



DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

7 March 2000

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MR SPEAKER (Mr Cornwell) took the chair at 10.30 am and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

VISITORS

MR SPEAKER: Before I call Mr Osborne I would like to acknowledge the presence in the gallery of Year 5 pupils of St Francis of Assisi Primary School who are here to investigate local government. I welcome you to your Assembly.

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE Scrutiny Report No. 3 of 2000 and Statement

MR OSBORNE: I am glad to see the children here. I know their priest, Father Woods, very well. He also is the priest for the Canberra Raiders. I present Scrutiny Report No. 3 of 2000 of the Standing Committee on Justice and Community Safety performing the duties of a scrutiny of Bills and subordinate legislation committee. I ask for leave to make a brief statement on the report.

Leave granted.

MR OSBORNE: Scrutiny Report No. 3 of 2000 contains the committee's comments on five Bills and 57 subordinate laws. Mr Speaker, the main focus of the report is on the two pieces of legislation that were introduced last week by Mr Moore and Mr Stanhope. The legal adviser has raised a number of issues about what is being proposed. I encourage all members, and those two in particular, to look at that before we get to the legislation. I commend the report to the Assembly.

Mr Berry: Was there a motion in relation to that?

MR SPEAKER: No, there is no motion. If you wish to comment you will have to seek leave, but you can do so.

MR HARGREAVES: I want to speak on that.

MR SPEAKER: Just ask for leave, Mr Hargreaves.

MR HARGREAVES: I seek leave to make a comment on the report, Mr Speaker.

Leave granted.

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MR HARGREAVES: Thank you, Mr Speaker, and thank you members. Like my chairman, Mr Osborne, I draw members' attention to the report, particularly in regard to the Financial Management Amendment Bill 2000 and the Government Contracts Confidentiality Bill. There is some conflict being raised by the legal adviser to the committee which I draw to the attention of the drafters. It centres on the right to property.

Mr Speaker, we all know that it is the desire of most people in this chamber that the machinations of government be as transparent as possible. When commitments are entered into between the Government or its instrument, the Public Service - and a fine body of men and women they are - and they incur significant costs to the taxpayer, those particular arrangements should be open for everybody to see. The way in which government contracts were revealed was through the Government being dragged, kicking and screaming, through the Administrative Appeals Tribunal. That is not what we want to see. Both of these pieces of legislation, as I understand them, stem from the same motive, which is to stop that process and allow for scrutiny.

The legal adviser pointed out that we need to be a little careful about this. On page 3 of the committee's report he refers to the United Nations Universal Declaration of Rights, Article 17, and I quote:

Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.

What he is referring to there is the possibility that a corporation or an individual may own intellectual property, shall we say, upon which the whole success of their trading enterprise depends, and they would be deprived of that property if certain parts of contracts need to be revealed. We need to be sure that we weigh up the rights to transparency against the potential loss of property for these people.

I acknowledge that in my view, and I think in the view of this side of the house, the transparency of government ought to be paramount. When I was looking at this I could see that there was a bit of a difficulty. I personally do not have a difficulty. I would always opt for the transparency of government, full-stop. I point out that some of the provisions in both of these pieces of legislation stem from the same beginning and address one of the biggest concerns that I had when we were looking into the prison system in Victoria.

The Victorian Auditor-General did a report into the prison system. He reported to the Victorian Parliament that he had the power to look at any document entered into by the Public Service or the Government, but he did not have the power to advise the parliament of the contents of those contracts. We had a situation where there was a government contract with Group 4 to run the prison at Laverton, Port Phillip. This prison had encountered 13 deaths in 18 months. The Auditor-General was able to see elements in a contract which may have contributed to that but was prevented by legislation to enlighten the parliament. The authority of the parliament was not as paramount as it should be, even though I was assured by our learned and soon to be departing secretary of the scrutiny of Bills committee.

Mr Speaker, just as an aside, I would like to pay tribute to Mr Duncan's service on our scrutiny of Bills committee. It has been absolutely brilliant. It was pretty obvious to me that that would be the case, given that he is a Collingwood supporter. I would have thought that that naturally would be the case, and I am glad to see that that was so. We do wish him well. We would rather he did not go at all because I need all the support I can get, notwithstanding the support that I receive occasionally in the hallways from the Clerk, and a great football aficionado he is.

Mr Speaker, I would draw everybody's attention to the report. Look at the contradictions that have been pointed out by the learned legal adviser. I would suggest, Mr Speaker, that we look at them when we come to consider these pieces of legislation. I note also that our legal adviser pointed out a few things about Mr Stanhope's piece of legislation. Mr Moore's legislation comes in for a fair dinkum serve. I hope that Mr Moore looks upon the advice from the scrutiny of Bills committee in the light that we are all coming from the same position. I am certain that the motives of Mr Moore and Mr Stanhope are identical. Only the product is different.

MR STANHOPE (Leader of the Opposition): I seek leave to make a statement on the report.

Leave granted.

MR STANHOPE: I have just quickly read the report of the scrutiny of Bills committee on the two pieces of legislation that both Mr Osborne and Mr Hargreaves have mentioned and discussed. It is a comprehensive statement by the committee on the provisions in these two pieces of legislation introduced by me and by Mr Moore going to arrangements for the treatment of confidentiality clauses or commercial-in-confidence clauses in government contracts.

It is interesting, Mr Speaker, that in this one week we have had proposals for legislation from both the Government and the Opposition, and that Mr Osborne has foreshadowed an intention to deal with this same - - -

Mr Moore: The Bill is from me, not the Government.

MR STANHOPE: The Bill is from Mr Moore, not from the Government. I beg your pardon, Mr Moore. Mr Osborne also has foreshadowed an intention to deal with the subject. With that in mind, I note a comment that Mr Moore made to me about the need for the various approaches to be considered together. I will be interested to see the nature of Mr Osborne's proposals. The Assembly at some stage might like to give some consideration to how we might jointly deal with these three pieces of the legislation. That might be more sensible than dealing with them individually.

The fact of this approach by Mr Moore, Mr Osborne and me to the one issue gives some force to the view that a number of us around this place certainly have some concerns about the need for governments to be open and accountable and for their operations to be transparent.

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I think there is a very good summary of the concerns and the tensions and conflicts that exist between governments seeking to get on with the business of government and legislatures, parliaments, seeking to keep the Executive accountable. There is also that basic right of people to know what it is that their government is doing, particularly where it involves the expenditure of their moneys. The scrutiny of Bills committee has provided a very good summary of the arguments and that basic need for governments to be accountable.

I am very taken by some of the expressions of view that the committee has taken from some judgments, particularly the judgments of the High Court of Australia. For instance, in one judgment Chief Justice Mason said this:

The courts have consistently viewed governmental secrets differently from personal and commercial secrets.

He went on to say:

As I stated in *The Commonwealth of Australia v John Fairfax* ... the judiciary must view the disclosure of governmental information “through different spectacles”. This involves a reversal of the onus of proof: the government must

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In relation to the debate that we have had in this place about the disclosure of the Bruce Stadium contract, I think this statement by the Chief Justice is a particularly pertinent statement:

... the judiciary must view the disclosure of governmental information “through different spectacles”. This involves a reversal of the onus of proof: the government must prove that the public interest demands non-disclosure ...

That remains a major concern of mine in relation to the user agreements for Bruce Stadium. At no stage did the Government acknowledge that the onus of proof had been reversed and that it was for it to prove that the public interest demanded that those documents not be disclosed. I think the Government’s position in relation to those user agreements is compounded by the fact that it was not responding to an order of this Assembly. The Assembly in fact had ordered that the documents be tabled in this place. The Government nevertheless sought to rely on commercial-in-confidence clauses to justify its decision not to table them pursuant to an order of the Assembly. The Executive did not respond to the demands of the legislature.

There are significant other commentaries in this paper from the Industry Commission, particularly one they prepared on competitive tendering and contracting by public sector agencies. I commend that report to the Government and to the Public Service, too, in the ACT in relation to their responsibilities to deal with, as the commission says, the tension that exists between “making information on contracting decisions public and protecting

confidentiality". The commission went on to say that a "key aspect of accountability" is "the transparency of both decision-making by public administrators and the performance of the service provider".

