DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

14 August 1991

Wednesday, 14 August 1991

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

PETITION

The Clerk: The following petition has been lodged for presentation, and a copy will be referred to the appropriate Minister:

Fluoridation

TO THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly: that

(a) Fluoride, a cumulative toxin is being added to the water supply; and that
(b) this constitutes mass medication without the consent of your petitioners.

Your petitioners therefore request the Assembly to:

Switch off immediately the apparatus which artificially fluoridates the ACT water supply and thereby stop this pollution forthwith.

By **Mr Stevenson** (from 78 residents).

Petition received.

POLICE OFFENCES (AMENDMENT) BILL 1991

Debate resumed from 7 August 1991, on motion by **Mr Stefaniak**:

That this Bill be agreed to in principle.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.31): Mr Speaker, this matter has been debated on a number of occasions in this Assembly. Essentially, the Government's position remains as I have previously put it;

that is, we believe that this is a bad and unnecessary law. This is not to say, and I would vehemently reject any assertions to this effect in this place or elsewhere, that the Government is in some way soft on crime or condones street violence or does not want to adequately back up the police force.

Our record on those issues is clear and our record of appropriately supporting the Australian Federal Police is clear. We believe that the way to ensure the security of the citizens of Canberra, the way to make progress on criminal activities and crime, which is ever rising throughout all jurisdictions in Australia, is to move more strongly in the way of community policing and concern for victims' rights and crime prevention strategies. We believe that arbitrary powers are totally contrary to that strategy.

It is often claimed by those who support the move-on power that its success is demonstrated by the statistics showing the number of persons moved on compared to the number of persons charged and successfully convicted. These very figures are included in the Australian Federal Police report on the move-on powers, which I circulated to all members the day I received it. While to Mr Stefaniak they suggest that the legislation is working, to members on the Labor benches they suggest that there is a real problem with this legislation. The figures show that the move-on powers have been used on 145 occasions, involving some 2,060 persons. That resulted in 19 arrests and 15 convictions. In other words, 0.7 per cent of persons against whom the move-on powers have been directed are being convicted of an offence.

Mr Stefaniak says that that is a good thing and shows that people are not being brought before the court. We say that it is a bad thing. We say that it means that over 2,000 Canberrans - and overwhelmingly they are young Canberra citizens - have been brought into unnecessary conflict with the police and have left those situations feeling aggrieved. Given that 0.7 per cent of those against whom the power has been directed have been convicted, 99.3 per cent of those persons have been left with a feeling of aggrievement, have been left with a feeling that "I was doing nothing wrong and the police came along and told me to move on".

These are the very young Canberra citizens we are trying to encourage, with the community policing campaigns and Neighbourhood Watch and concerns for victims' rights and crime prevention, to have a community oriented view of law and order, a view that the police are an agency of the community rather than an agency of the state directed against them, trying to inculcate an approach to law and order that is more satisfactory. Yet we use against them powers that can be seen to be arbitrary.

We authorise the police in this state to do this - extraordinarily, because it is the overwhelming pattern elsewhere in Australia not to do it. If we look across the border, the police in New South Wales have no such power. The police in Victoria have no such power. The only jurisdictions in Australia where there is an express power to move someone on are South Australia and the Northern Territory. Why is it felt that we need these extraordinary powers when other jurisdictions do not feel that they need them?

Mr Collaery: Because we are more enlightened.

MR CONNOLLY: Mr Collaery says that we are more enlightened. I am very disappointed with the Residents Rally attitude on this. I noted a comment made during the last debate because it coincided with a debate on a motion Ms Follett moved, as Leader of the Opposition, on an ethics committee.

Mr Collaery, in criticising that, said that it was an attack on civil liberties. I have that noted on my move-on powers speech notes because it was on the same day, in private members' business on 19 September 1990, that I thought Labor's move-on powers motion would be debated. So, I had my speech notes ready while the debate on the ethics committee was going on. There was the Leader of the Residents Rally and then Attorney-General again wearing on his shirtsleeve his concern for civil liberties. Yet he seems to be prepared to accept a piece of legislation that gives the police what we feel are arbitrary powers. We do not think that that is a good thing.

Mr Collaery: Would you say the same about your South Australian colleagues?

MR CONNOLLY: I do say that the South Australian legislation is bad legislation, as is the Northern Territory legislation and as is this legislation.

Mr Humphries: Everybody else is wrong, but he is right.

MR CONNOLLY: Mr Greiner is obviously wrong. He has never thought to introduce such legislation. Even, interestingly enough, Sir Joh Bjelke-Petersen is wrong. He never thought to introduce such legislation. He expressly banned political gatherings - but that is another story. So, to the extent that Mr Humphries says that everybody else is wrong, it looks as though everybody else is right, apart from the Northern Territory and South Australia, and in recent years the ACT.

There are fundamental flaws in the legislation as it presently exists, and that has been highlighted in the Australian Federal Police report. I acknowledge that at the end of the day the Federal Police say that they would prefer to have the powers, and I understand that. I think it would be a natural view of any police force in any

jurisdiction that they would prefer to have additional powers. But that is not, in my view, a ground for the Assembly necessarily wanting to give them those powers, unless we are to forget about any balancing of powers and liberties and just go all out for arbitrary power. I am sure no member of this Assembly would accept that.

The problems that have been identified with the move-on powers are those identified by Magistrate Dingwall in dismissing two charges in 1990, which led to the law being interpreted in such a manner that a move-on direction must be given against individuals, not against groups. If you have a group of people acting in what the police apprehend to be circumstances that would justify the use of the power, you have to give a direction against each individual person. The police explain that that means that the power is of limited practical application.

They also point out that the legislation does not stipulate how far a person must move on or for how long. They say that in practical terms a person has complied with the request if he or she moves only a few paces for a few minutes. The legislation is a very blunt instrument. That bluntness is highlighted by those comments from the police force. We would say, from the Labor side, that the essential bluntness of it is that it is arbitrary in that it gives a police officer power to move a person on without having to justify a specific offence.

The last time this was debated I went through the earlier police report which was referred to my predecessor as Attorney-General, Mr Collaery, in April 1990. I think that was the first substantive move-on report, and it remains a useful document because it sets out in a fairly extensive attachment circumstances in which the police had used the move-on power. Those circumstances, in each and every case, disclosed facts that would give rise to one or more substantive offences.

When a number of minor public place offences in the Police Offences Act were repealed in 1983 by the Police Offences (Amendment) Act of that year, it did not mean that Canberra in some way became a haven for petty criminality. When those provisions were removed, other more specific and less serious offences were created at the same time. When those public place offences went in 1983, the Crimes (Amendment) Ordinance of that same year, which was passed as a package of legislation, provided a range of powers for offensive or disorderly conduct in a public place. For example, section 546A of the Crimes Act provides:

> A person shall not, in, near, or within the view or hearing of a person in, a public place behave in a riotous, indecent, offensive or insulting manner.

There is a provision which covers behaviour in an offensive, indecent or insulting manner. I will leave out "riotous", because there are obvious problems about "riotous". So, for the sort of activity that people are concerned about - drunken youths, youths using obscene language, insulting people, acting as though they are likely to commit an offence - there is a provision there which covers it. A police officer can say to these young blokes, "Listen, fellows, if you do not cut it out I will charge you with offensive behaviour". The young person knows what his conduct is that is possibly criminal and has the option of copping a charge or not.

The problem with the move-on power is that it is perceived by young people as the police officer having authority and moving them on for no reason. We think that is an unsatisfactory and counterproductive measure. It cannot be demonstrated that the streets of Canberra are particularly safer now than they were. There are fewer charges for offensive behaviour - it is true - because the move-on powers are being used instead. We think it would be better to be in a position where substantive offences are used and police have that general power of warning.

It was said by Mr Stefaniak that a survey was conducted which showed that 86 per cent of Canberrans favoured the use of move-on powers. I want to make some brief remarks about the survey. The essential problem with the survey is that it was conducted by a lobby group specifically formed for the purpose of preserving the move-on powers - not necessarily impartial, although I respect their views. The problem with the survey is that the question "Do you think Canberra police should be able to keep the move-on powers?" was question 7. Before that question there were six other questions: "Have you ever been the victim of crime? Would you catch a bus alone at night? Would you feel safe walking through major centres alone at night? Do you feel safe alone in a carpark after dark? Do you think the level of crime has increased in Canberra in the last five years? Do you think Canberra police have sufficient powers to combat crime?".

Anyone who has ever looked at opinion surveys knows that, if you create a climate of opinion through a series of questions, you will get a specific answer. Those six questions highlighted concerns about safely walking through the streets at night; they said that the level of crime was increasing. They asked, "Do you think police have sufficient powers?" and "Do you think the Canberra police should keep the move-on powers?" without them being explained, and 86 per cent said yes. One could equally say, "Do you favour arbitrary powers in the police?", and almost everyone would say no. If you asked, "Do you think the Canberra police should be able to keep the move-on powers?", I suspect that you would get a very different result.

Mr Kaine: Do you think police power to arrest is not arbitrary?

MR CONNOLLY: Of course it is not arbitrary. The police have power to arrest a person for specific offences.

Mr Kaine: It is not? A policeman comes along and slaps an arm on your shoulder and says, "You are under arrest", and that is not arbitrary?

MR CONNOLLY: This is an extraordinary view of the world from the former Chief Minister. He seems to think that the police have power to go around arresting anyone for anything at any time. They obviously do not. I assume that the former Attorney-General did not share these views when he was the Minister responsible for the police.

Mr Kaine: Whacking a random breath test on you is not arbitrary?

MR CONNOLLY: That is a random matter. There is an arbitrary power to pull a person over for public safety reasons, which is supported generally. You know why you are being pulled over and there is no arbitrary nature to whether or not you are charged. You are charged if you exceed a prescribed concentration of alcohol in your blood. The problem with the move-on power as it is perceived by young people particularly - and it is overwhelmingly used against young people; there can be no argument about that - is that young people perceive this as a power which can be directed against persons who conform to different social norms from authority figures - the Australian Federal Police, politicians, "respectable" Canberrans. If we want to have a community where young people are part of the community and where we are actually achieving something in terms of reducing offences, I do not believe that it assists to equip police with a power that is seen by those people as being arbitrary.

It is well known - it is in the public domain - that the son of Mr Paul Whalan, a former Deputy Chief Minister, was the first person charged with refusing to move on. Mr Whalan's son vehemently asserted his innocence. He vehemently asserted that he was merely at a nightspot in Canberra lawfully conducting himself in a social situation. At the end of the day, those charges were dropped, but Mr Whalan junior continued to be dissatisfied. He continued to assert vehemently that his conduct was in no way criminal and in no way should have attracted police attention. He made formal complaints immediately through the investigative procedures to the Ombudsman's office.

I believe that when these powers were first being debated and a fear was raised by Labor members that they could be misused, it was always said, "There is adequate protection there. If a person feels that the powers are being misused, there is a statutory mechanism for police complaints to be introduced". Mr Whalan has advised me

that, although that occurred almost two years ago, there has been no formal response to the complaint that was raised through those formal statutory investigatory procedures. So, to say that if these powers are abused the citizen can make complaints through the appropriate channels is hardly consistent with a young Canberra citizen who was charged, vehemently protested his innocence, had the charges withdrawn and, indeed, costs awarded against the prosecuting authorities because those charges were withdrawn, pursuing a complaint that he was lawfully conducting himself and perfectly within his rights and that he felt that the police action was wrong, and almost two years later still not having a formal response from the investigating authorities.

That is a bad climate if you are in favour of a society in which crime is being reduced and in which the police are seen as part of the community. Community policing, as I have said before, is a goal to which we all subscribe. We all understand that a safer community is a community in which the police and the citizens cooperate together in strategies to reduce crime. It is counterproductive to introduce broad-sweeping, arbitrary powers that are seen in this way by a significant group in society, and a group that is at risk of criminal activity. All studies of criminal behaviour show that it is young persons who are more likely to come to the notice of the police and more likely to engage in low level criminal activities.

It is hardly productive, in trying to reduce young people's involvement in crime, to have these arbitrary powers, to have a young person conducting himself in an ordinary fashion of an evening in Canberra, perhaps not dressed as we are here today, perhaps with longer hair, perhaps with a skateboard, perhaps wearing a black T-shirt, a Metallica T-shirt even - I do not think he was at the time - but that type of dress that young persons adopt, charged with an offence and told to move on, when he feels that he did not have to. I can understand why a person who is lawfully conducting himself, not interfering with anybody else, on being told to move on may stand on his Irish, so to speak, and say, "No, I have not done anything wrong. I am not breaching the peace. You tell me what I am doing wrong. I am just having a drink, having a chat with my mates".

That has occurred, too. He has been charged, the charge has been withdrawn, and yet two years down the track a complaint about that has had no formal response. That is creating a climate amongst Canberra's young people of distrust of the police and that is something that I, as Attorney, want to work very strongly against. I am sure that we all in this place would favour - - -

Mr Stefaniak: Why do most of us support this power, Terry? People are victims, too.

MR CONNOLLY: Of course people are victims, too. We have done a lot. We were the first party to raise victims' rights in this Assembly. We placed on the notice paper the declaration of rights of victims. That was a Labor initiative. Subsequent to my putting that on the notice paper, within weeks of coming here, the Government referred the victims' rights reference to the Community Law Reform Committee, which we enthusiastically supported at the time and still do. So, you cannot throw, "What about the rights of victims?" back at the Labor Party. We have been taking strong initiatives on this.

We say that the rights of all Canberrans will be better protected if we have a criminal justice system that is directed at crime prevention, and if we have a climate in which all sections of the community trust and respect the police and accept that the vast and great powers that we do vest in the police force are reasonably vested because they are exercised fairly. When you create powers that are arbitrary and that are seen to be directed principally against a group in the community that is most at risk of drifting into criminal behaviour, the young people of Canberra, I say that you are acting in a counterproductive way. You are creating distrust of the police. You are creating a large group of people, some 2,000-odd, so far, who have been brought into what we would say is unnecessary conflict with the police.

We favour specific, identifiable offences with the discretion that has always existed for the police officer to say, "Listen, you fellows, either cut it out or I will charge you with a specific offence". The person whose behaviour is a problem knows what the incorrect behaviour is and has a choice of either stopping it or being charged with a substantive offence. Arbitrary powers, Mr Speaker, are not the way to achieve a more law-abiding society, and we reject the need for them in this community.

MR COLLAERY (10.51): I rise to speak, having had a few minutes to prepare for this, given the circumstances the Rally is in at the moment. I hope all members weep accordingly, because we are. There is much in what Mr Connolly says that is compelling, but one needs to draw it all together. It is just like the fluoride issue yesterday. Ultimately, it comes down to a balance between what is in the maximum interest of the community and what will minimise other possible problems in the community.

I am in this chamber as someone who opposed Mr Stefaniak for years and years in this town, at the bar table in prosecutions. They were mostly minor matters, criminal matters and the rest. One of the last matters I did before coming to this place was to defend the son of a prominent Canberra citizen and a friend of mine on a charge of offensive behaviour that allegedly occurred outside the Ainslie Football Club, right across the road at the fence.

He was alleged to have used a fricative word that offended, greatly offended, the constable who laid the information, his colleagues and an indeterminate number of the public who were presumably there at 2 or 3 o'clock in the morning.

For years and years I defended young people for using language which we well know you will hear in locker rooms, even police locker rooms, and on issues such as insulting behaviour, offensive behaviour and the rest. I will read into the record some of the transcript of proceedings in the matter that Magistrate Dingwall decided on 9 October 1990 in the Magistrates Court. His Worship said:

> Well, both defendants are charged under section 35(1) of the Police Offences Act 1989. That section reads:
>
> > Where a police officer has reasonable grounds to believe that a person in a public place is engaged or is likely to be engaged in violent conduct in that place, the police officer may direct the person to leave the vicinity.

His Worship went on to say:

> Violent conduct is given extended meaning to mean violence to or intimidation of a person, or damage to property. The evidence as it stands is that the constables observed a group of males, which they specified as six males, which they say included the two defendants, who were carrying on in behaviour which Constable Bourke described as antisocial.
>
> Their behaviour amounted to rowdiness, one member of the group banging a sign outside the Pancake Parlour, and another one or more banging the front door with - at one stage.

There is a gap in the transcript. He continued:

> Evidence that they were swearing and evidence that members of the group were inviting passerbys to fight.
>
> There is no evidence, though, as to what each of the defendants was in fact doing at any time from the time the police officers first left the Pancake Parlour to the time that they were subsequently given a direction to move on, outside the chemist.
>
> The legislation is very specific in that it requires the police officer to have reasonable grounds of believing that a person has either engaged or is likely to engage in violent conduct in that place.

> On the evidence before me, there is no evidence which supports the constables having reasonable grounds to believing -

sic -

> that either of the defendants had in fact engaged in violent conduct, or were likely to engage in violent conduct because obviously that belief as to the likelihood of engaging in violent conduct must be based on some prior conduct by the two defendants or some indication as to what they intended to do.
>
> Even as accepting the police evidence at its highest, as I am required to at this stage of the case, it seems to be insufficient for the purposes of this legislation to form the belief that simply on the basis of what a group - the group behaviour as opposed to the individual behaviour of members of that group.

His Worship went on to find the offence not proven and dismissed the charges.

In the case of Bernard Whalan, again the police attended some night premises in the city. I forget the actual facts. In that case the matter was dropped because a witness had gone to New Zealand. That was the advice that the police gave me. In the case of Bernard Whalan, I understand from the Attorney that a complaint was made. I am astounded to find today that there is still no resolution of that complaint which went from the police internal affairs area to the Ombudsman. I will come back to very real concerns I have about those processes in a moment.

Mr Connolly referred to the essential problem with the Act being a perception that it gives arbitrary powers to the police, and that the police are able to "move people on" without giving a reason. The leading question that Mr Connolly asks is, "Do we wish to leave arbitrary powers with the police?". As he said, in his own words, "We are equipping police with a power seen to be arbitrary, at least". He accepts, I suppose, from a legal point of view, that the perception of arbitrariness is there, if not the law itself making it arbitrary, but it does not. It gives a test of reasonableness to the police constable. Be that as it may, I will take Mr Connolly at his highest and say that it gives an arbitrary power to the police.

This arbitrary power that Mr Connolly refers to replaces, I trust, the many, many detentions, arrests for insulting language, offensive behaviour, behaving in a manner, and all those other ones that used to greatly annoy me as someone interested in civil liberties over the years in this town. I took the view then, as I do now, that, properly supervised and properly managed, this Bill will

reduce the number of people arrested for urinating in a public place and in respect of other charges. I have maintained since I have been in this place that I want to see statistics that may justify the perception I have. I have still not seen clear statistics from the police that suggest that there has been a drop in charges of that nature. I was briefed, as Attorney at the time, that there had been a drop in those charges.

I take the view that we must resolve this Bill on the balance of interest to the community. Mr Connolly kindly made the latest police brief available to members and that shows that 2,006 persons have been moved on, with 19 arrests and 15 convictions. Mr Connolly also acknowledged that there are move-on powers in South Australia, which is, by all accounts and by all admissions made by Mr Connolly, an enlightened jurisdiction, and they are used in the Northern Territory. I withhold judgment on how we regard that jurisdiction.

The view that Mr Connolly puts to us is that the power is capable of misuse. He does not provide evidence of misuse of the power. I had occasion to be approached by a senior member of the Residents Rally over the detention of her grand-daughter in Manuka following an incident outside Bad Habits Night Club on 7 October 1990. Charges against those young persons were, to my knowledge, eventually dismissed. Mr Connolly can be assured that interest in the move-ons is not in the province only of the Australian Labor Party. I, towards the end of my time as Attorney, wrote a frustrated letter to the Assistant Commissioner of Police saying, "I never find out what happens in these cases".

I will read you the end of the brief that I received as Attorney on 17 October 1990 in respect of the Bad Habits incident. The final paragraph is:

> Because the matter is both before the courts, and subject to the secrecy provisions of the Complaints Act, I am not in a position to provide further comment at this stage.

The complaints Act is a Federal piece of legislation - the Complaints (Australian Federal Police) Act 1981 - and there is a secrecy provision at section 87 of that Act. It does purport to stop a police person or a person apprised of information in respect of a complaint against a police officer divulging information. But I found it extraordinary that the Australian Federal Police would quote that section back at the Minister. Had I remained Attorney for a short time longer, that issue certainly would have come to a head. It would have come to a head, firstly, under the discussions on the arrangement between this Territory and the Federal Government for policing. The Minister referred to in the Federal Act is naturally the Federal Minister, and the status of a Territory Minister is unclear. We are - and let us be frank about it - a passenger, to some extent, in this matter.

I think it most unsatisfactory that as Minister for all that time I had a secrecy provision quoted to me when I wanted to know some facts of the matter. I accept the sub judice rule; but the fact is that I used to go to the courts and get my own information when the police did not give it to me. I must state that I was dissatisfied. If the Federal Minister has adopted the view that he does not want to know, and he is satisfied with that supine position, so be it for Senator Tate; but not me. I wanted to know what really happened in Manuka and I wanted to know what really happened to Bernard Whalan, and I could not find out. I had the complaints Act quoted back to me.

I think that, lawfully, on a reading of this provision this morning, I could have communicated with Senator Tate and taken the issue further. But I was just starting that issue. Mr Connolly may turn up the correspondence I sent to the Assistant Commissioner some short time before I ceased holding responsibility. Mr Speaker, you do not ban X-rated videos necessarily because there are some shonky operators. You do not ban second-hand car dealers because there are shonky operators. Why should you ban a piece of legislation because there may be some misuse of the power by the police?

Putting it at its highest again, as I have said, and assuming in Mr Connolly's case that there is an arbitrary power and that it can be used arbitrarily, my strong view is that, were we to remove this power from the police, we would see the forces arrayed again against young people for behaving in an offensive manner, using insulting language, indecent words and the rest. I would be very apprehensive of the outcome of our removing this legislation now.

I propose to move an amendment to Mr Stefaniak's Bill which will give them another sunset clause while hopefully Mr Connolly gets on top of the police complaints issue and the police discipline issue and resolves matters that prevent us from quickly knowing the facts of the matter. I had similar problems over the SWAT shooting at Charnwood. I had a personal knowledge of weaponry that suggested that the first brief I got could not be correct.

Mr Speaker, I have great respect for the Australian Federal Police; they perform a great role. We have all recently said that in this house, including Mr Connolly. That respect is undiminished by the fact that in Bernard Whalan's case, I understand, one of the detaining constables had either gone to school with him or knew him from his youth. That information that I received worried me at the time. It continues to worry me.

I think that those individual issues relating to the phasing in of the move-on power, and certainly Magistrate Dingwall's decision, set a guideline for the police. Of course, all new laws require an evolutionary path. The police learn by experience, and in this case grim

experience, the limits of their power. Magistrate Dingwall is to be congratulated for setting out clearly, I thought, for the first time what the community's perception of the police role should be. You have here a clear indication from the magistrate that he will not allow these offences to be proven if it is in respect of behaviour described as "anti-social".

I am in the position that we reached last night in the fluoride debate. My colleague Dr Kinloch asked the classic philosophical question, "What is the best balance in a circumstance?". I can accept the ideological persuasion of the Labor Party. I can accept that the experience is close to the Labor Party because of the great labour struggles of this century when police powers were used arbitrarily, often in terms of industrial disturbances. But, as this house well knows, those powers will not and cannot be used in that circumstance. I am pleased that the debate has not spread to that issue any more. Mr Speaker, the Rally is prepared to support a further sunset provision, and I move the amendment circulated in my name.

