Mr Stefaniak: I have never said that I support a curfew, Michael.

MR MOORE: I wonder whether Mr Stefaniak has been to Port Augusta and whether he is aware of the sorts of problems that exist in that town and just how far removed the problems of Port Augusta are from those of Canberra. Having been through Port Augusta on innumerable occasions, particularly during the three years when I lived in a town near Port Augusta, and having visited it on a number of occasions when my brother lived there, I think it is worth pointing out that the sorts of powers that this Alliance Government talks about and the sorts of things that apply in Port Augusta are worlds apart.

Should we in Canberra be approaching something like Port Augusta, I think many of us would consider that the balance about which I talked in my introduction - the balance between the damage on the one hand and what it achieves on the other hand - may well bring us to support something like that. But that is simply not the case in Canberra, except in some isolated circumstances.

The damage is to do with the relationship between young people and the police, and the emphasis that we in this house, in a bipartisan way, have pushed on community policing. I believe that it is a very positive thing that, to the best of my knowledge, all members of this house support the notion of developing our community policing and, certainly verbally, they also support the notion of extending that towards crime prevention, although the Government used its numbers to prevent a committee being established on that issue - crime prevention and the police.

Mr Collaery earlier also referred to the notion of a bipartisan approach to community policing in the transitional period. That is absolute nonsense, coming from Mr Collaery. This side of the house has asked again and again for some input into that and an opening of that process.

So, there is not a bipartisan approach, except from Mr Collaery's point of view, which means that he makes a decision and wants the others to agree. That concept of a

bipartisan approach is standard procedure for Mr Collaery. But it is not acceptable to this side of the house; nor is it acceptable to people in Canberra. The process must be opened up so that people know what is going on, so that it is not a fait accompli when Mr Collaery announces what the situation is going to be for the funding and use of our police force over the next year. It is anything but a method of getting a bipartisan approach to this sort of matter. I see Mr Collaery and the Chief Minister leaving now, too embarrassed about the situation and wondering how they should deal with it now that they have knocked back that proposal for a select committee and have not yet come up with any reasonable alternative proposal.

The relationship between the police and, in particular, the young people who are primarily affected by the move-on powers has the effect of a reverse onus of proof - not in a court sense where the reverse onus of proof applies to legislation, but in a personal sense. The police are saying, "You are in effect guilty. Therefore you have to go". The effect is to reverse the onus of proof, whereas Mr Connolly's solution, in which specific legislation is alluded to and a caution is provided, indicates quite clearly that the person is in the act of committing, or appears to be about to commit, an offence; therefore a caution is quite appropriate. At that stage, the relationship between the younger people in our community and the police, in regard to which the greatest difficulty exists, is built up. It is a relationship that we should be building on, not one that needs to have any damage done to it.

It is with those few words that I support this Bill that has been introduced by Mr Wood. I hope that the Alliance Government can see the sense in supporting it and removing those police move-on powers.

MRS NOLAN (11.42): At the outset I remind Mr Moore that on 24 August 1989, at page 1309 of Hansard, he supported the previous amendment Bill. The words were:

> I am quite pleased to support the Bill and the way it has now been ...

I will come back to that a little later, if I may. I would like to acknowledge the presence of VOCAL members in the gallery. I believe that the members of the Victims of Crime Assistance League are very concerned about the introduction of this Bill. I know that they are not the only ones who are concerned about it; I am sure that many other people in the community and the police also are concerned, because I believe that the additional power that the Police Offences (Amendment) Act 1989 gave the police has been of assistance to the police in performing their duty and protecting our community. One wishes that there was no need for an organisation such as VOCAL, but the reality is that crime and violence are prevalent in our community.

I am amazed that the Labor Party introduced this Bill into the Assembly, given that the Police Offences (Amendment) Bill 1989 was introduced and passed. It was gazetted in September last year, and it has a two-year sunset clause which will enable that Act to be reviewed in 1991. I am not sure why the Bill to rescind the move-on power was introduced. Mr Wood might explain that in his summing-up a little later.

It can hardly be said that it is about political point-scoring because one has only to realise how many people are in favour of the move-on powers that are currently in place. I would like to read into the record a poll from the *Canberra Times* of 19 August 1989. It refers to the move-on powers and states:

> Canberra people are strongly in favour of police getting more move-on powers and believe that prostitution should be legalised, according to a *Canberra Times* -Datacol poll.
>
> The poll of 651 people, taken over the past 10 days, shows that 69 per cent of all respondents favoured police getting more powers, with women (73 per cent) more in favour than men (66 per cent).
>
> Twenty-five per cent of the population surveyed were against the powers and the rest were unsure.

That shows overwhelmingly that there is support out there in the community. Given that the Police Offences (Amendment) Act 1989 has been in force for over a year and I believe that it has been working extremely well, I am not quite sure now why we are told by Mr Connolly, as we were this morning, and other members of the Labor Party that the Act is inappropriate. In the Attorney-General's comments this morning he quoted some figures in relation to the use of the move-on powers, which clearly indicate that not only have the powers been effective but also they have not unduly affected people's rights and freedoms.

I would like to expand on some of those figures. From 6 September 1989, when the move-on powers were introduced, until 30 June this year, of the 1,670 people to whom directions to move on were given, only 13 were arrested. Of those 13 people, six have been found guilty, and fines ranging from $40 to $150 have been imposed by the court. Charges against two were proven without a conviction being recorded and, as was mentioned earlier by Mr Connolly, one charge was withdrawn. As members are aware, this related to an incident involving Mr Bernard Whalan. The Attorney-General referred to that earlier today. Two charges were dismissed by the magistrate, principally because he considered that a direction had been given to a group, in contravention of the provisions of the Act. Charges relating to three people have been set down for hearing. *(Quorum formed)*

Mr Speaker, clearly 13 arrests out of 1,670 persons to whom directions to move on were given indicates that people have accepted the move-on powers and complied with them. Were these powers to be repealed, the police would lose a very valuable law enforcement tool, particularly with regard to their increasing emphasis on community policing in the ACT.

As members are aware, community policing means that police are visible in and around places where people congregate for recreation or other purposes. It is essential that the police have the capacity to defuse quickly any situations which have the potential for violence or to break up situations where violence is actually occurring. The police have said, as I said earlier, Mr Speaker, that the move-on powers are extremely important in this regard.

The Government considers that the police have used these powers responsibly and in a professional manner and that the community at large, having seen these powers in operation, would be loath now to have the powers removed. Therefore, it would be most unwise to have the provisions of this Bill agreed to. As has already been stated, the Government is obviously opposing the Bill.

Mr Speaker, I would like to conclude my remarks this morning with a quote from Alexander Solzhenitsyn:

> The defence of individual rights has reached such extremes as to make society as a whole defenceless against certain individuals. It is time to defend not so much human rights as human obligations.

Mr Moore: On a point of order, Mr Speaker: I claim to have been misrepresented and seek just a couple of minutes to - - -

MR SPEAKER: At the end of the debate, please, Mr Moore.

Mr Moore: It was a misunderstanding, I think, and I was misquoted, Mr Speaker. It is under standing order 47.

MR SPEAKER: It is a different thing.

Mr Moore: Yes, I should have said that it was under standing order 47.

MR SPEAKER: Please proceed.

Mr Moore: Mrs Nolan presented the notion and quoted from *Hansard* to suggest that I had supported the previous Bill. She understands solidarity and its importance. If she had read the text of the speech, as I am sure she did, she would have understood and would have given the house to understand that I said:

> I hope that this Bill will fill a small gap while the Social Policy Committee finds the appropriate solutions.

I also went on to point out that if there was even one example of this power being abused we would move to remove it. I will give just one more quote, Mr Speaker, before I wind up. I said:

> It should be understood that we perceive this as being on a trial basis, as filling a gap ...

We have had the trial, and now it is time for the move-on powers to be removed.

MR STEVENSON (11.50): Mr Speaker, I would like to look at why the original Bill was introduced. It was introduced because of a perception by people in Canberra that there was a problem with a certain number of youths causing offensive behaviour. The police did not have a problem; the people of Canberra had a problem. The police are merely public servants. They follow the law and seek to make this Territory a safe place for people. So, it is important to see, firstly, that it was a problem of the community of Canberra.

I think it is worthwhile to look at the brief history of this sort of problem in Australia. I think we all know that in the past police had a greater respect from youths. In the old days when police told young people to move on or gave them a caution, in the vast majority of cases they would follow that caution. It is unfortunate that in our society, in which many young people have been taught not to respect authority, not to respect the police, and have been taught rights without responsibilities, police are all too often ignored in their requests on behalf of the civilian population.

The result in the street is that a policeman or a number of policemen can be confronted by a group which may consist of dozens of people who are causing problems. At that time, the police have a choice in the current situation - they can ignore the problem or arrest somebody. It is unfortunate that the cautionary power that was once effective for police, which did not require the weight of law but which simply required the weight of authority, of respect for the law, is no longer enough.

Police have the choice - they can ignore the problem which will not go away or they can charge somebody. The statistics for offensive behaviour show that in many cases they would charge somebody. Since the introduction of the move-on power Bill they quite often use the power to move on, and it is shown that 30 per cent fewer cases of offensive behaviour are now charged. The police need to have a reason for making any charge within law. These things are not arbitrarily done; there should be a reason. So it is the case with the move-on power; police should have a reason before they use that.

I can well understand that this Assembly and people in Canberra should be very concerned about people's rights. We should be ever watchful over the rights of civilians in Canberra. It is fitting that this matter is debated in the house. There is absolutely nothing wrong with it being brought up again. However, we need to look at the result that it has for the benefit of the community as against the possible damage done.

Mr Connolly mentioned that a caution could be used. I think it is worthwhile to look at the fact that there is supposed to be trouble being caused. In Canberra one can be driving along the street, committing no offence, yet be required to give a breath analysis. There is certainly no suggestion when someone is pulled over that he or she has committed any offence. In line with the idea that people should not be cautioned for committing an offence, the Labor Party might look at the idea of people not being pulled over for committing no offence. The onus of proof is important.

From what we can make out, Canberrans agree with the move-on powers law. Mrs Nolan mentioned that in August last year 70 per cent of people in Canberra agreed with police having more powers to handle these problems. In the unofficial polls that I have conducted, this would seem to be borne out. From talking to a lot of people, it seems that they largely agree with this. I think it is very important that Canberrans agree with laws that we introduce and pass in this Assembly.

In conclusion, I think that the majority of people agree with the move-on power; it has been shown to result in fewer offences, and it gives the police the support of this Assembly. It is absolutely vital that we support police in their very difficult job of trying to handle problems on the streets. They are confronted with problems, and they need the backing of this Assembly to handle them. In this case they have the backing of this Assembly, and it appears that they have the backing of people in Canberra. It seems that the Act to allow police the right to have the power of law behind their caution is working. For that reason I will vote against the Labor Party's Bill.

MR DUBY (Minister for Finance and Urban Services) (11.57): Mr Speaker, when, for want of a better term, the move-on Bill was introduced into this Assembly a number of people throughout the community, including me, had concerns about its effect. We were worried that the Bill would be another string in the bow of the police and increase their powers and unduly allow them to have their way, particularly with young people around the city, in a form of harassment. As I said at the time, I was very concerned. However, Mr Speaker, I think the facts speak for themselves.

Mr Moore: Now you are a member of the Alliance.

MR DUBY: That is right. I am a Minister, mate, but you are not.

Mr Moore: Now you are a member of the Alliance and a Minister, and you have gone very conservative.

MR DUBY: I am a Minister, and you are not. Not only that, but you could have been. The move-on powers have been effective. It has been pointed out in the debate that over 1,600 people have been requested by the police to move on and, of those 1,600, less than one per cent or, I believe, 13 people have been arrested. I think those figures speak for themselves. The vast majority of the directions to move on, which have been given by the police, have been complied with.

I guess the question that then arises is: what would the Opposition wish to put in place of this Act? Obviously the answer seems to be nothing. The AFP have said that the move-on powers are a valuable law enforcement tool and, looking at those statistics, I can see why. The implication, Mr Speaker, is that they are essential to the maintenance of law and order and to the well-being of the average member of the community. Without such a tool, well used as it has been, they would be powerless to effectively address situations in which violence may erupt or in which violence is actually occurring. That is a matter about which all thinking members of the community, particularly those with young children, are concerned.

The move-on powers have proved to be effective without impacting on people's personal freedoms; yet they ensure that the rights of citizens to participate peacefully in events or to be in public places without having to experience undue harassment are upheld. Mr Speaker, I think the repeal of the move-on powers would be of considerable concern to the community. To that extent, this private members' Bill, the Police Offences (Amendment) Bill 1990, should not proceed.

MR JENSEN (12.00): Mr Speaker, I wish to make a couple of points about the issues raised by Mr Connolly during this debate, plus a couple of comments on the matter. It seemed to me that when Mr Connolly was speaking there was a suggestion that the police should be taking up the cudgels, so to speak, and arresting people for incidents that were taking place rather than seeking to discourage the need for arrest by asking these people to desist from what they were doing, certainly in relation to the offensive behaviour that sometimes we see in the streets.

I think it is important that our young people be given the opportunity to reconsider their actions and possibly move a little further down the road rather than force themselves into a confrontational situation with the police and the subsequent problems associated with that, which would result in an arrest and an appearance before a magistrate.

When I was a youngster in a small country town the local police officers did not need the move-on power when dealing with the sort of unruly behaviour to which Mr Connolly was referring. There was a degree of grudging respect, if you like, for the local police officers. It was basically a case of their reading us the riot act, telling us to move on and sending us home, and usually they followed up such an incident with a brief discussion with our parents.

Mr Wood: It never happened to me.

MR JENSEN: They did not do it to you, Bill?

Mr Wood: No.

MR JENSEN: You are unfortunate. You must not have lived in an enlightened country town where that sort of approach was adopted by the police. It seemed to work quite well.

Mr Moore: He lived in Queensland.

MR JENSEN: Yes. So did I, Mr Moore. Unfortunately, over the years there has been a change in the attitude of some of our young people. In some respects, it is one of the prices that we have had to pay for young people being more aware of their rights. Before anyone suggests that I am implying that young people should not be made fully aware of their rights, I will say that that is not the case at all. As a parent of teenage youngsters, I have noticed the different attitude that they have brought to our home and issues that have been raised with them by the school and their peers. So I am fully aware of the changes in attitude that this has brought on since my day.

However, might I suggest with respect, Mr Speaker, that the information that is provided in these circumstances about our new rights also requires an acknowledgment that other people have rights as well. I think it is important for youngsters to consider very carefully their actions and take due note of their consequences before they take any actions that may result in problems of the sort that we have identified.

It seems to me, Mr Speaker, that one way to resolve the issue that has been raised by the community is to establish a very firm working relationship between police and, particularly, our young people. I fully support, as I know the current assistant commissioner for the ACT fully supports, the concept of the relationship between our young people and the police, and I will discuss that a little more later.

As I have already indicated, over the years there has been a slowly developing change in acceptance of authority. I was pleased to see the support for the development of this sort of working relationship between the police and our younger citizens by Mr Moore. I also note the comments

made by Mr Moore during previous debates, which supported the original Bill, and I think it is important that that fact should be put clearly on the record.