The importance of public access to information was highlighted in a discussion paper released in May 1995 by the Australian Law Reform Commission. I will read this and conclude on this point about the concerns that the Opposition has been expressing on the Government's handling of a whole range of papers in relation to Bruce Stadium. The Australian Law Reform Commission, as quoted by the scrutiny of Bills committee, had this to say:

Access to government information is a prerequisite to the proper functioning of a democratic society. Without information, people cannot exercise their rights and responsibilities or make informed choices. Information is necessary for government accountability. Limited information can distort the accountability process: governments are questioned about the wrong issues and programs are incorrectly evaluated. Without information people cannot make an informed choice at the ballot box and members of Parliament cannot supervise the Executive.

I think that is a wonderful summary of the issues in relation to this Government's refusal to respond to an order of this parliament, this Assembly, this legislature, to table documents demanded of it by the legislature.

It is timely that both Mr Moore and I have introduced legislation. I think it goes to the heart of some of this Government's major failings over this last year that it has not complied with its obligations. It has not treated this legislature with the courtesy and respect that it deserves. It has not tabled documents demanded of it in an order. It has fought consistently and persistently to prevent the disclosure of information that the parliament and the people of Canberra have an overwhelming right to see, to review and to assess.

I think this is an excellent report and I think this is an issue which the Assembly, quite obviously, will be dealing with in greater depth at some time in the future.

MR MOORE (Minister for Health and Community Care): Mr Speaker, I seek leave to make a comment on this report.

Leave granted.

MR MOORE: I have had time now to scan through the report, and I will read it much more carefully with the intention of learning from it. I have to say that my reaction is substantially different from that of Mr Stanhope. Firstly, I think the most important thing here is that the committee has stated:

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In legislation of this kind, there is a balance to be struck between conflicting rights.
The Committee recognises that this is appropriately a matter for the Assembly.

So these pieces of legislation are both appropriate pieces of legislation to have before the Assembly.
The report continues:

To assist debate, it -

the committee -

places before the Assembly a brief view of the competing “rights” dimensions.

Then the report goes on to talk on the one hand about the interests of those who contract with a government agency and their rights. It comments on the value of trade secrets, intellectual property and other information of commercial value, and information on the financial position or other sensitive business interests. It then talks about where a confidentiality clause may be necessary to give effect to an obligation of confidentiality that arises from a source other than the particular contract in question.

Mr Speaker, I wrote to Mr Stanhope, as he commented earlier, and said we ought to see whether we can work together and get the best possible outcome from the three pieces of legislation. I am still determined to do that.

I think there is a note of warning here for us and I think it is about retrospectivity; about setting a piece of legislation in place now, saying that from now on they are the rules and setting those rules without making it very clear to people what their rights are and what their responsibilities are. As the scrutiny of Bills committee says, this is rightly a matter for the Assembly. When we make clear what those rights are, I think we can have a clear and concise approach.

The difficulty I have is about taking away rights that people have been working by in the past. Certainly, the committee provides information for us to consider - not a definitive answer - about those rights of individuals in terms of property. It even refers to the United Nations Universal Declaration of Rights. Mr Speaker, whenever we deal with this sort of legislation we have to be incredibly careful. There clearly is an appropriate time to have confidentiality clauses to protect people’s rights, even rights that are set out under that fundamental of all United Nations declarations, the first one, the Universal Declaration of Rights. We would all recognise that that is the most fundamental of those issues.

It seems to me, Mr Speaker, that what has happened in the past is the motivator to doing this. I had this in my platform prior to any of the matters relating to Bruce Stadium being raised because I have had some concerns for some years. Mr Berry will recall, I am sure, that I raised these concerns, although not in terms of retrospectivity. I accepted with the VITAB contracts, which still have not been made public, that the agreement was made. When Mr Berry said to this Assembly, “Why didn’t you put a motion up, why didn’t you do it then the way we did?”, it was because I thought it was wrong. I thought there was

agreement on the individual rights of those people to have that protection. We do not change the rules retrospectively; we start them. To me, that is the biggest problem that we have had in this circumstance.

Governments also have to keep good faith with the people they work with. No matter what the colour or hue of a government, it cannot afford to be in the situation where businesses do not want to deal with it for fear that something they believed was happening and they agreed to in good faith was then going to be changed, reviewed and made public when they rightly believed that it would not. We just have to make sure that we have the information right in the first place.

That is why it is that I look forward, first of all, to working with Mr Stanhope and Mr Osborne to get the best possible outcome we can so that the Assembly can consider and debate these matters fully. Then we can get a set system without retrospectivity that makes very clear what we expect and how we are going to act, and there is a proper open scrutiny process involved.

MR BERRY: Am I required to seek leave, Mr Speaker?

MR SPEAKER: Yes, you are.

MR BERRY: I seek leave.

Leave granted.

MR BERRY: I can quote from Ms Armitage's report in the *Canberra Times* as an opening to my contribution to this debate. It appeared in Saturday's *Canberra Times*.

The timing of Health Minister Michael Moore's bid to marry "openness" and "government" was impeccable.

What better way to minimise damage from the disclosure of confidential Bruce Stadium football contracts last weekend than to introduce legislation designed to restore faith in open government?

I think most people out there in the community would be entitled to be extremely cynical about the timing of this move because it was clearly designed to take some of the pressure off the Government, pressure which it has earned because of the dreadful debacle which has occurred as a result of the Chief Minister's fingerprints being all over management of the Territory, causing us great financial burdens that future generations will have to pay for. There will be more on the Government's and this Chief Minister's fingerprints on financial management in this Territory later on when we deal with the ACTEW debate because it is clear that there has been an involvement there from day one of this term of government.

Mr Speaker, I want to deal at this point with what is said on page 3 of the report. Mr Moore rightly drew attention to a paragraph - I think this was the one - which says this:

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Under the general law, a person's right to protection in respect of confidential information concerning that person is protected by means of her or his ability to obtain judicial relief through an action for breach of confidence.

But, Mr Speaker, in more recent years, with the advent of economic rationalism, if you like, and the move by conservative governments to contracting out, we have more and more seen the need for an emphasis on openness in relation to the provision of services which historically have been provided by government but which have been farmed out to private sector entities. Private sector entities, in the normal course of things, expect the normal confidences to be kept in relation to their contracts with contracting entities and, of course, they have not recognised the need to conform to different standards when dealing with government. Indeed, conservative governments have relied on these codes of silence in relation to the provision of all sorts of services.

Mr Moore raised briefly the issue of the VITAB arrangements where there was a confidentiality agreement or understanding, and he also dwelt on the failure then of the Assembly to pass a motion requiring the then government to provide those documents. If, in fact, such a motion had been passed, the documents would have been provided - there is no question about that, in my assessment of things - quite in contrast to the position which has been adopted by this Government, and in particular by this Chief Minister, in relation to hire agreements for Bruce Stadium.

I go on in relation to the report which is before us today and I quote:

On the other hand, it is now widely recognised that the interest that a person has in protecting the confidentiality of information pertaining to that person must be qualified where the person enters into a business relationship with a government, or otherwise seeks the protection or assistance of government. The person must recognise that in a democratic society the government is accountable to the electorate, and that each elector is entitled, as an aspect of his or her right to hold government accountable, to information about the kinds and detail of relationships government enters into with business people and business entities.

Of course, people affected by or involved in the Bruce contract arrangements were misled by this Government. What I find interesting about this is that Mr Moore has introduced legislation, in accordance with the platform that he had before he joined the Liberals, to take some of the heat off the Government in relation to its code of secrecy and silence. He has been part of a government which in effect has misled those hirers into believing that their rights would be protected in this parliament, could be protected in this parliament, because the Government would not disclose those arrangements which had been entered into.

Mr Moore: You hypocrite, Wayne. VITAB. VITAB. VITAB. Hypocrisy. VITAB.

MR BERRY: Mr Moore interjects, "VITAB". Well, I am glad that he did because I would rather be part of a government that had a little thing like VITAB compared to the baggage that you people have got in your saddlebags. How many millions? How many millions from Bruce Stadium, Michael? What about the hospital implosion? How many millions from that? How many people were killed by VITAB? None.