Mr Stefaniak: That is an acceptable amendment, Mr Speaker.

MR SPEAKER: We will wait until the detail stage, if you do not mind, Mr Collaery.

MR HUMPHRIES (11.06): Mr Speaker, I rise to support the Bill moved by Mr Stefaniak. It has my full support, as indeed did the Police Offences (Amendment) Bill when first introduced in the Assembly some two years ago. I detect on the part of the Labor Party an ideological mind-set in this matter. They were opposed to the move-on powers at their inception; they remain opposed. They are not interested in the events - - -

Mr Wood: We have been fairly consistent, you reckon.

MR HUMPHRIES: Well, that may be. Mr Wood says that they have been consistent about it.

Mr Kaine: Consistently wrong.

MR HUMPHRIES: Consistently wrong, perhaps. They forget that the spirit in which this Bill was introduced and passed in the Assembly was that we should see how it works. I think it is pretty clear, considering the reports of the police on this matter and considering the experience that ordinary citizens have had for the most part with these powers, that the powers have worked. They have been successful. I have not seen any tangible evidence come forward from those benches opposite to indicate ways in which the powers have not worked. The objection is: "In principle we do not like the powers; in principle we do not like the idea of police being able to move somebody on if they suspect that a crime might be committed".

That is the problem. The Labor Party is not approaching this Bill on the basis on which it was passed in the Assembly two years ago. For that reason I intend to support it and I hope that my colleagues will also support it.

Mr Berry: They do not believe that they work either.

MR HUMPHRIES: Mr Speaker, I heard Mr Connolly in silence. I hope that I will be heard in silence as well by Mr Berry.

The claim was made by Mr Connolly that these powers run against the Government's crime prevention strategy. I have to say that I cannot see any way in which that argument can be sustained. The idea of any crime prevention strategy should be, of course, to make citizens feel safe - not just to be safe, but to feel safe. To provide powers of this kind to the police, providing they are properly regulated, providing the police understand the appropriate circumstances in which they should be exercised, it seems to me cannot run against any decent and properly thought through crime prevention strategy. I would expect, therefore, that the Government's crime prevention strategy ought to make sure that it accommodates these powers, because they are an important part of the armoury of any policeman on the beat in this city.

Mr Connolly also made the claim that Labor was not soft on crime, and wanted to emphasise that the credentials of Labor are very good in the area of crime and law and order. Whether they are good or not I will not debate at this point. I have to say that if the Government, the Labor Party, succeeds in repealing this Bill today, in effect by failing to allow this Bill in some form or another to pass, it will I think very justifiably give rise to the accusation that it is soft on crime. It goes back to Labor's whole philosophy about crime and its approach to the question of crime. Labor's philosophy is basically that the criminals are society's victims; that the hand of crime preventers and law enforcers ought to be stayed in order to protect the interests of criminals and the so-called victims of society.

Mr Wood: That is overdoing it.

MR HUMPHRIES: There is a very large element of that in Labor's approach. It chooses to say that we should pay as much attention to the victims of society as we do to the victims of crime. That is what I perceive as Labor's basic approach. It emphasises rehabilitation rather than retribution or even prevention. I have to say that, although I go some way down that path, I do not think that should ever be at the expense of people who are victims of those crimes. Those people have the first call on any government's loyalty. They should be the first to be protected by any government and they should be the ones who are protected by legislation such as that which we are debating today.

I do not believe that the position that the Government and that Mr Connolly have articulated today would be much shared by many direct victims of crime. The fundamental duty of any legislator is to provide a framework of safety and security for the citizens of that community. That is the fundamental duty of this Assembly, as indeed it is of every other parliament in this country. I believe that it is in pursuance of that duty, that obligation, that we should consider this Bill today and, I believe, should pass it.

Mr Connolly also makes the point that the move-on powers are directed at a particular group of people. That is an interesting statement. Presumably, the statement is that this group of people, mainly the young, are people who are in some way more likely to be victims of move-on powers. I would probably concede that. The young probably are more likely to be people against whom move-on powers are used. As Mr Connolly himself said, it is in many ways more likely that those young people, perhaps in some cases with a tendency towards being delinquent - all young people at some stage go through that phase of being a little bit reckless, a little bit - - -

Ms Follett: Speak for yourself.

MR HUMPHRIES: I am sure I speak for most normal people. You go through a stage where you test authority; one sees how far one can go. Young people are in fact the people who most test the law. In many respects they, probably rightfully, are the people against whom the threat of the move-on power is used. I am not concerned or worried about that. That is only a fair observation. It will be people in that general age group who will be more likely to be committing those sorts of minor crimes of which Mr Connolly spoke, for those very reasons.

For him to suggest that this particular power has a discretionary element I think underestimates the very large discretionary element of many powers that police exercise. The power to arrest has an element of discretion in it. The crime with which a person is charged subsequent to that arrest, of course, has to be very clearly defined and proved in a court. But the power to arrest itself has an element of discretion in it. If Mr Connolly does not believe that he should go and watch police working, without being seen perhaps, for a period of time. He might see what I mean.

I do believe that there is distinct value in these powers. I believe that the spirit in which the Assembly passed this legislation originally in 1989 was that we should see whether there was value, and the evidence is quite clear that there is value. I refer to the most recent report that the police have provided to the Government. It is in the same vein as other reports which have been delivered to successive governments on this question.

I note that during the period of this last report, 1 January to 30 June this year, the move-on powers were used in regard to 21 situations involving 260 different people, and only one arrest was made for failing to comply with a direction to move on. That is a pretty good record, it seems to me. This raises the very interesting point that the importance of these powers is not that they are used, that is, that someone is arrested for failing to move on; rather, the value in the powers is that they are threatened to be used. A group of people in a position which might constitute, at some point, a cauldron for crime, if you like, in the future can be broken up and moved away where they are less likely to be in that same position. That is the value of the power.

I note that the police go on to say that there has been a decrease in the number of offences reported against good order, such as offensive behaviour, since the introduction of the legislation. In the first reporting period, from 1 September 1988 to 31 August 1989, 12 months before that section of the Act came in, there were 159 reported offences against good order, including 48 incidents of offensive behaviour. In the following 12-month period, during the first period of the move-on powers' existence, there were only 102 reported offences against good order, including 19 incidents of offensive behaviour.

Clearly, Mr Speaker, these powers are working; and clearly the police are confident that the use of these powers can prevent crime and can provide to the citizens of this Territory the security of knowing that there is protection for them in the way in which the police conduct their work and their activities. I think, Mr Speaker, it is outrageous for the Government to suggest that they should repeal this Act because they cannot see the ideological basis for it and ignore the very good work that this power clearly is doing in the community at the present time.

MR KAINE (Leader of the Opposition) (11.16): I do not intend to speak at great length, but I do want to take up a couple of points that Mr Connolly raised because I thought that his argument in favouring his own case was pretty weak. A couple of things that he said need to be commented upon. First of all, he said that the Labor Party was interested in crime prevention measures. Mr Speaker, I understood that this Bill was about crime prevention measures. It was aimed at heading off people who were seen to be misbehaving in public and stopping them before they commit a crime. If Mr Connolly were really serious about the Labor Party philosophy of crime prevention measures, he would support this Bill rather than oppose it.

He raised the question of the innocent youth who says, "I was doing nothing wrong and along came this terrible policeman who told me to move on". I do not know of any criminals who acknowledge that they did anything wrong, or there are very few of them. They are always not guilty.

It is very easy for a young person who has been told by a policeman to move on to say later, "I was an innocent victim. I was not doing anything wrong and along came this policeman who told me to move along".

I suspect that there are very few policemen, if any, who would bother young people if they were doing nothing wrong or if they looked like they were not about to do something wrong. I have more faith in our police officers than to say that they would always or frequently tell young people to move on if they were indeed doing nothing wrong. I do not accept the proposition that the police are always wrong.

Mr Connolly extrapolated from that and said that this is really an attack upon civil liberties. One must ask the question, "Whose?". If I am sitting in a bus depot late at night and I am being annoyed or harassed, or I am concerned about the behaviour of some young people in that place, I have some civil liberties too. If a policeman comes along and says to those young people, "Knock it off, kids; it is time you were home and off the streets", then I am interested in their protecting my civil liberties too. There are two sides to this case. So, when the Labor Party and Mr Connolly argue that this is an attack upon civil liberties, I again ask the question, "Whose civil liberties are we talking about?".

Then Mr Connolly appealed to the fact that New South Wales does not have such a law and therefore we should not have it. He did not pursue that argument for very long. In other cases over the last 18 months when we were in government we were frequently told that we should not do something because they did not do it in New South Wales or vice versa. Now we have the argument being reversed. We are told that because New South Wales does not have such a law neither should we. He acknowledged that the Northern Territory and South Australia do, however, and I wonder whether he ever asked them why they have such a law.

He is the Attorney-General and one would argue that if the State of South Australia and the Territory of the Northern Territory have such a law there could well be some good reasons for it. But I presume that, as Attorney-General, he did not bother pursuing that because he did not want to know the answer; he did not want to be persuaded that there was good reason for having such a law.

He went on and said, "We, the Labor Party, favour specific offences". I presume that what he is saying is that the New South Wales situation, where somebody has to be charged with an offence before they can be taken off the streets, is the right way to go. He prefers specific offences. He does not favour a system where a crime can be prevented before it occurs. He wants a system where young people in particular - he was talking about young people - actually commit a crime before the police can take any action.

I think that is rather convoluted reasoning, personally, and I make the point, Mr Speaker, that the three speakers so far have all been lawyers. I am not a lawyer and I am not approaching this from the position of the law. I am approaching this as an ordinary citizen and in the way this affects me, not in a way it might be argued in a court of law as to what the technicalities of the law are. I think Mr Connolly really is misunderstanding the situation, perhaps for the reason that Mr Humphries pointed out; that they have an ideological base behind the position that they adopt. He seems to be saying that he favours waiting until somebody commits a crime before the police actually do something about it. I think that is quite wrong.

I think that the move-on power is a good provision. It is, in a way, aimed at young people. But I submit that it is aimed at the protection of young people - not to victimise them, but to protect them; to head them off before their behaviour, which in many cases perhaps is simply boisterous, goes over the top and becomes offensive and perhaps becomes illegal. I think that is a good provision.

The evidence suggests that in the two years that this law has been in place it has not led to gross abuse by the police. If it has, there has been no evidence presented here in this debate to demonstrate that that is so. One case was presented. One swallow does not make a summer, and one misuse or error in the law does not make the law bad. I finish as I begin: Mr Connolly's arguments were most unpersuasive, as far as I am concerned. I support the Bill and I would urge those thinking and reasonable members of the Assembly to do likewise.

MR JENSEN (11.22): These days much is made about rights. Any of us with teenage children are often reminded by our children of the rights that those children have and seek to exercise. However, as a parent I feel it is my responsibility to remind my children that these rights also come with certain responsibilities. For example, a licence to drive gives you a right to drive a motor vehicle on the road. However, that does not give you the right to drive in a manner dangerous to the public or to ignore the rules of the road that have been developed to enable everybody to proceed in an orderly manner. It does not give you the right to infringe the rights of others by getting yourself in a position where you are unable to control that car through alcohol and end up in an accident in which people are unfortunately killed or maimed for life. Your right is the right to drive; but the person who has been damaged by another abusing the right also has a right and their civil liberties and rights have been infringed. I find, these days, that I have to continually remind my teenage son of his responsibilities in that area.

Let us now, Mr Speaker, apply this issue of rights to those of our community who wish to exercise the right to walk to the bus stop, to walk through Garema Place in the evening or to wait for a bus at Woden, Belconnen, the Civic

Interchange or Tuggeranong, I guess, these days, without being abused or harassed. In Australia our community has a clear right of assembly, a clear right to move about the streets as we will. My colleague Mr Collaery has recently returned from Japan and there, he indicated to me, the police were everywhere, in a threatening manner. I do not believe that we have that situation in general in Australia and I would hope that in Australia we never ever get to a situation like that or to the situation we often see in the news from the United States where cities have such problems, where people's civil rights and rights to move about unhindered are continually being threatened.

It is also important to remember that if the move-on power is given to the police they also have a responsibility to ensure that the power is exercised in accordance with the law and in a spirit of cooperation on both sides. That is what community policing is all about - the community and the police working together to ensure that the community can move about the suburbs and our cities.

Unfortunately, there are occasions when some elements of our society seek to impose on the rights of others by harassment which is just short of a criminal offence but is sufficient to cause people concern and alarm about their safety. What can the police do, Mr Speaker, in such circumstances, if an offence has not actually been committed? Prior to the move-on powers being implemented they could do absolutely nothing. All they could do - I guess illegally in those days - was to seek to move people on and out of the area. They had to wait for an incident to take place before they could arrest the troublemaker or troublemakers, as the case may be; they had to wait until the damage had been done.

Let us consider, Mr Speaker, the cost of then processing the charge and the cost of the medical treatment on occasions, and the pain and suffering of the person who had been attacked after a period of incitement by a group of people. That needs to be taken into account as well, I suggest. However, with the move-on power police can take action to break up the group before it gets out of hand and more extreme action becomes necessary. As a parent, Mr Speaker, I can assure you that I would be much happier to see my son or daughter moved on, rather than have to attend a court to support them in a case involving a much more serious charge because something had been allowed to get out of hand.

The police report provided by Mr Connolly indicated that there has been a reduction in the number of offensive behaviour charges. They fell from 48 to 19 over a 12-month period. That is a significant reduction; one that I think should be noted. Just think of the reduction in the costs associated with having to process those charges in the past; the amount of time saved for police officers who in the past would have had to prepare themselves and appear in court. That is a quite considerable saving. It means, Mr

Speaker, that more police can be out on the beat, on the street, amongst the community where they should be. That is what community policing is all about; police out with the community, involved with the community, so that they know each other.

We must remember once again that the exercise of the power in the Act is also subject to considerable media scrutiny. In the case my colleague Mr Collaery spoke about, Capital Television conducted an in-depth and strong long-running investigation into that particular incident. However, like my colleague, I am also concerned to see that when complaints are made against police they are quickly and efficiently followed up. If that does not happen the community will lose its respect for the ability of the police to police themselves.

That is why, Mr Speaker, there is an internal investigations group within the police that has wide-ranging powers. You could almost argue that there are arbitrary powers within the police force whereby a policeman under investigation is required to answer the questions put to him by the investigating officer. We, Mr Speaker, have a right not to answer questions. A police officer under internal investigation has no such right; he must answer the questions. That is the difference. That is why I think it is very important for those powers to be continued and supported in relation to investigation of police activities. And let us be frank; these things are going to happen at times. No-one is perfect, and in a group there will always be one or two who, unfortunately, overstep the mark. Fair-thinking policemen and policewomen would, I suggest, be more than happy to see such investigations carried out rigorously by investigative groups.

However, I am concerned, Mr Speaker, like my colleague Mr Collaery, that a period of two years has elapsed in responding to a complaint. Frankly, that is not on. I trust that Mr Connolly will be taking that up directly to make sure that that matter is resolved. I will fully support him in any action that he takes in that area. As I have said, and I repeat it again, I believe that almost all of those good, solid, hard-working policemen and policewomen want that sort of action taken so that any slur or problem is taken off the police force as quickly as possible and so that they can then get on with their job.

I guess it is really up to the police, if they believe that the move-on power is needed, and clearly they do - I must admit that I tend to support them - if they believe that it will assist them in providing a safer community, to ensure that it is exercised with due diligence and care. That is why, Mr Speaker, I support the amendment circulated by my colleague Mr Collaery. I believe that it will keep the necessary pressure on the police to make sure that not only is justice being done but it is being seen to be done.

In closing my remarks, Mr Speaker, I would like to remind the Attorney, Mr Connolly, about comments he made in this place about the South Australian system of law and justice when he was in opposition. I seem to recall that at one stage he came back from a conference in South Australia and indicated that he had had extensive consultations and discussions with the Minister for Police there, who, of course, is of a similar political persuasion. It would seem, Mr Speaker, that in South Australia they have seen a need for this power. I would hope that Mr Connolly is not going to use selective memory, if you like, and just take those bits of a system that suit him rather than accept the fact that maybe the South Australians have a point in using the move-on powers.

In relation to New South Wales, it may be that the problem there is that over a long number of years the police did not have a really good name. They had a slight image problem in New South Wales. It was probably quite appropriate that the police did not have those powers. Not only were the police in some areas of New South Wales on the nose but also the investigation of themselves was on the nose. It was probably quite appropriate, Mr Speaker, or fortunate that the police in New South Wales did not have those powers. Now that they appear to have cleaned up their act, so to speak, in New South Wales and have made some changes and are working towards improvements, they may see some of the benefits.

We do not, in the ACT, want to go down the path of some of the harassment and problems that are being experienced in New South Wales at the moment, particularly on the trains and the buses, et cetera. There are continual cases and reports of people being harassed on their way home or going about their business. If that sort of activity continues in New South Wales the New South Wales police force may seek from their Minister similar powers to those held by police in the ACT; but that is another story.

Mr Speaker, in closing, I support the concept and the idea of the move-on power that we have here, provided there are sufficient checks and balances to ensure that it is exercised in a manner that will ensure that the community is looked after and is able to operate without fear of losing their life every time they move outside the front door.

MRS NOLAN (11.35): Mr Speaker, I do not intend to speak at length in this debate today, but I must say at the outset that to me there cannot be a better reason for the retention of the move-on powers than a recommendation for their continuance from the Assistant Commissioner of Police. The job of any city's police force is never an easy one and any laws or regulations which better equip them to perform their duties should be commended and retained. The move-on powers which have been in place since 1989 have contributed to a reduced crime rate, fewer arrests and a much safer environment in the Canberra community.

My Liberal colleagues and members of the Rally have already clearly articulated very valid reasons for the retention of the move-on powers and to me, clearly, the powers are working. Community awareness of the move-on powers since their inception has grown to the extent that people are now moving of their own accord when police attend situations where it is likely that persons will be asked to move on. One of the many benefits arising from the move-on powers is the ability of the police to quieten potential trouble areas before any formal charges need to be laid. This saves valuable resources, both human and financial, being tied up in a protracted legal process.

Mr Speaker, the facts speak for themselves. I understand that until 30 June 1991 there have been approximately 2,060 persons moved on and only 19 people arrested for failure to comply with the said request. A recent survey indicated that a vast majority of Canberrans were in favour of retaining the move-on powers. I note that other members have already quoted from that survey, but I do think it is very important that, of the 434 people surveyed, 86 per cent supported the police move-on powers.

The people surveyed were from across the age spectrum, from under 20 years to over 60, and the results, I think, speak for themselves. One of the very interesting results to come out of that survey was that some 85 per cent of people under the age of 20 showed support for the power. I would like to personally thank the committee involved in putting this survey together and also, Mr Speaker, acknowledge members of VOCAL in the gallery. How I wish there was not a need for an organisation such as VOCAL in our community.

The role of the police in the community is changing and the attitude of both to law enforcement must change to keep pace with the requirements of society. The move-on powers are very helpful in this area. They are of great assistance in defusing potentially violent and dangerous situations and they also can make the public view police in a different light.

Mr Speaker, I believe that it is a vote for commonsense for the move-on powers to be retained. Supporting this very sensible Bill really is voting in a commonsense and practical manner. I urge all members today to think long and hard about the victims in our community. Just from the survey alone, of the 430-odd surveyed, one in three people in our community are victims, and that is a very disturbing factor. This is, unfortunately, an ever increasing number of people, and I think that anything we can do to assist them must be done. I commend the Bill to the house.

MR STEFANIAK (11.39), in reply: Firstly, I indicate, Mr Speaker, that Mr Collaery's proposed amendment is acceptable to me as the mover of this Bill. Whilst I would naturally prefer to see no sunset clause, I do not have any huge problem with this; nor does the Liberal Party. We will accept that when Mr Collaery moves it formally in the detail stage. I will not be long in summing up, Mr Speaker. We have had this debate ad infinitum over two years. We have had four police reports which have recommended the continuation of the move-on powers and there are probably certain things that any government would like to do to improve them from time to time.

I would like to say a couple of things in reply to what Mr Connolly has said. He has stated that this power brings young people into conflict with the police. I think Mr Jensen made a particularly good speech in relation to young people, as did Mr Humphries. Young people, because of their very nature, as Mr Humphries said, are boisterous. I was moved on as a young bloke. I am sure that most of us, if we are honest, admit that we probably got ourselves into a bit of trouble as young people. It is in the nature of young people to do so. So, street offences, unfortunately, tend to be a young persons type of offence, just like breaking and entering. It is pretty hard when you are 50 to break into a house by getting through a window or something like that. So, there are certain offences which tend to be committed by certain groups.

Young people will be brought much more into conflict with police and authorities, however, if they are charged with substantive offences like offensive behaviour, assault and malicious damage to property. There is a confrontation initially between them and the police. They are arrested; they are taken back to the police station; and they are in custody for a period of time. Then they are taken before the court. Invariably, they will be bailed or dealt with on the spot, should they plead guilty. Many, many hours are spent with a young person when in conflict with authority. It is far better, as I think Mr Jensen has quite rightly said, for a young person to be told, "Move on, go home, pull your head in" rather than end up in court for a substantive offence.

This power has worked very well; 2,060 people were moved on and only 19 were arrested for failing to move on. Only one person has complained in relation to that. I also am somewhat appalled that the Ombudsman has not finalised that complaint, but that has nothing to do with the police. The Ombudsman is a civilian and has nothing to do with the administration of this power. That is something that perhaps should be sorted out generally, as a principle, with the Ombudsman's office. With street offences, and such offences as resisting or assaulting police, it is almost standard operating procedure, from my experience, for the defendants to put in a complaint to the police internal investigation division and the Ombudsman. Almost invariably, too, those complaints are spurious and rejected

as such. But here, out of 2,060 people moved on and 19 arrests only, we have had only one complaint. I think that speaks volumes for the very fair and sensible way the police have administered this power, and, indeed, the very sensible attitude taken by the vast majority of people out of that 2,060 who were moved on.

If one looks through the four reports that are now before this Assembly, one will see instances of fights involving up to about 100 people. I think there was one out in Tuggeranong, which the police went to and broke up, which involved up to about 100 young people. Two gangs were broken up. The police used their move-on powers effectively there. If one goes through those police reports, one will see where a large number of especially potentially violent situations were stopped before they started. The power also has been used in other ways, such as intimidating situations at bus interchanges, which are one of the big concerns of people in our community, especially the frail, the elderly, the young, the people who cannot look after themselves. It has even been used, of course, in a domestic violence incident, Mr Speaker.

So, really, it has been a very effective power. It has protected the community. We have seen a decrease in the number of offensive behaviour and suchlike offences. A number of violent situations have been broken up. People involved in those violent situations often become victims, with their heads punched in, and there is damage to property. Also, the police, who have to go in and arrest for a substantive offence, often become the victims.

Mr Collaery quoted from Mr Dingwall, SM, in relation to one of his judgments recently. I would also quote from Mr Kevin Dobson, SM, a fairly recently retired magistrate who still sits in the Coroner's Court and who, when faced in the early 1980s with a whole spate of assaults against police, made the comment, "You don't join the police force to be a blue punching bag". Unfortunately, that is something which police all too often do become when they have to break up fights and get involved in arrests for substantive offences because a situation has got out of hand. The people involved not only injure themselves; they injure the arresting police as well. You really end up with all sorts of problems. In my nine years of prosecuting I saw that all too often in our Canberra courts.