However, once again, there are two sides to an argument. I would suggest that the task of policing our community is not an easy one. Many members of the police force often have to put their lives on the line. When they approach a given situation, they do not really know what the end result may be. There have been a number of tragic incidents in other States - fortunately, not so much in the ACT, although I recall that at the last police memorial service an ACT constable was listed amongst those who had paid the supreme sacrifice in assisting the policing of our community.

Another aspect of the police men's and women's role is to attend some pretty nasty incidents, be they traffic accidents or some other situations that have pretty horrific results, particularly murders, et cetera. As Mr Berry well knows from his time working in the emergency services, those sorts of things can have a major effect on the personality of a person who comes across that sort of situation on a number of occasions. I think it is important to ensure that the necessary degree of counselling and advice is given to police officers in these situations. To be fair, we must remember that there are continuing pressures on our police men and women in this city, and it is important to acknowledge that.

However, let it not be said, Mr Speaker, that at any stage I would condone the sorts of activities that have, on odd occasions, surfaced in relation to the actions of police officers in their dealings with young people. Like everybody else, I think that police officers have a responsibility to ensure that their dealings with the public are conducted in such a way that the sorts of problems that occasionally appear before the police ombudsman are not required to take place, because they have received the necessary training, assistance and advice to cover these sorts of areas, particularly some of the younger police men and women in the earlier parts of their careers. I think it is important that the training ensure that they develop this relationship and knowledge of attitudes of some of our young people. It is something that I would like to see encouraged, and I think it is very important.

On that note, Mr Speaker, I would like to suggest that clearly there is an indication that the use of these powers be continued, provided that they are properly and effectively used and monitored. There have been some 1,670 incidents in relation to which the move-on powers have been used, resulting in only 13 arrests. I am also advised that there has been a considerable reduction in the number of offences that have taken place in the past, which have often resulted from the sorts of incidents that the move-on powers now seek to resolve.

So it seems to me that there has been an improvement in the situation and I think that, properly managed and developed, this arrangement can be very useful to our community. Mr Speaker, on that basis, I am proposing today to vote against the proposal by the Australian Labor Party to repeal the move-on legislation.

MR WOOD (12.08), in reply: Mr Speaker, as I wind up the debate, a good starting point might be to go to some of Mr Collaery's comments when he quoted the words that I used when I introduced this Bill. To requote those words, I said that the background for the action and the thoughts behind it were based on narrow prejudice, preconceived and unproven ideas and entirely wrong opinions. I stand by those words. The original Bill was introduced by Mr Stefaniak, the person who proposes a curfew for our young people, the person who would apply stringent bail conditions to young offenders and who would want tougher provisions inserted into his Bill. So I think my statement is correct. It is borne out by events that have occurred and statements from Mr Stefaniak since that time.

A great deal has been made of statistics that were provided at the request of the Opposition following the promise in the select committee's report concerning the subsequent data from the introduction of that Bill. On the day that we debated my Bill first, Mr Collaery finally provided those statistics. He seemed to present them at the time as some great feat and something that was going to embarrass us severely, which we had not taken into account; yet, let me make it clear, we had asked for them.

Those statistics make one thing quite clear - that in a very short time and with a limited sample there has been a decrease in the number of charges. But, very significantly, there has been a considerable increase in the level of conflict between the police and young people. It does not seem to me to be a good move to increase the conflict between police and young people. I will have something more to say shortly about the way in which the police deal with young people.

Mr Speaker, I am concerned to make Canberra a safer place. I recognise the role that I share with other members of this Assembly as a legislator, and I am very concerned that Canberra should become even safer. On another committee on which I served, arising out of Mr Stefaniak's original proposal, we were told that, by any standard, Canberra is a safe place. My starting point is the simple statement that any level of violence is unsatisfactory. Canberra, then, is still not safe enough. And I would encourage only action that would achieve greater safety.

In his speech Mr Connolly showed that the move-on powers are simply not necessary. There are provisions in the law, as he clearly showed, under which police in all sorts of circumstances can take the appropriate action; there is no

question about that. With these move-on powers a policeman can say, "Move on or I will charge you". With the conditions before that, the conditions that should apply, a policeman can say to a person, "Move on", and specify what likely charges will arise, "or I will charge you". That surely is the better way to go. That does not allow for misuse; it does not allow for excesses either, on the part of the people to whom the police may be talking.

One of the speakers on the other side of the house made a point with which I agree, although it was not developed, and that relates to the training of police. I think therein lies a great deal of the problem that we have. The police have the most difficult task of all - dealing with people. That is no easy task; we all know that. Often those people are intoxicated. I do not believe that sufficient attention is given in their training to how to deal with people. It requires great skill. The training is inadequate. Some people have a natural tact and an ease or a firmness of manner, as the occasion requires; others do not. But it is not something that is lightly acquired.

I know this only too well. Mr Jensen said that young people today have changed; they are more demanding - I forget his precise words - they require or demand more; they are much more aware of their rights. As a teacher, I know that only too well. In my career, before I came to this place, my whole approach had changed over the many years in which I was engaged as a teacher.

I hope that the police also have made those changes that society has enforced upon them. In any classroom in which I taught in recent years I could not enforce a rigid discipline - "You will do this or else". It is not appropriate, and it simply does not work; the same applies to the police. We have a society today, as described, that will not allow that to happen. If you explain things to people, whether they are in school or in the community, you will get a better result - not always a successful one, I would add.

So, let me concentrate some thought on the need for greater training of police to deal with people. I acknowledge that in a great number of circumstances in which police come in contact with young people, particularly late at night, alcohol is involved. It has to be handled carefully. I do not think that simply saying, "Move on or I will take you to gaol" is the way to do it.

A further problem that I have with this legislation is that some people are more likely than others to be so arrested. I know Mr Whalan's son. He was a natural to be picked; there is no doubt about that. He has some of his father's characteristics, too, in terms of how he should be approached. That case was dropped. I will say no more about it, but it suggests that the provision was not appropriate.

My main concern, however, is that the original Bill does not attack the cause of the problem, and therefore it is not a serious proposal. It is appropriate that I say this because later today we are to consider amendments to the Liquor Act. I think that is where we should be looking. If you want to be serious about this, Mr Stefaniak or Mr Collaery or anybody else, that is where you should be looking. Mr Collaery mentioned the case of a young person who is now rendered in a most distressing condition because of a brief scuffle outside a nightclub in Civic.

I do not recall when that happened, but I believe that it was during the time of the move-on powers. With or without move-on powers, that was going to happen because of what occurred within that club, because of the ability of a licensee to pour liquor into people indefinitely and to turn them out onto the streets in a condition in which they will be argumentative.

If you want to stop this violence, and we all do - I do not disagree with your intentions in this respect - look at the real cause of it. I have looked carefully at the Liquor Act and the amendments that Mr Collaery proposes. There is only some comment about under-age drinking.

Mr Collaery: I trust that you are talking about the Labor Club, too, are you?

MR WOOD: I will talk about any club, yes.

Mr Collaery: Okay, right, you are on the record.

MR WOOD: It will not be long before, in this Assembly, I stand up and list the names of a whole lot of places where there should be some serious action. In your proposed amendments to the Liquor Act, which are fine amendments as I have seen them, nowhere is there a - - -

Mr Collaery: Your committee recommended all of them.

MR WOOD: That is what I am about to say, but you have not followed the whole course of our recommendations. If you were serious about stopping violence about which we are concerned, you would have had many more amendments in front of us later today. I am sure that is the way to proceed. What is the point of turning young people out onto the streets - so then you are going to have some powers for the police to move them on - in a condition in which they should never be found?

You have a chance today to take some serious action. This was not in our report, but we ought to consider making licensees responsible for the actions of the people whom they make drunk. What about that? That is a very heavy

measure. Some of you are saying that we have great problems requiring great attention. If we do not have so heavy a measure, what about enforcing the laws that prevent the serving of intoxicated people?

What about settling some of the difficulties of enforcement in the relationship between licensing officers and the police? There seems to be some confusion there, our committee noted. Why is there not something in here clearly to establish what happens? A question for which you might prepare later is: you are going to have greater checks on under-age drinking - that is great - but are you going to be able to enforce them? What is the point of having stronger measures if you cannot enforce them?

Mr Collaery: Do you want a pub card?

MR WOOD: It is worth considering, is it not? What about taking some active measures to promote low-alcohol beer in this town? Let us see some serious measures come up through your legislation to deal with the problem. Let us not get some hit and miss stuff that sounds good and is admittedly, on the surface, popular in the community. What about some education? We have made great strides, in recent times, in relation to tobacco legislation and attitudes of people towards tobacco. Let us take some serious measures, at least as strong as that, towards alcohol and the damage that it does in our society.

Before I conclude, Mr Speaker, I want to repeat a point that I made in my first speech. I said that the select committee had made inadequate reference to the top legal advice that it had received. I thought that was a deficiency in the report, such a deficiency that I simply want to say it again because it is an important fact. Had that advice been taken, the report of the committee that looked into move-on powers would almost certainly have been different.

The ALP is very concerned about our basic freedoms - our freedoms, in this case, of movement and assembly. We balance those up against the other needs, and it becomes very clear that these unnecessary, inadequate, purposeless, undesirable amendments that Mr Stefaniak moved some time ago achieve no purpose. They do not attack the problem, and they are an infringement of our liberties. You should support this Bill.

Question put.

The Assembly voted -

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

Question so resolved in the negative.

PERSONAL EXPLANATION

MR STEFANIAK: I rise in relation to standing order 46. I claim to have been misrepresented.

MR SPEAKER: Please proceed.

MR STEFANIAK: During the course of this debate - specifically some comments that Mr Connolly made and also one point that Mr Moore made - a number of points were raised. One was to do with a declaration of victims' rights; the other was to do with the question of a curfew.

Firstly, in relation to the curfew, because both members mentioned that, I do not know whether these people really listen to the radio and actually hear what is said. All I said in relation to a curfew in Port Augusta was that I was interested in it, and that I would be looking at that and bringing that to the attention of the Attorney-General so that he could see what happened there, too.

In relation to supporting anything, the only thing that I stated was that I support any measures that help reduce youth crime. At no stage have I expressed support for a curfew. I do not know how it would operate. I do not know whether it would be worth supporting or not. Like a number of other people, I can see some potential difficulties with it in the ACT. I want to put that matter well and truly to rest.

Ms Follett: Mr Kaine does not agree. That is the biggest difficulty that you have.

MR STEFANIAK: The Government is not even looking at it at this stage, and there is no reason why it should. I do not even know whether it is going to operate in South

Australia, Ms Follett, so there is no way it can be supported or otherwise at this stage. Let us get that quite clear.

Secondly, Mr Connolly was saying how the members on this side, including me, were hot on rhetoric and that the Labor Party was supporting a declaration of victims' rights and had done so for six months. The Liberal Party has been supporting that position for some two years. Mr Collaery's Law Office is looking at that and the question of victim impact statements at present, as it is looking at a number of other laws. I have been pushing for victims' rights and victim impact statements for a number of years. I hope to see the necessary legislation in relation to that brought in by this Government soon. It is something that the Government is looking at, along with a number of other measures.

Finally, I think Mr Connolly not only misrepresented me but also misrepresented the legal position when he stated that the police do not need move-on powers, that they have sufficient powers. I think that is clearly false. I would merely suggest to Mr Connolly that he might like to watch how the courts operate in Canberra to see that they do not have those powers.

Mr Connolly: On a point of order: that is a debating point, Mr Speaker. He is introducing new material as a debating point after the debate. Can you advise the house on this?

MR SPEAKER: Thank you, Mr Connolly. I let that one slip past.

Sitting suspended from 12.28 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Transitional Funding Trust Account

MS FOLLETT: My question is to Mr Kaine, the Chief Minister. I would ask Mr Kaine whether he personally met with the Prime Minister to put his case for the release of funds from the transitional funding trust account, and would he detail the extent of his own negotiations with the Commonwealth Government on this issue?

MR KAINE: The answer is no, I have not met with the Prime Minister. In the normal course of events, and the normal way of doing business, I wrote to the Prime Minister putting the case, and I have had a flat denial.

MS FOLLETT: I have a supplementary question. Would the Chief Minister acknowledge that the failure to obtain funds from that trust fund was due to the poor standard of the projects that he put forward and/or to his personal failure to even attempt to meet with the Prime Minister on the matter?

MR KAINE: No, I do not concede anything of the kind. First of all, the principal project that was put forward for consideration was the restructuring of the hospital system. It meets the criteria set by the Commonwealth in every respect. It is a project that is part of the restructuring and moving towards self-sufficiency on the part of the Territory. It is a project that aims to save $8.5m a year in operating expenses under estimates made in 1989, which your former Minister for Health would well know about. The estimates were made during his time. It meets, in every way, the criteria that were set by the Commonwealth for the release of funds from that fund.

It is interesting that the Prime Minister, in his response, justifies giving money to Tasmania because their accounting is in poor shape; he justifies not giving us any because our accounting is in good shape. One can only assume that, if you are profligate with public money and run yourself into financial difficulties, the Commonwealth is only too willing to bail you out, particularly if you are a Labor Government; but, if you exercise proper financial management, produce a balanced recurrent budget and do all of the things that the Federal Government asks you to do in terms of restructuring, micro-economic reform and the like, and you come up with a good budget, when you ask for some of your own money out of the fund, the answer is, "You can go and borrow it".

Ms Follett: You said that in your budget papers.

MR KAINE: Since Ms Follett has raised the point, I said that we were aiming to borrow $44m. We would prefer to borrow less. If the Commonwealth would release some of this money from the fund we would be able to borrow less, the public debt would be less, and the future cost of repaying that public debt would be less. That seems to me to be a very prudent approach to financial management, but the Prime Minister and the Treasurer have seen fit to keep our money in the trust account and to tell us, in effect, "You can always get over your restructuring - - -

Members interjected.

MR KAINE: The response that we got was, "You can always get over your restructuring problem by borrowing more money".

O'Connor Creative Playgroup

MR MOORE: My question is to Mr Humphries as Minister for Health. I indicated to him earlier today that I would be asking a question about the O'Connor Creative Playgroup Association, whose members have written to him expressing concern that they have been advised that the O'Connor Baby Health Clinic will be closed at the end of the year. That will have an impact on them. Considering the growing recognition of the difficulties faced by parents at home with young children and the advantages of a neighbourhood facility in establishing critical support networks, what consideration, Minister, have you given to either, firstly, retaining the David Street facilities in a manner compatible with the use of the creative playgroup or, secondly, an alternative site being found within walking distance of the homes of the 35 members or 52 children of that playgroup?

MR HUMPHRIES: I thank Mr Moore for giving me notice of this question. Mr Speaker, I have seen the letter that Mr Moore refers to and I have taken advice on the questions that he has raised.

At the present time, the O'Connor Baby Health Centre is being used by community nurses for something like three hours per week. Another user of the Baby Health Centre exists and that, of course, is the O'Connor Creative Playgroup Association. The Government is aware that the community nurses may be - not necessarily will be, but may be - moving into the City Health Centre next year. I am instructed that the O'Connor Baby Health Centre is, in fact, a very old building and is not in the best of condition and, for a variety of reasons, a move of those community nurses may be considered. The Mental Health Branch has indicated that it would like to use the building, but at this stage no firm decision has been made.