Mr Moore: Look at the result. How many people were killed by government? None.

MR BERRY: If you want to harp back to that we will talk about it a little bit more.

MR SPEAKER: Order, please! Let us get back to the topic.

MR BERRY: Don't you worry about VITAB. Mr Moore would love to have as his Chief Minister somebody who had been through two inquiries and came out of both of them unscathed. So, if you want to, come on; more VITAB; a little bit more? VITAB, a little bit more?

MR SPEAKER: No. Stop being provocative.

MR BERRY: Lost interest in it now, old son, have we?

Mr Moore: They are still secret, Wayne. The VITAB documents are still secret.

MR BERRY: Well, okay.

Mr Moore: VITAB documents are still secret.

MR BERRY: A bit more? You want a little bit more?

MR SPEAKER: Order! Mr Berry, get on with the motion, please.

MR BERRY: A little bit more castor oil. It is good for you.

MR SPEAKER: Otherwise I will sit you down.

MR BERRY: It is good for you. Mr Moore, on the one hand, produces legislation which is the subject of this report today - it is an extremely important report for the way that we deal with these matters in the future - but he is also part of a Cabinet which has kept these documents secret. What hypocrisy.

Mr Corbell: That is right. And approved the illegal appropriation for Bruce Stadium.

MR BERRY: And approved the illegal appropriation. What hypocrisy.

Mr Corbell: He doesn't like talking about it.

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MR BERRY: No. Unlawful appropriation of money. Guilty. Guilty is the verdict there. Guilty is the verdict. You didn't come out of that one unscathed, did you, Michael? Come on, a bit more VITAB. Come on, come on. You are the people that are involved in illegal appropriation of money and you have been found guilty on that score.

Mr Moore: I have not been involved, nor has anybody here, in illegal appropriation of money.

MR BERRY: Mr Speaker, this is about hypocrisy. Let me go back to the powers of this Assembly and Mr Moore's involvement in a Cabinet which keeps these documents secret from the electorate.

Mr Moore: Mr Speaker, I am going to have to take a point of order and ask Mr Berry to withdraw the notion.

MR BERRY: I do not think he has the right. I have got leave, Mr Speaker.

Mr Moore: There is nobody on this bench who has been found guilty in any way of the illegal misappropriation of money.

Mr Corbell: On the point of order, Mr Speaker - - -

Mr Moore: I haven't finished yet. There is nobody here who has been found in any way to have been involved in the illegal misappropriation of money. You have already ruled on this and Mr Berry needs to withdraw that, Mr Speaker.

Mr Corbell: On the point of order, Mr Speaker: There are three legal advices. They have all said that the payments of money in relation to the development of Bruce Stadium were against the law. Therefore they were illegal, Mr Speaker.

Ms Carnell: Mr Speaker, that is not a point of order.

Mr Corbell: The Government can put whatever spin it likes on that, Mr Speaker, but the fact is that when those payments were made they were illegal.

MR SPEAKER: Order! That is not a point of order, Mr Corbell.

Mr Corbell: That is the point Mr Berry is making. There is no improper imputation. It is a matter of fact.

Mr Smyth: On a point of order, Mr Speaker: It is improper because since when does an opinion in law infer guilt?

MR SPEAKER: Just a moment, please.

MR BERRY: Mr Speaker, may I intervene to settle this? I will acknowledge that none of these people have been before a court and found guilty of anything, but if they did go before a court they would be.

Mr Smyth: He must withdraw, Mr Speaker. No, he must withdraw. You have ruled on this before, Mr Speaker. It is not acceptable to leave that imputation in *Hansard* and he must withdraw it now.

Mr Corbell: You don't like it that you spent money illegally, do you?

MR BERRY: Mr Speaker, can I assist further?

MR SPEAKER: Order!

MR BERRY: I withdraw.

MR SPEAKER: Thank you. Thanks, Mr Berry. Let's get on with it.

Mr Moore: Mr Speaker, a further point of order.

MR SPEAKER: It has been withdrawn.

Mr Moore: I actually have a second point of order to go with it. It is also a reflection on a vote of the Assembly, an inappropriate reflection on the vote of the Assembly. Mr Berry knows that.

MR BERRY: About what?

MR SPEAKER: I think we might all settle down. Mr Berry has withdrawn. Continue your remarks, Mr Berry.

MR BERRY: Mr Speaker, let me put it another way. There have been three legal opinions that this was an illegal appropriation. Mr Speaker, if there was a provision in the Financial Management Act that made this a crime and these people had gone to court, they would have been found guilty. There is no - - -

Mr Moore: On a point of order, Mr Speaker: You have just ruled. Mr Berry knows exactly what he has done. As he has done on many occasions, he has disregarded the authority of the chair. That is standing order 202 (e), Mr Speaker. It is a standard approach from Wayne Berry and he ought to be warned.

Mr Corbell: On the point of order, Mr Speaker: Quite clearly, Mr Berry is allowed to make whatever rhetorical comments he believes are appropriate in his comments in response to the scrutiny report. There is no imputation, Mr Speaker, and Mr Berry has withdrawn any offence that has been taken.

MR SPEAKER: I am becoming very tired of provocation from both sides of the house. I suggest you debate the issues and keep the personalities out of it.

MR BERRY: Thank you for your protection, Mr Speaker.

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Mr Moore: Mr Speaker, I raise standing order 52. I will take a point of order again, Mr Speaker, after Mr Berry is sat down. Standing order 52 says this:

A Member may not reflect upon any vote of the Assembly, except upon a motion that such vote be rescinded.

There has been a vote of the Assembly on this particular matter and you lost. You lost. When you tried a no-confidence motion on the Chief Minister for the same thing you lost. That is reflecting on that motion, Mr Speaker.

MR BERRY: Oh, go away. That is ridiculous.

MR SPEAKER: Order! Just a moment. Standing order 52.

MR BERRY: What are you talking about? I have not reflected on a vote of the Assembly. That is ridiculous. Have a look at it. That is over the top.

MR SPEAKER: I have had a look at standing order 52, Mr Berry. If you have reflected on it - - -

MR BERRY: No, I have not. I have no intention of reflecting on the vote.

MR SPEAKER: Very well. Now, I suggest we get on with the debate and stop provoking each other across the chamber.

MR BERRY: Thank you, Mr Speaker. The important vote that was carried in this chamber and which I endorsed - if one can reflect positively on things, I think it is okay - was the requirement for the Chief Minister to hand over the papers. That is where all this arose from. Here we have a situation where Mr Moore, who supports this Government that refuses to hand over papers, is coming up with some legislation which in future will require it to hand over papers. That has a bit of a smell of hypocrisy about it to me.

Mr Moore: The difference is that I have been consistent. I have been consistent all the way through.

MR BERRY: As Mr Smyth would say, you cannot have it both ways. You have tried to have it both ways and I think you have been caught out. Mr Speaker, the powers of this Assembly are set in stone. If you look at the legal advice received by the Select Committee on the Government's Contracting and Procurement Processes concerning the hiring agreements between Bruce Operations Pty Ltd and the major hirers of Bruce Stadium, you will see that the ACT (Self-Government) Act provides that until the Territory passes laws - I am referring to page 3 - dealing with its powers, privileges and immunities, the Assembly is entitled to the same power, privileges and immunities as are possessed by the Commonwealth House of Representatives.

The motion that we passed here requiring the Chief Minister to come forward with those papers was consistent with that power. We draw in turn on the Commonwealth Constitution, section 49 of which provides that *until otherwise declared by parliament, the Commonwealth Parliament is entitled to the same powers, privileges and immunities as were enjoyed by the House of Commons*. There is no question that the House of Commons had the power at the time that the Constitution was enacted to require the documents to be tabled. So we go back to the House of Commons there. The Parliamentary Privileges Act was passed by the Commonwealth Parliament. The Commonwealth Parliament, Mr Speaker, would set out those particular provisions. There were some decisions in the court which were referred to in the advice which I will not go on about, but the advice concludes on page 3 as follows:

The result of the foregoing is that the Assembly resolution of 9 December 1999 requiring the Chief Minister to present the three Hirers Agreements (together with the SOCOG Agreement about which I am not asked to advise) to the Chair of the Committee was valid and enforceable in accordance with its terms and enabled the Committee (subject to compliance with the Standing Orders) to publish the Hirers Agreements if it saw fit to do so with absolute privilege attaching to such publication as far as any potential litigation against the Committee ... or the Assembly (or its members) is concerned.