That is why, not only from the community's point of view but also from the point of view of the potential offender, this power has worked very well. It has meant that out of 2,060 people only 19, who failed to move on, have been charged. About 2,000-odd people may otherwise have ended up in court on more substantive offences, and that is very important, especially for a young person who does not want any sort of criminal record when going for a job. It is a very sensible power and I would like to see it continued indefinitely.

I am a realist. I realise the numbers here, and I am quite happy to support Mr Collaery's amendment. That means, I think, that the power will remain for another two years. Whether or not I am in the next Assembly does not really matter; but, if I am not, I hope that in two years' time the power can be extended indefinitely. I commend the Bill to the Assembly and indicate that I and the Liberal Party will be supporting Mr Collaery's amendment.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole.

MR COLLAERY (11.46): I move:

Clause 3, omit the clause, substitute the following clause:

Cessation of operation of section 35 of Principal Act as amended by this Act

3. Section 4 of the Principal Act is amended by omitting "2" and substituting "4".

I wish to say a few words on that. As I said earlier, I am unhappy with the general feedback to responsible government on the use of this power. I am not so unhappy as to join forces with the Australian Labor Party at this stage in removing the power.

Mr Berry: It might be your last chance, I think.

MR COLLAERY: I doubt that. I will be back here, Mr Berry. I hope you are, because we will need that support again, will we not? The Australian Federal Police will read the transcript and I trust that the responsible Federal Minister will have relevant aspects drawn to his attention. It is clearly important that, when the arrangements with the Commonwealth in respect of the AFP are reviewed, something be done about accountability to this Government, to this Assembly, by the Australian Federal Police.

I do not want my comments in any way to suggest that I have a general concern about police behaviour. I do not. But I believe that self-government brings with it responsibility. If Mr Connolly has to answer on the morning news for incidents involving the public and the police, he should have the capacity to obtain candid and, so far as is possible, uncensored advice from his police advisers. I will support him with any initiatives he likes to take, informally or formally, in that regard.

I put the police on notice about the long delays in dealing with IID inquiries. The manner in which the Ombudsman is having resource problems and attributes that to much of the working time taken is also an issue that the respective parties are on notice about. The police IID inquiry system worries me. Although the original arrangement was to enable minor complaints to be dealt with quickly, that on my observation is not the case. Likewise, police who may have a frivolous or malicious allegation made against them are being long delayed in a resolution of the complaint, with consequent effects, no doubt, on their careers and other prospects. So, it cuts both ways.

I would enjoin the Australian Federal Police Association - the police union, as Mr Connolly referred to them on the radio the other day - to take an interest in the debate this morning in relation to the need to expedite, tidy up and give better political accountability in terms of reporting. When this sunset clause comes up next I will look to see whether there have been those concrete changes made to allow the Territory Government to have better access to matters that are the subject of complaints under the Complaints (Australian Federal Police) Act 1981.

The Rally's view is not overwhelmingly ecstatic about this power, but we accept that it has worked effectively in South Australia. It is working, to my knowledge, in the Northern Territory. I believe that a far more responsible and sensitive approach is being taken to Aboriginal issues in those two jurisdictions as a result of that power than was the case before, when there were many charges of vagrancy, drunkenness, offensive behaviour and the rest. I commend to Mr Connolly discussion of the matter with judicial and civil liberties people in his own home State, South Australia.

I again, and finally, sound a warning that, if the reportage aspects are not improved and if there is any general misuse of this power, if the power is used at any stage to deal with legitimate assembly, particularly on issues affecting civil rights, properly conducted industrial meetings and the rest, we can move swiftly to bring a Bill into this house and toss it out.

MR STEVENSON (11.51): I did not take the opportunity to speak on this matter in the in-principle stage because of the time concern. If this matter is not passed soon it will not be within the timeframe allowed. However, there are a couple of points that I will now mention. The will of the people is paramount in this matter. I think we can get a very good understanding of what that will is. In August 1989 the *Canberra Times* conducted a poll and it showed that 70 per cent of the representatives of the people of Canberra agreed with the move-on powers being introduced. I think it is significant that 58 per cent of the people in that poll were aged between 18 and 24. In other words, the young people, at whom we basically agree this Bill is directed, agreed with the move-on power. That is certainly significant.

So, what has happened in the two years since we have had the move-on power? The recent poll by the Save the Move On Powers Committee showed that 86 per cent of people were in agreement with the move-on power or with the police retaining that power. Was that a reasonable poll? If you read it, it certainly was. Question No. 7 was, "Do you think the Canberra Police should be able to keep the 'Move on Powers'? - Yes or No". You obviously need a yes or no answer to get their major concern, and 86 per cent agreed with the move-on power. It is also extremely significant that, of the 46 people under 20 years of age who were surveyed, 40 agreed with the move-on power. So, any suggestion by Mr Terry Connolly that young people do not agree with this is not borne out by the survey results.

Mr Connolly made a number of points about the survey conducted by the Save the Move On Powers Committee, suggesting that it may not have been valid in one way or another. However, I remind Mr Connolly that the Labor Party, at any time they like, can conduct a poll on the same matter - indeed, why don't they? - provided, of course, they release the full details of the poll, as the committee did in this case. I think it is very useful as well that the committee has listed the comments of many people. If anybody has not read the comments I would suggest that they do so, because I think they are most enlightening. They also included the comments of people who did not agree with the move-on power. That is hardly a biased suggestion.

Mr Speaker, why do people in Canberra agree with having police move-on powers? They agree because there are concerns - I think we all understand that there are valid concerns - about the safety and the rights of people in Canberra. As Mr Kaine so well put it, they have a right to live in a safe society. People these days understand their rights when dealing with police, and so they should. I agree entirely that people should understand their rights when dealing with police. However, it is unfortunate that they do not understand their responsibilities anywhere near as well.

There are many concerns expressed to us, particularly to the Social Policy Committee in this Assembly, with regard to public behaviour. It has been said to us in many submissions on these matters that there is a particular problem in Canberra caused by alcohol. One of the trouble spots is Weston Creek. Recently at Weston Creek the all-night service station has had to take certain action that I think will surprise some people. They have a security guard on during the weekend evenings. They do that because one of their staff was bashed out there. As a result of that, a young man was sentenced to three months' imprisonment. The people who committed some of the offences in that area were actually regular customers. But when you have all-night drinking you have a rather explosive situation.

I wish to read a letter from Mrs Rita Cameron that is pertinent to the Bill. I gained approval to read this letter. She wrote:

> Dear Mr Stevenson,
> I am writing to you as the mother of a 16 years old son, who should not have died. He lost his life because a letter to the then Attorney-General's Department in May 1987 from the then Assistant Commissioner, P.D. McConachy asking for the police to be given powers to move on was refused.
>
> On 31 October, that same year because of the lack of that power, the son of a police officer died.
>
> My son Grant Andrew Cameron, who turned 16 on the 9th of October, went to the Duffy Primary School Fete, as he did each year to meet up with ex-students. It was their annual get-together. There were some groups of juveniles who appeared to have gone to the fete just to cause trouble. There were two fights, one person had his face smashed onto a tow-bar. The police had been called on both instances. The person who killed my son said in court that "seeing the fights got his adrenalin going" and he "wanted to get someone".
>
> My son had just visited the public phone, at the Duffy shops to get my permission to stay on at the fete. The time was about 5 pm. Grant was at the corner of the school when the youth came up to him and said "I hate f...g westies" my son said "I am not one". With that Grant was hit about the head and kneed in the stomach, he went down on the ground, he was on his side, leaning on his elbow, he looked up at this person and said "what did I do?" We were told later that a youth nearby at this point called out "he's a pigs kid". It was then the youth spun around and as demonstrated in court, with a Karate type kick, kicked our son so hard that he was brain dead from that point.
>
> I could not understand why the police didn't do something to stop the trouble that day. It was later I learned they didn't have the power to do anything. I feel sure that if you asked the family of the person who killed Grant, they would say they wish the police had been able to move on the groups who were causing the problems that day. They also have to live a life of hell because of the fact that the police could not move on the trouble makers.

> I would like you to try and imagine the terrible feeling of helplessness we feel as a police family when it was because of their hands being tied that our son lost his life. How are you going to feel if you take this move-on power away from our police force and another two families have to go through what the family of the boy who killed Grant and our family have had to live with. Perhaps it may be a member of your family or someone you know. When Grant was killed there was a public outcry when the public realised their police could do nothing in such a situation. Do we have to have a repeat of this incident to convince you to allow the police to have the powers they need. In The Canberra Times survey of 19 August 1989 70 per cent of the people supported police having move-on powers ...
>
> I believe responsible parents would prefer that their child be moved on from a potential problem rather than end up in court and possibly with a record.
>
> I know there are people in the community who stress civil rights. Where were Grant's civil rights on that fateful day? Surely the majority of the people also have civil rights. The right to be able to go out about our fair city as they wish, without the fear of groups of misbehaving people.
>
> It would be easy for us to give up and stop fighting for this but we know at first hand what it is like to lose someone so very dear as Grant was to us. Please don't let it happen again, it is in your hands.

MR MOORE (12.00): We all received the letter that Mr Stevenson has read out and it is a very moving account of somebody who is involved so closely. Of course, when somebody is involved so closely it is very difficult to step back and take a logical and rational view of it. That is quite understandable; and that is how it should be. Like, I imagine, everybody else here, I was very moved by the letter; but it is not necessarily the case that the solution to the problem lies with police move-on powers.

In the debate in this Assembly in August 1989, when I spoke on this very matter I commented:

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

I said that because that is where the appropriate solutions lie.

I do not believe that that committee did find the appropriate solutions and I think that is very sad. I think the committees of this Assembly do a great deal of very good work; but I think that this particular report from the Standing Committee on Social Policy, the public behaviour inquiry, focused, as it had to, because of its limited resources, particularly on alcohol. In the preface to that report Mr Wood, as the chairperson, stated:

> Almost universally, where there are problems, they can be attributed to the consequences of the abuse of alcohol. Accordingly, the Committee's attention has substantially focused on the role that alcohol plays in promoting undesirable behaviours and means by which the problem may be diminished.

It seems to me, Mr Speaker, that in focusing that way, as I can understand the committee chose to do, they were not able to fulfil the role that I had hoped they would be able to, when I spoke on and supported the move-on powers last time in order to fill this gap.

I also was drawn to some other comments made by Mr Wood in the preface of that document. He wrote:

> By any standard Canberra is a safe city. The Committee accepts this view which was clearly expressed to it.

Then he went on to say:

> That is not to deny that there is a measure of violence in Canberra and the Committee acknowledges that the community must take every measure to prevent violence and unacceptable behaviours and the conditions which contribute to them.

Where we have not yet managed to come to grips with our responsibilities is finding those measures that are necessary to deal with the conditions that contribute to children acting in this way. I have heard Mr Stevenson on many occasions, for example, speaking in this Assembly on X-rated movies, non-violent erotica. Yet I have very rarely heard him speak on violence and children being exposed to violence. No doubt he does occasionally, but it certainly does not get the emphasis that non-violent erotica gets.

It seems to me that our children are exposed to violence on many occasions and they seem to believe that in some ways violence is okay. It is certainly okay and condoned in terms of war. It is certainly okay and condoned in terms of self-defence and a whole series of other things, so that people begin to feel that it is an acceptable part of behaviour.

I will support the amendment moved by Mr Collaery; but, like the Residents Rally, I have come very tentatively to this position. I still feel, as I felt in August 1989, that it should be understood that we perceive this as a trial, as filling a gap. But let me give a warning: If we hear of even one police officer abusing this power we will move as quickly as possible, at the very next sitting, to remove the Bill.

I was approached this morning by Mr Paul Whalan, who commented that the Ombudsman's office contacted his son last night. The timing is a very strange coincidence. I have verified this with Mr Whalan and contacted, with him, the Ombudsman's office. Of course, the Ombudsman would not be prepared to give the information to me personally. I was there while Mr Whalan was making the phone call and was able to verify that the preliminary view of the Ombudsman now is that the arrest of Bernard Whalan under the police move-on powers was in fact an illegal arrest. That is their preliminary view. They have sent for a formal legal opinion from the Australian Government Solicitor and are waiting to see whether that is confirmed. If that is confirmed, there will be an appropriate issue to pursue in terms of compensation. In other words, the move-on powers will have been misused. That has not been verified yet. Because it has not been verified, I will support this Bill and this amendment.

I think it is important to note, when we are dealing with a balance in civil liberties, the anguish that someone who has been wrongly arrested goes through. We are aware of the circumstances, of course, because Mr Whalan has been very involved in this Assembly and he is a very effective and professional lobbyist. One cannot help wondering how many other people have been put through a circumstance where an arrest has been almost accepted and have said, "Well, that was unlucky"; yet they could well have been wrongly arrested. What we are dealing with here is this delicate balance - I think Mr Jensen put it this way earlier - between civil liberties and the police power. Most of us are trying to find just what that balance is. The Assembly as a whole rejected the original Bill from Mr Stefaniak because that balance was way out of kilter.

A modified Bill came forth as a result of the Select Committee on the Police Offences (Amendment) Bill 1989 and that modified view has brought us much closer to a version that may be acceptable to the community. That view will continue after today. But, as the information becomes clearer, it may well be necessary for me to reconsider this view and to bring legislation back to the Assembly. The Residents Rally have just indicated that they would be prepared to do the same. With such effective use of police move-on powers for two years, I think it would take more than just one incident for me now to change my mind; but one incident may be enough for us to try to determine what else has happened with these police move-on powers.

I think it is absolutely shameful that the matter has gone on for more than 18 months. It is only now that somebody who has been through that kind of anguish for 18 months has got some information that they may have been illegally arrested. They may have been in a position where $1,000 surety had to be put up for bail. All those "may have beens" have a very strong impact on how they view the police. Instead of viewing the police in a positive light, as being helpful in a way we would perceive community policing to be done, we get a negative approach.

We have to balance those civil liberties issues against the quite easy to understand concept that the police can say, "Look, move on now" so that we are not going to have any problems there, which is fine; it gives the credit to the police for that kind of judgment. In most cases we would expect that that would be perfectly reasonable and would work very well. But we have to very jealously guard our civil liberties, because if we do not do so they will be slowly whittled away. The difficulty here is just where we draw the line. Whilst I support the continuation of this power at this time, that does not mean that I consider the issue ended.

MR DUBY (12.10): Mr Speaker, that was a very fine address by Mr Moore. Indeed, he raised many of the points I intended to raise in this debate. Let me make my position quite clear. Until this time yesterday I had intended to support the move-on powers and to support the amendment as put by Mr Collaery. However, whilst stating that view, I think I, like a lot of the members in this Assembly, supported those powers with perhaps a degree of reluctance. Fears about the loss of civil liberties, as Mr Moore so eloquently outlined, have always been in the back of our mind.

In the last 24 hours things have happened in terms of information that I have received in connection with the application of the move-on law. Whilst like Mr Moore I have been sitting on the knife edge, I have now decided to fall the other way. The simple fact is that I was quite surprised to hear that in the period that this law has been in place some 2,000 people have been moved on. I had no idea that the level of move-on was so severe. It has always been pointed out that only some 15 people have been arrested.

I would have thought that the figure for those asked to move on would be in the low hundreds. But it has been revealed today that some 2,000 people have been asked to move on in a comparatively short period. That, to me, is a remarkable figure. Other figures quoted, in terms of the number of serious offences that people have been charged with, show a reduction. I believe that they have been reduced from 64 to 24. I just do not know whether those statistics indicate that the move-on law is a good law or a bad law.

In addition, as I said, I have received further information that Mr Moore has mentioned in terms of a number of supposed offences or offences which have been committed and for which people have been charged under the move-on law. I received this information, as I said, in the last 24 hours. Frankly, it makes me a little bit concerned about the way that this law is being applied to the general population. I did not have a speech prepared. As a matter of fact, I only came to this position this morning.

Mr Kaine: Do you mean 20 minutes ago?

MR DUBY: Not even 20. I cannot quote chapter and verse. I could come up with what undoubtedly would be a rhetorical masterpiece if I had time to prepare. Nevertheless, given the pros and cons of the position and, of course, also given the realities of what we are going to see here when the vote does come, I say that I, for one, am going to join the Government and oppose the continuation of move-on powers in the ACT.

MR PROWSE (12.13): I was not going to speak on this matter, but I am dismayed to hear Mr Duby's revelation and change of heart. I went out with the police on dawn patrol. I went to a position where the move-on power is being used. I point out to Mr Duby that 2,000 people is nothing. At 2.00 am and 3.00 am when the Labor Club alone closes in Belconnen, up to 2,000 people come out of that club; and they are all fairly well inebriated at that time of night. You can move on 200 or 300 with the wave of a hand.

Mr Berry: David, read the legislation before you launch. Get the brain into gear before you engage the gob.

MR PROWSE: I hear the objection by Mr Berry. I am trying to indicate to Mr Duby that the numbers are extreme. There are large numbers of inebriated people going onto the streets. They are then moving en masse to the other end of Belconnen, where there is an all-night facility. That is where these move-on powers are essential, as I see it.

At one stage while I was outside the Labor Club, out came a fellow with skin off and blood dripping, and he was looking for a fight. He had had a fight earlier. He was looking for another one. I walked up to him and I said, "If you've been beaten up, why aren't you complaining to the police?". He said, "Oh, no; this is good training for the footie tomorrow. I'm going to find that bludger that got me and I'm going to take him on again". That young man was moved on. He was looking for a fight. There were young lasses around with nice clothes on, et cetera, and they applauded the police move to move this fellow on, because they did not want to get tangled up, with arms and legs swinging around, outside that club.

We then went up to the other end of Belconnen with the police. It was midwinter and a fellow was standing out there with nothing on but a pair of trousers. He was asked why he was standing there; did he not fear getting a cold, pneumonia, et cetera. He said, "Somebody ripped my shirt off. Me and my mates are waiting for him to come out and we're going to beat him up". He had already lost one fight and he was about to get another beating. He did not have the sense to move on. The police asked him to move on and in fact they drove him home.

The situation is that we are protecting our young people by this move-on power. I applaud the police. I hope they move my young fellow on and at the same time, if he is misbehaving, give him a toe in the backside. I need that support from the police. Young people at this time are really put in a position where there is too much alcohol available and they do misbehave. We all have done it. Mr Berry and others who laugh at this situation are probably the few in our community who are pure, but the rest of us have had normal lives. We all had to be put in our place by our elders, who should be shown some respect. In this day and age there is very little of that. I think that these move-on powers are essential. Mr Duby, again I put it to you that 2,000 is a very small number of people.

MS MAHER (12.17): I rise very reluctantly, following the information we have been given in the last 24 hours; but I will be supporting the amendment and the Bill. I believe that it provides safety for the community and, in a lot of instances, prevents people from being arrested on more serious charges. It disperses people from situations that could become more dangerous.

When I spoke on the Bill in August 1989 I was very concerned about the abuse and wrongful use of the powers, and I think that has come to light today. I think Mr Collaery's sunset clause, the amendment, is even more important now than it was then in keeping an eye on abuse and wrongful use of the powers. I also think it is important that the six-monthly report that the police have been giving be continued. I will not speak for any longer, because I am very much aware of the time; but I will be supporting the legislation.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (12.18): I am speaking just briefly to indicate that the Labor Party is not, of course, supporting the amendment and favours the defeat of this Bill. I can reassure Ms Maher that I certainly will continue to direct the police to provide six-monthly statistics on this.

The Labor Party's view remains essentially what was quite well stated this morning by Mr Duby - that a law that has had 2,000 people in unnecessary conflict with the police is not a good law. To the extent that we had concerns about the law and its application before this debate, they have

been significantly increased during the debate. Mr Collaery got up and read a quote from Magistrate Dingwall's remarks in a recent case, and I will quote it again. Magistrate Dingwall was saying what this law is about. People, I think, are forgetting what this law is about in this debate. If the views of opposition members are the views of police officers, it really sends a chill up my spine. Magistrate Dingwall said:

> The legislation is very specific in that it requires the police officer to have reasonable grounds of believing that a person has either engaged or is likely to engage in violent conduct in that place.

He indicated that violent conduct is defined to mean "violence to or intimidation of a person, or damage to property".

What are the circumstances that opposition members have lauded for this Bill, the circumstances where the Opposition says it is good to have this law? Mr Kaine gave the example of being at a bus station after hours and being annoyed, harassed or concerned about the conduct of some young people. If Mr Kaine thinks that the police have power to move on young people if they are annoyed, or harassed or concerned about the conduct of those young people, they are abusing the power.

The police have power to move a person on only if there is violent conduct, if there is a reasonable apprehension of violent conduct, and that does not amount to annoyance or mere harassment. He then mentioned acting in a boisterous manner. Are we saying that the police are using the move-on power when young people are acting in a boisterous manner?

Mr Jensen said that it is good to have a law that allows people to be moved on if there is harassment short of an offence that could cause alarm. Again, that is not what the law says; and, if that is how it is being applied, then it is being applied contrary to the law and in a manner that ought to cause us all concern.

We all know that in Canberra - as in the rest of Australia, as in the rest of the Western world, as in the rest of the Eastern world, indeed, everywhere - there is a sad, unfortunate increase in crimes of violence, crimes against property. The one statistic that showed that there has been a reduction in offences relates to offensive behaviour. They have dropped under this legislation. But offensive behaviour falls far short of the violent conduct that should be the proper trigger for this legislation to be used.

So, Mr Speaker, we are very concerned that the circumstances that the opposition members - those that support this power - are citing as examples of its proper use, to us, seem to be examples that fall far short of the circumstances that would require its use.

The circumstances that you used, Mr Speaker, of the bloke who had been in a fight and was ready to get into another fight, certainly are appropriate. That falls within the legislation; but not terms like "harassment" or, in Mr Kaine's words, being annoyed or concerned about the conduct of a young person or persons acting in a boisterous manner.

I would suggest that many parents of teenagers have thousands of examples of that in their lounge room over any given year. It is not conduct that is appropriate to give rise to this power, and if it is being so applied it is being applied wrongly. I think that that would only add to the concerns of those members who are very much sitting on the fence of this issue, and I think that reinforces the views of those government members and Mr Duby, who feel that on balance this is not an appropriate law.

MR STEVENSON (12.23): Mr Speaker, very briefly, as a former police officer, I am well aware of times when we were not able to move people on. Mr Stefaniak put the point very well. No-one else has been out here on the road trying to handle the problems. It is a difficulty. It is far more difficult now when people, as I mentioned earlier, know their rights. We have seen no valid evidence that the powers have been misused. There is no suggestion that they are being misused politically.

It is obviously the case that, if we, at any later time, need to do something about them, we can. Perhaps in the very near future the people themselves will be able to take that matter into their own hands with a voters' veto Bill, when they have the right to look at existing or proposed legislation and veto it if they choose.

MR COLLAERY (12.24): I think Mr Connolly browbeat Mr Kaine a little bit on that issue. After all, Mr Kaine did say that he did not stand as a lawyer. I took Mr Kaine to take the general lay person's view that he apprehended violence, or something to that extent, by being harassed in a bus station.

I was a bit troubled by Mr Connolly's exaggerated idea that we put a shiver up his spine. I assure Mr Connolly that I spent a great time of my local career opposing the police and trying to defend people on the other variety of charges we have discussed. I think he has to give some credit to the very difficult decisions that people take. My strong view, gained over many years, and also as a father of four children who have all gone through their teenage years, is that there is a balance. This is a difficult decision on balance.