I should emphasise that the playgroup has no formal agreement, lease or licence to occupy the premises. It does not pay any rent for the premises and the arrangement is very informal. However, it is my view that the kind of availability for such playgroups that Mr Moore referred to in his question is a desirable thing, and it would be desirable for the Government to continue such services, particularly where they were established and were clearly providing an important service to people in that part of Canberra. As a result, the accommodation officer for the Board of Health is investigating alternative accommodation for the playgroup. I can assure Mr Moore that the group will not be asked to vacate the building until alternative accommodation has been found.

MR MOORE: I have a supplementary question, Mr Speaker. You mentioned that the Mental Health Branch is interested in that building. You would agree, I am sure, that that is likely to be an incompatible use with a baby health centre, and that any facilities that are found would need to be agreed to by that group as being appropriate.

MR HUMPHRIES: Mr Speaker, the Government would have no desire to have children using the premises at the same time as, for example, people who might be suffering from mental illnesses. However, whether that is the sort of use for which the Mental Health Branch would like the building I could not say. Clearly that would not be compatible; but, on the other hand, it may be required for administrative purposes, in which case there may be some compatibility. I will certainly bear that matter in mind when a decision is being considered on that question.

Royal Canberra Hospital

MR CONNOLLY: My question is to the Minister for Health, Mr Humphries. I refer the Minister to the front page story in today's Canberra Times headed, "KIX persuaded to drop anti-closure ads: Pressure from health officials". Will the Minister advise the Assembly as to the nature of the pressure, threats or promises made to KIX by senior health department officers, and can the Minister advise whether those threats or promises or other form of pressure related to current or future advertising by the Government with that commercial station?

MR HUMPHRIES: Mr Speaker, yes, I can advise Mr Connolly on that question and I thank him for his question. No pressure or threats of any kind were offered or tendered in respect of this issue by officials either of the Board of Health or of my ministry to anyone at KIX FM. I might indicate the sequence of events that gave rise to that front page story.

On Wednesday, 21 November, the Board of Health's attention was drawn to advertisements being broadcast on KIX 106 in support of a "Save the Royal Canberra Hospital" concert planned for Sunday, 25 November. This was the board's first notice of the event, and contact was made with the station on Tuesday, 22 November, to gain some background. It became clear through a telephone conversation that the station was under the impression that it was sponsoring an official or semiofficial event on behalf of the Royal Canberra Hospital. This was not the case - - -

Members interjected.

MR HUMPHRIES: Mr Speaker, those opposite are incredulous; but these matters, I am sure, could be very easily verified by talking to KIX 106 itself. I am very happy to supply the names of people at that station that had contact with

the department and, if there is any question of my statement not being accurate, I would be very happy to hear about it.

The impression the station was under, of course, was not the case, and a meeting to discuss the issue was arranged with the station management for later that day. The station had ceased running its advertisements before the meeting and had independently made direct contact with the promoter of the concert. At the meeting, the board officials confirmed that the concert did not have the endorsement of Royal Canberra Hospital or the ACT Board of Health. It was also explained that any funds donated to the hospital, even if they were raised at the concert under the banner of "Save the Royal Canberra Hospital", could not be used by the hospital for that purpose. It was made plain that the Board of Health did not question the good intentions of the promoter; nor would it have any concerns if the concert proceeded. The board officials left the meeting without being told how the station intended to proceed, but with thanks being offered for clarification of the basic issues.

I have to say quite categorically, Mr Speaker, that at no stage did anybody from the hospital or the Board of Health or my ministry bring any pressure to bear on the station or on the promoter, but they were happy to bring to the attention of KIX 106 the fact that it was not sponsoring an official event on behalf of the hospital or the Board of Health. This meant that there could be no assurance that any money raised for the purpose of saving the Royal Canberra Hospital would, in fact, be used for that purpose, since neither the board nor the hospital had any involvement in that concert.

Tourism Campaign

MR STEFANIAK: My question is to the Minister for Finance and Urban Services. Mr Duby, is there a new campaign by the ACT Tourism Commission to promote awareness in this community of the value of tourism to the local economy?

MR DUBY: I thank Mr Stefaniak for the question. Yes, there is a new campaign. Today I launched the ACT Tourism Commission's local tourism awareness campaign. The commission's prime task is to market Canberra as a tourist destination. The commission realises, however, that the value of tourism also needs to be promoted to underscore the excellence of the Canberra product to the local population.

Mr Speaker, the campaign slogan is "Canberra. Explore it.". It seeks to reinforce the value of tourism to the local economy. The campaign invites Canberrans to explore Canberra and to make discoveries in their own backyard - - -

Mr Berry: On a point of order, Mr Speaker: I refer you to standing order 118 and the requirement that answers should be concise. This is merely another ministerial statement intended to soak up question time, and I would ask the Minister to give notice that a ministerial statement is about to be made at some point in the future. We would be happy to agree to the making of any statement along those lines, and we would be happy to debate it, too.

MR SPEAKER: Thank you, Mr Berry. I am not sure that it is a ministerial statement. I override the objection. Please proceed, Mr Duby.

MR DUBY: Mr Speaker, this is about an event that happened today, and it is in the public's interest to be advised about it. As I said, the campaign invites Canberrans to explore Canberra to make discoveries in their own backyard and, in doing so, to see Canberra from a visitor's perspective. The aim of the campaign is to enthuse Canberrans about the product which the commission markets to visitors and, in doing so, enhance the visiting friends and relatives market.

The campaign involves sign-written buses, both ACTION and Murrays coaches, a radio contest featuring 2CA, bumper stickers, fridge magnets featuring a calendar of events through 1991, and a letterbox drop to every household in Canberra and Queanbeyan. Advertising on Canberra Milk one-litre cartons and a limited advertising schedule in the local print media are also included in the promotion.

I would just like to make special acknowledgment of the support from local industry for this campaign, and the provision of prizes for the radio contest, free air time on radio 2CA and, of course, the provision of a coach by Murrays coaches for sign-writing with the campaign slogan "Canberra. Explore it.". The local industry has been more than generous. I believe that it is a great example of cooperation between industry and local government, in this case the ACT Tourism Commission. I am always pleased to report such cooperation to interested members of the Assembly.

Royal Canberra Hospital

MR BERRY: My question is directed to the Minister for Health, Education and the Arts, Mr Humphries. Has the Minister received a letter from a senior physician of Royal Canberra Hospital North, on behalf of himself and seven other senior physicians and surgeons, concerning an alleged meeting between Mr Bissett and Mr Withers and two members of the press? Is the Minister aware of allegations that the purpose of that meeting was to discredit eight senior

doctors because of their role in trying to save Royal Canberra Hospital? Did that meeting occur with the Minister's approval, and does he support attempts by his senior bureaucrats to stifle legitimate criticism?

MR HUMPHRIES: Once again, the Opposition are pushing the line that they began earlier this week, the line that attacks the credibility and performance of senior public servants in this town. I have to note with some irony the claims made by the former Deputy Leader of the Opposition, Mr Whalan, when the Government changed last December, that his Government was about to launch a purge of senior members of the ACT Administration. It is obvious that those opposite are the people who are more interested in purging such members.

Mr Berry: On a point of order, Mr Speaker: the answer should be confined to the subject matter of the question.

MR SPEAKER: Please get to your point, Mr Humphries.

MR HUMPHRIES: Yes, Mr Speaker. In respect of the obvious antipathy of those opposite to the performance of some senior members of the administration of this Territory, I have to say that I have every confidence in their ability to handle issues that they deal with as members of the administration.

Ms Follett: Did you get the letter? That is the question.

MR HUMPHRIES: If Ms Follett will be patient, she might get an answer. The fact of life is that the allegations made by Mr Berry are almost certainly without foundation. I am not aware of the meeting that Mr Berry refers to, but I will happily take that issue on notice and discover whether such a meeting occurred. I certainly reject the notion that the idea of the meeting was to discredit physicians at the Royal Canberra Hospital. That notion is obviously untrue, even though I do not know what the background to Mr Berry's question is. I am certain that it is untrue, because I know the record that Mr Berry has in these matters.

I also cannot answer the question as to whether a letter has been received by my office. To the best of my recollection I have not seen that letter yet; but, if such a letter has been received, I will certainly advise Mr Berry when I give an answer on notice to that question.

I have to repeat that as far as I am concerned there is no question but that officers of the administration, including those ones named by Mr Berry, continue to handle their responsibilities with the hospital restructuring and other matters with the utmost diligence. I have complete - - -

Mr Berry: I raise, as a point of order, the subject matter of the question.

MR SPEAKER: Mr Berry, I think it is relevant.

MR HUMPHRIES: Obviously Mr Berry is sensitive about this matter because he might have to work with these people again one day. The fact is that there is no question in my mind but that those officers have acted responsibly at all times. I would rather act on the assumption that they have done so than that Mr Berry has done so in asking this question or raising this matter.

Board of Health

MRS NOLAN: My question is also to Mr Humphries in his capacity as Minister for Health. Mr Humphries, you announced the membership of the new ACT Board of Health, but what is the Government doing to ensure that this board is supported by appropriate legislation?

MR HUMPHRIES: I thank Mrs Nolan for the question, because the matter of legislation to underpin the Board of Health is a very important one. Members will be aware that the Government has recently announced the composition of the ACT Board of Health, which is an authority which enhances and builds upon the successful structure of the previous interim hospitals board and, in fact, contains some members that were members of both the old body and the new body. Those members, for the information of members, are: chairman, Mr Jim Service; Mr John Bissett; Dr Tony Clarke; Mrs Jennifer McNicol; Professor Bob Douglas; Mr Peter Hohnen; Ms Kate Carnell; Ms Gail Freeman; Mr Ross Walker and Rear Admiral Neil Ralph. There will also be a representative of the Trades and Labour Council on the board, and that body will be asked to nominate a person shortly.

The legislation to underpin that board is very important, and I can assure Mrs Nolan and the house that the Government intends to proceed quickly to put the legislation in place. In fact, I expect to be able to introduce the appropriate Bills tomorrow.

Royal Canberra Hospital

MR WOOD: I direct a further question to the Minister for Health. Does the Minister agree that this approach by two of his public servants to a radio station appears to be a breach of the guidelines on the official conduct of public servants, because they entered into a party political issue in an official capacity? Minister, were you or any members of your staff aware of this action in advance, and did you authorise or condone it?

MR HUMPHRIES: Mr Speaker, the question Mr Wood asked was premised on the assumption that this was a party political matter. Obviously those opposite would consider this to be a party political matter, but the fact is that the administration, particularly the administration in the Ministry for Health, Education and the Arts, is presently charged with the task of implementing a Government decision to proceed to develop and consolidate the ACT public hospital system. To fulfil that purpose and to undertake duties which further that aim is not a question of acting in a party political way. Public servants who perform those actions, who take part in work necessary to fulfil that aim, are not acting in a party political fashion; they are doing their job.

The fact of life for Mr Wood is that in this case there was clearly some misunderstanding about the nature of the event that KIX 106 was sponsoring. It was entirely appropriate, in my view, that those officers should contact the radio station and apprise it of the situation. I repeat my assertion in answer to the earlier question. There was no question - - -

Mr Berry: Interference.

MR HUMPHRIES: Mr Berry says "interference" across the chamber. Let Mr Berry show that that was the case. He cannot - - -

Mr Berry: Have a look at the front page of the Canberra Times.

MR HUMPHRIES: Proof, indeed! I sincerely hope that, if Mr Berry's obituary were published in the Canberra Times one day before he had actually died, he would not believe that it was true and lie down and die. The fact is, Mr Speaker, that this is not a case of any public servant acting improperly. I did not know about the matter before it occurred. I have to say that I do not consider that there was any impropriety in what occurred. Clearly, they were making the position and the interests of the ACT public hospital system known to the radio station concerned. I consider that to be an entirely justifiable action in the circumstances.

MR WOOD: I have a supplementary question, Mr Speaker. Mr Humphries, surely you must agree that the mere approach imposes a threat on the people at the radio station. Why was there any need to make an approach?

MR HUMPHRIES: Mr Speaker, I do not think Mr Wood has fully understood the circumstances of this matter. Nobody in this place can be unaware of the policy that all the radio and television stations in this city employ, as far as political matters are concerned. Those media outlets are all engaged very heavily in community activities, to my

knowledge. They all regularly sponsor important community events; they regularly and quite generously sponsor those community events, and they do so in a way which I think would be supported by every government in this Territory.

Mr Wood: What is supposed to happen? Do they have to come to you first for the mark of approval?

MR HUMPHRIES: Mr Speaker, may I have some quiet?

MR SPEAKER: I agree, Mr Humphries. Mr Wood, please desist.

MR HUMPHRIES: Mr Speaker, this situation of the sponsorship of that "Save Royal Canberra Hospital" concert was clearly in a different category. It was an event of a kind which was not, in fact, supported by the hospital.

Members interjected.

MR HUMPHRIES: You are using your question time, so carry on. It was clearly not a matter which, under normal circumstances, a radio or television station or any other media outlet in the ACT would support. It was not in the nature of the kind of activities that they normally support because it was a highly political matter. I would suggest to those opposite that they would be less than amused if in government they discovered that people were running campaigns for political parties. That would be just as heinous an intrusion into the principle that community groups do not engage in that kind of activity.

Mr Speaker, in the circumstances, it was entirely appropriate for officers to make sure that KIX 106 was aware of the circumstances of this matter. If those opposite suggest - and they seem to be suggesting this, judging by the sort of snide comments coming from Mr Berry - that there was some improper pressure put on the matter, then I suggest that he go to KIX 106 and get a statutory declaration or an affidavit which clearly indicates what the nature of that pressure was. I would like to see Mr Berry produce that proof of undue pressure, because I can assure the house that it did not occur. If Mr Berry says that it did, let him prove what he says.

Burglaries

MR STEVENSON: My question is to Mr Collaery, and it concerns the recent report by the NRMA of a 9.2 per cent increase in burglaries in the ACT.

Mr Collaery: It was not me.

MR STEVENSON: That was the question: was it you?

Mr Collaery: I did not do it.

MR STEVENSON: Does Mr Collaery believe - - -

Mr Kaine: No. The burglars are all on the other side of the house, Dennis. Ask the Leader of the Opposition.

Ms Follett: On a point of order, Mr Speaker: Mr Kaine has just commented that the burglars are on this side of the house and that members should ask me. I ask that he withdraw that statement.

Mr Kaine: Mr Speaker, I am terribly sorry that the Leader of the Opposition has no sense of humour whatsoever. I withdraw it.

MR STEVENSON: Does Mr Collaery believe that this is a realistic indication of the increase in the ACT, and does he have any suggestions on how this could be reduced - particularly, the Charnwood increase of over 40 per cent? Perhaps it could be reduced by the greater support of our police force.

MR COLLAERY: I thank Mr Stevenson for the question. I do not live in Charnwood, but I recently opened another house there for disability services. I was informed that there is a local problem there associated with burglaries and other issues of public order, and I have made inquiries as to whether we could not increase the community policing element there.

To answer your question broadly, I do not know how we relate the percentage figure and the breakup directly to the ACT, but members will be aware that the community policing role to be given to the AFP in the ACT included a survey of all householders in the ACT conducted by Frank Small and Associates. It was an ongoing survey to ask them for their specific policing concerns street by street. That is a relatively expensive but important survey to indicate to us what the concerns are, rather than just what the statistics say. One of the foremost concerns expressed in that survey was a fear by women of walking in their own street, particularly in certain suburbs.

Ms Follett: You have been out there.