So there we have absolute confirmation that what this Assembly did in requiring the Chief Minister to produce those papers was lawful. The Chief Minister denied us the opportunity to get our hands on those documents. She flew in the face of hundreds of years of tradition when representatives of the people called on the Government, the Executive, to produce papers in relation to matters which concerned the expenditure of money. Mr Speaker, this is outrageous.

We now see Mr Moore coming forward with legislation to try to take the heat off the Government. I note that Mr Osborne was going to do this. If I can be critical of his position, Mr Osborne was prepared to accept, and I dare say others were prepared to accept, that the Government could refuse this Assembly the provision of those documents.

Thankfully, due to the leadership shown by the Leader of the Opposition on the committee inquiring into these matters, we know have found ourselves in the situation where those hirers agreements are out in the open. Massive amounts of public expenditure were being kept secret by a secretive Executive, of which Mr Moore is a part, and by a secretive Chief Minister, and, dare I say it, by hirers who have probably been misled by the Government's attitude. I think they believed that they were able to sit on these if they wanted to, not knowing and not being informed by the Government that at any time the Assembly could call on the Government to produce these papers. If the Executive had taken the proper steps they would have been able to provide advice to these hirers which would have confirmed the validity of the motion which was passed and ignored by the Executive in relation to this matter. Those are the facts of the matter. That is a rough outline of how we found ourselves in this position in relation to these pieces of legislation which have found their way before the parliament.

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Mr Speaker, this has been a very ordinary period in the process of self-government in the Territory. Those historic parliamentary building blocks have been ignored by an arrogant and secretive conservative government hell-bent on keeping their embarrassing decisions a secret. This has been a dreadful period for self-government. I see that there are some young people in the audience who one day will be voting, although I do not think they are paying that much attention. Here we have a situation where this Government has been found out for secrecy. They are spending your money, people in the audience. They are spending your money secretly and they have spent it illegally, according to the best legal advice that this Assembly could get. Take this one home: They spent it illegally then kept it a secret. Mr Speaker, a whole range of hypocrisy has been exposed in relation to Mr Moore's contribution to this.

Mr Smyth: And you are the shining example of it, Mr Berry, the glowing example.

MR BERRY: I hear Mr Smyth intervening. He has not said, "Labor stands for nothing", or, "You can't have it both ways", yet. We will get that later, perhaps. Mr Speaker, I look forward to the Government's response to this important report from the committee which Mr Osborne chairs and I look forward to actions in the future which will fully expose the decisions made in this Assembly. For example, when a decision is made in the Assembly, unlike the VITAB arrangement where no decision was made, the Government is supposed to respond. Ms Carnell has shown that she was confident of her support in this place and she failed to produce the documents. I think, Mr Speaker, that that was just sheer arrogance. She winged it and got away with it. That is a reflection on all of us.

MR Kaine: Mr Speaker, I must say that - - -

MR SPEAKER: Do you ask for leave to speak?

MR Kaine: Yes, I seek leave to speak.

MR SPEAKER: This would have to be the longest debate on a Standing Committee on Justice and Community Safety scrutiny of Bills report that I have ever experienced.

MR Kaine: I was about to make that same observation, Mr Speaker.

Leave granted.

MR Kaine: I will try to be brief. I recall that not long ago, as a member of the committee, I attempted to get up and make a short comment on one of our reports and found that I had to seek leave to do so, even as a member of the committee, which rather surprised me.

Mr Speaker, it is not so much the fact that this subject has excited a little bit of discussion that troubles me; it is the nature of the discussion that troubles me. Governments of both persuasions in recent years across Australia have attempted to use the commercial-in-confidence label more and more in order to keep information under the table and not have it made public. That has been a matter of concern, I think, to

everybody in this place at one stage or another. So when members of the Assembly recognise that problem and bring forward legislation in an attempt to fix it, I can only say that that is a worthwhile endeavour.

Being a member of the scrutiny of Bills committee which endorsed this report for tabling today, I have to say that this exercise demonstrates a very simple matter and it should be a lesson. When a major problem, a complex problem, like this arises, it cannot be rectified by a short 10-line amendment to an existing Act. When you read in detail the comment from the scrutiny of Bills committee you discover that there are some very substantial difficulties and problems behind this seemingly simple notion of amending an Act to eliminate the confidentiality that seems to go with much of what government does these days.

All I want to do, Mr Speaker, is draw to the attention of the authors of these two Bills the detailed comment report that is made in this report and to ask them, as a commonsense procedure, to go away and think carefully about their Bills, the implications of their Bills, and the shortcomings in their Bills, before they bring them forward for debate. If they come forward for debate now, with all of these questions raised by the scrutiny of Bills committee, there is going to be a shambles in this place and we will get nowhere.

I think, sensibly, that the Bills should be kept off the agenda until the authors, and the rest of us in this place who are going to have to debate the matter, have addressed the questions raised here. If that is done and the matter is held off for a week or two until we can be sure that we are on top of these issues, not only will we get an intelligent debate but hopefully we will get a good outcome. I am sure that neither of those things would occur if we were to try to hurry the debate and deal with it too quickly.

MS CARNELL (Chief Minister): Mr Speaker, I seek leave to make a brief comment.

Leave granted.

MS CARNELL: I reiterate many of the comments that Mr Kaine has just made. The fact is that we do have a number of Bills which attempt to do some similar things. The scrutiny of Bills committee has made it clear that this is a difficult area, and I would agree with it. It is about balancing the rights of various parts of our community. We should always be concerned about rights, whether it be the rights of the business community or the community more broadly.

I was fascinated by the comments by Mr Berry, and I will quote one of the comments that he made in the VITAB debate, or maybe more than one. He indicated a few minutes ago, Mr Speaker, that if the Assembly had moved to require him to table the documents he would have done so. However, on 1 March 1994 he said this:

I have told you before that you are not getting a copy of the contract from me, no matter what means you choose to pursue.

He went on to say:

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It is commercial-in-confidence. It was an agreement between VITAB and us. While that commercial-in-confidence position is observed by both parties, it will be observed by us.

He also said:

It is fair enough that people who have commercial contracts with the ACT would expect them to be kept in confidence.

He also said this, Mr Speaker:

The issue of commercial-in-confidence contracts is one that has been raised here before.

And it had been, Mr Speaker. This is not the first time. Back in 1994, commercial-in-confidence had been used by the previous Labor Government. He went on to say:

As I have indicated in this place, unless I had the agreement of the company to table commercial-in-confidence matters I would not table them. You are not entitled in the normal course of events to commercial-in-confidence documents and, no, they will not be tabled without the agreement of the company.

That is what Mr Berry said on 22 February 1994, Mr Speaker, yet we get Mr Berry standing up in this place and making comments that obviously are not in line with those very definite comments he made often in 1994.

Mr Speaker, I think it is important that we get this issue right because there are competing rights. People outside this Assembly, as Mr Berry rightly said, do have rights. As this document from the scrutiny of Bills committee suggests, there is the value of trade secrets, intellectual property and other information of commercial value. It goes on. There are rights here and it is important that this Assembly take that matter very seriously. I agree with Mr Kaine that it is important that we take this information seriously. I certainly agree with Mr Moore's approach of sitting around a table and trying to come up with something that we all support, that reflects the scrutiny of Bills committee's report and respects the rights of the community, whatever part of the community we are talking about, with regard to agreements.

MR SPEAKER: Ms Tucker, are you seeking leave to comment?

MS TUCKER: I am.

Leave granted.

MS TUCKER: Thank you. It is an interesting subject so I might as well become involved in the discussion. I will not be as long as some. A couple of things have happened recently which I have found quite amusing. Obviously the Liberal Party, the Government, can bring up what Labor did not do well in this area and it seems like there were some issues there.