I thought Mr Moore's speech was excellent. I believe that the Social Policy Committee put its finger on the pulse to an extent when it said or implied that alcohol is really the root cause of much of the public disturbance in the community. If Mr Connolly wants to be courageous and reformist, let us see what his view will be on prohibiting alcohol advertising, doing a few things about youth access to alcohol and the constant and never ending under-age drinking problem, and the extraordinary laxity with which we issue liquor licences in this Territory. He will find some unfinished work of mine there.

I believe that we just cannot allow six or seven discos to bob up in Manuka overnight, and a whole new disco to be licensed and allowed to be built within metres of a residential district in Kingston. Well run though they may be, the fact is that there are lateral initiatives to be taken on the root causes, as Mr Moore so properly submitted.

I want to stress again that those of the Rally taking this decision are doing it after careful, searching inquiry, on balance, having regard to all of the considerations that Mr Connolly has put forward, and not from any ideological or stuck-in-the-mud attitude.

Amendment agreed to.

Question put:

That the Bill, as a whole, as amended, be agreed to.

The Assembly voted -

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

Question so resolved in the affirmative.

Bill, as amended, agreed to.

Sitting suspended from 12.29 to 2.30 pm

AUTHORITY TO RECORD AND BROADCAST PROCEEDINGS

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

That the Assembly authorises -

(1) the recording on video tape without sound by television networks of proceedings during question time today, Wednesday, 14 August 1991;

(2) the use by any television station of any part of the recorded proceedings in subsequent news, current affairs and documentary programs and not for the purposes of satire or ridicule; and

(3) the taking of still photographs during question time on Wednesday, 14 August 1991, and the use of such photographs in the print media generally.

QUESTIONS WITHOUT NOTICE

Auditor-General

MR KAINE: Mr Speaker, I would like to direct a question to the Chief Minister. Chief Minister, at around 8 o'clock last night you tabled in the Assembly a letter addressed to the Auditor-General and dated 12 August 1991. Can you give the Assembly an unqualified assurance that that letter was written in fact on the 12th and not on the afternoon of 13 August? Secondly, can you explain how it is that a letter tabled in the Assembly last night at 8 o'clock was not received by the addressee until 2 o'clock today, and then only after he asked for a copy of it through FOI procedures?

MS FOLLETT: I thank Mr Kaine for the question. Mr Kaine, I can indeed give you an unqualified assurance that the letter was not written yesterday. In fact, I signed it on Friday night. As is the nature of office procedures, having signed a large quantity of material on Friday night, it was not dealt with out of my office till Monday morning. So, the date on it is the date that it was processed through Executive Services, as I am sure you know.

Mr Speaker, I am unable to account for the fact that Mr O'Neill did not receive the letter until today. It does seem to have taken some time in the post. Immediately on the advice of Mr O'Neill that he did not have a copy, he was in fact provided with a copy - not under the terms of the FOI request, but in fact as a simple courtesy. He obviously had not received it; so he was provided with a copy. That has now occurred. As members are aware, the ball is really in Mr O'Neill's court now to respond to that letter, and I trust that he will do so.

MR KAINE: I ask a supplementary question. Chief Minister, would you not admit that it is rather curious that, after the events of recent weeks concerning the Auditor-General, he in fact does not receive the letter that is supposed to resolve the problem, and that he is forced to resort to FOI procedures to obtain a copy of it?

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

MR SPEAKER: I will call for questions in order from those members who did not get the chance to ask a question yesterday. I call Mr Jensen.

Recycling of Motor Oil

MR JENSEN: My question is addressed to Mr Connolly in his capacity as Minister for Urban Services. Is the Minister able to advise when the current trial on the use of recycled motor oil in ACT government vehicles will be completed? Can the Minister also advise when we can expect to see recycled oil used in ACT government vehicles?

MR CONNOLLY: I thank Mr Jensen for his question, and it is, indeed, a good question. It is an issue in which we had some interest in opposition and the position always was: The trial is progressing and is being monitored. I cannot actually tell you the detail of how that is going. My assumption is that it is still being actively pursued. It is a very good idea. I think all members in the Assembly think it is a good idea. It would have unanimous backing. Unless there is some practical problem with it which I have not been advised of, I assume that it is still the aim of the ACT Government Service to move progressively to recycled oil. I will ask my advisers specifically where things are now. I assure Mr Jensen that I will tell him tomorrow precisely where things stand.

Royal Canberra Hospital

MR MOORE: My question is to Mr Berry, as Minister for Health. Mr Berry, when you supported the Bill that was tabled by Ms Follett in June 1990 to retain the Royal Canberra Hospital, I presume that you were aware at that stage that on 9 April Mr Humphries had suggested that the extra cost of keeping a hospital open on the Royal Canberra Hospital site would be some $8.5m recurrent and $50m in capital. In fact, the steering committee that advised you when you were Minister had actually given those figures - $8.5m recurrent and $41m capital. Of course, you were aware that there were considerable costs involved in

keeping that hospital open. Now, when you are in government and are aware that there are very similar costs required to provide option 4 from your feasibility study - a general medical surgical hospital on that site - why is it that you have done this turnaround without any real reason?

MR BERRY: The question requires a fairly detailed answer.

Mr Collaery: Do not try to beat yesterday's record, Wayne.

MR BERRY: If members want orchestrated questions for the consumption of the media, they ought to have planned it better. Mr Moore's question is not orchestrated in any way and it requires an answer. Mr Moore rightly referred to Labor's commitment to retain a health facility on that site. Labor is committed to that statement and it will do so. It is also true, without having the *Hansard* in front of me, to say that I supported the Bill to prevent the Royal Canberra Hospital from closing; but that was a long time ago. It is also true that Mr Humphries talked about $8.5m in recurrent savings for his project - - -

Mr Humphries: Based on your steering committee.

MR BERRY: Based on the steering committee report, which I commissioned. It is also true that it would cost something like forty and some odd million dollars more for Labor's plan then than for the plan that the then Government chose, the $154m plan, for their redevelopment project. It is furthermore true that the add-ons that the Government had commenced in relation to the abandoned Royal Canberra Hospital could have added up to costs of any amount, but as much as $200m in 1989 terms. So, we then had a situation where the Alliance Government fast-tracked its redevelopment project with the publicly stated view of getting it out of the road before the next election.

Mr Kaine: You said that, not us.

MR BERRY: No, no. It is a publicly stated view. In fact, a board member said that that was the design of the project. If anybody ought to know what is going on in the hospital system, it is a board member. We know that the Minister did not, because he could not contain the budget blow-outs; but the board member - - -

Mr Kaine: Neither could you.

MR BERRY: The Minister could not.

Mr Collaery: Mr Speaker, I take a point of order. We are all going to miss out if this continues, aren't we, Mr Speaker. I ask that he be concise and to the point.

MR SPEAKER: The Chief Minister will probably allow extra time for question time today.

MR BERRY: It is a serious question. Mr Moore is trying to make an issue out of something that happened a year-and-a-half ago, and is trying to ignore the fact that the former Liberal Health Minister embarked on a spending campaign aimed at preventing the reopening of the Royal Canberra Hospital. Mr Moore, like many others in the community, has to accept that the former Government has committed $97m to the closure of the old Royal Canberra Hospital.

Mr Humphries: Luckily for you.

MR BERRY: I see that there is no denial from the former Health Minister opposite - Mr Moore should note that - because $97m has been committed to make sure that that hospital closes. No responsible government can ignore that. I can say that nobody more than I, nobody more than the Labor Party in this place, wanted to keep that hospital open. That is why we promised to do it in 1989.

If we had been left alone in government, that hospital would have been well and truly open right now, and it would not have been under any threat. What occurred was that the Alliance Government moved to close it. It would be irresponsible of anybody to ignore the amount of community funds that have been poured into the closure of that hospital and the redevelopment project. It cannot be ignored and we will not ignore it.

MR MOORE: I have a supplementary question, Mr Speaker. Mr Berry has just stated that at that time there was an indication that $40m extra would have to be spent. According to his own feasibility study, first of all, option 4 can go ahead; and, secondly, option 4 would cost $30m. That indicates that when you made your promise to reopen the Royal Canberra Hospital it was actually a more expensive option than it is now. It is now cheaper to do it. Why will you not keep your promise?

MR BERRY: It is another one of these populist issues. People seize upon them all around the place - Dennis Stevenson, Michael Moore - - -

Mr Moore: I have never changed my stance.

MR BERRY: Not much! They never go to the real issues. There has been no turnaround by Labor. Labor's position has always been that it is committed to the retention of a health facility on the Acton site. Read it in our platform. That has always been said.

We held negotiations with the parties whilst we were in government. Mr Moore was included in those negotiations, before he changed his mind about the Residents Rally, and, of course, other members of this Assembly were involved as well. They pressured me to retain that hospital. We were

quite happy to do that in the context of our commitment to retain a health facility on that site. We did it in accordance with the figures which were developed by the steering committee which I commissioned, and we have no difficulty with that.

But Mr Moore, if he wants to play a responsible role in this Territory and in this Assembly, has to recognise that there has been a sizeable amount of the community's resources poured into the closure of that hospital, and no responsible government can ignore the 18 months of spending that has gone into that proposal. As I have said, this Government will not ignore it.

School Bus Service

MRS NOLAN: Mr Speaker, my question is to Mr Connolly in his capacity as Minister for Urban Services. Mr Connolly, do you think it appropriate and responsible for schoolchildren to be returned to a school with a school bus driver refusing to drive them home on the normal school route without the normal process being followed through? Is it the normal procedure for the driver to call in a supervisor if there are any problems? Was this agreed to last Thursday in relation to school route 734? If not, why not?

MR CONNOLLY: Mrs Nolan asked me about school route 734 last Thursday.

Mr Kaine: You should know about that!

MR CONNOLLY: Mr Kaine says that I should know about it. If anyone wants an answer to questions on timetabling or fare structures, or the odometer reading on specific buses at any given time, I will do my best. I presume that Mrs Nolan is making allusions to some industrial disputations which have occurred recently. If not, I must say that I do not know what Mrs Nolan is referring to. The practice always has been that if a member really wants an answer to a detailed question they should give notice. They will always get the detailed answer. All I can do in this case is endeavour to find out what occurred with route 734.

MRS NOLAN: I have a supplementary question.

MR SPEAKER: Members, if you would not mind, could we not have supplementary questions today?

MRS NOLAN: I am sorry, but in this case my question is quite specific.

Mr Connolly: What was the route number?

MRS NOLAN: Forget the route number bit; that was at the end. The question was: Do you think it appropriate and responsible for schoolchildren to be returned to a school with a school bus driver refusing to drive them home on the normal school run? That was the first part of the question. Is there a normal procedure that is followed and is that procedure for the driver to call in a supervisor?

MR CONNOLLY: The normal position is that - - -

MR SPEAKER: Order, Mr Connolly! That calls for an expression of opinion. I do not believe that it is a valid question.

Sylvia Curley House

DR KINLOCH: My question is to Mr Berry, as Minister for Health, but it might also be in the realm of Mr Wood, as Minister for Education; I am not sure. Could the Minister advise the Assembly of the current status and use of Sylvia Curley House? What plans are there in the future for the use of that facility? Do those plans include housing for students?

MR BERRY: This is an easy one, as they all have been, because it is very easy for Labor Party members to come to the truth.

Mr Moore: As they perceive it.

MR BERRY: And to stick by our policies.

Dr Kinloch: In literal fact - - -

MR SPEAKER: Order! Dr Kinloch, you do not have the floor, unless it is a point of order.

Dr Kinloch: In literal fact, this is a curly question.

MR BERRY: There are no planned changes in the foreseeable future to Sylvia Curley House. The building is presently being used for nurse and student accommodation. In addition, the ACT Board of Health's Community Health Services and the Health Advancement Library occupy the ground floor. The future of Sylvia Curley House, Dr Kinloch will be happy to know, will be considered along with the long-term overall future of the Acton Peninsula. In accordance with the usual practice of the Labor Party, we will make sure that everybody who wants to have a say in the process of that development will be aware of what is going on. They will have the opportunity to participate in the process.

Ainslie Transfer Station

MR DUBY: My question is directed to the Chief Minister and refers to answers she gave last week about the Ainslie Transfer Station. Last week the Chief Minister unequivocally stated that the Ainslie Transfer Station would definitely reopen, but at the same time she admitted that she did not know what that would cost in either capital or recurrent terms. I was wondering whether she has bothered to find out the simple answer to that question. Can she now advise the cost, in both capital and recurrent terms, of the reopening of the Ainslie Transfer Station? Given that her decision, and it is her decision only, I believe, is contrary to advice offered by both development departmental officers and - - -

Mr Wood: I am all for it, Mr Duby.

MR DUBY: I am not suggesting that there is any break in the ranks; but we all know that it is contrary to advice offered by the relevant departmental officers and, accordingly, I would assume, the advice offered by her relevant Ministers. Will she undertake a review of the matter along the sensible lines taken by the Deputy Chief Minister in his review of the situation regarding the Royal Canberra Hospital? In other words, will she have an independent analysis undertaken of the cost-benefit of that decision, given the parlous financial state we find ourselves in?

MS FOLLETT: Mr Duby keeps asking me the same question, Mr Speaker, and - - -

Mr Duby: I am just waiting for the answer.

MS FOLLETT: He is obviously feeling terrible about closing the Ainslie Transfer Station, and so he should. It was about the only action he took as a Minister and it was a disaster.

MR SPEAKER: What about the weir?

MS FOLLETT: Mr Speaker, I thank you for reminding me that he also closed the weir at Casuarina Sands. I have previously told members that the Government will be looking for a cost-effective solution to our commitment to reopen the Ainslie Transfer Station, and so we will. Members are going to have to wait, in fact, until budget time to find out what that solution is; but I can assure Mr Duby that we will not be spending a cent more than is needed to reopen the Ainslie Transfer Station.

Mr Duby has asked me whether I will be commissioning a review of some kind, as was done for the Royal Canberra Hospital decision announced yesterday by Mr Berry. The answer is no, I will not. What we are talking about with the Ainslie Transfer Station is an entirely different order of costs. With the hospital we are talking of hundreds of

millions of dollars, and you know that. With the Ainslie Transfer Station we are talking about a project which, in the scheme of government projects, whether capital or recurrent, is not a major one. None of you would count one tip as a major project and as a major item in your budgets.

Mr Kaine: When you are trying to find $17m every little bit helps, I would have thought.

MS FOLLETT: Mr Kaine is quite right in saying that every little bit helps - indeed it does - and I think that has been reflected in a number of decisions that we have already taken. However, I stand by my commitment on the Ainslie Transfer Station, just as I stood by the commitment on the Cook and Lyons schools, because quite clearly, Mr Speaker, the community has expressed its view and that view is that they wish to retain those facilities.

I know that members opposite are squirming about this because they got it wrong. Members know that they got it wrong. The obvious outcome of that is that Mr Duby has become completely obsessed by the Ainslie Transfer Station. He is unable to ask a question on any other subject. He gets the same answer every time, and he will continue to do so until the budget.

MR DUBY: I have a supplementary question.

MR SPEAKER: Mr Duby, we are running out of time. I have asked that we do not have supplementary questions today.

MR DUBY: Mr Speaker, I am entitled to a supplementary question and, by gosh, I shall ask it. The Chief Minister would not be churlish enough to call this session to a premature close; I am sure of that.

Ms Follett: No, of course not.

MR SPEAKER: Chief Minister, can we have unlimited time today?

Ms Follett: You may have a question from each member, Mr Speaker.

MR SPEAKER: Thank you. Ask your supplementary question, Mr Duby.

MR DUBY: Will the Chief Minister have the answer to my previous question tomorrow?

MS FOLLETT: The answer is no. You will have the answer on the costings at budget time.

Toxic Waste

MRS GRASSBY: My question is to Mr Connolly. What is the truth about the reports in the *Canberra Times* regarding the danger of toxic waste that has been buried around Canberra, and how many of these toxic waste dumps are there in Canberra?

Mr Kaine: Why don't you just table your prepared answer?

MR CONNOLLY: I may even do that. There has been a lot of concern in the media about toxic waste in Canberra, following media reports of an incident some eight years ago when material was buried in the tip at West Belconnen. I have previously answered and told this Assembly that that material was buried according to the best safety standards then prevailing and that the advice that we now have is that it is still safe; that core samples which are taken on a bimonthly basis from around that area indicate that there has been no leaching and no danger to surrounding ground water. So, that material in relation to the incident of eight years ago is safe and is being monitored.

I notice media reports that a prospective candidate for the forthcoming Assembly elections has been suggesting that there ought be a major inquiry into past tip practices in the ACT. I can advise the house that the Department of Urban Services has indeed pre-empted such a need, because it has delved through its records and provided a list of some 25 sites around Canberra that have in the past been identified for public tip purposes.

Mr Kaine: Will you table that document?

MR CONNOLLY: I am quite happy to table both the list and a map which shows where those sites are throughout Canberra. In many cases, of course, these tips were just for builders' rubble in newly emerging areas of Canberra; they tend to radiate out as the city has grown over the years. The department is quite convinced that those areas are safe. But, of course, knowledge of toxic waste disposal has advanced dramatically in recent years. In the past, often perhaps dangerous material was simply put into landfill sites. An agent that comes to mind would be dieldrin, used in the past for white ant control and now known to have quite severe toxic effects. It is quite within the realms of possibility that cans of that type of material were just put into landfill sites.

So, as I say, the Department of Urban Services is accurately identifying the site, of all these tips. These sites will be logged into the Australian survey office's standard databases so that everyone will know where they are and they will be inspected over time to ensure that there is no leaching of material into the adjoining ground

water. This is an issue which the department, in its quiet way, has been going about rectifying. There is no need, as was suggested recently, for some major inquiry into this issue; it is being handled appropriately. I table, for the information of members, a list of dumping sites in the ACT and a map showing approximately the location of those sites.

Dog Control

MR COLLAERY: My question is to Mr Wood, the Minister responsible for some urban affairs. Mr Wood, when I returned from the Raiders game on Sunday I found some feathers in my back garden, various mounds of feathers.

Mr Duby: White ones?

MR COLLAERY: They were white ones and brown ones. I recognised the feathers as belonging somewhere in our household. I wish to assure the surviving good sisters of those few chooks of ours who perished during the game that you will bring in the amendments to the Dog Control Act quickly. I ask Mr Wood whether he will outline what provisions are intended to be brought forward and whether any public campaign will be mounted before the summer season on the constant problem in our city of unleashed dogs which, in my case, have dealt heavily with our fowl population.

MR WOOD: Mr Speaker, I am sorry that Mr Collaery came home to that problem. I thought it might have been the feathers of the magpies that you found in your backyard; perhaps they remained at Bruce Stadium.

I can give you a briefing in some detail about the legislation we are bringing forward. I am not sure that I need to, because I am sure you are already fairly well informed. It will not be vastly different from the legislation that began in Ms Follett's first time. It was brought pretty much to finality in your time, about which I am sure you are well informed, and is now sitting on my desk upstairs pending my signature on that yellow document to take it to Cabinet. So, it is at an advanced level of discussion and it will be down in the coming weeks. It does impose greater requirements on owners of dogs to have responsibility for what those dogs do. There are, of course, problems of policing, but we will attend to those as best we can.

I was interested to find that the cost of maintaining the existing measure of dog control is about $400,000 a year. We do not do anything like recoup that amount of money through dog licence fees. So, the fees will be another matter that will be increased, maybe to cover the costs, although that is not the prime consideration. Education, as you indicate, is a major factor. I think we have to

change the attitudes of dog owners. We can put in place the legislation and the penalties; but, without educating the community to the need to take greater care of their animals, I do not think we make great progress at all.

Mr Collaery, we cannot replace those fowls for you; I am sorry about that. As a legal gentleman, you might know the avenues by which you can make claims on government or whomever.

Mr Kaine: You or the Chief Minister could make an ex gratia payment.

MR WOOD: If he gives me a letter in writing, I may consider that - not necessarily sympathetically. The legislation will be here soon and it will be generally approved, I am sure.

Private Hospital Beds

MR HUMPHRIES: Mr Speaker, my question is to the Minister for Health. I refer the Minister to the report he tabled yesterday on the public hospitals feasibility study. Page 62 of that document is headed with the words:

> There are significant financial advantages to the ACT budget of provision of private hospital beds at a ratio comparable with other States.

Does the Minister acknowledge, first of all, that the ratio in the ACT is well below that of other States? Does he accept the statement made in that report he tabled yesterday? What strategy is the Government pursuing to further the aim outlined in that statement?

MR BERRY: I thank Mr Humphries for the question because it is an issue which stands the Labor Party quite a distance from the Liberal members opposite. It is about an ideology, as Mr Humphries rightly said yesterday. The Labor Party - - -

Mr Humphries: Can you answer the question?

MR BERRY: I have to say, Mr Humphries, that when I answer the question I will answer it, as I have said before, the way I want to. It is about an ideology. We stand well apart from the conservatives on this score. We are strongly committed to an accessible and affordable public hospital system. I think we have some work to do in the public hospital system in the ACT to bring it to the standards that we want. In that ideological order of things, we are not prepared to squeeze the public hospital system and force people out of it into private hospital beds, because of the effects that that would have on the people that we represent.

Mr Humphries did not appear to have that level of commitment when he was the Minister for Health, because he had, in fact, approved a large private hospital on a prime piece of land and, of course, there was little interest in that proposal. At the same time we had a very clear situation where there was a lack of demand for additional private hospital beds and waiting lists in the public hospital system had blown out by unprecedented amounts. So, the focus for the Labor Government is to strengthen the public hospital system and - - -

Mr Humphries: I raise a point of order, Mr Speaker. My question does not touch on any of the things that Mr Berry has said to the Assembly. My question is about private hospital beds and whether the Government is pursuing a policy to increase the number of private hospital beds pursuant to that statement in the report yesterday. Can I have an answer to that question?

MR BERRY: Mr Speaker, I am well aware of Mr Humphries' philosophical commitment to expand the private sector at a cost to the public sector. Mr Humphries argues that the Territory can save money by letting somebody else run the hospital services. Well, Mr Speaker, Mr Humphries is going to be sorely disappointed, because we will continue with our focus on the public hospital system. If there is an increase in demand for private hospital beds - and we have no objection to private hospital beds per se - the Government will look at it at a time when it is appropriate. It certainly is not appropriate at this point in time when we have 95 approved beds which are unused. For this member to be peddling the argument that we ought to be strengthening the private hospital system at the expense of the public hospital system is over the top.

MR HUMPHRIES: Mr Speaker, Mr Berry has not answered one iota of the question I asked. This is about the fourth day in a row that I have risen in this place and asked Mr Berry questions, none of which has been answered. My question is quite specific. This is my supplementary question. Is the ratio of ACT private hospital beds lower than the national average? Does Mr Berry agree with the statement in his own report, tabled yesterday, and is he doing anything about it if he does agree? You have not answered.

MR BERRY: Mr Speaker, I do not know why Mr Humphries is asking me the question about the ratio of beds. He knows the answer and so does everybody else. Of course the ratio is different, but so are the historical circumstances and so is the way that his Government has managed hospital services. It has done significant damage to the public hospital system in the ACT. What we have to do is turn our focus away from issues which are not related to quality public hospital services. We have a focus on that, Mr Humphries, and you are going to have to learn to live with it. We are hell-bent on ensuring that the public hospital system in the ACT is improved, and we will do that. You were unable to do that and you were unable to manage them properly.