MR COLLAERY: I go to all the suburbs - let me say through you, Mr Speaker, to the Leader of the Opposition. I go around the place. I do not belong to a party that did not even know that there was a community consultative program going on on the grants scheme. They did not know that last night.

Returning to Mr Stevenson's question, the ACT was invited to give a national address in Brisbane a few weeks ago. Assistant Commissioner Bates of the ACT police accompanied me there, and we explained the different approach we are taking, alone in Australia, on community policing. We have completely different concepts. We do not believe that foot

patrols and shopfronts are add-ons to a police program. We believe that they should be part of an overall different emphasis for foot patrols both in suburbs and shopping centres and at night banking at late hours. Considerable initiatives are under way from the community policing policy makers in the AFP at the moment. I trust that the burglary figures will subside. They are one of the foremost concerns of ACT residents at the present time.

Blood Alcohol Levels

MRS GRASSBY: I thought I was never going to get a question in; it is getting so late. My question is to Mr Duby. Is the Minister going to introduce the .05 blood alcohol level before or after Christmas this year?

MR DUBY: I thank Mrs Grassby for the question. As she is aware, the introduction of the .05 blood alcohol level is part of the 10-point road safety package which is being implemented by all the States and Territories in Australia - with the exception, I believe, of the Northern Territory - at the Commonwealth Government's initiative as part of the black spot funding program.

In relation to the .05 legislation, frankly, Mrs Grassby, the commitment that has been given by the ACT Government is that the .05 level will be introduced into the ACT with effect from 1 January 1991. At this stage that timetable will be adhered to.

MRS GRASSBY: I have a supplementary question, Mr Speaker.
Does the Minister therefore believe that the .08 level is safer for the Christmas season?

MR SPEAKER: Mr Duby, you do not have to answer.

MR DUBY: That question does not even warrant consideration.

Behavioural Management Unit

MR MOORE: Mr Speaker, my question is directed to the Minister for Education. Mr Humphries, will the Theodore Street Behavioural Management Unit currently located at the old South Curtin Primary School be disbanded at the end of the year? If so, what will happen to the students; or, if not, where will the centre go?

MR HUMPHRIES: Mr Speaker, I think that this question has been asked before in almost exactly the same terms, only a matter of a few weeks ago. I think it has, and I would be happy to check back through - - -

Mr Moore: Not since your decision.

MR HUMPHRIES: I repeat, Mr Speaker, that I believe that it has. I do not wish to give a different answer to that given on the last occasion, but my recollection of that answer on that occasion is that the service offered by the unit will have to, of course, be continued. It will be required because there is a certain need for that service in the ACT. Where it is to be located and what format it will take, I cannot say at this stage. But I would be very happy, as I think I indicated on the previous occasion, to advise the house of the answers to those questions as soon as they are known.

Mini-Budget

MS FOLLETT: My question is to the Treasurer. I ask Mr Kaine: would he inform the Assembly whether his Cabinet will be meeting next Monday to consider a mini-budget? Is this mini-budget necessary because the Government's own budget which was passed only last week no longer adds up - in fact, it did not add up at the time - and because he has personally failed to negotiate the release of funds from the Commonwealth?

MR KAINE: Mr Speaker, the Cabinet will meet next Monday, as it does every Monday. No, it will not be discussing a mini-budget. There is absolutely no need for that as our budget is well and truly in place. As a result of some of the actions that have occurred over the last few weeks, there will be a need to adjust within the budget to take account of changed expenditure patterns resulting from some of the decisions that have now been made. But that in no way entails a mini-budget.

MS FOLLETT: I have a supplementary question, Mr Speaker. Can the Treasurer promise the community that there will be no further increases in taxes and charges this financial year, or will he again be breaking that promise that he will not increase taxes?

MR KAINE: Mr Speaker, the question from the Leader of the Opposition, of course, is predicated again on some notion of ill will or bad will on the part of the Government. I refute that entirely. The answer to Ms Follett, of course, is that there will be no additional taxes imposed this year. The budget is on the table. There is legislation which will go through the Assembly to set in place some of the revenue measures that are already involved in the budget and on which the budget is predicated, but there will be no new tax measures this year. Next year is well into the future and we have already begun the budget process leading up to the budget for 1991-92. There will be many considerations that the Government will take into account at that time, including the total inability of the previous Government to make any decisions about anything leading up to the transitional arrangements on finance from the Commonwealth.

We will have the report of the Commonwealth Grants Commission before us at the end of March. That, no doubt, will have a strong bearing on what the budget for next year will look like. It may well indicate that there needs to be further adjustment on the revenue side of the budget, but I am not going to anticipate at this stage what the outcomes of the Commonwealth Grants Commission inquiry will be.

Mr Speaker, I ask that any further questions be placed on the notice paper.

Allara Street Construction Work

MR DUBY: Mr Speaker, yesterday Mrs Grassby asked me the following questions: what steps was I taking to ensure the safety of traffic and pedestrians using Allara Street while the northbound lane and footpath are closed due to construction work; by what authority had the road been closed; and when would this traffic hazard cease?

Firstly, I would like to reassure Mrs Grassby that neither the road nor the footpath has been closed and there is no traffic hazard. The manager of traffic was consulted on proposed traffic arrangements in relation to the construction work at the end of the Boulevard complex, and he stipulated that 1.5 metres pavement width be left clear for pedestrian traffic. This requirement has been met. It has been noted, however, that a loading zone sign in the affected section of footpath may present an obstacle to some people with, say, strollers or wheelchairs. As the loading zone at that spot is not currently needed, the sign will be removed.

Having set Mrs Grassby's mind at rest on those points, I would like to add that, if she has specific concerns about traffic management or other matters, either I or appropriate officers of my department would be happy to discuss them. Raising technical or specific minor operational matters at question time, even those with an inaccurate basis such as this one about Allara Street, is hardly useful if she genuinely wants an informed response.

TUGGERANONG POOL PROJECT

MR DUBY (Minister for Finance and Urban Services): Mr Speaker, I seek leave to make a ministerial statement about the Tuggeranong pool project.

Leave not granted.

Suspension of Standing and Temporary Orders

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

> That so much of standing and temporary orders be suspended as would prevent Mr Duby (Minister for Finance and Urban Services) making a ministerial statement concerning the Tuggeranong pool project.

MR BERRY (3.06): Again, the Opposition has been denied proper notice of ministerial statements in order that proper debate can occur and the community can be advised as quickly as possible of debate in this Assembly.

Mr Kaine: How much notice do you need?

MR SPEAKER: Order!

MR BERRY: We were advised half an hour before the start of proceedings today that there was to be a ministerial statement. That is completely inadequate. We have always expected that we should have notice of a couple of hours in order that any preparation - - -

Mr Kaine: The Government expects to get on with its business, so why do you not sit down and let us do so?

MR SPEAKER: Order! Please proceed, Mr Berry.

MR BERRY: The Government has to establish reasonable conventions in this place. It has to appear honourable, however difficult that might be for it; but it needs to address the issue of proper debate in this Assembly. One of the processes, of course, is to give proper notice on issues such as this. It may not be something of a world-shattering nature, and it probably will not be, coming from Mr Duby; but the fact of the matter is that the Opposition in this Assembly deserves the courtesy of notice about these matters so that they can be debated in this place and so that the public can be properly informed from both points of view - Government and Opposition - on the future of matters which may be decided as a result of ministerial statements.

Mr Speaker, I rise merely to point that out again. I do not know how many times I have raised this issue; it takes a little time to sink in. We thought we had it sorted out. The Government tended to give proper notice and it now seems to fall into the folly of its old ways. The Government now has to overturn the standing orders to have its way on the matter because it has not observed what could only be described as reasonable conventions.

Ms Follett: And courtesy.

MR BERRY: And courtesy.

MR KAINE (Chief Minister) (3.07): Mr Speaker, I am constantly confounded at the absolute pettiness of these people opposite. It never occurs to them that events could occur that are of great interest to this community. When the Minister makes his statement, as he truly will, you, Mr "Small Mind", will find that it is a matter of great interest to the community.

Mr Berry: On a point of order, Mr Speaker: there was a personal imputation against me then by the Chief Minister.

MR SPEAKER: Order! If we are that thin-skinned, we will never get anywhere in this chamber.

Mr Berry: We are very thin-skinned, caring and considerate.

MR SPEAKER: I overrule your objection.

MR KAINE: The fact is, Mr Speaker, that the events that have occurred within the last two to three hours are such that in the view of the Government they required a ministerial statement on this matter to be made at the first opportunity.

It is a matter of great importance to the people of Tuggeranong. It is a matter of major importance; but, if these people on the opposite side of the house do not want the Minister to make a statement, he can resolve the matter very satisfactorily by simply putting out a media release and talking to the media so that the message gets out there to the people who need to know. If that is what their view is, if they do not want it debated here, if they do not want the opportunity to debate it, I, for one, am only too happy to accommodate them; but there is information that needs to be made known to the people of Tuggeranong. It needs to be made known now, because it is a matter of great concern to them, but I am quite happy to play the game any way that Mr Berry wants.

He can decline to allow the Minister to make the statement. He can continue to play his cheap political games. That is fine. But we will inform the people of Tuggeranong, whether with his support or without it. I do not care either way. As I say, I am constantly confounded at how petty this man can be. He carries on like this day after day. He mumbles away through every debate. He takes points of order countlessly, none of which in the last three months have been determined as having any substance whatsoever. It is merely a delaying tactic. It is merely to prove that Mr Berry is macho when it comes to the political scene. He is not macho; he is a mouse. He has no political clout whatsoever. He can do everything that he likes to delay the business of the Government. He will not succeed in preventing the Government going about its legitimate business, no matter how small-minded and petty he chooses to be.

As I have said before, if he does not want to debate it here and he does not want the information to be passed to the members of this house first, I am quite happy, and I am sure that the Minister is quite happy, to walk out the door, talk to the media and make sure that the message of the events that the Minister wishes to speak about gets out to the people tonight, in tonight's media. I do not care whether we do it that way or play it straight and put it on the table of the house.

Motion (by **Mr Collaery**) put:

That the question be now put.

The Assembly voted -

AYES, 10	*NOES, 6*
Mr Collaery	Mr Berry
Mr Duby	Mr Connolly
Mr Humphries	Ms Follett
Mr Jensen	Mrs Grassby
Mr Kaine	Mr Moore
Dr Kinloch	Mr Wood
Ms Maher	
Mrs Nolan	
Mr Prowse	
Mr Stefaniak	

Question so resolved in the affirmative.

Original question resolved in the affirmative.

Ministerial Statement

MR DUBY (Minister for Finance and Urban Services) (3.17): Mr Speaker, on 10 September 1990, the Government announced that it was proceeding to offer a lease to Decoin Pty Ltd for the construction of a pool and recreational facility at the Tuggeranong town centre. This decision followed from a calling for expressions of interest by the Commonwealth Labor Government in 1986, a process which was continued by the Follett Labor Government. Following evaluation of the expressions of interest, Decoin Pty Ltd was awarded exclusive negotiation rights over the site in 1987, by the then Commonwealth Labor Government.

When this Government came into office in December of last year, we were aware of concerns about the viability of the company Decoin Pty Ltd. The Alliance Government insisted on an independent financial assessment of the company by Price Waterhouse, before proceeding to offer a lease for the project. The report of the independent assessors was favourable to the company and to the development.

Following the resolution of all planning and leasing issues, a formal offer of lease was made on 31 October 1990. This offer required acceptance by payment of a premium of $1.2m and the provision of a bond for $500,000 on or before close of business today. Mr Andy Stodulka, a representative of Decoin, has today informed officers of the Department of the Environment, Land and Planning that the company is unable to make the payment or provide the bond. We consider that we have met our obligations and those of the previous Labor governments - both ACT and Federal - to Decoin Pty Ltd. We have decided not to continue further negotiations with Decoin Pty Ltd. Accordingly, because of non-fulfilment of the company's obligations, the offer has been terminated.

Mr Speaker, I would like to stress that the Government remains committed to the provision of additional swimming facilities in Tuggeranong. The Government will honour that commitment notwithstanding the fact that the arrangements with Decoin have not materialised. The Government has directed the preparation of a submission outlining options for the provision of swimming pool facilities in Tuggeranong. Over the last few years, my officials have considered various options for swimming pool facilities in Tuggeranong. This process has included consultation with relevant community groups. As a result of this work the Government is hopeful that it will be able to make an early announcement about alternative ways of providing the facilities.

Mr Speaker, that is the bulk of the statement that I wanted to make today. I would just like to comment on the holding tactics adopted by the Opposition today. They make me wonder what it was about. Rumours about this announcement have been around for some time and it just makes me wonder: is the Opposition aware of this - of course, it is - and is its nose out of joint that the person that the Opposition and its colleagues had put up for the job has fallen through?

Mr Speaker, I table the following paper:

> Tuggeranong pool project - Ministerial statement, 28 November 1990.

I move:

> That the Assembly takes note of the paper.

MR CONNOLLY (3.20): Mr Speaker, members of the Opposition do not like to say "We told you so", but on this issue we told you so. We have, for months, been raising concerns about the viability of this project and the possibility of the company concerned going ahead. We have raised those concerns both publicly and privately, and today we have had the inevitable announcement from the Government that the project will not go ahead.

I well recall statements from, in particular, the Executive Deputy with responsibility for sport, Mr Stefaniak. He had a big front page lead in the Valley View shortly before the budget was announced this year, which said, "Government gives top priority to Tuggeranong pool". We had quite a debate over that at the time because the Opposition was saying that this project was not viable, was not a goer, and the people of Tuggeranong were not going to be provided with a pool; they were going to be given a very expensive and inaccessible facility, if ever it could be built.

Mr Speaker, the concerns the Opposition has long held about this project have been realised. We certainly endorse Mr Duby's decision to terminate further discussions and not proceed. It is much better that Mr Duby has cut the knot and not gone down the alternative track of further protracted negotiations. I guess I should commend the Minister for biting the political bullet and conceding that this was not a goer, rather than enter some sort of face-saving exercise of continually extending the deadlines and extending the negotiations.

From opposition we can only hope that the Government will live up to those early promises referred to by Mr Stefaniak of a top priority for Tuggeranong swimming facilities, and that it will move very quickly to provide a public facility for the people of Tuggeranong - swimming at a price that families can afford. We always said that the community of Tuggeranong would not be well served by a swimming facility that was going to charge - and this was in the public domain - in the order of $5 for people to get in. It was never a goer.

We are pleased, at least, that the Government has accepted that the project is not going ahead and we did not waste further months and get potentially embroiled in the real difficulties that would have been involved if this had proceeded and the company involved had then not been able to go ahead when it had actually started work, employing people and putting holes in the ground. At least we have saved ourselves that potentially unpleasant course. Let us now get on with the job quickly and provide a public swimming facility for the people of Tuggeranong.

MR STEFANIAK (3.23): Mr Speaker, like Mr Connolly, I would certainly commend the Minister, Mr Duby, for his prompt action, when he realised that the money was not forthcoming from Decoin. It is a great pity because, as Mr Duby has said, it was a great concept, a concept that was analysed as being quite appropriate, quite workable; it simply happened to be the wrong company. I think it is a shame for the people of Tuggeranong that this very excellent project is not able to go ahead. It is a pity.