I think it was in question time or something last week that a member of the Government - I cannot recall who it was - gave a very long exposition of the virtues of this Government on the issue of commercial-in-confidence and went through the principles of commercial-in-confidence that this Government had put up. It was amusing because it was such a wonderful example of what, at the time, was necessity becoming virtue when it was reflected upon.

I remember clearly that in the last Assembly Michael Moore, Paul Osborne and I were applying a lot of pressure to this Government on the issues of freedom of information and the use of commercial-in-confidence. It was in response to that that this Liberal Government came up with its principles. So, we do have them, but I think history has been rewritten a little bit in the way it is being proudly proclaimed now by the Government.

Mr Kaine: It was not Mr Moore who was doing it, was it?

MS TUCKER: That interested me as well, I must say. Anyway, we know that there has been a lot of interest in this issue, certainly through the last Assembly as well, and the principles that the Government came up with were quite useful, I thought. What is really of concern to me is the appalling lack of any systemic approach to integrating these principles into government practice, into agencies' practice. In fact, I have had an example of that quite recently in the committee I chair on education and community services.

Mr Hird: A wonderful committee.

MS TUCKER: "A wonderful committee", Mr. Hird said. Yes. I requested some contracts for the committee's information and was informed basically that these contracts were available to the committee but that the agencies concerned did not want them made public in any way and that we needed to regard them as confidential. I have pursued that. I wrote to the agencies because I was interested to know why, As members have said here and the Chief Minister has just said, we need to understand the rights here in balancing the rights of the parties to contracts.

I wrote as chair of the committee to these organisations and asked them for the reasons. I was interested to understand that. The one I have received a response from so far basically expressed the concern or made the statement that it was really advice given to them by the bureaucrats concerned; that it was the convention to ask for this commercial-in-confidence status, which obviously flies in the face of the principles of this Government. I am still pursuing that within my committee. I have just received another piece of correspondence from the Minister saying that it was not quite correct, that they have changed their position on this and that it is probably okay for the

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committee to see these contracts as open and available. So it really does seem quite chaotic in terms of how the Government's principles have been applied or communicated through the different agencies and their practices. It is really very concerning to me that this is the case.

We are seeing problems with system failure in a number of investigations of this Government's work. Obviously it was a major concern in the coronial inquest on the implosion. It was also something that came out of the investigation of the Belconnen tip management; that there was system failure. They are all slightly different issues, but the point is that we seem to have seen a breakdown in coordination and an increase in adhocery in how government is working. That has to be a concern.

If we are to have accountability in government we have to see that the government of the day actually knows how to ensure that its policies, its publicly stated policies, are implemented by the people who work with those policies. That is just a basic management issue, and this Government claims to be pretty good at management. When I look at the policy advice sections of the annual reports and budgets, it is interesting to me how they always get 100 per cent for policy advice, but we continually see these sorts of breakdowns in systems. I find the whole thing a bit interesting.

The issue of the legislation that has now come up from, I understand, three members regarding commercial-in-confidence obviously does need to be looked at. I wonder if it would be necessary if you actually did have a government that was truly committed to ensuring that its policies were translated into programs and were implemented in a way that was consistent. That is a question of management and commitment from the government of the day to ensure that its policies are implemented, and that does not seem to have been the case. A less charitable view would be that occasionally commercial-in-confidence might be used to try to conceal particular issues, and that could be an explanation for the adhocery. It is certainly one that has been put publicly. So that also is extremely concerning to the community if it is the case.

I think this is a very important issue that we are dealing with because, as members are well aware and have already mentioned, we do have so much more outsourcing of what used to be government services. We do have a situation where the private sector is more and more engaging in contracts with government. This is expenditure of public money.

There is an onus on both parties to understand that public money has to be spent in an open, accountable and transparent way, and that is what this discussion is about. It is about ensuring that the private sector and the Government understand that there is a different responsibility. This Government does speak about doing government in a businesslike way, but you cannot take that to the degree that you would not expect that the fact that this is expenditure of public money would influence how you do business. It absolutely has to. That is why we are having this debate, and that is why so many people in the community are very concerned when we see further outsourcing, for example, right now, of the utility of ACTEW.

Moving further away from government control, issues of access to information are fundamental, and that came out of the investigation into the Sydney Water issue. It comes up over and over again when you are looking at accountability of operations of private

companies, or corporatised companies even, joint ventures and so on operating public utilities and essential services, or services where government would have done that in the past. I look forward to further debate on this and seeing what we end up with if we do end up with legislation.

PLANNING AND URBAN SERVICES - STANDING COMMITTEE
Report on Draft Variation (No. 113) to the Territory Plan - Kingston Foreshore

MR HIRD (11.31): As chairman, I am pleased to present Report No. 42 of the Standing Committee on Planning and Urban Services entitled "Draft Variation No. 113 to the Territory Plan: Kingston Foreshore", together with a copy of the extracts of the minutes of proceedings. I move:

That the report be noted.

Mr Speaker, this is a unanimous report and it is about what probably will be one of the biggest construction and development projects undertaken by this Government if the parliament agrees with our report.

The inquiry into variation No. 113 was completed in quick time, and for that I would like to pay tribute to those departmental officers who assisted the committee, those who put submissions to the committee, and also my colleagues Mr Corbell and Mr Rugendyke and our hardworking secretary, Rod Power.

The report covers all the issues. There were quite a number of issues identified, one in particular in the media of recent times, and I will come to that later. Basically this report identifies three important points. One in particular was whether there should be high-rise development. Some submissions were received at the eleventh hour which suggested that my committee should give an indication about future development of the high-rise areas on the foreshore.

Let me make it clear to this house and to the people of Canberra, as the chairman of this committee, that there will be no high-rise development on the Kingston foreshore under this variation. Indeed, there was no intention of having any high-rise development in the variation. The committee could see no justification for it. We should not move away from the international competition and the design work that was undertaken by the professional people who were engaged in putting forward these various design options. The HIA and MBA may have tried to attract attention to the supposed desirability of high-rise development, but, as I indicated, that was at the eleventh hour and the committee was not impressed. The proposal has absolutely no endorsement by my committee.

Even though the area is outside the Parliamentary Triangle, it can be seen that it overshadows that area, so the National Capital Authority would also have some questions to raise in respect of a proposed high-rise development. I cannot speak for the authority, Mr Speaker, but I do not believe they would entertain a high-rise situation in this development or any future development.

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We closely questioned PALM and were fully assured that anything different would require a new draft variation application. Any proposal for high-rise development in the Kingston area would go through a similar process as draft variation No. 113. PALM officers and the executive officer of the Kingston Foreshore Authority, Mr Lowe, when he briefed the committee, said that high-rise was a very sensitive issue and the development would not be any higher than the existing powerhouse building which is within this development.

Mr Speaker, the committee noted that the existing residents in the suburb of Causeway should have some protection to make certain that any development was sensitive to their requirements. In other words, the new development should not overshadow their own residences and make it impossible for them to go about their business.

We consider that the draft variation should be endorsed. It certainly fits within community values. It meets community concerns, particularly in regard to building heights, as I have indicated. It will create a new urban environment in place of what currently is an eyesore and, more importantly, it will provide jobs. This development will slot in with other developments that are currently under way, such as section 56 in the city area and the work at Regatta Point which is being carried out for in excess of \$4m. These are opportunities that come along now at a good time in respect to the completion of the re-fit of Russell Offices and the conclusion next year of the Museum of Australia.

If this parliament accepts our recommendation, and I think it will, there will be continuity of work within the construction industry, and that will flow on to other areas. We find ourselves in the healthy situation of being able to provide jobs for those involved in that industry. Once again, on behalf of the committee, I thank all those who gave their support.

Another important point is that the committee also endorses the proposal to list the powerhouse on the heritage places register. I think I can speak for my other colleagues as well when I say that Canberra has very little history like other jurisdictions where they have buildings which have some significance. The powerhouse is of significance to future generations and it is pleasing that it will be placed on the heritage places register. I thank all and I recommend that this report be accepted by the parliament.