The report that Mr Humphries referred to cannot be read in isolation from the facts. The issue for this Government is to provide a quality mix of beds for the people of the ACT. That will include, in the first place, an affordable and accessible public hospital system. This Government is going to attack the mess of public hospital waiting lists as quickly as is possible, and we are going to try to clean up the mess that was left to us by the Alliance Government in that respect.

Domestic Violence

MS MAHER: Mr Speaker, my question is directed to the Chief Minister. In a letter I have received from you, Chief Minister, you state that you are not going to proceed with the domestic violence committee which the Alliance Government was in the process of establishing. You also state that you feel sure that the same high level of work can now be done in different ways. I acknowledge the fact that the National Committee on Violence against Women and the ACT Women's Consultative Council are both doing some work on it; but, considering that one of the main reasons for forming that consultative committee was to improve the coordination between agencies, both government and non-government, in the ACT, and not nationally, can the Chief Minister inform the Assembly how she intends to improve the coordination and information sharing of those agencies without the consultative council and those agencies actually meeting?

MS FOLLETT: I thank Ms Maher for that question, which is on a very important subject. I do not think there could be an issue that is more important to this Assembly or, indeed, to our community than the safety of women and children and the protection of them from violence. Mr Speaker, Ms Maher has asked me specifically about the coordination and improving the coordination between agencies on issues related to domestic violence, and that is indeed a very important question. I hope to achieve that coordination and improved coordination largely through the work of the Women's Consultative Council, a body that has served both my own Government and Mr Kaine's Government formerly and has done a considerable amount of work on domestic violence.

Mr Collaery: You are joking.

MS FOLLETT: Mr Collaery is interjecting on some grounds, Mr Speaker. I am unaware of what they are. The fact is that the Women's Consultative Council reports to the Chief Minister, to me, and it has a whole-of-portfolio brief. There is no doubt about that.

Mr Collaery: But it does not include many of those agencies from the other body.

MS FOLLETT: Mr Speaker, Mr Collaery interjects, "It does not include those agencies". Indeed, it does not, and nor should it. It is a body that has a brief that does not include working within those agencies such as the body that Ms Maher described and had indeed set up. I think that the work of the Women's Consultative Council and their efficacy in taking a holistic view of the domestic violence problem was demonstrated by the forum that they hosted last week on looking at domestic violence issues, particularly in the application of the Domestic Violence Act. The Women's Consultative Council also has representation on the National Committee on Violence against Women, so they have access through that sort of a mechanism to a national statistical database which we have not previously had access to and which, I believe, would not have been the case while Mr Kaine was in government. So, there are some improved mechanisms there.

I believe that the Women's Consultative Council is the right mechanism at the local level through which to consult the community and through which also to work on the agencies that need to be consulted and to be coordinated on domestic violence issues. After all, it is that committee's role to advise government on the views of women and on the issues which concern women. So, domestic violence is obviously one which they must take up.

Mr Collaery: It is not solely restricted to women.

MS FOLLETT: I appreciate Ms Maher's concern. I might add that I consider Ms Maher to be immeasurably better informed on these matters than Mr Collaery, who keeps interjecting. I can assure Ms Maher that, if I believe that there is a need to make separate arrangements or to make additional arrangements, I will certainly do so. At the moment I do not see that need.

MS MAHER: I ask a supplementary question. Considering that those who are on the Women's Consultative Council are non-paid and act on a voluntary basis, and that a lot of them are extremely busy, do you think that they have the time to put into this extremely important issue which came up at the meeting I held in February this year - a major issue, and one that needs to be dealt with very quickly? This is information sharing across agencies, where you have agencies talking to other agencies. Do you really think that the Women's Consultative Council - and in no way do I put the work that they do down - will be able to do that?

MS FOLLETT: I think Ms Maher does put the members of that consultative council down. There is no doubt in my mind that they will take a very serious attitude towards this issue, and they have done in the past. There is no doubt about that; no doubt whatsoever. The work that they have done has been extremely effective.

Ms Maher: It was asked for by the community. The community wanted it.

MR SPEAKER: Order!

MS FOLLETT: Thank you, Mr Speaker. I repeat that there has been a change of government; and it is my view, as the head of the new Government, that the existing Women's Consultative Council is the correct forum for that work to be done at the local level. If, as I say, they were to tell me that there is a need for another body, then obviously I would review that decision. But at the moment that is the way I will proceed.

ACTION - Meal Allowances

MR STEFANIAK: My question is to the Minister for Urban Services. Mr Connolly, the Auditor-General's Report No. 1 identified illegal meal allowances being paid to certain ACTION staff, and it stated that ACTION was not taking any steps to remedy the situation. Can the Minister assure the Assembly that ACTION is no longer making illegal payments of this kind or of any other kind to its employees?

MR CONNOLLY: I can certainly assure the Assembly that the Auditor-General's report has been brought to the attention of ACTION. I understand that there is a longstanding issue as to meal allowances that have been paid to drivers over successive governments. ACTION is in the process of talking with the Transport Workers Union with a view to rationalising work practices and making savings where appropriate. In the past week I have been on record on one occasion as saying that I thought that ACTION had done something precipitately and should have consulted before they did it; and also that the TWU had done something precipitately with a ban on Monday night and that they should have consulted before they did it. So, I am encouraging both ACTION management and the Transport Workers Union to sit down and proceed to go through these things.

It was interesting to note in Saturday's media the very clear statement from Mr Peter Schulz, who is acting secretary of the Transport Workers Union, that his union does not condone bludgers - I think that was the term he used - or people who break the law. It was a colourful turn of phrase, no doubt provoked by a question, which was not printed, from the *Canberra Times* journalist. So, the Transport Workers Union is equally aware of these issues. My brief to ACTION management is to sit down and negotiate these issues with the Transport Workers Union, and I understand that that is occurring.

Electricity Accounts

MR STEVENSON: My question is to Mr Connolly. Is the Minister aware that the owner of the computer company Digit Design Research and Development in Fyshwick suffered damage to a hard disc drive in his computer because the business's electricity was cut off? The proprietor received his account, and a reminder, and failed to pay both. While it may be that there is no excuse for that, there are other circumstances involved. Electricity is of special importance for businesses in the computer field. Power failure can have drastic results, particularly the loss of information. Does Mr Connolly feel that it would be a far more reasonable and sensible approach to phone clients as a standard operating procedure, should they not have paid their accounts, with the suggestion that their electricity will be cut off immediately if it is not, and perhaps finding out whether there is some valid reason, through sickness or something else, why they have not yet paid the account?

MR CONNOLLY: When the question started about whether I was aware of some damage done to a computer at Digit Design at Fyshwick, I thought the computer might have been on the route 764 bus that Mrs Nolan was concerned about and might have fallen off a seat of the bus in that same incident. My level of command of the detail of the portfolio is obviously not what it should be. I am not aware of this individual company's complaints. A company is expected to pay its bills, as is any ordinary consumer. ACTEW is not in the practice of ringing up every company to remind them that their bills are overdue. There is a normal practice of a demand and a reminder going out.

If there were a case for employing people to telephone consumers and remind them that their bills were overdue, I would be more concerned to phone recipients of social security benefits, for whom the consequence of cutting off power is a loss of heating and lighting to a family, than corporate individuals, who really ought be able to arrange their affairs so that they pay their accounts. Obviously, one regrets that this company, because it failed to pay its power bill, lost information when its power was cut off; but, really, corporate consumers, as much as the individual, ought to be in a position where they pay their bills, and perhaps more so than the individual consumers.

MR STEVENSON: I ask a supplementary question. Does the Minister believe that it is an unfair playing field when government instrumentalities can take that drastic action, when that is not the normal situation in business? If the Government fail to pay their bills on time, the public cannot take similar action.

MR CONNOLLY: There is an element of validity in Mr Stevenson's last remarks about an unlevel playing field. The former Government, to its credit - and we have carried this on - sent a reference to the Community Law Reform

Committee about withdrawal of essential services to cover this type of situation, although I think it was in the mind of the former Minister, and my own mind, that it was more directed to the individual family who might suffer enormous hardship from the withdrawal of electricity or water. There is an element of truth in that. An ordinary business concern cannot just withdraw an essential service because they are not suppliers of monopoly services, apart from AGL, and they are covered also in this reference.

Mr Stevenson may be aware that the Community Law Reform Committee recently held hearings on that aspect of withdrawal of essential services. I await with interest its report, which will be tabled in this Assembly in due course, which may well be proposing some form of amendment to legislation to ensure that the playing field, as he puts it, is rather more level.

Ms Follett: I ask that further questions be placed on the notice paper.

MR SPEAKER: We will suspend the sitting for sufficient time for the cameramen to leave the area.

Sitting suspended from 3.21 to 3.22 pm

Recycling of Motor Oil

MR CONNOLLY: In question time Mr Jensen asked me a question in relation to the use of recycled oil. I made some inquiries during the rest of question time. I wrote to Mr Jensen on 9 July in relation to this.

Mr Jensen: I do not think I have got it. I have not got it yet.

MR CONNOLLY: My ministerial correspondence is stamped, "Signed by Minister, 9 July". A copy was faxed to me today. I will pass it to Mr Jensen. In that letter I said:

> The trial of recycled oil you refer to is continuing. At present testing is still in progress.

The point that it made that I did not refer to in question time was that the issue that is outstanding is the extent to which, by using recycled oil, we may have problems with warranties on engines of equipment being used by the ACT, of which Mr Jensen may well be aware. In the letter I said:

> ... I am confident that an agreement with the manufacturers regarding warranty will be reached soon.

I understand that it is proving rather more difficult to reach that agreement, so at the moment it is being trialled in light trucks only. Until we really get over this hurdle of the manufacturers saying that they will not allow warranty claims on engines that are using recycled oil, we do have a problem with extending it - - -

Mr Jensen: What about the requirement for international accreditation? Does it mention that?

MR CONNOLLY: I am not aware of the details of that. This, I am told, is the major sticking point. It would seem odd that manufacturers are unwilling to countenance the use of recycled oil. I would have thought that, as long as the recycled oil meets a certain technical standard, it ought be able to be used. I will pursue the matter more fully. I apologise, to the extent that Mr Jensen has not received the answer. I will table the answer now for him or pass it to him.

Mr Jensen: If I have, I will apologise as well.

PAPERS

MR BERRY (Deputy Chief Minister): For the information of members I present the following papers:

Audit Act - Audit report on financial statements for the period 11 May 1989 to 30 June 1990 -

Education - Department.
Government Law Office.

DEFAMATION LAW REFORM
Ministerial Statement and Paper

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (3.24): I seek leave to make a statement on defamation law reform.

Leave granted.

MR CONNOLLY: I would like to take this opportunity to advise members of recent advances in the effort to bring about uniform defamation law in Australia and to table revised terms of reference to the Community Law Reform Committee concerning defamation law reform.

It has been long accepted that defamation does not stop at State or Territory borders; that what happens in one State or Territory has an inevitable impact in other jurisdictions. We can all see some of the undesirable interstate ramifications of defamation in the overburdened lists of our courts here in the ACT. Many litigants commence actions in the ACT simply because of the

perception that the ACT provides particular advantages to plaintiffs. The most tenuous connection is sometimes used to found an action in the ACT rather than the place where a paper or broadcast was originally made. What exacerbates the problem in the ACT is not that we have particularly objectionable or faulty defamation laws but that our present law is different from that of the other States and thus draws litigants like a magnet. Recently the Law Society of the ACT has recommended that the ACT reconsider the moves that are being made towards uniformity by the eastern States.

At the June 1990 Alice Springs meeting of the Standing Committee of Attorneys-General, Ministers agreed that the question of uniform defamation laws should be reopened. This is an issue that goes way back to the early 1970s and has been on the agenda of SCAG and various bodies since that time. This exercise has been coordinated directly by the Attorneys-General of New South Wales, Victoria and Queensland, and rather more dramatic progress has been made in the last couple of years than in the entire period since this issue was first on the agenda. At meetings of the Standing Committee of Attorneys-General and at various other times they have reported publicly on their progress.

To date the New South Wales, Victorian and Queensland Attorneys-General have issued a number of joint discussion papers on the reform of defamation law. The exercise has made significant progress towards establishing a single simple defence of justification, shorter limitation periods, court-recommended corrections, protections for innocent publication and other measures to encourage media responsibility. Just recently the eastern States exercise has picked up momentum and appears to have some real chance of success in developing a uniform law. I do not think that the ACT should ignore this window of opportunity for closer involvement in this eastern States reform process.

Members will be interested to know that the eastern States proposals are not dissimilar to those developed so far by the Community Law Reform Committee, which is also considering the issue of defamation law reform. I have discussed the possibility of the ACT moving closer to the eastern States exercise with the chairperson of the Community Law Reform Committee, former Judge Kelly. Mr Kelly has advised me that the committee has come to the view that, whilst all the details of the eastern States proposals have not been clarified, the ACT would be well served by becoming more involved with the eastern States exercise.

He has also advised me that the effort of the committee was already directed to areas of reform in the defamation area not affected by the eastern States exercise, namely, consideration of procedural reform and consideration of a new tort of privacy. The committee is considering a model

privacy law which provides for a complete tort of privacy, an action that would be similar to but separate from a defamation action. At present the eastern States proposal provides protection for publication of private facts only where a person is also defamed. It is interesting, in the context of media speculation on the practice of outing, that, whereas defamation or discrimination law may not provide protection privacy, a tort of privacy may.

Recently I had pleasure in providing an advance copy of the committee's paper on privacy to the Standing Committee of Attorneys-General. I believe that we will get some fairly positive feedback from the other States and Territories once they have had a chance to consider our committee's proposal for reform in this area.

The committee is also examining closely a reform of the procedural law. It is procedural difficulties which often cause lengthy delays and high costs in defamation proceedings in our courts. The committee has held a public seminar on procedural reform and it has received favourable comment on its proposals. The committee will be issuing a discussion paper on procedural reform in the near future, which will be circulated to all jurisdictions for comment.

Following discussions with the Attorneys-General of the eastern States and our Community Law Reform Committee, I think the time is right for the ACT to move closer to the eastern States exercise, and I have signalled our intention to do this rather than go it alone and develop a separate proposal for defamation law in the ACT. I was pleased to note in the Standing Committee on Legal Affairs inquiry into defamation law that the majority report, under Mr Stefaniak's chairmanship with Mrs Nolan, basically indicated agreement with the uniform proposals and that uniformity is a desirable course of action.

I will advise members of the details of the eastern States proposals after the next round of discussions. I hasten to add that the Community Law Reform Committee will continue to be actively involved in the reform of defamation law, in the area of procedural reform, and the development of the new tort of privacy. To this end I have revised the committee's terms of reference. I table the following papers for the information of members:

Defamation law reform -
Community Law Reform Committee - Terms of reference, 14 August 1991.
Ministerial statement, 14 August 1991.

I move:

That the Assembly takes note of the papers.

MR COLLAERY (3.19): I rise to congratulate the Attorney-General on his interest in these issues and the extent to which he is putting momentum into this lengthy exercise. I do not want to be churlish, but I want to read into the record a criticism by an informed commentator of the tripartite eastern States study. It was published in the *Australian Law Journal* in November 1990. Mr Starke, QC, said of the discussion paper issued by the three-State working party:

> A major criticism of the discussion paper and of the agreement mentioned above is their automatic acceptance of the modalities of the law of defamation as it has been developed unsophisticatedly by the common law, with its undue emphasis on the value of reputation, and its fettering on the freedom of speech as a consequence. This concentration on uniformity, largely for the facilitation of legal proceedings, insufficiently touches the fundamental problem of enlarging the freedom of speech in the interests of a more enlightened Australian society.

I want to put on record why, at the June 1990 meeting of the Standing Committee of Attorneys-General in Alice Springs, I did not agree that our Community Law Reform Committee go the same way, along the same route at the same pace, as the tripartite group. I did it for the reasons that subsequently Mr Starke stated more eloquently than I could.

I believe that we need to look at fundamental issues about freedom of speech and media ethics before we decide to join a lawyerised canvas and paint more figures within the same square. I believed that, with the excellent support of our Community Law Reform Committee, the particular personal interest in procedural reform of Mr Kelly and the particular interest of the committee in media ethics, we could break out of that canvas; that we could develop a different approach based on a procedural reform within the Supreme Court Rules so that a number of issues that have lawyerised defamation, and will now continue to, under the tripartite arrangement, could be re-examined and taken to pieces at the beginning.

I accept that at some stage we had to join or work with the tripartite group. In fact, we were working with them. There was regular exchange. I do not agree with the Attorney's decision, because I believe that we should, as a new State, be more reformist. We should chance our arm a little. It did no harm - - -

Mr Berry: Grandstanding.

MR COLLAERY: Mr Berry interjects and says, "Grandstanding". I do not think I have said these matters before. I thought we should go out ourselves and see what we could produce, and then offer it up to the Standing Committee of Attorneys-General. That was the reason why the South Australian Attorney, Chris Sumner, and I decided to take on media and ethics. Most of the members here know what that delivered on my head after the attempt to hold our first media ethics conference in Perth. I cannot address that issue because the only writ I have ever issued in my life is attributable to my attempts to start that media ethics process.

I wish to congratulate the Attorney-General for the effective working relationship he is getting and has, by all accounts, with the Community Law Reform Committee. I am pleased that he has at least, in making this decision, formally given them a widened reference which will assist, presumably, their budget base to match the extra work that is now involved in following the States into that canvas, as I call it. I congratulate the Attorney on adopting Mr Kelly's view that procedural reform is necessary and, of course, the tort of privacy, which is so much in our minds in this outing week, clearly needs work done on it.

I want to say to the Attorney, through you, Mr Speaker, that, at his age and at this stage of what is probably going to be a very large career for him in politics, he should be a little more revolutionary on topics of this nature. I will encourage him to be. I believe that we should not have joined those hidebound States at this stage, particularly following the departure of John Dowd from the group, because he was a reformist, whatever one thinks of his political affiliation. He was strong on civil liberties and he would have been a useful person to lock into so that some of our reforms might be accepted by the other States.

What has happened is that we will tag along now. The intellectual strength of our current Attorney and of our committee is of the first order; but, inevitably, our size and our lack of voice will mean that we have given away the chance, I believe, to come up with something good. We have done that because the Law Society, in particular, disagreed with the direction in which I wanted to go. The Law Society made very clear at the opening of Law Week this year its disagreement with my view that we should not yet join that study. There was a suggestion that I wanted to initiate a study on our own behalf. That was not so.

I wanted us to study different things from a different perspective to see whether we could get real press freedom and deal with the pressing problems in the media in Australia, particularly the state of media ownership, the absence of enforceable internal disciplinary rules and, of course, the absolute joke which the Press Council in this country is. Following reports on the British Press Council and a very interesting study in Britain which the Attorney

would be aware of, the South Australian Attorney, who had been a victim of dreadful press treatment by a single newspaper in his town following Operation Hydra by the NCA - a discreditable operation by a now discreditable group - I agreed with Mr Sumner that there were serious problems in city-states like Adelaide and Canberra where there is too much aggregation of power in a single media source.

The whole background to the reference to the Community Law Reform Committee was to try to break into the oligarchic structure of media in this country and to acknowledge the fact that the Attorneys in the big States were largely hostages, to some extent, of the media there and there were very difficult political questions as to whether they could take this pioneering route. I am sorry that the wagons have been drawn into a circle by Mr Connolly. I would have preferred to push on across the scrub and to see what we could do. Nevertheless, I am sure that he is going to put every effort into what he is doing and I commend, at least, his interest. I think he needs to strike out a little on his own, and I encourage him to.

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

POLITICAL ADVERTISING
Discussion of Matter of Public Importance

MR SPEAKER: I have received a letter from Mr Stevenson proposing that a matter of public importance be submitted to the Assembly for discussion, namely:

> The need for the Chief Minister to call on the Federal Government to withdraw its proposal to ban political advertising on the electronic media, as there is a clear indication that the proposal is not supported by the people, the media, most political parties and a wide spectrum of organisations. The adverse effects it would have on the citizens of Canberra and their democratic and political rights if this dictatorial proposal was implemented.

(Quorum formed)

MR STEVENSON (3.38): The Federal ALP proposed that electronic advertising with a political content would be banned. That involved all advertising, all year and all groups. Since that time there has been some backdown on that original stance. Now the suggestion is that it will apply only to election campaign periods; also there are some groups - charities, specifically - that will no longer be caught by the net that the Labor Party would throw out. For a start, it would suggest that there has been no consultation and/or very bad planning in the first place; the legislation or the attempt at the legislation was not well thought out.

I think it is a most remarkable idea that the Labor Party is trying to propose. They are saying that they are so incapable of managing campaign funding that they feel that everybody should be prevented from advertising political content on radio and television. Would not the simple solution be that they find out how to economise, how to budget, and that they take the responsible action themselves rather than expect everybody else in Australia to be prevented from radio and television advertising while they still have many opportunities to advertise.

Senator Bolkus said that the legislation was designed to sanitise the electoral process against corruptive influence. I think many people would say, firstly, that it is too late and, secondly, that this move would not work to handle those corruptive influences anyway. It is also an unfortunate, though obviously deliberate, ploy by the Labor Party to introduce two matters in one - not only advertising but also electoral funding. They would have been much better presenting them separately, and they would have more readily got agreement on one, though not the other.

Let us have a look at the real reason that the Labor Party has introduced such a dictatorial and absolutely atrocious suggestion. I think we all understand that the ALP is broke. Now that they cannot look to Brian Burke for help with their scam of going along to companies and saying, "Your donation is going to be $200,000", I can understand that they have concerns. Who, in their right mind, would want to donate money to them unless they were forced to do so by heavy-handed tactics? Granted, there would be some around, but one would have to look at their motives.

I think perhaps the real reason that the suggestion was made was to prevent people opposing them, to prevent the right of individuals and groups, be they community groups or other smaller political parties, and so on, to get a message across in the electronic media. It has been said, "Who can afford it anyway?". I suggest that a great many organisations can afford it. Interestingly enough, there are organisations that can afford even the television advertising.

But, leaving the television advertising aside for a moment, who would suggest that radio, particularly regional radio, is not something that many groups, if they are committed to a cause, could not readily afford? If the proposal were to be forced through, it would present major problems for community groups, yet major benefits for the two major parties. Both parties are very heavily involved in direct mail, which is very expensive federally.

Mr Humphries looked a bit puzzled; but I can assure you, Mr Humphries, that the Federal Liberal Party is spending a great deal of time, expertise and money on developing direct mail programs. It is certainly doing a better job than it did in the last Federal election. This is

something for which most people, firstly, do not have the computer equipment; secondly, do not have the money; and, thirdly, do not have the ability to pay the postage, as the Government does. Just before the election they are liable to say that certain members have an enormous allowance increase to send out letters to constituents. That is, of course, political content, political campaigning. Other organisations cannot take public money and do that; but the Labor Party can, and has.

Also, it is well known that the Government can use public information ads. It is important that the government of the day have the right and the opportunity to let the community know of various important matters that come before it. But the problem, as we well know, is that they are well tuned towards abusing that right. It is not a matter of letting the public know so much as trying to persuade them of something. It is more propaganda than public information.

Nevertheless, the government of the day and the major parties - the major other party perhaps - have the opportunity to take those sorts of advantages. The major parties have a number of opportunities on talkback radio and television chat shows to get across a political content. They may say, "We were just having a friendly interview with someone out at the football", but it is all a matter of getting across a viewpoint to do with political advertising. They would maintain the right to do that, yet prevent other people having the same opportunity.