It has been given a chance. I think it would be wrong to give it any further chance, and Mr Duby has quite correctly made this very important ministerial announcement which I do not think the other lot particularly wanted to hear,

initially, although Mr Connolly has now made conciliatory noises in relation to that. It is important that it be put on the record. It was important that the decision be made.

I am also quite heartened by the last few paragraphs of Mr Duby's speech, where he stressed the fact that this Government remains committed to the provision of additional swimming facilities in Tuggeranong and that it will honour that commitment - notwithstanding the fact that the arrangements with Decoin have not materialised - because it is important that Tuggeranong get swimming facilities.

The Government realises that. It is a pity that this very good concept cannot go ahead because of what happened to Decoin Pty Ltd. At present Tuggeranong, of course, just has the Erindale centre. Accordingly, we now have to look at other options. But I am heartened by what Mr Duby says about how the Government has looked at those in the past and will be looking at them quickly in the future. Hopefully we will be able to make an early announcement about the facilities.

MR MOORE (3.25): Congratulations to Mr Duby for making this announcement so promptly. We can now look to the way you dealt with the situation, which in many ways I believe was not dealt with as well as it could have been. One of the awkwardnesses about not being informed today was that I have a number of constituents who are particularly interested in this issue. I had just enough time to make a phone call to sort out some of the issues and clarify them for myself and take some advice. Had I had more time I would have been able to contribute even further at this particular juncture.

Listening to the radio this morning, there was an announcement that a team led by Mr Tony De Domenico was bidding for the Commonwealth Games in 2002. Now, of course, that is of no great concern to the Alliance Government because its members are not going to be around by then; but, of course, one of the difficulties for that - - -

Mr Collaery: I would not bet on it.

MR MOORE: With one per cent, Mr Collaery, I think it would be safe money.

Mr Collaery: It was all we had last time.

MR MOORE: That is a bit of a shaded truth too, Mr Collaery, and you know it.

The point about the games is that we must ensure that we have adequate competitive facilities for any bid that we put forward. This is a perfect opportunity for us to ensure that the Tuggeranong pool does not just provide the popular type of facilities as were proposed with the wave pool and so forth. We must ensure not just that

competitive facilities are available there for competition at the level of Commonwealth Games but also that those same facilities can apply to learn-to-swim classes and can provide an opportunity where families, at no great expense, can get their children into swimming facilities and ensure that they are looked after adequately in this area.

There is a great gap in the community facilities in Tuggeranong and it requires very prompt action by the Government, but it also gives it the opportunity to look at what it was offering and to rethink the facilities that are there, particularly in the light of that Commonwealth Games bid. I know that there is a big gap between 1992, when you will no longer be in, and 2002; nevertheless, in the interests of the Canberra community, I think it is an appropriate time to rethink that and to take appropriate action.

Question resolved in the affirmative.

PAPERS

MR COLLAERY (Attorney-General): Mr Speaker, pursuant to section 97(3) of the Audit Act 1989 I table the following papers for the information of members:

Audit Act - Australian Capital Territory Community and Health Service - Report and financial statements, including the Auditor-General's report and freedom of information statement for 1988-89.

Audit Act - ACT Institute of Technical and Further Education - Report for 1989.

LIQUOR (AMENDMENT) BILL 1990

Debate resumed from 21 November 1990, on motion by **Mr Collaery**:

That this Bill be agreed to in principle.

MR CONNOLLY (3.28): Mr Speaker, the Opposition is, in general, supportive of this amending Bill, but we do have some reservations about the way in which it has come before the house and the speed with which it has progressed. It highlights the great inconsistency in the way this Alliance Government seems to go about the legislative process. On some matters we get statements months and months in advance that some things are under contemplation and constant updates, as it were, of what the Government's latest thinking is on a matter and yet the legislation takes a long time to appear and, when it does appear, it takes a

long time to make its way through the house. On other occasions, and this is one of them, a Bill is introduced and passed within a week. This Bill was introduced a week ago and is to be passed today.

This is of particular concern when the Bill makes changes to the criminal law and makes changes, in effect, to the rights and duties of Canberra citizens. When this Bill was tabled I undertook what is the normal practice on this side of the house, in government and in opposition. I understand from those of my colleagues who were here in government that they followed this practice, and we have retained it while in opposition. We try to consult with interested members of the community, show them the Bill - not just some statement of intent, but the Bill - and get feedback. That is the way the Labor Party approaches the consultation process and ensures that the views that the Opposition are putting in this place are representative of the views of the community. But unfortunately we find ourselves voting on this Bill a bare week or so from the date it was introduced. I think that is a legitimate area of criticism on a Bill of this nature that is very detailed and that substantially affects the rights and duties of Canberra citizens.

Mr Speaker, the thrust of the Bill, as outlined by the Attorney-General, is one to which we cannot object. It tidies up an Act that has been in place for some years now. This is the ordinary process with legislation. As the years go by procedures established in a Bill become outdated. There were some concerns, I understand, that the mechanism in the existing Liquor Act did not provide enough options for enforcing sanctions against licensees. I understand that the difficulty, in effect, was that when there have been complaints against licensees, where perhaps licensees have been convicted on one or a number of occasions of providing liquor to under-age persons in particular, the sanctions available to the licensing authority were, basically, to do nothing or to chop their heads off. The sanctions were either to cancel the licence or, in effect, to do nothing - perhaps issue a warning.

A view had been around through the industry for some time that it would be better to introduce a more flexible scheme for suspensions of licence for varying periods so that the licensing authority could very effectively police convictions. The view was put about through the industry - I understand, with the support of the industry - that this would be a good thing. If the keeper of premises were convicted, for example, again, of under-age drinking, the licence could be suspended for a period for a first offence or second offence, and a more severe penalty could be applied perhaps if there were further offences. We in general would support that approach.

It is a good procedural change but, again, a substantive procedural change affecting the substantive rights and liabilities of a large number of Canberra citizens - licensees of licensed premises, the club community, and the thousands of Canberrans who earn their livelihood in the liquor trade as employees of clubs, pubs or licensed restaurants. So, Mr Speaker, this is an important change to the law affecting thousands of Canberra citizens and this Assembly really has had only a week to get across the minutiae of the Bill. There has been no opportunity really for the Opposition to go out and discuss this matter with the community.

In this case, as I indicated, it appears that this measure has general support through the industry. Indeed, some of the initiatives probably originally came up through industry sources, and that is a good thing. Governments of any persuasion will legislate along that line. But it would have been far better had we had some further time to contemplate the effect of these changes and to go out into the community and allow the community to actually look at the Bill. To the extent that I have been able to speak on the phone with people from the liquor trade, both licensees and the relevant union, the indication I am getting is: "Yes, we support what we understand is in the Bill, but we have not really had the opportunity to study it in detail", and that is not a good way to proceed to legislation.

Mr Speaker, the other substantial feature of this new legislation which does bear comment from the Opposition is the change to the offence of providing liquor to a person under 18 years of age. The change that is effected by this Bill relates to a defence available to a person charged with providing drink to a person between the ages of 16 years and 18 years. It allows a licensee to defend a charge if the licensee can establish that he or she took reasonable steps to ensure that the person was 18.

This is a minor change to the legislation but one that probably will have the effect in the industry of making licensees far more careful in themselves checking their premises. The anticipation in the industry is that, with this amendment in place, premises that are at risk of under-age drinking, in particular a number of more popular disco establishments around the town, will probably establish a practice whereby their doorman will require proof of identity before allowing young people into those licensed premises. Should a person under 18 be sold liquor and a charge be brought, the licensee would be able to produce their employees to give sworn evidence that it was the practice in the premises that they sought identification, that they sought some form of ID from drinkers, and that they had taken all reasonable steps to avoid supplying drinks to minors but somehow someone had slipped through the cracks, as it were, and had been able to have liquor supplied. Encouraging the industry to self-regulate in respect of under-age drinkers is a good thing, and the Opposition supports those changes.

I understand that at the detail stage of this Bill the Attorney will be moving some amendments which arise in response to the report of the Scrutiny of Bills and Subordinate Legislation Committee. A possible problem was detected in that at one point this Bill refines the circumstances in which a licence can be cancelled.

At present section 46 of the Act gives the authority powers to give directions and, at the end of the day, perhaps suspend a licence if the "licensee has permitted his licensed premises to be used so as to cause undue disturbance or inconvenience to persons residing in the neighbourhood of the premises". The sexist language is to be corrected, which is a good thing. This is to be changed to:

> ... licensee has permitted the licensed premises to be used so as to cause disturbance or inconvenience to persons occupying premises in the neighbourhood; ...

There are two changes there, Mr Speaker. The present law allows a suspension if undue disturbance or inconvenience is established. The proposed amendment would allow the licence to be cancelled if disturbance or inconvenience were caused. Perhaps that does not look like a major change, but in terms of a legal approach to proving an offence it is much harder to prove undue inconvenience than it is to prove inconvenience. They are, in effect, lowering the standard of inconvenience that must be established.

The committee noted that that could have undesirable consequences. It could, in effect, be retrospective criminal legislation because the transitional provisions say, in effect - I will paraphrase them because transitional provisions are always complex - that, where a charge or a complaint is presently progressing under this Act, when the law is changed the authorities will proceed to deal with the charge or complaint as though it were brought under the changed law. In effect, the new law will apply to a matter that is in progress.

That is probably a good thing generally, especially, as I mentioned earlier, where the greater flexibility is provided to the licensing authorities in relation to suspensions rather than simple cancellations of licences. It is a good thing that a matter in progress will be able to be dealt with more flexibly. But it becomes a problem if the actual offence changes so that conduct which would have been lawful suddenly becomes unlawful. I note that the Attorney has agreed that there is a problem with the change from "undue disturbance or inconvenience" to "disturbance or inconvenience" and has indicated that he will be moving an amendment to reinstate the word "undue" so that the level of disturbance will remain the same.

The second problem that the committee had relates to the second change. The law at present allows a licence to be cancelled if the disturbance or inconvenience is being caused to a person residing in the neighbourhood of the premises. The proposed change allows the licence to be cancelled if the inconvenience is caused to a person occupying premises in the neighbourhood. Again, it looks like lawyers' language, but there is a substantial difference. The present law applies only to residents: the law as proposed will apply to occupiers. What that means, in effect, is that the law does not apply at present to licensed premises in an industrial or service area, and an example that comes to mind might be premises out at Phillip, because there is no resident who can complain. From time to time we hear complaints from occupiers of commercial premises that are near some licensed premises that they regularly have problems with patrons of the licensed premises in the early hours of the morning causing vandalism, fouling the footpath or indulging in other rather unpleasant activities.

There obviously was a problem with the law there. Those occupiers are entitled to some protection. We support the change to the law. We support the extension of this power to give some protection to occupiers of commercial premises; but, again, the rules are changing. The law has changed and a complaint that has been lodged and is being dealt with will be dealt with under the new law.

I notice that in the Attorney's letter of today to the chair of the committee he says that he does not believe that there will be any prejudicial retrospectivity as a result of this amendment, and I can well understand that in practice that may be the case. One would think that, because the law is being widened, inspectors or officers of the licensing authorities would not be bringing complaints against persons now unless they fall within the residential provision, so you would not have a complaint in progress that could have the retrospective law applied to it. But it is an important principle, that needs to be jealously guarded in this place, that where you are changing a law and applying it retrospectively you need to be on guard to prevent a set of circumstances that were lawful at the time suddenly being rendered unlawful.

If an officer of the licensing authorities or a citizen took a mistaken view of the law at present and lodged a complaint in relation to premises in a non-residential area, as the law presently stands, if that complaint came before the authority the licensee could properly say, "I am not committing an offence; my conduct is lawful because I am in a non-residential area", and that complaint would be dismissed.

If, however, the retrospective operation of this new law is allowed to apply, the person will be found guilty of the offence even though at the time of the complaint the law was different. That is a dangerous possibility that, as I

say, we should be jealous to guard against, and I am somewhat disappointed that the Attorney has indicated in this letter to Ms Maher that he thinks that it is unnecessary to refine the transitional provisions because of the practical unlikelihood of any prejudicial effect.

It is not really satisfactory, Mr Speaker, for this Assembly to be told that a retrospective operation of a law that can affect the rights of individuals is okay because in practice the Government does not think anyone will be caught. It really is important that we do this properly. Mr Stefaniak is aware of this problem. I will not speak for Mr Stefaniak, but I certainly do not think that it is beyond the wit of a drafter to come up with a fairly quick provision to tidy this up. The Attorney has indicated already that there will be some amendments to this Bill to fix up the first problem, and I would urge that he consider fixing up this retrospectivity issue in respect of the offence.

He is probably right in saying that in practice this will not catch anybody, but it is a dangerous precedent to set. I would urge the Attorney and his officers to have a look at this problem and perhaps reconsider the advice to Ms Maher and fix it up. Mr Speaker, with those qualifications, the Opposition generally supports the Bill.

MR STEFANIAK (3.45): I commend the Attorney-General for bringing in this Bill. I am pleased to hear the generally positive comments made by the legal spokesman for the Labor Party, Mr Connolly, in relation to this Bill. Firstly, Mr Speaker, this Bill does bring in much needed reform to the liquor set-up in the ACT. There have been a number of problems with this area in the past and no doubt there will be in the future. Some of the problems we see around Canberra are caused by excessive use of alcohol, and people realise that, I think, on all sides of the house here. So, it is pleasing to see the reforms introduced in this Liquor Amendment Bill. There are a number of other areas that I know the Government is looking at and I would think that in the life of this Government there will probably be further amendments.

Like Mr Connolly, and I think like probably most members of this house, I am very pleased to see some of the provisions give a greater range of penalties and greater options for authorities, for GALA and the authority that replaces it. There is to be a greater range of options for superior authorities, such as the Supreme Court, that hear appeals in relation to penalties under this legislation. I have been involved in this area over the years, Mr Speaker, as a prosecutor prosecuting on behalf of the Gaming and Liquor Authority in relation to contravention of the Liquor Ordinance, especially in relation to under-age drinking, which is, unfortunately, a very prevalent offence in Canberra - it has been for a number of years - and also in relation to licensed establishments which, by allowing under-age drinking, contravene their licences and, of course, are brought before the courts.

There are provisions for the Gaming and Liquor Authority, and any authority that replaces it, to penalise such establishments. In the past, until this Bill, all we had, as Mr Connolly has said, was a provision whereby the authority would do nothing or the licensed establishment would have its licence cancelled. That was a quite draconian step. There was nothing in between. I am therefore quite delighted - I say this from my experience as a prosecutor and as a director of a couple of licensed clubs around this town, where you do see it from the other side - to see a range of penalties, from do nothing, to suspension of licence, to cancellation, and formal reprimand. I think that is a very positive law reform step taken by the Attorney-General, the crown law officers and this Government. I think it will benefit the industry, it will benefit potential defendants and it will benefit the authority. It is a very positive move indeed.

I am also pleased to see attention being given in this Bill to the question of proof of identity, especially in relation to under-age drinkers. I recall on several occasions being duty director at a club which was tightening up its procedures. It had about four procedures. The first one was that you had to go past the director at the door and provide proof of age. Our instructions, of course, were that you picked anyone who might conceivably be under 18 years of age. I remember picking one young lady, I thought, who I was not sure of. I thought she was probably right, but I picked her just in case. She burst into rather hysterical laughter. She produced her licence and said that she was terribly flattered. She was to turn 30 the next week and that was the first time in about five years anyone had queried that she might be under 18. I felt rather embarrassed, but she felt quite happy about the whole set-up. I have certainly been involved in this issue as a prosecutor and also as a director of several licensed clubs, and I think some of the reforms here are well overdue and are very welcome indeed.