MR CORBELL (11.39): I join with my colleague Mr Hird, the chairman of the committee, in endorsing this report today. This is an important report. Whilst it is not as large as some of the other reports that come from the Planning and Urban Services Committee, it nevertheless deals with an important issue. The fact that very little public concern and comment is coming through to the Urban Services Committee reflects the generally positive process that this proposal for the redevelopment of the Kingston foreshore has gone through. I believe that that is a vindication of the effective public consultation process which the Interim Kingston Foreshore Authority has gone through to date.

One issue which has been quite topical in recent days in relation to this draft variation is the proposal being put forward by a number of industry groups in the city for the possibility of high-rise development on the Kingston foreshore site. Mr Speaker,

I endorse the unanimous recommendation of this committee that there be no consideration given to high-rise towers on the Kingston foreshore site. I would go one further than the committee and say that that should be a matter of no consideration now or in the foreseeable future because there is absolutely no justification for it.

Mr Speaker, it was interesting that when this issue was first raised last week the Minister got a little bit uppity about it and accused me of pre-empting the committee's hearings. I am very pleased that the Minister quickly did his research and realised that, unlike other committees in this place, the Planning and Urban Services Committee authorises all of its submissions as public documents from the time the committee receives them. That is very important, Mr Speaker, because the Planning and Urban Services Committee considers a wide range of often controversial issues that deal with planning and development. It is important that people in the community have the option of being able to understand what information the committee has received and see it as public documents even before the public hearings take place. That actually contributes to the public hearing when an issue is raised and put out there in the public arena for people to be aware of.

At the public hearing last Friday we had Professor Ken Taylor appear before us as head of the National Trust of the ACT. He was there only because he had become aware of the proposals that had been put to the committee by the MBA and the HIA in relation to the possibility of high-rise towers. His contribution was very useful because we were able to get his comments on the record at the same time that we were getting the comments from the MBA and the HIA about towers. That would not have occurred, Mr Speaker, if there had not been some raising of those submissions prior to the hearings taking place. So I believe it is a very positive process.

I think the strength of the committee's recommendation today, Mr Speaker, stems partly from the fact that we have a Minister for planning who was a little bit reluctant to rule it out straightaway. We have a Minister for planning who was umming and aahing, saying, "Well, you know", and going on the attack against me rather than backing up his Government's own draft variation. I would have thought, Mr Speaker, it would have been completely responsible and acceptable and understandable for the Minister for planning to stand up in this place - indeed, even before this place met last week - and say, "The Government has put out a draft variation and that is our position". Indeed, Mr Speaker, that is what the Government has done on previous occasions. When draft variations have come out, the Minister for planning has stood up and said, "This is the Government's position and we are putting it to the Urban Services Committee for their consideration". But he did not say that.

Mr Berry: You cannot have it both ways.

MR CORBELL: He did not say that. My colleague Mr Berry says, "You can't have it both ways". Indeed, you cannot, Mr Speaker, but Mr Smyth tried last week. It took a little bit of poking and prodding, and a little bit of urging from this side of the chamber and from public comment, before we got the Minister to make the belated comment that he was not supportive of the MBA's and the HIA's proposals. Maybe there was some agenda out there, Mr Speaker. Maybe some deal had been done,

Mr

Speaker.

Who

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knows? Nevertheless, we got it on the record in the end. Better late than never, I guess, but that could be Mr Smith's catchcry. Nevertheless, proposals that were put forward by the HIA and the MBA for high-rise towers were simply unacceptable. They are unacceptable, Mr Speaker, because they would completely change and destroy the nature of that site.

All the public consultation to date - over two years of public consultation, including an international design competition - has indicated that development on this site should be low-rise and sensitive to its setting. What is its setting, Mr Speaker? Its setting is the lake basin itself. Its setting is adjacent to the Jerrabomberra wetlands. Its setting is an unfinished part, if you like, of the Burley Griffin plan. Indeed, the winner of the international design competition for the Kingston foreshore tried to finish the work that has never been done on the completion of that end of the basin of Lake Burley Griffin. To plonk a couple of high-rise towers right on the foreshore - no matter how far set back they would be they would be on the foreshore development - would be to completely destroy that setting.

Not only was that a problem and a substantive concern of the committee; there was also the fact that the HIA and the MBA had not raised it before. Consultation processes are important, but the experience of this committee has been that when there is an issue of legitimate concern it is usually raised right through the consultation process. It is there when the draft variation goes out for comment; it is there when the preliminary assessment is being done, if that is taking place; and it is also there at the stage when the Urban Services Committee is considering its inquiry.

Mr Speaker, I leafed through the documents that we received from PALM as part of this inquiry. Here are all of the submissions that PALM received in response to the draft variation when it was circulated for public comment. I looked in vain, Mr Speaker, for a comment from the MBA or the HIA about high-rise towers, but it was not there. It was not there. I looked through all of the documentation that I had available to me about the public consultation that had taken place prior to this draft variation, and I looked in vain for comments about high-rise towers. They were not there.

I asked Professor Ken Taylor, who was a participant in the public consultation process, when he appeared before the committee, "Was this issue ever actually raised by anyone as something that they wanted to see happen?". He said, "No. No-one raised it". So for the MBA and the HIA to come in here at the eleventh hour, as my chairman said, and say, "Let's put it on the agenda" - - -

Mr Moore: Try it on.

MR CORBELL: "Let us try it on", as Mr Moore said. That was, at best, hamfisted, and, at worst, a complete mockery of the process.

Mr Speaker, imagine if the MBA and the HIA were proposing a particular development. Imagine if one of their members was out there proposing a development and they had done two years of public consultation at which no objection had ever been raised, or if objections had been raised they had been dealt with, and no-one had suggested changing the scale of the development. Imagine that a member of theirs was out there proposing to

build a 10-storey development and there had been no objections. Everything had happened. They had gone through two years of public consultation. Imagine if someone popped up at the last minute, at the eleventh hour, and said, “No, I reckon it should only be three”. Imagine the reaction from the industry groups. They would absolutely cry foul; that they had tried to do the right thing all the way through and at the last minute someone had popped up their head and was trying to change everything and all the hard work that had been done. Well, rightly so, Mr Speaker; they could make that complaint. But, Mr Speaker, I think this committee has a complaint to make too - that an organisation comes in at the last minute and puts up this type of ambit claim for development when the hypocrisy in their position is so clearly illustrated by the example I just drew.

Mr Smyth sits back there and smiles and smirks. Mr Smyth should treat this seriously because he is always talking about due process and about getting the consultation right. Mr Smyth knows very well exactly what a development proponent would say if someone stood up at the eleventh hour and said, “No, this shouldn’t happen”, when they had never raised it before. Mr Speaker, that is what has happened in this case.

Quite frankly, Mr Speaker, there are no grounds for justifying high-rise development on the Kingston foreshore, now or in the foreseeable future, and I am pleased that the committee has recommended that way.

Mr Rugendyke: Unanimously.

MR CORBELL: And as my colleague Mr Rugendyke points out, unanimously. So the onus is now on the Government, Mr Speaker, to agree with the committee’s recommendation and ensure that that is the case. Indeed, I would invite the Minister, when he makes his response in this place, to say, “We don’t see it as appropriate in the foreseeable future either”. That would be a tremendous thing to do. It would certainly allay some concerns about Mr Smyth’s bungling and ineptitude to date, and his failure to properly state what was, after all, something that went through Cabinet.

The community’s perception of the city is so important, and the community’s perception of the National Capital Plan is so important. Professor Ken Taylor made a very interesting point when he said that you only have to stand on top of Parliament House and look out over the city and you have one of the most magnificent vistas of any city in the world. I think he is absolutely right. It is a vista which sometimes we underestimate because we see it every day, but it is a magnificent vista.

Professor Taylor made this point: Imagine looking out over the lake from the top of Parliament House and all of a sudden there are two towers jutting up right beside the lake. Mr Speaker, that would degrade that vista. Professor Taylor also pointed out that two towers already exist in the Kingston area, but at least they are set back further from the lake. To have them closer to the lake would be an absolute undermining of that magnificent vista, that magnificent legacy, that has been left to us. It is unfortunate, Mr Speaker, that the industry groups did not feel that that was an issue when they made their ambit claim.