A short while ago Mr Collaery mentioned the concern about the media ownership in Australia. I think most of us feel that the opportunity to present a message to people is being controlled by fewer and fewer people in this nation. We well understand who has mates in the major media. Once again, this could benefit the major parties, to the detriment of smaller political parties and other community groups, be they welfare organisations, charities and so on.

I think we should fight against the ban, and that is the reason for the matter of public importance today. I have brought it up in the past, and I will bring it up in the future, because the Government has not yet done a total backdown and we need to keep on them, for the benefit of the people in Canberra to make sure that they back down. However, the Government or political parties with the money will be able to buy up more media stations. This has already happened; there is certainly one radio station in Sydney that is owned by a political party. With that media ownership would come more and more control of what goes out on those outlets, be they radio or television.

If the ban came through there is no doubt, as I mentioned, that there would be more direct mail going out. Also, there would be a great increase in newspaper advertising. But the basic principle that we talk about is whether or not the Government has the right to remove the right of

every individual or organisation in Australia that can pay for getting their message across on the electronic media. Many people do not read newspapers. Reading some of them, one can well understand why. However, a lot of people get their information from the radio and the television. If there is a ban on what can be said politically - basically, that is what it is - on the radio and television, that would prevent the possibility of many people finding out things that could well be important to the community.

It is all very well saying that people have an opportunity on normal talkback radio and in the newspapers and other areas. However, every one of us knows - certainly the public do - that there are many subjects, or particular viewpoints on subjects, that the media are extremely reluctant to talk about and in some cases totally refuse to present. It may be the case that the only possibility for an organisation to get an unbiased message out is to pay for advertising. I think that is unfortunate. It is certainly a condemnation on certain sections of the major media.

However, such is the case, and to prevent these organisations from doing that is appalling. If we heard about such a situation in the Soviet Union, I am sure that if it was a matter before this house we would condemn it out of hand; even the Labor Party would. We would condemn the effort by government to prevent people having a say, yet we have the remarkable situation that this is happening in Australia now.

There is little doubt that, since the proposal was presented by the Federal Labor Party, a tremendous opposition has been built. Practically no-one is in support of it. Most organisations that have spoken out are against it. Certainly, the media are against it, although one could understand why; the radio or television stations may have a vested interest; but certainly the newspapers may not have, and they are against it as well. Certainly, the public in Australia are against it. I think it is important for us to carry a message from the ACT to the Federal Government that we do not believe that they have the right, nor should they try, to remove the right of all citizens to advertise electronically.

MR HUMPHRIES (3.51): Mr Speaker, Mr Stevenson mentioned that this matter had been debated some time ago in this Assembly; it was on 21 March this year. I am not greatly inclined to say much more than what I said on that occasion; therefore, I will not take much time in this debate.

I generally agree with the thrust of what Mr Stevenson said; that there are many concerning points in the proposals put forward by the Federal Labor Government to curtail political advertising. The arguments put forward on behalf of the plan to do so are very thin. They resemble, to my mind, the sorts of arguments that the

Whitlam Government put up in 1975, I think it was, to support the ban that they proposed or suggested on the publishing of opinion polls; namely, that such things were deleterious to their own interests above all else and therefore were subject to a suggestion that they should be banned.

It seems to me that there is a very good case for continuing to provide avenues for public comment to be made. It is not just political parties, or their lackeys, that have the opportunity of making political comments in the course of a debate; many other organisations can and do use the opportunities presented by our media to make statements about issues of the day. Some that spring to mind include issues such as forestry industries and the debate about resources. Opportunities are taken by both sides in that debate to bring a particular point of view across.

Also the pharmacy community, the national pharmacy organisations, made many points in the course of their dispute with the Federal Government last year. They were entitled to make those points, and they ought to have had an opportunity of doing so. Frankly, to close off the avenues of public advertising would be a gross distortion of the public debate in those circumstances. It is outrageous to think that there should be a suggestion that those things not happen.

I think the statements on this question from Labor have been very largely self-serving. They have been based around their own desire to avoid raising an expectation of change and unrest within their Government. At the Federal level I can well understand why that would be the case, and even at State and territorial levels there is a good argument for that.

The point, Mr Speaker, is that there are many opportunities for governments to advertise in their own right as governments on an upper level. Who can forget the many advertisements that appeared in newspapers during the life of the first Follett Government, with Mrs Grassby's face smiling out at us from advertisements for the Department of Urban Services? I think it has to be asked whether governments are immune from the kind of opportunities that advertising presents, even when there is a ban on other organisations and individuals doing that same kind of thing.

I think, Mr Speaker, there is no good case for the ban. Indeed, that is why we have seen a significant backdown on the part of the Federal Government in the last few days on that question. There is perhaps a good case for looking at the way in which advertising occurs and is regulated, but there is certainly no good case for banning it outright.

Mr Stevenson: Perhaps self-regulation.

MR HUMPHRIES: Self-regulation is a possibility. It certainly would be a possibility in the context of the present political parties.

Mr Stevenson: A salary cap.

MR HUMPHRIES: There are debates about whether you should put a spending cap on governments and oppositions and other parties in particular debates. I notice that, although there was a desire to "control expenditure", there was not a proposal to cap the amount that parties can spend on election campaigns, which would mean that, rather than advertise on television or radio or in newspapers, political parties could turn to direct mailing and other things of that kind to get the message across and spend even more money in that area.

I am not convinced that there is any sincerity behind the proposal, and I suspect that that has been, by implication, acknowledged by Senator Bolkus when he made his announcement to fall back from the original decision and modify the Government's proposals. I do not know what the outcome will be, but I certainly hope that we will see a more moderated and acceptable proposal come forward in due course.

DR KINLOCH (3.56): I agree basically with the general views of Mr Stevenson and Mr Humphries. It must be very difficult for traditional Labor reformist people. They must be wondering what is happening within their party when people within their party argue for bans on advertising. It must be very strange indeed. I very much respected the views of the five members of the Labor Party in this Assembly over the Gulf war. They had the courage to stand up against their national party and to put forward a view which is essentially committed to peace and good order.

I join with Mr Stevenson in calling on the Chief Minister to call on the Federal Government to withdraw its proposal to ban political advertising. This may be too late, of course. I rather gather that the Federal Labor Party people have already backed down under obvious pressure, but I hope that they will back down even further. It really is very hard to understand. I respect quite a number of people in the Federal Labor Party, including one of our local members - - -

Ms Follett: Which one?

DR KINLOCH: Including two of our local politicians at the Federal level. The idea of Senator McMullan and John Langmore supporting the banning of free speech in advertising I find amazing. I find it thoroughly amazing, and I hope that the message will be clear to them.

Ms Follett: Is this consistent with your X-rated videos stand?

DR KINLOCH: Indeed it is, and I would be happy to discuss it. My X-rated videos stand is essentially to do with the ACT not violating the laws of the six States. As Mr Collaery knows very, very well, that is the main point of my argument there. I repeat what I said in March: One solution to this - and we should approach especially the monopolistic press on this matter, especially in cities where there is only one effective newspaper - is that, in return for the very fact that they exist, there should be a quota, a quotient or a part of their air time or print coverage which is given - not free; "free" is the wrong word - to public political advertising in proper ratios, and that may be hard to determine.

I am only repeating what has been said earlier. This is surely one of the most effective ways to go. You do not want to encourage political advertising that depends only on the large sums that some political parties can amass. You want to give every chance to small parties, minority groups and people who do not have access to great funds. That is very necessary, and surely that can be legislated for at the Federal level.

MR DUBY (3.59): I will not say that I was not going to talk. I must admit that I was tempted from the start to have a few words on this. May I say at the outset that this is a nonsense debate. On 21 March this matter was dealt with in the Assembly in very similar words, again on a discussion of a matter of public importance that was raised by Mr Stevenson. I thought that the matter was dealt with effectively then. Let us be perfectly honest.

Mr Stevenson: Why did the Federal Government continue with its proposals?

MR DUBY: Because the Federal Government does not have to listen to what we say in this Assembly at all. That is the bottom line. Firstly, as I said, let us go back and show just how illogical this debate can be. I would like to propose a question to the member who raised this matter of public importance: What would happen if we went out and took a poll of the people in the Territory, asking whether they wanted to sit through political ads at election time? I wonder what the answer would be. I have a funny feeling that, if I went out and polled 68 people, something like 57 of them would say, "No, I do not want to see any political ads". And I have a funny feeling that, if Mr Stevenson went out and asked the question in the same way, he would get much the same answer.

Mr Stevenson: It is a bit of a biased question. That is not the right question to ask, and you know it.

MR DUBY: Of course not; particularly when you have already worked out the answer that you want to get. I must point that out; I must quote that - "That is not the right question to ask". Next time you mention political polls

and polls of the populace about listening to the people's wish, I must remember, "Hang on, that is not the right question to ask, because they will not give me the answer that I want". What a load of baloney.

Mr Stevenson: I agree with you. The suggestion is.

MR DUBY: The suggestion is, Mr Stevenson, that, if you went out and polled the people in the electorate at large on whether they wanted to have to sit through drones like me - and you, for that matter, and the Chief Minister and the Leader of the Opposition - rabbiting on about political issues, the answer that they would always give is, "Of course I do not. I would much rather sit down and watch *Neighbours"*. That is the fact of the matter, whether you like it or not. Whether you like it or not, that is what the truth of the matter is. In private opinions you will find that most people will supply that answer. Of course, for political reasons, they often have to say, "No, we must defend the great right of freedom of speech".

This brings me to the point that Dr Kinloch raised concerning freedom of speech. He mentioned, of all people, Bob McMullan in this debate. Senator McMullan is a wonderful person; I have great respect for him. But, in terms of Bob McMullan being able to advocate the banning of political advertisements, Dr Kinloch raised the question: How could he do that when he is a great advocate of freedom of speech? Well, I put the question to you, Dr Kinloch: How can the greatest proponent in the Territory, to my knowledge, of single member electorates be a person who is elected to the Senate on a proportional basis?

Of course, once again, this simply shows that this is nothing more than a political debate. It has nothing to do with commonsense, and nothing to do with what people might privately think. It is a political debate. The simple fact of the matter is that to ask this Assembly to have the Chief Minister call on the Federal Government to withdraw its proposal to ban political advertising is, frankly, a waste of time. It does not matter what motions we pass in this Assembly; I can assure you - and I will guarantee that Ms Follett will back me up here - that there is no way known that she is going to jump in her little Laser and cross the lake to go to see the Prime Minister to say, "I am here under the instructions of the Assembly to tell you that you have been doing something wrong and you should stop it".

Mr Collaery: I would like to see it.

MR DUBY: So would I.

Mr Stevenson: The fact that it should happen and someone may not do it is an entirely different matter, isn't it?

MR DUBY: No, I do not even necessarily agree that it should happen. The fact is that this is a matter of - - -

Ms Follett: On a substantive motion, of course, I would.

MR DUBY: Yes, all right; I will accept that point, Chief Minister. But basically, as I said, to put up as a matter of public importance the great concern in the community over whether to ban or not to ban political advertising is, I put to you, an enormous yawn, because most people in the community have very little opinion on the matter. As a matter of fact, as I said originally, if you polled the community, most people would say, "What a good idea".

I think that is indicative of many of the arguments that I have raised in this place against the very suggestions that you make about our listening to what the people say. Nine times out of 10 - and I will probably regret saying this; I hope I am not quoted by political opponents - what the people think or know about an issue in the public domain has very little to do with the facts. Often things are whipped up by persons who, for whatever reason, think that they can gain short-term advantage by extrapolating, extending and appealing to supposed public opinion.

When the facts of the matter are explained to someone, almost invariably in life I have found that it is not a clear-cut issue. Normally there are arguments both for and against, and often your first gut reaction to a proposal has to be amended when you are properly apprised of the facts. I am not saying anything one way or the other about what the facts are or what attitude we should have towards political advertising on a national, State or even Territory level. But I would just like to say that in my opinion this is not a matter of public importance in the ACT, and I think it is to be regretted that matters that, in my view, verge on the political life of the nation as a whole are regarded as matters of local public importance.

Mr Stevenson: You may not have known, but we are part of Australia.

MR DUBY: Mr Stevenson has said that we are part of Australia. Does that mean, for example, that we can discuss as matters of public importance in the ACT matters concerning foreign affairs, the foreign trade balances and various things like that? Once again, I think that argument falls down. I think this is a nonsense debate, and actually I am amazed that I have spent 7 minutes discussing it. It quite surprises me how much nonsense I can talk about nonsense. Nevertheless, it is not a matter that should be raised as a matter of public importance in this Assembly.

MR BERRY (Minister for Health and Minister for Sport) (4.07): As with many of the things that Mr Stevenson raises in this place, that which is not said is often more important than that which is said. One thing I noted was the absence in Mr Stevenson's statement of any reference to third party advertising in election campaigns. I go back to the speech that Ms Follett gave on 21 March 1991, when she talked about the level of funding that is put into these sorts of campaigns. An amount of $5.7m was expended in the 1990 campaign by third parties. Thirty-five of those third parties spent $1,735,585 on broadcasting.

It really comes down to what we are talking about here. It is really about a couple of people seizing on the emotive issue of freedom of speech and ignoring a lot of the real issues that are concerned with this issue. It is right to say that it is a populist and perhaps silly move for Mr Stevenson to jump up and try this on in this Assembly, because it may well be meaningless. But what makes it more meaningless is the issues that have not been raised in his speech.

The most important thing that has not been raised is what has happened to the matter in the Federal Senate. It is a case of the Democrats holding the balance of power in that place and being able to take a populist line in relation to the issue. Of course, the Liberal Party has been very reluctant to do business on the matter as well, for the very same reason that Mr Stevenson is concerned. This is about disclosure as well. One must disclose whom one is being funded by. For example, would Mr Stevenson tell us whether the League of Rights has any role in his election campaigning? I bet he would not like to be forced to do that, and that is what the proposal embraces.

Mr Stevenson: I raise a point of order, Madam Temporary Deputy Speaker. I would be only too happy to answer that question.

MADAM TEMPORARY DEPUTY SPEAKER (Mrs Grassby): That is not a point of order, Mr Stevenson. Sit down, Mr Stevenson; it is not a point of order.

MR BERRY: The issue is about disclosure. That is one of the real issues. This Assembly ought also be concerned about the issue of disclosure. It ought not seize upon the emotional issue of freedom of speech, as some members have done. Of course, freedom of speech is a valuable human right, and it is not in question in relation to these bans. What these bans are really about is disclosure. That is why the Liberals are nervous. They are nervous about it because they do not want to disclose their political donations.

We have no difficulty with this disclosure. We get massive support from the trade union movement and we would not in any way be ashamed to announce the sort of support that we get. Of course, what would happen - the Liberals know it and, of course, it would affect the Labor Party as well - is that some of the big companies that donate to both parties would not donate at all. That would affect them. But it is an issue of disclosure. For Mr Stevenson, that is particularly pertinent because he would have to disclose where his funding is coming from as well. It is a great shame that Mr Stevenson did not disclose some of his other agenda items in the last election campaign. Perhaps people would have been able to see right through him and know what he was up to.

Anyway, those are the issues as I see them. It is important that we keep the focus on what this is really about. It is more about disclosure than anything else. Mr Stevenson should focus on that, instead of seizing on those populist issues and emotional issues which he has seized upon.

Mr Stevenson: I agree that the issues that I seize upon are popular. That is why I seize on them - the majority will.

MR BERRY: Populist and emotive - and they did not embrace all of the facts. As I said at the opening of my remarks, which I will draw to a close, the speech that he made was more memorable because of the things that he did not say than because of those that he did.

MR COLLAERY (4.13): Madam Temporary Deputy Speaker, may I congratulate you on your first ascent to the chair.

Mr Wood: And your handling of the debate.

MR COLLAERY: Yes.

Mr Wood: I might start to interject a bit here, and see what I can get away with.

MR COLLAERY: I am indebted to Mr Wood for allowing me to catch my breath, because there have been some fairly breathtaking comments. I enjoyed the contortions of Mr Duby's argument; but, really, Dr Kinloch put the issue in its philosophical context, which involved a banning issue. At the same time, one has to be aware, of course, that there is a question of balance involved. If one reviews the practices of the other democracies - some commentators identify 19 such democracies; the Western democracies, if I can use that term - one sees that, if this ban proceeds, Australia and Norway will be the only two of the 19 leading Western democracies that allow neither paid political advertising nor free time.

I am advised that every one of these democracies, except Norway and the United States, and now Australia, allows free time for political parties. Every one of them, except New Zealand, Germany and the United States, bans paid political advertisements on television and radio. It is astounding to find that just after the turn of the century the US Congress made it illegal for any corporation to make a political contribution in connection with any election to any political office.

Mr Duby: When did they repeal that?

MR COLLAERY: I think Richard Nixon effectively repealed that. The fact is that there are dangers. Laurie Oakes, who is a very informed commentator, is reported in the *Bulletin* of 2 April 1991 as saying:

> Very real dangers are inherent in a situation which compels political parties to raise vast and ever-increasing sums of money to fight elections. Anyone who thinks otherwise should recall what happened in 1975 when the Labor Party was thrown suddenly into an election courtesy of the governor-general's dismissal of the Whitlam government. The war chests of the coalition parties were full but Labor's coffers were just about empty.
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> ... ...
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> Facing a desperate situation, parliamentary leader Gough Whitlam and national secretary David Combe had an appalling lapse of judgment. They agreed to a suggestion from prominent Victorian left-winger Bill Hartley that Labor should seek funds overseas from Iraq. And, when an emissary told them Iraq's ruling Ba'ath Socialist Party was prepared to give half-a-million dollars, "or whatever you can spend", they accepted the offer. Labor's campaign budget was adjusted accordingly.

In the event, as we have learnt from Saddam Hussein, the goods were never delivered. But the fact remains that Laurie Oakes points up that at one end of the spectrum we do seriously need to get down to discussing the excesses of advertising and the dangers inherent in terms of potential corruption whereby the parties raise large sums.

I will just close my comments on the view from the smaller parties. In the last election campaign I clearly recall having to argue the toss with the ABC to get our share of free time, because their logic was that we were not an established party and therefore we had no right to free time. That, therefore, creates a self-perpetuating exclusion for those new groups who want to emerge in the community. I am very conscious of the fact that the coalition, led by Dr Hewson, if it gains control of both houses, will, as Laurie Oakes observes, possibly implement

its policy calling for the abolition of public funding of election campaigns. If that report is correct, that again strikes a warning for the minor parties in their situation with respect to the overwhelming funding situation of the major parties.

So, balanced against the civil liberties aspect is the liberty itself in political pluralism which can be brought about by other parties breaking through the duopolistic situation in this country. Pluralism will always suffer at the hands of vast advertising machines, particularly in the electronic media.

The Labor Party must be unbelievably cynical to take its present steps. It has taken no steps through its reformist years - it is no longer a reformist party - to take any measures to combat its situation. Now it brings this measure in when it is running out of donors and when it is utterly compromised by the WA Inc. disclosures - - -

Mr Jensen: And tired.

MR COLLAERY: And tired, as my colleague Mr Jensen points out. To bring it in now, when there is a real chance in this community of political pluralism, effectively means that even the free advertising that we used to get from the ABC will be denied us - I do not think people realise that - under this ban. Bob Hawke of the Labor Party has acknowledged that the Labor Party is going to turn to a different emphasis. They are going to turn to increasing the amounts that they allocate to print advertising, doorknocking, letterboxing and direct mailing, and they will step up phone canvassing - once again, an area where the minor parties do not have the resources. So, once again, the duopoly finds under that proposal a way of surviving.

I must say that I cannot agree with the arguments advanced by the Liberal Party or the Labor Party on this issue. There just should be a return to ethical decency with respect to the use of the media. The most extraordinary and misleading ads are run and campaigns now descend to the use of the television, particularly, and the other electronic media to cajole and to impart an utterly false image of a person. I am not judging the substance of what happened to Sallyanne Atkinson; I do not know the issues up there. All I know is that she lost out because there was an emphasis on one single issue to do with her expenditure pattern.

That is what television can do. It can overfocus and create a level of ignorance in the community on an issue. It enables the major parties to play those games to the detriment of Australian politics and of the entry into politics of people of merit.

MADAM TEMPORARY DEPUTY SPEAKER: Are there any other speakers? If not, the discussion has concluded.

ELECTRICITY AND WATER (AMENDMENT) BILL 1991
Detail Stage

Consideration resumed from 13 August 1991 on amendment moved by **Dr Kinloch**:

> Clause 4, page 2, line 10, proposed paragraph 74(D)(b) omit "1 milligram", substitute "0.5 of a milligram".

MR JENSEN (4.21): I rose last night to adjourn this matter because it was clear that the proposed amendment circulated by Mr Berry needed further investigation by members before a final vote on this issue. In fact, I seem to recall that some concern was expressed by members who had been on the Social Policy Committee looking at this issue that, in fact, no problem had really been raised during their investigations in relation to this matter. But I understand that they may wish to speak to that themselves.

Mr Berry, during his speech on the amendment, complained about the lack of consultation between him and my colleague Dr Kinloch. Mr Berry seemed to have forgotten that my colleague Dr Kinloch had circulated the amendment that he proposed at 3.21 pm yesterday. The matter, in fact, as Mr Berry and others know full well, was not raised in this Assembly for at least five hours. There was ample time to discuss any problems with us. Mr Berry was also aware, before lunchtime in fact, that the Rally would be supporting a move to reduce by half the current level of fluoridation of one milligram per litre. At that stage it was not clear who would be moving that amendment, but it was quite clear to Mr Berry that we would be supporting that.

Obviously, Mr Berry conveniently chose to ignore that when he decided to carry on later in the evening. In fact, once again we see Mr Berry seeking to play his political games by tabling his amendment without reference to the opposition parties and expecting us to take it at face value.

MADAM TEMPORARY DEPUTY SPEAKER: Order, Mr Jensen! Could the little party over in the corner have its discussion out in the other room, please. We cannot hear Mr Jensen.

MR JENSEN: Thank you for your protection, Madam Temporary Deputy Speaker, and I thank the members for leaving me to continue in peace.

Mr Berry should not complain about consultation when he does not seek to carry it out himself. That basically was all I was proposing to say on this matter at this stage. Last night I rose to adjourn the debate so that people could have another look at it. The hour was late. I indicate that, at this stage anyway, I propose to support the amendment put forward by my colleague Dr Kinloch.

MR BERRY (Minister for Health and Minister for Sport) (4.24): This is a memorable occasion as well. It is the first time we have had a female in the Speaker's chair, Madam Temporary Deputy Speaker, and I think you are to be congratulated.

I am a little concerned that there has been some more innuendo about the Government's position in relation to this amendment. As Mr Jensen has said, it is true that I contacted him during the day and asked him what they were doing. As I think I said last night, getting it out of him was a bit like pulling teeth. There was a bit of a cough and bluster and I was told that they would support - - -

Mr Kaine: Were they good teeth?

MR BERRY: Not as bad as they will be later on, if they go ahead with this. So, yes, it is true; I found out that they were going to go for the 0.5 of a milligram amendment in due course. It is also true that I was aware of a difficulty with the dosing equipment, although I was not aware of the detail. It became an issue later on in the day when the amendment, which was proposed to be moved by Dr Kinloch, turned up. I received a formal note from ACTEW at about 6.57 yesterday evening, which set out the matters which I raised in the Assembly later on that evening.

It was the hope of the Government that members would listen to debate and support moves to ensure that we kept the fluoride level at one part per million. As it turned out, of course, after long debate, Opposition members did not support that view and we were faced with an amendment. Immediately that amendment was moved and became formally part of these proceedings, I made sure that members were aware of the difficulties with it.