I heard what Mr Connolly said in relation to some of the other amendments proposed by the Attorney-General. I am pleased with the promptness with which one of the problems picked up by Professor Whalan and the Scrutiny of Bills and Subordinate Legislation Committee yesterday has been attended to, and that is in the amendment to be moved by the Attorney inserting "undue" before "disturbance" in proposed new section 46(1)(c). This will largely alleviate the potential problem which the Scrutiny of Bills Committee saw. Perhaps Mr Connolly might be being slightly too legalistic in saying that the Government law officers could have done a full amendment. There is probably no practical difficulty in it and, on my instructions and understanding, there certainly is no practical difficulty. There is no likely pending case that would be affected by this in the hiatus period before this legislation is gazetted and becomes law. I hear what he says in relation to that, but I certainly believe that there is no practical difficulty.

I commend the Attorney-General for at least his prompt attention to the points raised by the committee and his amendment to insert the word "undue", which will make quite a big difference.

Mr Speaker, I think this is effective legislation. There are a number of other areas of the Liquor Act which I believe need attention and no doubt they will be addressed by this Government. Mr Collaery is aware of some concerns I have. He has a number of further concerns himself. But this is a substantial amendment Bill. It is most welcome. It is timely and I think it will be beneficial to all persons concerned and affected by the legislation. I certainly join with other members in commending it to the Assembly.

MR WOOD (3.51): Mr Speaker, the explanatory memorandum that the Minister circulated when he introduced this Bill says that the former House of Assembly in 1985 established a select committee to report on the ACT liquor industry and now a substantial number of the committee's recommendations have been adopted. That is fine. In a debate in the Assembly earlier today he said that some of the recommendations of this Assembly's Social Policy Committee inquiry into public behaviour were also being adopted, and I thank him for that. At the same time, I would point out to him or to the Chief Minister that as yet there has been no formal Government response to that report, which came down quite some time ago. I do not have it here, but it came down quite some time ago, in February this year. It is time, I think, Mr Collaery, for a formal response to that. Nevertheless, I am pleased that some attention has been given to it.

That inquiry by the Social Policy Committee was not a detailed look at the licensing laws. It was more a general look at some of the factors behind problems of public behaviour in the ACT. Inevitably we got drawn into the question of the abuse of alcohol which lies behind so much of the behavioural problems in this Territory. We heard the police express their views about policing and about their role in containing problems that arise. I recognise that when GALA came into being a number of the regulatory decision making powers formerly held by the police were passed on to that body, and that is as it should be.

Nevertheless, the police had to retain certain policing powers. But in their submissions to us they expressed confusion about the extent of their powers. For example, they did not seem confident that they could deal with under-age drinking; nor were they certain that they had powers to the same extent that GALA officers had in dealing with licensees who serve people who are intoxicated. So, maybe the Minister, in his response a little later or at some stage during the debate, can respond to those comments by the police to the Social Policy Committee.

It was also brought to my attention at that stage - I think my memory is correct - that GALA had two inspectors. That seems to me to be a small number of inspectors when the problem of alcohol abuse is so large in the ACT. Maybe the Minister can advise me whether my memory is correct about that number of inspectors.

All of us in this chamber, I believe, have expressed at some stage our concerns about the abuse of alcohol. It is one of our greatest problems in the ACT. This morning I said, and others, I think, shared my view, that if we want to attack the problem of alcohol abuse we need to look at the licensing of the clubs and at the way they operate. I believe that there is a great deal more that clubs, nightclubs and hotels can do to accept responsibility for the behaviour of their patrons. I do not believe that they can avoid the responsibility that surely should follow as they turn out from their doors, at various times, people in a grossly intoxicated state.

Time and time again we read of difficulties that arise and fights that occur. We heard this morning of an unfortunate young fellow who now has considerable brain damage as a result of a relatively minor altercation in the main streets of this town. That, I think, at some stage, is the responsibility of the people who supplied that liquor. I do not think that can be avoided. I would hope that in the not too far distant future a whole raft of further amendments to the Liquor Act will be forthcoming so that we can start to deal more seriously with the problem of alcohol abuse.

MR HUMPHRIES (Minister for Health, Education and the Arts) (3.56): Mr Speaker, I am pleased to see this Bill and to support it. I think that, as Mr Wood indicated, we can all support closer attention in this Territory to problems associated with alcohol. Speaking as Minister for Health, naturally I have been concerned about the cost in health facilities and resources terms to this community because of excessive use of alcohol or abuse of alcohol. A great many weapons are available to us to combat this problem - some of them educative and some of them preventative, in the sense of measures designed to control the use of alcohol - and I consider this present Bill one small part of that armoury.

I would like to comment briefly on the prompt response of the Deputy Chief Minister to the concerns that were raised in the report only yesterday, I might remind the house, by the Standing Committee on the Scrutiny of Bills and Subordinate Legislation. It obviously entailed some work on the part of public servants to have that response prepared in such a short time and I think we should be grateful for the fact that that kind of work went on in a short period to ensure that we could debate this matter today.

There is no doubt, Mr Speaker, that this is an important and much needed legislative initiative. There is equally no doubt that the Liquor Act has long been overdue for amendment to ensure that it more closely reflects community standards and expectations. I have to return to a theme that I have often echoed in this house about the state of legislation and regulation in the ACT in a whole range of areas and my disappointment and surprise at how anachronistic and how neglected that body of law, inherited by the ACT on self-government, was and to a large extent still is. We have a great way to go before we as a Territory can say that we have updated our laws even to a state commensurate with that of those applying in other States, and I believe that measures such as this will go some small way towards meeting that objective.

Mr Speaker, this Bill will address many of the concerns of the community about the Liquor Act and it reflects close consultation with, in particular, the liquor industry about the need for reform. There are a number of very important amendments in this Bill and I want to touch on some of those briefly.

The Bill moves to tighten the controls on under-age drinking by ensuring that people selling or supplying liquor take reasonable measures to determine the age of a customer when they suspect that that person is under the age of 18 years. Mr Stefaniak eloquently indicated the difficulty in this day and age of guesstimating, of guessing people's age, and it is important, I think, that we consider the onus in this matter and decide where, appropriately, we ought to place the responsibility for determining the age of people who might be drinking under age. It is an important initiative as the sale and supply of liquor to under-age people is a very great concern. I had some small dealings with this area when I was a legal practitioner - not as large as Mr Stefaniak's, but certainly some small involvement - and I can recall that there was - - -

Mr Moore: Not to mention your inexperience as a member of the Cabinet.

MR HUMPHRIES: I did not catch that and I am probably glad I did not, Mr Moore. Under-age drinking is a very real and very large problem and I can assure members of the house that it is almost a rite of passage.

One would be entitled to imagine that only a very small percentage of adults reach adulthood without having engaged in some illegal under-age drinking.

Mr Wood: We should not assume that that is the way it has to be.

MR HUMPHRIES: I will not comment on Mr Wood's interjection, but the question of the extent and the manner of that rite of passage needs to be addressed by us as

legislators. It is, I think, a positive and important move in this case to ensure the responsibility of licensees to assess whether customers attempting to obtain liquor are in fact over the age of 18 years. In line with this provision, much tighter criteria have to be used in determining who may obtain a liquor licence. The Bill requires that applicants for liquor licences be fit and proper persons, and that the proposed premises be fit and proper premises and comply with the crown lease. These amendments in the Bill produce a significant change from the current situation whereby there are no requirements for individuals applying for a liquor licence to prove their credentials to hold such a licence.

It is regrettable that liquor licences have had some association with criminal activities - if not in this Territory, then certainly elsewhere - and it is important that that kind of provision occur. I have to say that I am not generally happy to see such provisions in legislation. I do not generally like to see public servants deciding, on fairly nebulous grounds, whether a person is a fit and proper person to do a particular thing; but in this case I support that criterion because it clearly has to be available in the circumstances of the liquor industry.

It will now obviously be possible for the licensing authority to refuse to issue or transfer a licence where, for example, the applicant is under the age of 18, or has previously been convicted of serving liquor to people under the age of 18, or has failed to comply with a direction given by the licensing authority. The more stringent criteria to judge whether a person is suitable to obtain a liquor licence will, I think, help to protect the community as a whole.

There are currently very limited powers available for enforcement of the Liquor Act. In many cases the licensing authority's only available avenue of enforcement is cancellation of the liquor licence. I think Mr Connolly described that as a policy of either leave them alone or chop off their heads. The consequence of that limited room to move in the past, of course, has been that sometimes enforcement through cancellation has been considered too draconian and the responsible authorities have declined to take any action when, of course, some action has been required but not at that level.

To address these problems, this Bill provides new powers to issue directions, to order compliance with the Act. There will also be a power to issue a direction specifically to ensure that licensed premises do not become the source of disturbance or inconvenience to persons or businesses in the neighbourhood. This provision should assist in having licensees accept more responsibility for the use of their premises and its effect on the neighbourhood.

The licensing authority will also be given a power to suspend, and ultimately to cancel, licences where these directions are not complied with. I think those of us who lived near licensed premises in the past would know what a great inconvenience it can be on occasions to be in that proximity. Clearly, a more flexible power on the part of the licensing authority is very important.

The Bill removes the current loophole in the Liquor Act whereby people can hide behind the corporate veil to avoid the provisions of the Act. I am told that there are a number of cases where that corporate veil has proven very effective in avoiding the operation of the Act. At present a company is able to obtain a liquor licence even though it is managed or owned by a person with a number of convictions under the Liquor Act. These convictions might be for something as serious as serving alcohol to under-age drinkers and yet, of course, nothing can be done in the present circumstances.

The licensing authority currently is unable to refuse to issue or transfer a licence even though a person associated with a company might be subject to pending charges or have convictions for offences against the Act itself. In both those circumstances there really needs to be some discretion. Naturally we all hope that the discretion is exercised with the greatest care and that people are not discriminated against for reasons that are or ought to be extrinsic to the operation of the Act. I think we have enough confidence in the standard and integrity of our public service in this town, at all levels, to realise that such powers can be exercised on the vast majority of occasions with the greatest discretion and good sense.

The Bill will allow the licensing authority to lift the corporate veil and take into account, when considering licence applications, the antecedents of any person who is substantially concerned in the management of the company or is able to substantially influence the company's activities or internal affairs. The Bill introduces similar provisions for people in a position of influence in a corporate body. I know that there are similar kinds of provisions in related areas of the law, and we are merely imitating those.

This Bill introduces a special licence category which can be tailored to suit applications which do not fall neatly within the existing licence categories or the licensed permit system - a further measure of flexibility. These special licences will be issued subject to such conditions as the circumstances dictate and might include, for example, the trading days and hours, the premises for which the licence is issued, the general conditions, such as the type and quantity of liquor to be sold, and other services which might be provided ancillary to liquor sales. All those things are quite important in establishing the way in

which licences should be issued. This new special licence category will provide greater flexibility for businesses and traders which aim to serve the tourist or the novelty client industry.

The penalties in the Liquor Act are obviously inadequate and are inconsistent with those applying to similar offences in other more recent Acts. This Bill updates the penalties in the Act. We all hope, I am sure, that we can consider the question of penalty units in the near future so as to avoid the problem of constantly updating provisions in Acts that provide for penalties.

The Bill also addresses the current unacceptable position where, if a licensee is late in making the due licence fee payment by 30 November, the licence is automatically cancelled. In excess of 30 licensees lost their liquor licence on 1 December last year and, as a result, the conduct of their businesses was severely disrupted.

The Bill removes the automatic licence cancellation for late licence fee payment and instead applies a 10 per cent late payment fee, with licence cancellation to follow where the fee has not been paid within 30 days.

In conclusion, Mr Speaker, I think that we have before us a highly commendable Bill which is worthy of bipartisan support. It addresses longstanding problems in the administration of the liquor industry and it will help to address the incidence of under-age drinking, place greater emphasis on the credentials and behaviour of liquor licensees and give greater flexibility in the administration of the Liquor Act to the licensing authority.

May I indicate, before I sit down, a couple of amendments that the Attorney-General intends to make to this Bill. I understand that they have been circulated. Clause 52 of the Bill makes a rather unfortunate reference, I would have thought, to publicans being able to refuse to serve people who, in their opinion, are suffering from the effects of mental illness. In line with the emphasis in recent times on removing forms of discrimination, it may be that that is an inappropriate provision. It has not been reflected in the existing Licensing Act of 1975. There is a provision in that Act, in section 88, for a licensee of premises to exclude or remove a person from the premises if the person is drunk, violent, quarrelsome or disorderly. We should have such a standing order in this place, Mr Speaker.

In those circumstances, that licensee had some discretion. I have grave reservations about extending that to people suffering from mental illness. Obviously, they ought not be served alcohol, but that ought not be a thing reflected in this Act. I think there are better ways of dealing with such a problem. I also note that the old Act referred to a

licensee's power to remove people using disgusting, profane or foul language. That is another provision which might sometimes be useful in this Assembly. *(Extension of time granted)*

Mr Wood, in his remarks, referred to a delay in considering the Social Policy Committee's report of earlier this year on public behaviour. I acknowledge the importance of that report and the need to at least consider acting on the recommendations of the report. I am also aware, of course, that that particular report is only a small part of a much larger debate going on in this Territory and beyond about issues of public behaviour, of violence and of controls on conduct in public places - a debate of the kind that we had in microcosm here this morning during private members' business. I am told by the Attorney-General that the report "Violence: directions for Australia", issued by the National Committee on Violence, has some bearing on these matters. It is an issue which has been extensively canvassed in this place and elsewhere. In fact, some of the recommendations made, I understand, in this report, from recollection, were picked up in the report of our own Standing Committee on Social Policy.

This National Committee on Violence report has been referred, at least in part, to the Australian Law Reform Commission and there are, I think, still important issues concerning a national strategy or features of a national strategy which we need to resolve before we can decide on our policy in the ACT. Although I would like to see action in this area taken quickly, I believe that we are wise to make the process fit in with those national developments.

Mr Wood asked a question about the number of inspectors which the ACT has available to police the Liquor Act. The Attorney-General has advised me that we presently have five such inspectors, which I think is a reasonable number, and has also pointed out that the police have some powers in this area and might, on certain occasions, supplement the role of those inspectors under the Liquor Act.

In the circumstances, Mr Speaker, I think that the legislation brought forward to this place by the Attorney-General is an important reform measure. Obviously there are other things that need to be considered. Those opposite have made reference to the need for further amendments in the future and I would be the last person to pretend that they were not required. But let us give credit where credit is due and acknowledge that this takes matters a considerable way forward and ought to receive the support of the whole of the house.

MR MOORE (4.15): Mr Speaker, it is timely that this matter be raised and raised in the manner it is. I indicate my support for the Liquor (Amendment) Bill in principle, although I must say that I do have a couple of minor difficulties that can be discussed in more detail at the detail stage. However, it is interesting that a great deal

of the concern that arises here and the concern that has been expressed by members of this house has to do with young people and the way we control the use and attempt to restrict the use of liquor by young people. At the same time, young people are bombarded with advertising that is specifically directed at them and is specifically directed at getting them to consume more alcohol.