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Mr Speaker, this draft variation also raises a couple of other issues that I feel it is important to raise. The first is the consistency of the development with the National Capital Plan. In the documents received by the committee the Planning Authority notes:

Several aspects of this draft Plan Variation concern areas designated under the National Capital Plan. For this reason the Territory is prevented by Federal legislation from finalising the Variation until the National Capital Plan has been amended.

Mr Speaker, that is absolutely right because the Territory Plan cannot be inconsistent with the National Capital Plan. However, I am interested to hear how the Government is going to handle this now that the committee has reported. Will the Government simply be holding off on this draft variation and not gazetting it and not tabling it in this place formally as a formal variation until the National Capital Plan has been amended, and what is the Government's understanding of how long that process will take? I think those are important issues that we need to be aware of.

Another issue that was raised before the committee that is very important is that there are people who live adjacent to this development. Of particular concern to the committee are the residents of the Causeway. The Causeway is a very old and established area of Canberra and it has always been an area where people on lower incomes have lived. Mr Speaker, they are obviously concerned too. They were very concerned about the high-rise development proposal when it came to light because the MBA and the HIA said that the high-rise development could be at the eastern end of the site. The eastern end of the site, Mr Speaker, is right by the Causeway. Quite understandably, people living in single-storey dwellings in the Causeway would be pretty concerned about a 10- or 15-storey tower only a block away from them towering over their neighbourhood. It is unfortunate that the MBA or the HIA did not think about that before they wrote their letters.

The high-rise tower issue aside, there is also the issue of the interface between the development and the Causeway. The development at the moment does allow four-storey development right along the Causeway. (*Extension of time granted*) The Causeway runs parallel along one side of the foreshore development site. Buildings on the foreshore development side of the Causeway will be able to be four storeys. Buildings on the other side of the Causeway are single storey. It is important, Mr Speaker, that the Kingston Foreshore Authority handle that interface sensitively. We must ensure that there are effective and strong setbacks for development on the foreshore site so that you do not have four-storey buildings immediately facing and over-crowding, aesthetically and visually, single dwellings on the other side of the road. That interface must be managed sensitively, and that is the committee's second recommendation - that that interface work well. Whilst a higher level of density is appropriate for this site, it still must respect the existing Causeway residents and their homes. Mr Speaker, that is a very important recommendation.

Mr Speaker, in conclusion I certainly endorse this development proposal and this draft variation. This is probably the largest single development that the ACT Government will be responsible for in the history since self-government. I understand that over \$375m

worth of development is to take place on this site. It is a major undertaking. It is one that has the capacity to develop considerable employment and considerable business opportunities throughout the Territory, and to sustain the development industry in a consistent manner over an extended period in ways by which we usually expect the Commonwealth to assist our development industry.

I note from the submissions that the Property Council raised some concerns about the costing and the expense of some of the infrastructure works required for the project. On an associated issue, the MBA also raised the issue of ensuring that local contractors had an opportunity to get work on the project and that it be let in parcels which enabled them the potential to win some of the contracts.

Mr Speaker, first I want to deal with the comments of the Property Council. The Property Council argued in their submissions that the work of reclaiming part of the land and creating the Basin in a more formal sense as a circle, or part of a circle, rather than the very informal edge that exists at the moment is very expensive work and should be reconsidered. I am pleased to hear the confirmation from the Kingston Foreshore Authority that we got in the submissions to the committee last Friday that it can be costed. It does add up financially and it is good to hear those reassurances.

On those grounds, Mr Speaker, I have to say that the Property Council submission, if accepted, would undermine one of the principal elements of the winning design, which was to highlight Griffin's finish of that Basin of the lake by creating a formal interface along the lake foreshore. Mr Speaker, those works are expensive, but if we were to take the Property Council's view we would never have built Canberra in the first place. It would have been too expensive. But it is important that that area of the development is built. So I am pleased to see that the Foreshore Authority accepts that that is an important part of the design and it should take place.

Secondly, Mr Speaker, the comments from the MBA are about the contract arrangements. These technically are part of the draft variation, but I think the MBA certainly do have a case to put to government that wherever possible local employment is a priority and that the opportunity for local engineering firms and construction firms to bid for work is not hindered by the Government's contracting out or tendering out arrangements. The real concern, Mr Speaker, and it is a legitimate one, is that if the Government lets the site as one tender the smaller engineering firms in Canberra will not have the opportunity to bid because they simply do not have the personnel or the resources to do really large projects. If the development is cut up into smaller chunks and that is a process that does ensure that the Territory still gets value for money and the program is completed in an effective way, then I would urge the Government to consider that because it will favour those local construction and engineering firms.

Mr Speaker, there is a lot to be welcomed in this proposal. It is a proposal which is very well thought through. I should conclude by saying that the issues about height were very well explained by Mr Lowe from the Kingston Foreshore Authority. Due to the topography of the land, any buildings going over the height of the powerhouse which would be four storeys would be restricted to lower storeys anyway. If the land is slightly higher above the powerhouse building then buildings cannot be four storeys. They have

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to be the same height as the powerhouse building. That is very positive and that is reflected in recommendation No. 3, Mr Speaker, the establishment of a maximum building height of 20 metres or RL578m, whichever is the lesser. So, certainly there will be nothing higher than four storeys, but, perhaps more pertinently, nothing higher than the powerhouse building, and that is very important.

The public transport arrangements are obviously things that the Government is going to have to work on as part of this development, but I think that there is capacity there to ensure that public transport works effectively through the site.

There are some issues about the availability of facilities at the site. I notice that the Property Council raised them. It is concerned about access to ATM facilities, as an example, which seems strange, but it is something which is important if it is going to be an effective mixed use precinct with restaurants and cafes and those types of facilities. That is something that will need to be properly addressed as well.

Mr Speaker, in conclusion, the Labor Party endorses this development. It is a positive one for the ACT, but it must be done in a way which protects the integrity of the site. It must be done in a way which does not impose on the landscape and, as Walter Burley Griffin did in designing Canberra, makes it part of the landscape in which it sits. Hopefully, that will be achieved, and, hopefully, the Government will be able to give this place a commitment that no high-rise will be considered on the site now or in the future because, quite frankly, that would be a desecration of the site and the principles that have driven this draft variation and, as a consequence, this committee's report today.

MS TUCKER (12.01): I am pleased to hear what Mr Corbell has said about the response from the committee to the proposals for high-rise development. I would like to contribute to this debate by reminding members of the community consultation process which was undertaken by the Government. I believe that the Government did a good job with the process of consulting the community. They developed a community brief which had as its aims: To articulate community values, hopes and aspirations for the future use and development of the Kingston foreshore area; to present these community views in a format which will feed readily into a brief to entrants of the design competition; and to provide a statement or platform representing community views as a basis for future consultations during the preparation of an interim management plan for the site and during the preparation of a master plan for the site.

Basically, I think the Government did a good job with this consultation process. What interests me is what came out of that consultation process. There was a broadly representative group of people. More than 200 people put in submissions. Many individuals came forward, both local residents and people from the wider community, and others represented a spectrum of professional, business, community or recreational or sporting organisations. Thus the one voice was representing a much larger constituency.

The key principles that came out of that consultation process were, firstly, access and equity - that is that everyone should be able to freely use and enjoy the site. There should be no obvious enclaves. The development should be fully integrated, with transport links including pedestrian and cycle paths, ferry and bus services. Through traffic should be kept off the site, with car parking on the periphery.

On a number of occasions since this community brief came out I have raised the issue of the need to ensure equity of housing. If there is going to be housing and residential development there, which there obviously is, we need to ensure that there is affordable housing and public housing on that site as well. The access and equity issue was one that was clearly supported by the community through the consultation process.

There was also a very strong position taken by the community on the need to ensure that the environment was protected in this development. In fact, the idea was that the development should demonstrate environmental best practice, and the principle of ecological sustainability must underpin the development of the site. The unique environmental setting on the foreshores of Lake Burley Griffin and adjacent to the Jerrabomberra wetlands must be recognised. Once again, this is a very strong and agreed perspective from the community.