I said last night that I was concerned about the lack of consultation on the issue. There was never a proposition put to the Government with any reasonable notice that we might look at the issue and give a position in relation to it. I think the Government has acted responsibly in chasing up relevant information in relation to the matter to ensure that an amendment that went before this place would be an amendment that would result in a sensible law. Quite clearly, what has been proposed by Dr Kinloch will not result in a sensible law, according to the advice that I have.

The Speaker, I understand, took the unusual step of going direct to ACTEW today to talk about this issue, particularly in respect of the tolerance matter which he raised last night. ACTEW quite rightly briefed their Minister and I was given a copy of that. I can assure members that there are still some difficulties with the equipment that is currently in use.

As I said to the Assembly yesterday, ACTEW advised that its plant, in its existing form, cannot accurately dose the water supply and that it might cost as much as $200,000 to commission new equipment. I am advised that funding might not delay the commissioning, but it is the subject of ongoing consultation with the Department of Health and, of course, the money has to be found somewhere. It is a discretion for the Government to decide whether or not that funding will be supplied. However, it will become mandatory for the Government to provide that funding if the amendment to the Bill is passed requiring the Government to provide new equipment.

Again I raise the issue of section 65 of the Australian Capital Territory (Self-Government) Act in that context. I have said before, and I will say it again, that the Labor Party was never wedded to the former Government's position in relation to section 65; but it does raise, as I have said before, the issue of the conscience of members opposite. Do they want to take a consistent line, as they have done in the past on such issues as hospitals, schools, the human rights legislation and, I think, the Lakes (Amendment) Bill and seize upon section 65 as something that would stand in the way of their proceeding in this direction?

The Government, of course, is relaxed about the position. If they choose to proceed that way, it is on their own conscience. We are prepared to wear it and cop the decision of the Assembly on this matter. It would be something of a turnaround, but it would not be surprising. The Electricity and Water Authority have informed me that they are presently proceeding with the automation of the Stromlo water treatment plant and they intend to commission the new fluoride dosing equipment which will be capable of meeting a variety of dosing requirements within acceptable tolerances. They say that the commissioning of the equipment is likely to be achieved - - -

Consideration interrupted.

ADJOURNMENT

MADAM TEMPORARY DEPUTY SPEAKER: Order! It being 4.30 pm, I propose the question:

> That the Assembly do now adjourn.

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

Question resolved in the negative.

ELECTRICITY AND WATER (AMENDMENT) BILL 1991
Detail Stage

Consideration resumed.

MR BERRY: As I said, Mr Prowse requested information in relation to this matter, but he was advised that it would be sent to the respective ministries. Mr Prowse also suggested that fluoride could be mixed with another substance to achieve an acceptable tolerance of fluoride concentration - half fluoride and half something else. The something else is the problem. This would need further investigation. It is a serious matter.

One does not just add substances, inert or otherwise, without planning and making sure that it is not a threat to public health and, of course, is in line with informed sources, as was the case in relation to fluoride. It is clear that the Government decided upon the addition of fluoride to Canberra's water supply in accordance with the recommendation of the National Health and Medical Research Council. One does not consider adding a substance to potable water lightly. The acceptability of a substance, whatever it might be, would have to be examined very closely. I would require that it be considered closely and I suspect that that would take some time.

We then come to the issue of whether or not the equipment that is currently in place could dose the water within acceptable tolerances. The view that I take, from the information that I have in front of me, is that plus or minus 10 per cent is an acceptable tolerance. I will hand around for the information of members a table of fluoridation tolerances which sets out the current arrangements and the proposed new equipment. I will leave the Googong dosing equipment out because it is adjustable, although it services only 10 per cent of the water. I will stick to Stromlo because it services the larger part of the water supply. For a target concentration of 0.5 milligrams per litre, based on a flow rate of 60 to 120 megalitres per day, the upper limit would be 0.7 and the lower limit would be 0.3, and that would be for 40 per cent of the time. That is the first column. The tolerance is plus or minus 40 per cent. That, in my view, is not an acceptable tolerance.

In respect of a flow rate of 120 megalitres a day or 120 megalitres plus, for 60 per cent of the time we could have upper limits of 0.6 and lower limits of 0.4. That is plus or minus 20 per cent and, in my view, that is not an acceptable tolerance either. In respect of the new equipment that is proposed, again for the target concentration of 0.5 milligrams per litre, the upper limit would be 0.55 milligrams per litre and the lower limit would be 0.45 milligrams per litre. That is for all flow rates for all of the time. You would end up with a 10 per cent tolerance.

The existing Stromlo equipment is of 1963 vintage. It is the original equipment. I think it is probably due for replacement because of its age and its installation date. It is not sick because of the fluoride. This document says that the fluoride is imported from overseas and comes in 25-kilogram bags. That seems to be fairly useless information. The difficulty arises when one comes to considering putting other substances with it to reduce its effect. So, on that score it is clear, in the Government's view, that the existing equipment would not appropriately serve the interests of the people of the ACT in terms of the law which is proposed by Dr Kinloch.

It would be most adequately served by the draft amendment which I circulated, if somebody chooses to move it. The Government's position clearly is that we ought to stay with the premier research body's recommendation of one milligram per litre; but, if a member of the other parties in this Assembly chooses to do it in a way which is responsible, then I suggest to them the amendment that I have circulated. All they have to do is add their name and hand it up and then you can end up with a law that will be effective. I will leave it there for the moment, Madam Temporary Deputy Speaker.

MR PROWSE (4.37): I want to look at the facts and figures that I requested. The Minister did not have the decency to present them to me, even though I took the appropriate channel. I asked the question of the public servants.

Mr Berry: You did not ask me.

MR PROWSE: Both Ministers' offices were asked for the information. I do not think it is proper, when members of this Assembly ask for information, do the right thing and have it channelled back through the Minister so that there is no impropriety, for the Minister to withhold the information so as to get the leap on the floor and make these points. Taking up the issue, it is not that difficult to understand what has been presented. I would just like to say that the Stromlo - - -

Mr Stevenson: I take a point of order, Madam Temporary Deputy Speaker. It is very hard to hear Mr Prowse because of people talking.

MR PROWSE: Thank you. The automation of the Stromlo equipment is ongoing. To my understanding, some of the equipment has already been purchased; so when the Minister suggests that section 65 of the Australian Capital Territory (Self-Government) Act comes into play I find that hard to comprehend. I think he has been misadvised. If the money has already been allocated and some of the equipment purchased, it must already be an ongoing proposal. The issue of fluoride concentration has nothing at all to do with the automation. Of that total $600,000 cost, I believe, for the full automation, about $200,000 is

associated with the new equipment for fluoridation. So, that has already been purchased. All we are really looking at is time; so section 65 of the self-government Act, I think, is a red herring.

There are a number of things that can be done. Mr Berry suggested that you can mix something with the fluoride to halve the concentration but that he did not know what it was. Well, I will come up with two proposals. One, of course, is to put polymer beads, which are recoverable, in with the fluoride. They float to the surface, you skim them off and then put them back in your next batch of fluoride. That is a very easy, non-polluting way of overcoming the problem until this new equipment is installed.

The other way is to add it with lime, because lime is already put into the water supply to bring the pH level of the water down. When you put fluoride and chlorine in, the pH goes up, so we put potash or lime in. As I said, there are five basic chemicals added to a water supply - in fact, there are seven - and we do not drink water; we drink soup. The point is that the lime is put in; so all we would do is put some lime in with the fluoride, mix it in a cement mixer, if you like, and then pour that into the hoppers.

Mr Berry also stated that he was not sure why the knowledge about the 25-kilogram bags is important. Well, it is, because that shows you the handling ability of the bags of fluoride. You can, in fact, tip them into a cement mixer with another 25-kilogram bag of lime, throw the lot in the hopper, and your existing equipment will handle it very easily so that you can come in with your dosage rates.

Mr Berry: I do not know whether that would be within the manual handling limits.

MR PROWSE: It is only a temporary measure. Mr Berry interjects that handling it is a problem, and it certainly is. People have to don at this time full protective clothing and breathing apparatus when working with this chemical and loading it into the hoppers. It is a very dangerous chemical, as we all know.

Mr Berry also stated that the tolerance of the old equipment that we have at the moment, at 0.5 milligrams per litre, is 40 per cent and that that is not acceptable. I certainly agree that it is undesirable; but in the short term, and over the number of days of the year that this problem will exist, which is minimal - there are only a few days of the year when this would be at the 40 per cent level - I think it is acceptable, on the understanding, of course, that if I had my druthers it would be that none was put in. I am taking the debate back to the 0.5 parts per million. Twenty per cent is certainly acceptable. If 10 per cent is set as a world standard for water quality control, which it is, the 20 per cent is an extension of that one side or the other, and it is only a small amount.

The situation is, as I see it, that there is no problem. We can achieve the 0.5 parts plus or minus the 10 per cent if we mix the fluoride with another substance. Two suggestions have come forward from me and there may be others that are quite applicable as well. Under that circumstance we can do it, or we can do the 0.5 with an average dose, knowing full well that we will try to keep as close as possible to 10 per cent, which is the standard. Of course, it may flow out to 40 per cent on those few days of the year.

MR STEFANIAK (4.42): There has been an interesting debate, I suppose, over two years in relation to the fluoride issue. I certainly have read a considerable amount of material on it, especially after the first debate when I think the current Bills were enacted to put fluoride back into the water pending the result of the committee's inquiry. I must admit, as a result of personal experience and the material I have read, that I have come to the conclusion that there is no real reason to change what we have in the water at present.

I am not saying that necessarily that is completely right. I am saying that, if I had to apply a legal standard, I am satisfied beyond reasonable doubt that one part per million should remain. That is not to say that there may not be some further evidence, perhaps down the track, to indicate that these people might be right. I do not know. However, I am quite happy with the current amount of fluoride in the water.

Madam Temporary Deputy Speaker, I do not believe in changing something that actually works. Since Canberra has had fluoride in its water, from what I can see, from the number of people I have seen - and I have lived here all my life - I have not come across anyone who has been substantially affected adversely by it.

Mr Stevenson: Dead is good enough.

MR STEFANIAK: No, I have not come across anyone like that, Dennis. I have come across a couple of people with some mild fluorosis on their teeth, but I have not come across someone who has had some of the more horrendous effects which some of the anti-fluoride lobby push. I have, however, come across numerous people who have lived in Canberra all their lives, who had dental caries when they were young, but whose children, some of whom are now about 25 or 26, have had no dental caries whatsoever - quite different from their parents.

I was born here. I had some dental caries. My dentist always said that I had good teeth when I was a kid and I have only about eight fillings. However, I wonder what would have happened if fluoride had been added in 1952 as opposed to 1964. I probably would have absolutely no fillings whatsoever. I know that this may be anecdotal, as

Mr Berry was accused of being last night; however, those facts I have seen with my own eyes. Therefore, I am inclined to believe that there is no reason for the level of fluoride in the water to be changed. Accordingly, despite the standing committee's report, I will be voting with my two colleagues, Mr Kaine and Mr Humphries, and the Labor Party over the road in relation to this issue.

In relation to personal anecdotal experience, I do not think that is irrelevant. We, as reasonably mature, hopefully, members of the community coming here to this Assembly, should bring our experience in life to our deliberations. That is the reason, I suppose, why I was always very keen to see things such as the move-on laws come into effect - because of my experience in the courts. That, to me, was just commonsense, from what I saw. Similarly with this. From what I have seen of people in Canberra - not only dentists I have spoken to, but people in the community who have lived here and who have brought up their children here - I can see no real reason for this to change. That is not to say that I would necessarily agree with Professor Stephen of the University of Glasgow Dental School, whose comment appears at page 27 of the committee's report. He said:

> Thus, after 201 days' legal debate and at a cost of between 600,000 to 1,000,000 pounds, it has been proven that fluoride at a level of 1 ppm in the domestic water supply is a safe, effective, caries-inhibiting agent and the only disease it seems capable of producing is hysteria in the minds of misguided anti-fluoridationists.

I think that is a rather classic quote. I do not know whether I would go quite that far. It may well be that there is some point in relation to what the anti-fluoridationists are saying. But when one weighs in the balance what is best for the community, from the evidence that I have had before me and the studies that I have done - I have done a fair bit of reading in relation to this - as well as my personal experience, I am satisfied that there is no really valid reason put up at this time to drop the fluoride from one part per million down to approximately 0.5.

MR HUMPHRIES (4.46): I indicated last night that I was unconvinced about the change in the level of fluoride, and that is the case today after the debate last night. I indicate again what I said last night: I cannot see the scientific basis for reducing it by half a part per million. In a sense, most people in this place would agree that that is a position which is not their ideal position. I think Mr Stevenson and Mr Prowse would both argue that half a part per million is half a part per million too much. By the same token, many others in the chamber would argue that half a part per million is too little by the same amount. So, there is very much an element of compromise being exercised here to achieve that particular outcome, and I reject it because I see no basis for it.

Dr Kinloch, in his remarks last night in moving the amendment, made reference to the need to ensure that there was an acknowledgment of the codes inherent in the NHMRC report. I have to say that I do not think the codes are quite good enough for us to work on. If they believe that there should be a reduction, they should say so, and they would say so, I am convinced. On the face of their words we, as a legislature, should leave fluoride at the present level and not change it. Those are the words I am going to rely upon, not the codes that Dr Kinloch or others happen to read within those words of the report.

Finally, Mr Deputy Speaker, there has been some debate about what the policy of the Liberal Party with respect to fluoride actually is. Comments have been made, both last night and in the paper today, suggesting that there is some loophole in Liberal Party policy. For the record, may I table some documents to indicate what the situation is? I seek leave, Mr Deputy Speaker, to table three documents.

Leave granted.

MR HUMPHRIES: The first document is a page from the constitution of the ACT division of the Liberal Party. I particularly draw members' attention to clause 59(1), which says:

> The policy of the Division shall only be formulated at a Policy Convention.

I also table a document which is the result of deliberations at the last policy convention of the Liberal Party. I quote the first sentence under the heading "Fluoridation":

> We support the continued fluoridation of ACT water supplies at levels recommended by the National Health and Medical Research Council.

I also table a letter from Mr Lyle Dunne, the policy convenor of the ACT division of the Liberal Party, who indicates in this letter very clearly that the amendment that I have just referred to was carried at the last policy convention and that the policy committee has no claim or authority to alter the wording of the policy passed at convention. That indicates fairly clearly, I think, that the policy of the Liberal Party is as determined by the convention, and only by the convention.

Mr Wood: And, of course, you bind all your representatives, too, don't you?

MR HUMPHRIES: Indeed. That is very true. Representatives of the party are bound to follow that policy in the Assembly.

Mr Duby: Either that or they will not get preselected.

MR HUMPHRIES: Indeed, there are heavy penalties to pay. Those members, of course, under normal circumstances abide by those rules. Just to address one point, the suggestion has been raised that because an inaccurate version of that policy convention decision was issued members are, in fact, bound by the inaccurate version of that issued policy. I want members to note that the document I have tabled, which sets out the policy of the party, is dated and was issued by the divisional office of the Liberal Party on 14 August 1991, which, of course, is today's date.

MR MOORE (4.51): This issue, Mr Deputy Speaker, for a long time has raised strong arguments on both sides. In fact, there is such a mass of information to go through that it is not difficult to understand why the community is so divided and why there is so much difference of opinion within the Assembly. Contrary to what Mr Humphries says - that there is absolutely no scientific reason for going for 0.5 - in fact there are quite good reasons for establishing 0.5 as a base level rather than going for one milligram per litre or one part per million as it is often described.

When fluoride was added originally to the water there was a fairly arbitrary decision to put in one part per million. Where you have evidence that some harm could possibly occur by action that we are taking, then it is appropriate to bring the level back to a level where it is much less likely to cause any harm. I do not accept the arguments put up by Mr Stevenson and Mr Prowse, who say, "This is a terrible poison and therefore we cannot take it". There are many situations where we do take things that are clearly poisonous to us.

Mr Prowse: Not against your will.

MR MOORE: If you take enough sugar, you will die. Of course, even more often people drink alcohol. Mr Prowse interjects, "Not against your will". Of course, he raises by that the civil liberties issue. This was dealt with very well by the Standing Committee on Social Policy in its inquiry into water fluoridation in the ACT. It reported in January 1991. The civil liberties issues are set out on pages 106, 107 and 108, and a little bit further on. The conclusions they draw at that point balance the risk against the benefit. The working group they refer to of the NHMRC considered the risk benefit evaluation of water fluoridation at about one part per million and also considered a series of things that are set out in that report. The report that we have is a very detailed and very comprehensive study of all the arguments of the matter we are discussing.

There are additional comments and a dissenting report by Mr Stevenson in the appendix to that report. Anybody who wishes to has the ability to read the very detailed dissenting report by Mr Stevenson - dare I say, an enthusiastic dissenting report - and the report of the

majority of the members of that committee. Clearly, that committee had the opportunity to look at all the arguments, the ones that have been raised here again and again, and to come to a conclusion. If their conclusion is a compromise, then that is the nature of politics. Often things are achieved as a compromise and sometimes that is better. Occasionally, a compromise winds up without achieving anything. But in this particular instance the compromise happens to fit very well within the possible benefits and costs associated with using fluoride.

It is sad that some people have turned this into a black and white issue. The reality for most of us who look at it from a rational point of view is that there is clear evidence to show that there is a benefit to children as far as their teeth go. But there is also a great deal of evidence to suggest that we should look at the level of fluoridation in the water supply.

A number of members have spoken since this debate started about the effect that this may have on children and how we should have concern for the children in our community. When I look around I see that the impact of fluoride is most pronounced in very young children. In fact I am the only member who has children of that age at the moment and I take this matter very seriously, of course, as anybody would. I understand that all members take it very seriously. So, we need to determine very carefully what our stance should be. If I believe that the benefits will still accrue by halving the amount of fluoride we have in the water but that the risks will be minimised, then that is a logical and rational stance to take. It is not just a political compromise.

The letter that was tabled last night by Mr Berry raises some questions. Quite clearly, there are specific answers to specific questions. The fact that the Government has brought this matter on as executive business again after we were still sitting at 11.15 last night - clearly, most members were working on other issues earlier today - makes me think it is a strategy, and nothing other than a strategy, to try to prevent us having enough time to assess the other possibilities of this issue.

Mr Berry: It has to be done this week. It runs out on 31 August.

MR MOORE: The interjection is that it has to be done this week. It is still possible for us to change the date tomorrow, should we need to. An extra day would have been nice, considering that we finished at 11.15 last night. It is worth drawing attention to the fact that, although Googong Dam can supply the 50 per cent level without any difficulties, the Stromlo water treatment plant can only dose at 0.5 milligrams within acceptable tolerances at high flows. That being the case, it is important that members of the Assembly consider ways that we can achieve the goal, other than just accepting the proposed amendment that Mr Berry circulated.

I think that most members would appreciate the fact that he did take the initiative and ensure that the Assembly did not bowl in and make a mistake. We have had too many silly mistakes that reflect on the whole Assembly, and what Mr Berry has done in this respect is a very positive thing. However, I think there are solutions other than taking another nine months in order to provide this change to this Act. I believe that that is being drafted at the moment and I look forward to seeing how it comes out.

Mr Deputy Speaker, to receive a letter like this with such little notice does put a strain on members of the Assembly, particularly when we realise that the machinery is not compatible with the proposed automation. The machinery, as we have heard, is already well and truly out of date. A more cynical person than I - - -

Mr Duby: Like me.

MR MOORE: Like Mr Duby. A more cynical person would see this as a possible push from ACTEW to do a little better out of the budget. When an opportunity like this arises, why not? A more cynical person than I could well say - - -

Mr Duby: Like a former Minister.

MR MOORE: Like a range of former Ministers, you may well say. It is an issue that we may well take up in the Estimates Committee and look at just what funds are available there and whether they are really needed.

MR STEVENSON (5.01): I mentioned in some detail yesterday the action by Mr Berry at 10.45 in waving around a document from ACTEW suggesting that we could not go ahead because they could not do the job. Mr Berry had the opportunity for a number of months to inform this Assembly of any particular problems in the area, but chose not to do so. I say "chose" advisedly, because the committee, five to nil, recommended that we reduce the level of fluoride added to the water from one part per million to 0.5 parts per million.

So, Mr Berry was well aware of that, as was everybody in the Assembly - even before they came to occupy the seats they now have. They were well aware that the committee recommendation since February was to halve it. Doing that late last night was unconscionable. It was absolutely not okay for Mr Berry, the Health Minister, to place that situation before this Assembly at that late time.

Yesterday, when I said that 141 submissions received by the committee were against fluoridation and 19 were for fluoridation, Mr Humphries mentioned that it was not an opinion poll. Of course, it was not an opinion poll, and I will get to referendums in a moment. However, we did ask for submissions, and submissions came in from the ACT, from all around Australia and from other countries. The

submissions that came in from professional people, from doctors, from scientists, from government inquiries and so on, were not opinion polls; they were submissions and they presented very well indeed the case for not forcing the people to take fluoridation.

One of the things this Bill does, which has hardly been mentioned by anybody in this Assembly, is remove the section that talks about the people of Canberra having the right to a referendum on fluoridation. Sir Stanton Hicks, director of nutrition of the Australian armed services during World War II, wrote this in the *Medical Journal of Australia* on 11 November 1961, and the principle holds true to this day:

> ... as an often misquoted opponent of fluoridation of public water supplies ... I am not ... and never have been, opposed to the use of fluoride either internally or externally for dental purposes. I am however, opposed on principle to the deliberate addition of any substance whatever to a public water supply with the avowed intention of influencing any physiological function of the human body.
>
> When I ask my dental friends why they do not advocate the supply to and use by parents of fluoride tablets, and the control of the dental effect by the school dental service, I am invariably told that parents could not be relied upon to co-operate. How do they know? I am unaware of any intensive campaign having been undertaken to advocate such a procedure in Australia.
>
> I attended an address to a recent Australian Dental Conference in Adelaide by a leading fluoridation expert of the United States Department of Health. He advised his listeners to press for fluoridation by influencing councils and governments. He warned them not to permit the subject of fluoridation to become a matter for public debate because, he said, plebiscites were invariably against the proposal owing to the influence of crackpots. In itself this is a remarkable tribute to the influence of crackpots, and at the same time a contemptuous insult to the intelligence of the average citizen. It discloses, however, what in my opinion is a dangerous trend in our day and age. This is the tendency of the pseudo-scientific expert to use authority to impose his views.

It is my conviction that if a medico-social measure cannot be sufficiently clearly explained to one's fellow men to win their confidence that it is honestly presented and that there is no other alternative to its adoption, there is

> something wrong somewhere. If we cease to base important social actions on argument with our fellow man and cease to accept each our individual share of responsibility - even in the matter of our children's teeth - we are merely proving that Kruschev's contempt for a free society is thoroughly deserved, and we may as well resign ourselves to being more than symbolically clubbed on the head with his shoe.

I think the matter has been put well there. Why would the Labor Party suggest the removal of the right of citizens of the ACT to decide whether or not they should be drugged with fluoride? Is that not a reasonable thing for the people of Canberra to have a say on? Is it because the Labor Party, in their wisdom, have decided, for whatever reason, "We know better; we know, in the grand scheme of things" - whatever their grand scheme is - "what we intend to do. The people should be prevented from having a say"? What this Bill does is prevent the people of Canberra from having their say, because it removes the right, introduced by Mr Prowse - I commend him for that - and voted for by other members in this Assembly, for there to be a referendum.