One of the issues that it is appropriate for us to tackle - I hope in the same bipartisan fashion as we have approached this liquor Bill - is the concentration on young people of the advertising effort of breweries and large liquor companies. This Assembly has already looked carefully, successfully and in a bipartisan fashion at the issue with regard to tobacco and I think it is most important that this issue be dealt with as well by this Assembly.

There is no point in trying to regulate the issue of alcohol by using the big stick while at the same time the message from the marketing agent about the great attraction of alcohol and how it can improve lifestyle gets through to young people. That is exactly what is happening. Young people are seeing the use of alcohol as a means of improving their life and will continue to do so while this goes on. This is even more obvious as we go through more difficult economic times. The more difficult times we go through, the less of the good life, as it is presented, is available to our young people. As they perceive less of the good life, it will appear to be, through the marketing strategies, an easy way to go to - - -

Mr Humphries: Have you got Dubyitis?

MR MOORE: Certainly not. It is easy to opt out and use this particular drug as their method of dealing with some of their difficulties as they see them and some of the high life of society as presented through television advertising and through advertising in many other media. I think it is a very important and significant issue for us to tackle and we should make sure that we are not trying to use just one method of dealing with it, the big stick method. We should also have the guts to say that the advertising is inappropriate and should look very carefully at how young people are affected by that advertising.

More specifically, Mr Deputy Speaker, I always have some concerns about legislation that operates in any way in a retrospective manner. The notion that somebody could be acting according to the law now and then in a short time find that a parliament has made that action illegal is inappropriate. I believe that attention has been drawn to clause 70 by Mr Connolly. I think it is most important that we have a clear response from the Attorney-General on that transitional provision. He should assure us that he is prepared to move an amendment about retrospectivity or that the retrospectivity of this legislation will not apply.

A series of amendments are to be moved and it seems to me that it would not have been difficult also to deal with this retrospectivity matter in this Bill since attention was drawn to it by the Standing Committee on the Scrutiny of Bills and Subordinate Legislation. It is an important issue. I think that I should make my stand in relation to this Bill and others on both the issue of retrospectivity and the issue of onus of proof or reverse onus of proof, neither of which is acceptable to me. I do not perceive them as being appropriate in legislation.

MR COLLAERY (Attorney-General) (4.21), in reply: Mr Deputy Speaker, I welcome the support of the Assembly for this Bill. I must say, in good faith, that the origins of some of these amendments go back to the mists of time. When I look through the GALA file I find that they relate to suggestions that have been put forward over time by the community, by the industry and by the legal profession. The more recent amendments reflect some of the recommendations of the Social Policy Committee in its report on behaviour, and some of the more recent amendments, as my colleague Mr Humphries observed, also interrelate with the report of the National Committee on Violence.

The Liquor Act has not been systematically reviewed since it was introduced in 1975. In a number of respects it operates inadequately and it fails to meet industry standards and community expectations. The proposed amendments will address many of the shortcomings in the Act and allay many industry and community concerns. The most significant amendments include tightening controls on under-age drinking by requiring licensees to take reasonable measures to determine whether customers are over the age of 18; more stringent criteria will be used to determine the suitability of an applicant for a liquor licence or permit; and the extension of powers available to the licensing authority to enforce the Act, including new powers to issue directions, the power to suspend a licence and extended powers to cancel a licence. As well, I will be moving amendments that will produce a power to issue a reprimand and will close the loophole that enabled companies to avoid provisions of the Act by hiding behind the corporate veil.

Just flicking through my file papers, I see that Ms Follett, who was then the Minister responsible, as Chief Minister, indicated to GALA in September last year, in reply to a letter in July from Mr Higgins, that this provision to do away with the corporate veil would be in those shortly to be considered amendments of the Australian Labor Party. I do not wish to sound churlish, but I trust all members of the house will acknowledge that the Bills on the floor of the house rarely reflect the Bills in progress and the amount of work before the Law Office or the Legislative Counsel. There would be few law officers or legislative counsel officers in Australia who have ever gone through such an event as having self-government

imposed on them. They have had to reform and, in fact, restaff largely, in some respects, and in others adjust to differing priorities of self-government. I am sure Mr Connolly did not mean to suggest that there were any shortcomings in the Law Office or the Legislative Counsel's office. Sitting on a file in front of me - I will not table it; I will not be churlish - is an indication, going back to July-September correspondence last year, that the Leader of the Opposition would shortly be bringing in an amendment that reflects very much in spirit what we have done and are doing here today.

Other amendments, Mr Deputy Speaker, include the introduction of a new special licence category for applications which do not fall neatly into the existing licensing categories. That was a matter from memory, which I discussed with Mr Justice Higgins, as he is now, and the executive officer of GALA some months ago. I doubt that that issue is one that needed to go out, as Mr Connolly contends, to widespread community consultation. All of these matters are matters that have been actually requested out in the community. It is really axiomatic that a government should not dither in that situation.

Mr Deputy Speaker, we have updated penalties in the Act. We have replaced the automatic cancellation of a licence for a late licence fee payment with a 10 per cent late fee payment. That will cover the problems that occurred last year. Elements of the industry did not look to the dates that they needed to adhere to and then complained bitterly when there was an automatic cancellation forced upon them by the operation of the statute. Cancellation will follow if the licence fee is not paid within 30 days. We are said to be a tax raising body, but there is another concession we have given to assist business. We give them 30 days to check on their correspondence and we will charge a 10 per cent late fee payment, but we will not put them through the whole re-registering process.

There are a number of other amendments to enhance the general administration of the Act. My colleague Mr Humphries, who is Minister for Health, has quite appropriately explained why we will move an amendment on the floor today to take some anachronistic words out of section 79 of the Act, and I do commend that amendment. I do not know whether the members opposite will support that amendment. I am almost certain they will.

The amending Bill does not include amendments relating to the abolition of the ACT Gaming and Liquor Authority. Those amendments are subject to a separate legislative package. Mr Wood asked some specific questions in debate this morning and this afternoon. The answer is that police do have the power to deal with the situation as recommended by his Assembly committee and that appears at clause 66 of the amending Bill. The police have those effective powers

but they have no more powers than exist now. The system of cautions and admonishments and the rest that we have brought in for early offenders is preserved and the police will have to abide by them, by law.

Mr Deputy Speaker, I commend the Bill to the house. I thank members for their support and I trust that this will be the first step in widespread reviews of legislation that we have inherited.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 29, by leave, taken together, and agreed to.

Clause 30

MR COLLAERY (Attorney-General) (4.28): Mr Deputy Speaker, I table a supplementary explanatory memorandum for this Bill and I seek leave to move together Government amendments Nos 1 and 2, as circulated in the chamber.

Leave granted.

MR COLLAERY: I move:

Page 16, paragraph 30(d), line 3, omit the paragraph.
Page 16, paragraph 30(e), proposed new paragraph 46(1)(c), line 7, insert "undue" before "disturbance".

Amendments agreed to.

Clause, as amended, agreed to.

Clause 31

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

Page 16, line 20, add at the end of the heading to proposed new Division 4, *"and issue of reprimands"*.

Page 16, proposed new section 47, lines 21 to 25, omit the proposed new section, substitute the following section:

Grounds for suspension or reprimand

"47. The Authority shall suspend a licence, or issue a reprimand to a licensee, if it is satisfied on reasonable grounds that -

(a) the licensee has contravened a direction; and

(b) it would be in the public interest to do so.".

Page 16, line 29, at the end of proposed new subsection 48(1), add "or the issue of reprimand to the licensee".

Page 16, proposed new paragraphs 48(2)(a) and (b), lines 32 to 34, omit the paragraphs, substitute the following paragraphs:

"(a) the Authority shall direct the Registrar to make an application under subsection (1); and

(b) the Registrar shall make such an application".

Page 16, proposed new subsection 48(3), line 35, omit "apply for the suspension of a licence", substitute "make an application under subsection (1)".

Page 17, proposed new paragraphs 49(2)(a) and (b), lines 11 and 12, omit the paragraphs, substitute the following paragraphs:

"(a) issue a reprimand to the licensee;

(b) suspend the licence for a specified period; or

(c) dismiss the application".

Clause, as amended, agreed to.

Clauses 32 to 51, by leave, taken together, and agreed to.

Clause 52

MR COLLAERY (Attorney-General) (4.30): I move:

Page 29, proposed new section 79, line 7, omit "or suffering from the effects of mental illness".

I just go on the record, Mr Deputy Speaker, to thank my colleague, Mr Humphries, for explaining the reasons for this amendment. It should be self-evident to everyone in the house. The words "or suffering from the effects of mental illness" constitute an anachronism. Certain powers to deal with persons who may suffer from mental disabilities and exhibit symptoms of violence or such are

covered, as I am sure Mr Humphries mentioned, in section 88 of the Act. I commend that amendment to the house.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 53 to 69, by leave, taken together, and agreed to.

Clause 70

MR COLLAERY (Attorney-General) (4.31): I heard the comments of Mr Connolly, endorsed by Mr Moore, in relation to retrospectivity. I do not believe that any responsible legislature would endorse retrospectivity except in the most profound circumstances, in the criminal jurisdiction particularly. That could constitute a great social evil. All I say is that my advice from the Registrar, who is sitting in the chamber today and advising me, is that there are no matters extant as of right now. The question of that event occurring, which is quite properly drawn to our attention by Professor Whalan, I am advised is impossible. But to aid all those proponents of extrinsic evidence being taken as an aid or almost an estoppel on governments, I do say on behalf of the Government that, were such an exigency to be arising now, whilst we are in the chamber - I accept the fact that the Registrar has been absent from his office for some time - or were something to have occurred in the last short time, I would indicate to the house and give an undertaking that this Government certainly would not institute prosecution action or charges or the like with respect to those matters alluded to by my colleagues across the chamber.

Debate interrupted.

ADJOURNMENT

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

> That the Assembly do now adjourn.

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

Question resolved in the negative.

LIQUOR (AMENDMENT) BILL 1990
Detail Stage

Debate resumed.

MR MOORE (4.33): Thank you, Mr Collaery, for clarifying that issue. We, as an Assembly, ought to be on notice about retrospectivity. Should the circumstances arise again, the adjustments ought to be made in the Bill. I think that to stand against this now would just be bloody-minded. I think that you have adequately dealt with the situation for today. On any further occasions I think that we or, certainly, I would have to take a much firmer stance on the issue.

MR CONNOLLY (4.34): I should just say for the record that I accept the Attorney's assurances from his advisers that this is not going to be a practical problem. It is a matter of principle; but, again, his statement this afternoon and assurance that no prosecution would be launched that could give rise to this problem do give us some satisfaction. It is a point we need to be very careful of and we would hope that this would not occur in the future.

Clause agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill, as amended, agreed to.

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 8) 1990

Debate resumed from 22 November 1990, on motion by **Mr Duby**:

That this Bill be agreed to in principle.

MRS GRASSBY (4.35): Mr Deputy Speaker, at the outset let me say that the Labor Party is pleased that the Government has brought on this Bill. In applying the Australian design rule No. 65 we find the ACT Government further supporting the Prime Minister's 10-point plan to improve road safety. But I am amazed that the Minister is waiting until after Christmas to alter the law relating to blood alcohol level and bring it down from .08 to .05. Surely the Minister realises that Christmas time is the time when people decide to celebrate a little too much. They take their cars out and can cause some very serious accidents. I would have thought the Minister would have brought that in with this Bill at this time. I am trying to encourage people to think a little bit more. If they are in that situation they should be prepared to take a taxi or get another driver. I was saddened to hear at question time today that the Minister is bringing it in from 1 January.

I think that is a little bit late. We all know that Christmas time is the danger time for people drinking and driving. I am sure the Minister will agree with me on that.

The purpose of Australian design rule No. 65 is to limit the road speeds of heavy vehicles by having devices compulsorily fitted to them. These vehicles will then be able to travel at a maximum speed of only 100 kilometres an hour. I think that is fast enough for any large vehicle on the roads, the roads being in the state they are. There is a clear need for speed limiters for heavy vehicles and buses in the ACT.

The number of fatal accidents involving semitrailers and coaches in Australia lately has been appalling. The adoption of this Bill is important as it is part of a national licensing scheme which seeks to limit the number of accidents and fatalities associated with speeding heavy vehicles. Over the years, I am sure, all members of the Assembly have been appalled to see the continuing reports in the media concerning road accidents. We ask how this could happen and we grieve for the families of those killed in these terrible accidents, sometimes through no fault of theirs. Mr Deputy Speaker, we now have the opportunity to correct this situation, that led to those countless fatalities. This Bill is one of those measures designed to correct this situation. We should all think deeply about the constructive nature of this Bill and the good it will do.

May I say, before I sit down, that we are very grateful to the Federal Government for bringing in many of these ideas which will unify traffic laws across the whole country and which we hope will lead to better driving and fewer accidents. Unfortunately they had to use a little bit of the "carrot before the donkey" act and give road funding. It is very sad that we could not bring more States into line right throughout Australia without doing this. I guess it is all going to help us because we are all going to get a little bit more money for our roads. At the moment the ACT is fortunate enough to have reasonably good roads, but this will not go on forever. Therefore, we appreciate the amount of money we are able to get by doing this at the same time as making it a safer country in which to drive. The Labor Opposition is very happy to support this Bill in its entirety.

MR STEFANIAK (4.39): I am pleased to support this Bill to amend the Motor Traffic Act 1936 to restrict the speed of certain heavy goods vehicles and omnibuses. It constitutes an important part of the commitment made by the Government to support the federally funded 10-point black spot road safety initiatives announced by the Prime Minister last year. That initiative, of course, is supported by all Australian States.

Heavy vehicles, including buses, have come under increasing scrutiny from the public as a result of recent well publicised crashes. The consequence of those crashes is that road safety legislators are under greater pressure to respond to both a perceived and a very real need to protect the public from heavy vehicles travelling at high speeds.

Speed limiters will be fitted by vehicle manufacturers to all heavy vehicles manufactured from 1 January next year under the requirements of Australian design rule 65/00. I am sure all members of the Assembly will recall that last month legislation was introduced by the Government here and passed to give full ACT legislative authority to the Australian design rules.

The retrofitting of speed limiters to heavy vehicles manufactured from 1 January 1988 will further reduce the number of vehicles on our roads which will be able to exceed 100 kilometres per hour. Combined with retrofitting, the Australian design rule will eliminate the ability of a large number of drivers to grossly exceed speed limits on our highways. This method of control is a very positive contribution to speed reduction and road safety. For heavy vehicles on highways, speed limiters provide the ultimate enforcement of top speeds in preventing the vehicle exceeding the open highway limit.

Excessive speed, particularly in association with driver fatigue, has been a major contributory factor in many crashes involving heavy vehicles. Enforcement methods presently applied not only are costly but also have not proved to be sufficient to control drivers who persist in driving at high speeds.

This Bill is not being proposed without due consideration for the needs of certain groups. There is provision within the Bill to exempt vehicles used solely for urban or short distance work where they are usually unable to achieve a sustained high speed and where the driver fatigue factor is not brought to bear. Exemption is available generally to vehicles travelling no further than 80 kilometres from a depot at which the vehicle is stationed. These vehicles pose far less potential danger to the public than vehicles used for long distance operations and so will be eligible for exemption. This provision conforms with the New South Wales practice.

Fitting good quality speed limiters not only will affect the performance characteristics of the vehicles concerned but also will simply prevent excessive speed. It is expected that many long distance operators will benefit by fuel savings because of the reduced speed capacities of the vehicles concerned. The estimated cost of fitting speed limiters is $1,500 to $3,000, which is likely to be offset over time by reduced running costs.

Enforcement officers will not need to undergo special training to detect whether a vehicle needs to comply with the legal requirements as the manufacturer's gross vehicle mass is stated on the compliance plate of all heavy vehicles. Not only will drivers of vehicles apprehended for speeding in the ACT above the 100-kilometre limit attract normal traffic penalties, but also their vehicles will be subject to defect notices as the required speed limiters cannot have been fitted.

The purpose of this Bill is to improve the safety of heavy vehicle drivers and others who share the road with these vehicles. The overall effect of the fitting of the speed limiters will be safer roads, less environmental pollution due to reduced fuel consumption and reduced speeding penalty costs to members of the industry. This initiative will enhance public safety on our roads and, together with other complementary measures, work to reduce the high emotional and financial cost of road trauma. It is one of a range of national initiatives which are being implemented by other jurisdictions in Australia. Consequently it is of paramount importance that the ACT participate in such an important process. I commend the Bill to the Assembly. I would point out to Mrs Grassby that this really does not have anything to do with lowering the alcohol limit from .08 to .05. That, indeed, is the subject of another Bill.

MR DEPUTY SPEAKER: I call Mr Jensen.

Mrs Grassby: Just one more speaker, is it?

Mrs Nolan: No, after Mr Jensen.

Mrs Grassby: Oh, you are joking. God, you must have worked the public service overtime.

MR DEPUTY SPEAKER: Order, members! I have called Mr Jensen.

MR JENSEN (4.44): Thank you, Mr Deputy Speaker, for your protection. I am pleased to support this Bill to amend the Motor Traffic Act of 1936 which will require the retrospective fitting of speed limiters to certain classes of heavy vehicles including omnibuses. I call them buses, but let us use the correct term. This Bill is consistent with this Government's policy of improving the road safety environment in the ACT. It is also a reflection of the growing recognition by all State and Territory governments of the need to have national uniformity in matters affecting Australian road users. I was fortunate at one stage, Mr Deputy Speaker, to be present at a ministerial conference when these matters were raised. It is a very important issue for the people of Australia as well as the people of the ACT.

In October this year the Assembly passed a Bill which consolidated the requirements of Australian design rules in ACT legislation. Australian design rule 65/00, which covers maximum road speed limiting for heavy goods vehicles and heavy omnibuses, is one of those design rules. The Australian design rule system is an area of the transport system where there is consistency across all Australian jurisdictions.

The Prime Minister's 10-point package of road safety initiatives, announced on 5 December 1989, sought to improve road safety in two main ways: firstly, to assist the State and Territory governments to reduce road safety blackspots; and, secondly, to increase the impetus towards attaining national uniformity on road and traffic matters. It is history, Mr Deputy Speaker, that Minister Duby, following attendance at a conference, was able to increase the amount of money that was originally allocated under that program for the ACT. I think it is appropriate to pay due regard for that effort.

The 10-point package included such measures as the introduction of national levels for blood alcohol concentration, national uniform speed limits and national licensing of heavy truck and bus drivers. I would be the first to acknowledge, Mr Deputy Speaker, that some of these initiatives will have a more profound significance for some other jurisdictions than they will have for the ACT. Fortunately, the ACT does not have some of the long lengths of barely maintained roads that some of the States have and which have been the cause of some of the dreadful accidents that Mrs Grassby mentioned. The fundamental issue is that all States and Territories should move together in the interest of pursuing national objectives which will have national benefits. I notice that Mrs Grassby seems to have a clear attack of Hiawatha disease over there. That is a major problem.

Mrs Grassby: No, I am just bored stiff.

MR JENSEN: This Bill is part of a continuing commitment towards a broadband government policy of road safety initiatives which have been introduced progressively over the last 12 months since this Government took office. Such initiatives have included improved child restraints legislation to protect children under one year of age, increased traffic infringement fines and, more recently, the incorporation of all Australian design rules into ACT legislation.

Overall, Mr Deputy Speaker, this Bill will not only provide a positive contribution towards improving road safety but also add uniformity to Australian road user laws, to the benefit of all members of the community. I commend its introduction and passage in this place.

MRS NOLAN (4.47): I am pleased to support this amendment Bill to the Motor Traffic Act 1936, and I welcome the support of other members for the Bill which allows the retrofitting of speed limiters to heavy goods vehicles and omnibuses. I happen to think, Mrs Grassby, that this is a very important Bill and one of the more positive measures that have come into this place. I think it can be compared to the introduction of the seat belt laws a decade ago.

It is very clear to me that fitting speed limiters to heavy vehicles is a more effective method of speed control than total reliance on the skills and attitudes of individual drivers, particularly because driver fatigue, boredom, demanding schedules and traffic conditions are each able to distort the ability and judgment of long-distance drivers. It will also provide a measure of control over what I believe to be a small, but dangerous, number of drivers who are prepared to risk the consequences of flouting road rules.

I am not sure whether any other member has been surrounded by several trucks on the road. I had such an experience not that long ago, which was rather scary, and I hope that nobody else has been in a similar sort of situation. Removing the ability of drivers to grossly exceed speed limits is an innovative enforcement method. As I have already said, Mr Speaker, it may well come to be recognised as one of the more positive measures employed to reduce the effects of road crashes since the introduction of seat belts.

I should draw members' attention to the provision within the Bill to allow for exemption of some vehicles from its requirements. Those vehicles which may be exempted would include those used for urban use, such as local route service buses and vehicles which do not travel more than 80 kilometres from the depot at which they are normally based. That has already been mentioned by Mr Stefaniak. Heavy vehicles required for farm use could also qualify for the exemption, which I think is a very important one.

This Bill will closely align the ACT legislation with that of our New South Wales neighbours, and I think that is a very important point as well. In short, it is a sensible and practical piece of legislation which will not unnecessarily disadvantage heavy vehicle drivers but which will provide substantial road safety benefits.

Let me add, Mr Speaker, that adequate administrative arrangements would also be put in place to ensure that heavy vehicle owners have sufficient time in which to conform with the new requirements. For example, I understand that the Registrar of Motor Vehicles will be writing to all those vehicle owners whose registration falls due between 1 January 1991 and 31 March 1991, specifically informing them of their obligations to fit speed limiters.

However, the Government recognises the practical difficulties that some owners in this category may experience in meeting this requirement in what is a comparatively short period. Consequently, these vehicle owners will be allowed additional time in which to comply in order to ensure that every vehicle owner has a minimum of three months' notice before the necessary equipment has to be installed in the vehicles. For those vehicle owners whose registration falls due on 1 April 1991 or thereafter in the 1991 calendar year, there will automatically be a minimum of three months' notice, and naturally they will need to make arrangements to ensure that they have speed limiters fitted when their vehicles are presented for inspection.

As has already been stated by other Government speakers this afternoon, the passage of this Bill will enable the implementation of another significant measure directed towards keeping down the road toll, reducing the cost to the community and providing a safer road environment for all to enjoy. I fully support the introduction of this Bill.

MR DUBY (Minister for Finance and Urban Services) (4.52), in reply: It has been most gratifying to hear the level of support expressed by both sides of the Assembly for the Motor Traffic (Amendment) Bill (No. 8) 1990. As has been specified and, I think, amply demonstrated by the previous speakers, this Bill has been overdue for some time. It is also part of our commitment to the 10-point safety package that has been announced by the Federal Government. The Bill has no effect on income or expenditure. I welcome the support of members of the Assembly, and I thank them for that.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ROYAL CANBERRA HOSPITAL

MR SPEAKER: I would like to make several announcements. With respect to Mr Humphries' request for withdrawal of a statement by Mr Connolly yesterday, I now have the *Hansard* transcript in front of me. I am looking at page 113 of the proof copy and what Mr Connolly said. I will give you an example. He said:

> If you are a public servant working in your department -

that is, Mr Humphries' department -

> and you have the temerity to go on the ABC and indicate your dissatisfaction with Government policy, you get threatened with defamation action from senior public servants.

Mr Humphries has requested withdrawal on several bases. One was that Mr Connolly's words and descriptions were unparliamentary. Unfortunately, I cannot agree with this proposition that Mr Connolly's words were unparliamentary. Another was that Mr Connolly suggested that Mr Humphries had taken the action discussed, that is, the threat of defamation action. According to the *Hansard* record, Mr Connolly did not say that, and, therefore, there is no personal imputation on Mr Humphries as such.

A third was that Mr Connolly stated, in summary, that senior public servants in the health department threatened other health department public servants with defamation action for being outspoken. Mr Connolly produced what he considers to be proof of his statement. I will not comment one way or the other on the letter presented by Mr Connolly. However, in my opinion, Mr Connolly has raised an issue which is obviously unpalatable to the Government but which is not unparliamentary. That is the distinction that I make. Therefore, Mr Humphries, I do not support your call for withdrawal of the words spoken by Mr Connolly in this case.

MR HUMPHRIES (Minister for Health, Education and the Arts), by leave: I do not wish to quibble about your ruling; I accept it, of course. I do believe, however, that Mr Connolly has made a reference to a practice of the Government. I might refer you, Mr Speaker, to a sentence used just before the words that you read. Mr Connolly said:

> And well they might be worried, because there is a disturbing tendency from this Government to go after critics.

It was immediately after that sentence that the comments referred to were made.

I would certainly argue that there was an imputation there about government practice. That is not a matter to be dealt with by means of asking for a withdrawal of an imputation, but it is one that we should debate in this house. It is one to which I believe there is no substance. I believe that the letter produced by Mr Connolly produces no substance, but that is a matter for another time and another place.

LEADER OF THE OPPOSITION

Ms Follett: On a point of order, Mr Speaker: may I refer you to page 79 of the proof copy of Hansard of 27 November and Mr Collaery's remarks there. He said:

> Let me assure the Leader of the Opposition that I do not take gifts whilst I am in office. And I suggest that she might be sensitive on that issue.

I say to you again that I regard that comment as unparliamentary, and I ask again that it be withdrawn.

Mr Collaery: You have already had a withdrawal of it. Why should we withdraw it twice? How absurd!

MR SPEAKER: Order! I do not believe that that was withdrawn, Mr Collaery.

Ms Follett: I do not have a withdrawal, Mr Speaker.

MR SPEAKER: No. On the words spoken, as I understood them, I did not think that was an offence; but, having seen it in print here, Mr Collaery, I would ask you to withdraw that.

Mr Collaery: I thought we had withdrawn it. I withdraw the imputation.

PUBLICATIONS CONTROL (AMENDMENT) BILL (NO. 2) 1990
Speaker's Ruling

MR SPEAKER: This morning Mr Stevenson presented to the Assembly a private members' Bill entitled Publications Control (Amendment) Bill (No. 2) 1990. During the introductory proceedings I raised with Mr Stevenson the possibility that the Bill might contravene standing order 136. However, I indicated that I had not had the opportunity to consider the Bill in detail and would reserve my ruling until I had done so. When the Attorney-General rose to take the adjournment on the Bill he formally raised a point of order on the Bill's possible contravention of standing order 136.

I have since examined the Bill in detail and note that, as Mr Stevenson suggested, the Bill presented today does not include three clauses that were included in the Bill introduced and negatived at the agreement in principle stage earlier this year. The three clauses that were included in the first Bill largely sought to establish that it was an offence to be in possession of five X-rated videos. That provision, without the artificial limit of five, still exists in the Bill introduced today.

Today's Bill does substantially duplicate the clauses of the earlier Bill. The object of today's Bill is the same as that of the first Bill, and any legal interpretation of the two Bills would be similar. A number of the differences between the two Bills are largely technical, or take into account amendments made to the principal Act by the Publications Control (Amendment) Act 1990. Standing order 136 states, in part, that "any motion or amendment which is the same in substance as any question, which, during that calendar year, has been resolved in the affirmative or negative" may be disallowed.

Having considered the Bill introduced today, I must conclude that it is the same "in substance" as that negatived by the Assembly on 24 April this year. I therefore call on the Attorney-General to move the appropriate motion under standing order 170.

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

That the Publications Control (Amendment) Bill (No. 2) 1990 be withdrawn.

ADJOURNMENT

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

That the Assembly do now adjourn.

Tabling of Documents

MR BERRY (5.00): Mr Speaker, I rise for just a couple of moments to talk about another matter which is recorded in Hansard, and that is in relation to the letter which was the subject of a motion in this place yesterday, calling for its tabling in the house.

The reason I rise is to ask members to exercise caution when they force members to table correspondence. Mr Connolly had clearly indicated, before he was forced to table the letter, that he would show the letter to the Minister concerned, Mr Humphries. It was obviously a letter which contained names of individuals, which, if the document became public, might cause some embarrassment. The sequence of events which followed Mr Connolly's offer to do that largely read as a warming up of the engines for a motion that immediately followed.

I repeat my request to members to exercise caution and be a little careful about forcing members to table correspondence which might be embarrassing to members of the community, who should really not be embarrassed as a result of a political point in this place.

Building and Construction Group Apprenticeship Scheme

MR HUMPHRIES (Minister for Health, Education and the Arts) (5.01): Mr Speaker, I would like to speak on an unrelated matter. I had the pleasure recently of attending the annual group apprenticeship scheme awards of the Master Builders Construction and Housing Association of the ACT and was able to observe some of the benefits of that scheme. I think it is worth recording in Hansard the good work that is done under that scheme, under the auspices of the Master Builders Construction and Housing Association. The scheme is 21 years old, making it the oldest such scheme in the country. I think that 21 years of persistent support for that scheme by the MBCHA deserves to be acknowledged and applauded.

The scheme operates in the building and construction industry in the ACT, and it optimises the use of training capacity in smaller businesses in the Territory, which by themselves would have neither the training facilities nor a suitable range of work to provide adequate employment and training for apprentices.

The scheme involves contracts of training with apprentices who are then assigned to a number of host employers progressively throughout the apprenticeship period. Obviously, that provides for a wide range of work experience for apprentices. It is a scheme which has attracted wide support and is obviously a very effective one.

The award ceremony to which I referred is an annual event. It recognises excellence in training, from the point of view of both the apprentices and the employers who offer those apprenticeships. The recent awards, for example, included awards to the best apprentices in each of the four years of training in various trades and also to the best female apprentice.

There were also some new awards, including the best community oriented apprentice and the best employer of the year, which I am pleased to note was won this year by ACT Public Works. Mr Duby would be much too modest to blow that trumpet, but I am happy to do so on his behalf.

Mr Duby: Very well deserved, too.

MR HUMPHRIES: I am sure it was. Another new award was for the best host employer of the year providing quality training. Those kinds of awards offer encouragement to employers to take on apprentices. I do not think any employer who takes on apprentices does so with a desire to make a profit, since apprentices obviously need to be trained and are not as productive as fully trained workers. I think that those employers who have a somewhat civic-minded attitude in choosing to employ apprentices do the whole community a very great deal of good.

I think the commitment of the MBCHA in continuing to sponsor this project, when many others in a similar position elsewhere in the industry do not do so, is a tribute to that organisation. I think we should support its efforts in future years. I would certainly encourage any members here who might be invited to participate in presenting those awards to accept that invitation graciously and to ensure that we as a community offer strong support for this practice.

Question resolved in the affirmative.

Assembly adjourned at 5.05 pm