Mr Berry: We never did.

MR STEVENSON: Mr Berry says, "We never did". Indeed, they never did. When more and more people in Canberra find out that the Labor Party is opposed to the people of Canberra having a say on fluoride and on other important issues, they will realise that the agenda of the Labor Party is not one of consultation, is not one of honouring their constitutional obligation to follow the will of the people, but is one of following their own policies for their own reasons.

I think it is worthwhile to mention Dr Francis Bull, an early and well-named advocate and proponent of fluoride in America. He used to be paid to go around and lecture to various organisations, dentists in particular, telling them how to push fluoride. At the US State Dental Directors Conference in 1951 he made a very telling statement.

Mr Berry: You do not have to read the whole dissenting report. We have all had a look at it, Dennis. Do not read it any more.

MR STEVENSON: As we said yesterday, Mr Berry, you have not read it yet, and most other people in this Assembly - - -

MR DEPUTY SPEAKER: Order! Perhaps, Mr Stevenson, you would direct your attention to the amendment. I think we are talking about half a part per million, rather than having an in-principle debate.

MR STEVENSON: Thank you, Mr Deputy Speaker. Are we having a cognate debate or is it specifically and only on the amendment? If it is, I will speak on that and come back to the rest later.

MR DEPUTY SPEAKER: Not on the amendment.

MR STEVENSON: I am sorry; I missed that.

MR DEPUTY SPEAKER: We were certainly having a cognate debate in the in-principle stage; but I thought we were dealing with the amendments now, Mr Stevenson.

MR STEVENSON: Yes. The remarkable statement that Dr Francis Bull made was:

> Keep fluoridation from going to a referendum.

When one looks at the results around Australia when fluoride has been put to a referendum, one can understand why they want to keep it from going to a referendum. In 1970 in Portland we had 86 per cent against fluoridation; in Pallamallawa in 1988 it was 98 per cent. In between those two referendums there were various referendums held, ranging from 64 per cent up to 80 per cent and 90 per cent against compulsory drugging of the society. Soon, in the northern New South Wales area, there will be some referendums - - -

Mr Berry: I take a point of order, Mr Deputy Speaker. I admire you for your flexible approach to debate in the place, but I wish he would stick to the issue. I know that they are having a bit of trouble getting something drafted.

MR DEPUTY SPEAKER: I uphold your point of order, Mr Berry. You are not sticking to the point, Mr Stevenson. We are talking about an amendment.

MR STEVENSON: Recently, in Dunedin in New Zealand the level of fluoride was reduced from one part per million to 0.85 parts per million. We find that there is a trend for people who think that there is some benefit from fluoridation, erroneously, to at least acknowledge the fact that there has been a great and a grave increase in the level of fluoride being ingested by people in our societies, and it needs to be reduced.

MR DUBY (5.11): The amendment that I believe we are talking to is the amendment moved by Dr Kinloch to reduce the level of fluoridation by one-half. Just to clarify the issue for members, there has been a lot of debate on this matter. Indeed, I think there has actually been, dare I say it, a small degree of filibustering this afternoon by people who are trying to extend the debate for a period.

The issues as to whether fluoride should or should not be added to the water have been dealt with at length by many speakers. There is no doubt in my mind that fluoride is an effective anti-caries mechanism. However, I do accept that, since fluoride was first introduced into the system in the early 1960s, there has been a substantial increase in the level of fluoride ingestion in the population at large. I think this is probably the argument that would stick in the minds of lay people more than the detailed work that has been done by members of the committee.

When fluoride was first introduced in 1964, water generally was not fluoridated in the country. There was no fluoride in toothpastes, mouthwashes, et cetera. Indeed, much of the liquid intake of the population, whether in the form of soft drinks or beer, for that matter - particularly if you happen to drink XXXX beer from Brisbane which is unfluoridated - simply did not have fluoride added to it as a consequence of not having fluoride added to the water system.

So, whilst the level of one part per million may well have been appropriate in 1964 - I am not an expert, but I am prepared to accept that that may well have been an appropriate level - it is clear to anyone who cares to look at the facts that fluoride ingestion in the community at large now greatly exceeds that anticipated when fluoride was originally added to the water in the early 1960s.

Therefore, I think it is an eminently sensible suggestion that the committee has made - that, now that we have additional sources of fluoride ingestion in the community as a whole, the addition of fluoride should be reduced to a more acceptable level of one-half of that of the early 1960s, in other words, 0.5 parts per million. The committee spent many, many hundreds and hundreds of man, woman or person hours - whatever the phrase may be - in examining these issues and it is clear, in my view, that that sensible suggestion of the committee should be adopted.

That brings me to what I think is the major point of this debate. It appears clear to me, Mr Deputy Speaker, that it is the wish of the majority of the members of this Assembly that the fluoride level within our water system be reduced. What has come out of this whole debate is what I think was a quite smart move on the part of Mr Berry. He intimated that for some technical reason, which I think, frankly, is not a very appropriate reason - it has been a good try and has been a great put-on, I think - it does not matter what the Assembly wishes; that ACTEW cannot meet those needs and, for various reasons, even if we were to introduce this one-half level, ACTEW would then be liable to prosecution under the current legislation.

There is more than one way to skin a cat, Mr Berry, as I am sure you are well aware, and as I am sure many cats can testify. Accordingly, a little bit of lateral thinking has been applied. The wish of the majority of the Assembly is that fluoride levels be reduced to 0.5, to one-half, and it shall be done. I believe that an amendment has been prepared which will satisfy the need of ACTEW to protect their employees from what would be unfortunate prosecution - "strict liability" is the actual phrase - and it turns the tables on Mr Berry. Mr Berry's amendment said that because ACTEW cannot meet the legal requirements we should put off the wish of the Assembly for nine months so that those legal requirements can be met. That is what Mr Berry's eminently sensible amendment, from his point of view, suggested.

As I said, a little bit of lateral thinking has been applied. The proposed amendment that is coming up will, I believe, remove the liability of ACTEW to prosecution for nine months and will give them nine months to meet the wishes of the Assembly, not vice versa; not for the Assembly's wishes to be held off for nine months pending the availability of ACTEW or the relevant government Minister to supply.

Mr Kaine: The net effect is the same, isn't it?

MR DUBY: The net effect is not the same. It means, Mr Kaine, that the wish of the Assembly shall be met and the level of ingestion of fluoride into the ACT population shall be reduced, I think the phrase is, after the commencement of this Act, which I believe is not far off.

Question put:

That the amendment (**Dr Kinloch's**) be agreed to.

The Assembly voted -

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

Question so resolved in the affirmative.

Clause, as amended, agreed to.

Clause 5 agreed to.

Proposed new clause 6

MR COLLAERY (5.22): Mr Deputy Speaker, I move:

Transitional

"6. Section 74B of the Principal Act does not apply in relation to the addition by the Authority to the water supply system of the Territory of fluoride within the meaning of Part VIIIA of that Act at a concentration not exceeding 1 milligram per litre at any time during the period of 9 months after the commencement of this Act.".

The effect of this is to add clause 6 to the Bill. The effect of clause 6 is to alter the offence provision and overcome the problem that was alluded to by Mr Berry. The amendment states that the Electricity and Water Authority has the legal obligation to reduce the quantity to 0.5, but during a transitional period not exceeding a period of nine months after the commencement of this Act the offence provision in section 74B of the Act - some members may have a copy before them; I have a couple more here - will not apply. I trust that members understand that, although ACTEW will have the obligation to give effect to the amendment moved by Dr Kinloch and passed by this house, the legal effect will remain that of a statutory obligation but there will not be an offence in the terms of section 74B.

Not all legislation affecting the management of public utilities puts such a heavy onus on the employees of that authority. Members will recall the debate on section 74B in this house when it was passed. Members will recall that there was some concern about the heavy onus this put upon the employees of ACTEW. The effect, Mr Deputy Speaker, is that we are nullifying that provision, that very heavy onus on the people involved, for that period. But the nullification does not allow any chemicals to be added; that offence will still remain for that. It specifically refers to fluoride, and it specifically refers to fluoride at a concentration not exceeding one milligram per litre. In other words, they are still bound by these provisions for the current parameters, but they would not be capable of prosecution were they to be found to be above 0.5 during that period.

I think it is a commendable and simple amendment to the Act to overcome the problem alluded to by Mr Berry. It is a sensible and level-headed measure to protect the employees of ACTEW from an unintended result, bearing in mind the original qualms in this house about the very heavy onus that section 74B placed on ACTEW, as a body corporate, and its employees. Of course, that provision applies as well to nutters who might try to infiltrate the system and put other chemicals into our water supply - terrorists and the like. There would be other offences as well, but certainly none of that section and the provisions and the obligations that it imposes is weakened by this amendment.

Mr Deputy Speaker, as Mr Duby said, the Government should accept that its attempts to delay this have not worked. It has been outplayed. I believe that Mr Berry should accept that, on effective and prompt assistance from the Parliamentary Counsel's Office, a properly worded amendment has been drafted by that office in a commendably short time, late this afternoon. The amendment has been moved on the basis of its proper preparation. Unless the Minister can point to any unintended results, or any effect of that amendment, I believe that it should be carried by this house.

MR BERRY (Minister for Health and Minister for Sport) (5.26): I am not a lawyer, but I recognise a bit of chicanery when I see it. There are a couple of interesting things with this debate. The issue that gave rise to the very sensible amendment that was drafted for me by the Law Office and circulated to members was a difficulty with ACTEW's machinery. The incapacity of that machinery to deliver the rates that the Assembly, it appears, wants to implement has now been recognised by the members opposite.

It is interesting to study what has gone on in the last little while in respect of this matter. First of all, it was rumoured that we would have an approximate crime and a penalty, that is, the amendment would be approximately 0.5 of a milligram per litre. But people thought better of that, sensibly, so that we would actually go back to the full crime of the legislation but remove the penalty.

Mr Moore: He does not know what has happened. The penalty still applies.

MR BERRY: That in fact is what has happened. The people in this place do not seem to recognise that they are playing with the lifeblood of this Territory. This is the water supply for the Australian Capital Territory, and you are playing silly games. You have recognised that the machinery is not up to it. You have refused to accept a reasonable amendment which would have given you your way. It was put forward in good faith to assist; no more than that. It was drafted at short notice by the same Law Office that drafted this amendment on the silly instructions of some members opposite. What this boils down to is that ACTEW is required, to use Mr Collaery's approach, to do their very best to dose the water at 0.5 of a milligram per litre, knowing full well that their machinery cannot do it.

Mr Moore: They can. Your letter says that they can, 60 per cent of the time.

MR BERRY: My letter does not say that at all. It says that the tolerances are outside the acceptable levels. It makes it clear that it is somewhere between 20 and 40 per cent. I think the acceptable levels are somewhere around 10 per cent, plus or minus. What Mr Collaery and his

colleagues have decided to do is to say, "Okay, we want this level implemented. If you cannot do it, you will not get pinched". Well, I for one am not entirely happy with that approach. If you are going to make a sensible law, it has to be definite. At the end of the day, when people are tampering with the water supply, as is the case when it comes to the addition of health-giving chemicals, it ought to be done properly.

I do not mind; I have played it straight. Some people do not seem to be able to cope. If you want to go this way and look a bit silly, go for your life. It is something that you have to be reminded of. The Government is obliged to take a sensible approach in this matter. It offered you a sensible amendment to address the issue. It seems to me that there was more concern about whose scent was left on the amendments than the effect of the amendments.

Mr Deputy Speaker, this is a silly debate. It will go down with all of the other silly debates that have happened in this place. The people who are involved in this silly debate will be remembered for it. I will make sure that they are.

MR KAINE (Leader of the Opposition) (5.31): Regrettably, now that we have reached this stage of the debate, Dr Kinloch's amendment having been accepted, I would have to note that Mr Berry is in fact fighting a rearguard action, unfortunately, and I use the words "unfortunately" and "regrettably" quite deliberately. The simple fact is that, having adopted Dr Kinloch's amendment, we are now in a situation that, until such time as the machinery can be adjusted or new equipment provided to comply with the new requirement, the Electricity and Water Authority will be in breach of the law.

So, we have very little option at this stage but to adopt Mr Collaery's amendment so that ACTEW will not be in breach of the law. I am afraid that the fact of the matter is as simple as that. I guess that there is not much point in any further debate. We should simply get on with the matter, support Mr Collaery's amendment, regrettable as it may be to have to do so, and protect the officers of the Electricity and Water Authority.

DR KINLOCH (5.32): I am not sure to what degree I can be grateful to Mr Berry, but I am trying to do that. I had no wish whatever - please do me the credit - to create any political or legal or technical difficulties about this matter. Many of us here have worked long and hard on a report. We were unanimous in recommending to this Assembly the findings of that report. We - and it just happened to be me - recommended the 0.5 proposal.

I am grateful to Mr Berry that he saw, thanks to his advisers, the problems that could arise. I had no idea that there would be such problems; I am sure most of us did not. But I want to say that there has been no attempt here

to play some sort of political game, certainly not by me. I want to be sure that, when this Assembly has a committee and when that committee is so massively in favour of a conclusion based on very reliable evidence, that then should be put before the Assembly and carried.

I wish to say that I am worried - I am saying this without wishing to be antagonistic about it - about political parties which tie the hands of their members so that those members are not then able to change their minds when evidence is put before them in the context of reports that are put forward. May I say that I am in this position; the Residents Rally's formal position on this matter is to take fluoride totally out of the water. I am in fact violating the policy of the Residents Rally.

I believe that they will accept that because we have had 16 months of investigation. The committee reported last February. If you tie the hands of a member of a political party, you are saying to that person, "When you go on a committee you are not to be open-minded. You are to recognise that you have to go along with your party". I am not wishing to be antagonistic, but that is the logic of it.

May I say how hard Mrs Nolan worked on that committee; with what great skill and thought she worked. I wish to say that and I said it to her at the time, you will recall. I think she came out of all that very honourably and honestly. She listened to all the evidence, including material that, obviously, we cannot go on and on rehearsing in this place. So, I think that, on both sides of the house, it ought to be possible for those people who heard that evidence to make their own decision. I realise the very difficult position that Mr Wood is in. He knows of what I speak in terms of the evidence we heard. He knows the disagreements within the NHMRC and the strength of the argument that was put to us.

So, I am glad that we are about to regularise what we are going to do. We are going to do this carefully. We are not going to make a silly decision. We are making a careful decision based, presumably, on what has been thought about by the former Government, the Alliance Government, and the present Government since February of this year. So, I am accepting a central element of the decisions of an Assembly committee.

I want to stress again to Mr Humphries that this is not a political compromise. We came to this particular decision of the committee, five to nothing, at a particular time in the life of the committee when we had heard particularly important evidence on a particular afternoon. I wish you would speak to us individually if you want to know the details of that. We are in some difficulty because it is confidential. I assure you that that is why we came to this decision. Mr Humphries rightly raised the question of the codes. I do not believe that you can decide things on

coded messages. The question of the codes is rather more than that; it is differences within that NHMRC committee and actual quotations which I read to you yesterday where clearly there are worries about what the overall conclusions may or may not be.

I would say thank you to ACTEW for several reasons. ACTEW gave a submission to the committee. Paul McGrath, an excellent man, came before the committee. There was a long piece of testimony from him. In that testimony he talked about the machinery. It has nothing to do with 0.5 or one or nothing, but he made the point that at some time soon there would have to be $300,000 spent to upgrade the machinery. That is nothing to do with what we are now talking about. Some of that is reflected in the report.

Mr Berry, I think rightly in his context, raised the question of section 65 of the Australian Capital Territory (Self-Government) Act. I was concerned about that and therefore sought careful, professional, independent and, dare I say, non-political advice and was assured that the particular amendment moved did not offend against section 65. I was most anxious to know that and I am very grateful to the people who helped me.

Finally on that matter, I would like to join Mr Collaery in thanking the Law Office for the help that they have given; help wherever it has been asked, in the terms in which it has been asked for each party which has asked it. They have acted most properly and in the best traditions of the public service.

I worry a lot about one aspect of Mr Berry's original amendment because it seemed to me that it would put off a decision. I do not want to go into that now. I only want to argue for this new amendment and to say that it would not have been good to put things off. We need to decide now. The committee report has been put in. We have argued it. It has been before you. The amendment has been carried.

But there is now a need to implement another committee recommendation. I do not propose that we get into this right now, you will be relieved to hear;, but given that the amount of fluoride is to be reduced to 0.5, then it is very necessary indeed. This is a direct reflection of the NHMRC report. The committee recommended that:

> The ACT Government urgently seeks NHMRC funding to establish a major independent study on the effects on dental health of a reduced level of fluoride in the ACT water supply.

Please ask yourselves: Why did the NHMRC report call for further research? They did that formidably and I will not restate those quotes. They did so because they were worried about the level of fluoride in the water. They had this "not proven" kind of judgment.

MR DEPUTY SPEAKER: Dr Kinloch, would you keep to the question. You are starting to stray, as a lot of people have done in this debate.

DR KINLOCH: Okay. I want to say that I am very pleased indeed that the legalities are cleared up. Thank you, Mr Berry, for raising those problems and I am glad that we are about to vote to clear them up.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (5.40): Mr Deputy Speaker, I want to use the occasion of debate on this amendment to clear up a point that Dr Kinloch may have raised, although I accept that it was, I think, presented in a non-antagonistic manner. I want to make it clear that my vote for the use of one part per million of fluoride in the water was not a case of forced submission to some brutal party policy. It is simply not the case.

I am quite comfortable with what is happening. Members will know that my signature was on the report recommending 0.5 parts per million. Members of that committee will know of the decision making process where it was first established at one part per million and subsequently changed to 0.5 parts per million. Obviously, it is quite clear that I am comfortable with a level of fluoride in the water within the range of 0.5 parts per million to one part per million.

MR DEPUTY SPEAKER: Let me just stop you there, Mr Wood. That is more like a personal explanation. I appreciate that and I appreciate what Dr Kinloch said.

MR WOOD: Yes. I will follow your injunction and sit down, as Dr Kinloch did, after concluding by saying that my memory tells me that the water that is distributed through the taps in our community ranges from about 0.75 parts per million to 1.2 parts per million. So, there is already a very large range in the water that we drink. I think that people will understand that there is no clear set figure that turns up in our taps. I am quite comfortable with the way I voted today and the way I voted in that committee.

MR DEPUTY SPEAKER: I call Mr Jensen. Mr Jensen, keep to the point.

MR JENSEN (5.42): Thank you, Mr Deputy Speaker; I am sure I will. My question is very simple and it is one to the Minister.

Mr Stevenson: Without notice?

MR JENSEN: I hope that the Minister will be given an opportunity to answer this question. It is simple. Seeing that this report was tabled in the Assembly in January 1991 - - -

Mrs Nolan: It was February.

MR JENSEN: February, was it? Well, Mr Wood signed it on - - -

MR DEPUTY SPEAKER: Mr Jensen, are you talking to this amendment moved by Mr Collaery?

MR JENSEN: Yes, I am, Mr Deputy Speaker. All will be revealed. The statement responding to the report tabled by the Government this week by Mr Berry provided a response to the recommendation by the committee that the concentration of fluoride in the ACT water supply be reduced to 0.5 parts per million. Let me read, for the record, what that response says. I quote:

> The Government will retain the present level of one milligram per litre (1 part per million) on the basis that:
>
> the National Health and Medical Research Council recommendation to retain fluoridation at the level of 1 part per million was developed in a scientific study that is Australian based and takes into consideration conditions that are current to Australia generally; and
>
> it is supported by a similar national scientific study in the United States, which although less specific in level recommendations, endorses a range of approved levels within which the NHMRC recommended level is midway.

I pause because one would think, in view of the statement made by Mr Berry yesterday, that there may have been another comment in response to that particular issue. Where was the comment? Where was the response about the problems being identified with the machinery, with putting it into the water? Where was that particular comment?

Mr Deputy Speaker, a person less cynical than I may well ask the following question: Did the Government seek to obtain a way out when it saw which way the votes and numbers were going, in an attempt to confuse the issue and set up a smokescreen to try to frighten members to step away from the recommendations of the committee and the clear wish of the Assembly?

MR DEPUTY SPEAKER: Mr Jensen, would you make your speech relevant to proposed new clause 6.

MR JENSEN: Mr Deputy Speaker, it is very relevant to the amendment that we are talking about today.

MR DEPUTY SPEAKER: I am having difficulty seeing that. It seems to be relevant to Dr Kinloch's amendment and the Bill.

MR JENSEN: It relates to the amount of fluoride to be put into the water. That is what I am talking about. So, Mr Deputy Speaker, it is very relevant. One has to ask the question: Why was that problem that has resulted in this amendment coming forward not identified in the response from the Minister? There has been some six months for that problem to be identified. So, Mr Deputy Speaker, as I said, a person less cynical than I may ask the question. I will leave others out there to raise the issue.

Mr Wood: I think you mean "more cynical", don't you?

MR JENSEN: More cynical than I am.

MR BERRY (Minister for Health and Minister for Sport) (5.46): I am prompted to rise and discuss this matter again, mostly on the basis of the typical smear that one has become used to from the member who last spoke. It has been explained - I think, by now, ad nauseam - that the Residents Rally was approached in relation to this matter, I think yesterday. They said that they were going to support the 0.5 recommendation and they did so. ACTEW, of course, provided information in relation to knowledge that they had that this was going to go ahead and as a result of a discussion with somebody from my office, because I wanted to make sure that "things was done right"; but that does not seem to be an issue that has been in the minds of the people who have worked this matter up before they came into this Assembly.

So, it may well make some members opposite a little nervous because they have been playing a little game. They have had the opportunity to do it a number of ways. They have chosen the course that will result in the legislation being changed in accordance with the amendments moved. Of course, the Government will live with that. It has been a silly debate and I think it will reflect badly on the people who have been involved in it.

MR MOORE (5.48): The difficulty with the debate on this particular amendment, I think, could well have been avoided very simply. If a minority government recognised that a majority report of a committee of the Assembly - in this case a majority report that clearly had little dissent on this particular issue - reflects the will of the Assembly, and acted accordingly, then what Mr Berry describes as a silly debate could well have been avoided. The problem was not with the members of the Assembly as a whole, but with the Government bringing down a Bill that did not reflect the will of the Assembly as expressed through that committee report. Perhaps there is a lesson in that for minority governments.

Proposed new clause agreed to.

Title agreed to.

Question put:

That the Bill, as amended, be agreed to.

The Assembly voted -

AYES, 16	*NOES, 1*
Mr Berry	Mr Stevenson
Mr Collaery	
Mr Connolly	
Mr Duby	
Ms Follett	
Mrs Grassby	
Mr Humphries	
Mr Jensen	
Mr Kaine	
Dr Kinloch	
Ms Maher	
Mr Moore	
Mrs Nolan	
Mr Prowse	
Mr Stefaniak	
Mr Wood	

Question so resolved in the affirmative.

Bill, as amended, agreed to.

ESTIMATES COMMITTEE
Membership

MR TEMPORARY DEPUTY SPEAKER (Mr Jensen): Members, I wish to inform the Assembly that the membership of the Select Committee on Estimates 1991-92, as determined pursuant to the resolution of the Assembly of 8 August 1991, is Mr Collaery, Mr Duby, Mrs Grassby, Mr Humphries, Mr Jensen, Mr Kaine, Dr Kinloch, Ms Maher, Mr Moore, Mrs Nolan, Mr Stefaniak and Mr Stevenson.

ADJOURNMENT

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

That the Assembly do now adjourn.

Assembly adjourned at 5.53 pm