Since this brief came out I have had to keep reminding the Government of this. I do get reassurances from the members of the authority that they are respecting this, but I think that already we are seeing a watering down, if you like, of the possibility of making this absolutely best practice, a development that would be a showcase for all the world, because we right now do see that infrastructure is going to be put in in a fairly conventional manner. If it was best practice it would be a magnet for people from around the world. It would be a place for us to sell our environmental technology and our intellectual capital that we have in this city about environmental technology and best practice, because it is obviously what everyone around the world is interested in pursuing. They want to see how we can live more lightly on the planet. It has become an urgent challenge for many cities around the world.

The Kingston foreshore development is not just an opportunity to make something work for the people who live in this city. The Kingston foreshore is an opportunity to make money by selling technology and intellectual capital. We see the Chief Minister and members going over to China to sell our environmental expertise and so on. People would be coming to us if we did this properly. As I said, we are seeing fairly conventional infrastructure being planned for this development at this point and we are being reassured that everything that comes after will be fantastic and best practice; but in fact we should be starting at this point and ensuring that, for example, our electricity, water, sewerage and so on, the infrastructure for that, will be quite different from conventional approaches.

The other strong issue that came up in the consultation was heritage - that the development must strongly reflect the cultural significance of the sight. The powerhouse and bulk store buildings must be retained with industrial character. I think this is relevant to the debate about high-rise and how far we could move from this initial sentiment that came from the community. If you do want to keep intact the general ambience of the site and the character of the cultural significance, then it is clearly going to be inconsistent to have these huge high-rise buildings.

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Also, the community was clear on the landscape issue - that the development should create the impression of buildings with an open bush or garden setting. Once again, high-rise buildings would not sit too well in that. Safety issues were also raised. Safety is always an issue with walls of buildings. Safety can suffer.

The last but really important point that also came from the community was urban design. The design should be tasteful, creative and original, giving a sense of identity to the site which is unique yet reflects its historic importance. Development should be open and at human scale, generally to the tree canopy and not dominating the powerhouse. Obviously this proposal for high-rise is inconsistent with that. The design should recognise the high visibility of and views from the site. There should be all-year-round use, with a mix of indoor and outdoor spaces and appropriate landscaping. Sustainable environmental principles should make this site an example of world best practice development, and the design should encourage people to use the site in multiple ways.

Basically, I think it is really important, when we are looking at what is happening at Kingston foreshore, to remember that this work was done. The Government did it well. They got a community brief which was very representative of the broad community. There is a danger that we will see these sentiments watered down bit by bit. We already have, as I said, in terms of environmental best practice. This is a good reference point to come back to if this committee or this Assembly have to make any more judgments about what is happening on the site. If we do not do that, once again you will see even more growing cynicism from the community about why they should ever bother with a consultation process if they see it disregarded in the final outcome. As I said, and I am happy to give credit where it is due, the Government did a good job with this consultation, but now they have to stick to the ethic of that commitment to listening to the community by ensuring that what happens there fits with what the community said.

MR STANHOPE (Leader of the Opposition) (12.10): I want to reiterate a couple of the points that were made. I am concerned at the seed of doubt that the Minister did plant on behalf of the Government in relation to its intentions or its views or its vision for lakeside development. I think many of us who have lived in Canberra over a number of years have often thought about the extent to which Lake Burley Griffin, a beautiful lake with a beautiful amenity, is not utilised to the extent that it could be or should be by those of us who have made Canberra home. It is in that framework or with that view that we have come to embrace and support and be excited about the prospect of the development of Kingston foreshore.

I have long felt, as a resident of over 30 years standing, that one of the most unfortunate aspects of the planning of Canberra has been the extent to which we have not appropriately utilised as living space the shores of any of our lakes. I think the best efforts made in relation to any of the three lakes have been made at Tuggeranong. Attempts have been made to make the lake edge or the lake shore at Tuggeranong a genuine livable space where people can go for a coffee or for relaxation rather than just pursue those recreational pursuits that we are restricted to in relation to the lakes, namely, walking, jogging, sightseeing and those other enjoyable things that we do. So the

Kingston foreshore development, to the extent that it is the first breach in the wall in relation to useability for other than straightout physical recreational pursuits, is very important. We have waited an awful long time for it.

It is within that framework that I am particularly concerned about the context of the consideration of a draft variation in relation to the Kingston foreshore. The spectre of multiple storey residential accommodation has been mooted by some significant organisations around town, the Housing Industry Association and the Masters Builders Association. They, of course, have a view and a particular perspective in relation to development. Whilst supporting this particular variation, they proposed that they would like, at some future stage, to see a further variation to allow for the development of multi-storey accommodation.

I am concerned about what I see is a slightly cynical approach by the HIA and the MBA to this. They are out embracing this particular draft variation so that we can get on with the Kingston foreshore development. I think probably every member in this place would support the need for us to get on with that development. It has been a long time in its genesis. It has been a long time coming. I think there are many of us who are both anxious about it and excited at the prospect of it being done, and being done quickly.

In that scenario it is of concern that, when the prospect of multi-storey accommodation right on the lake was raised, the Minister did not squash it, or at least did not show courtesy to this place or to the Canberra community by expressing the Government's attitude to the prospect of 10-storey dwellings on the lake's edge. I think it is a matter of significant moment. I think the public response, even just within the pages of the *Canberra Times* in the space of the week that the debate developed, should have been signal enough to the Minister that development of the shore of Lake Burley Griffin is a matter of enormous importance to the people of Canberra and they want to know what this Government's attitude is to the prospect of such development.

It is something that the Canberra community wants to know, is demanding to know, and has a right to know. The Minister has given disingenuous and artful responses to direct questions when asked for his attitude to the prospect of what I think might rightfully be described in the context of the Lake Burley Griffin setting as potential monstrosities right on the edge of the lake. We have a right to know what he thinks about it. His obfuscation and his disingenuous answers have created a justifiable suspicion, not in the minds of those of us who are invariably suspicious but in the minds of the Canberra community.

Mr Berry: They are the high-rise party now.

MR STANHOPE: Yes. The Canberra community is justifiably concerned about the prospect of secret or other agendas. The Canberra community is concerned about the prospect that deals have been done, that the wink has been given, that there is some prospect of this proposal becoming a reality. I think the Canberra community is cynical about planning processes generally. It is important that our planning processes be above and beyond reproach and suspicion.

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If Ministers obfuscate, give disingenuous answers or do not answer questions honestly, it simply raises the level of cynicism and gives real energy to those feelings of cynicism about whether or not the Government is governing in their best interests and is reflecting their views and their aspirations about the nature of the city that they want. The lake is so important and so central not just to Burley Griffin's vision of Canberra but also to the vision that we have as a community.

Mr Berry: I wonder how Mr Moore likes being part of the high-rise party.

MR STANHOPE: Well, that is the difficulty for Mr Moore, unfortunately. Mr Moore does shuffle these days, trying to distance himself from the Government in relation to these issues. We will see in 18 months' time how successfully he has managed to do that. We do have some views about how successful he might be and we will watch that with great interest.

I guess what this side of this chamber is asking here today, through this debate, is that the responsible Minister do what he has point blank and flatly refused to do over the last two weeks. We really would appreciate it if the Minister would stand up. He has been dragged to this position, but will he now stand up and declare absolutely that the Government, and we must include Mr Moore in the Government, is not a high-rise government, particularly not right on the edge of the lake?

As I said, the Canberra community probably has waited longer than it would have liked for development on the lake shore. I think this community has been waiting for years, if not decades, for some genuine community style development on the lake. It is something that I have been conscious of in the more than 30 years that I have been a resident of this town. It is an unfortunate gap in the provision of services.

This does create an interesting argument about the tension between the role of the National Capital Authority and the Federal Parliament in the planning of the city and the role of this place and of PALM and other planning authorities. That is a debate that we need to continue to refine. This community, those of us that have made this place home, have some legitimate expectations of the National Capital Authority and the Federal Government in their planning and attitudes about the place. This is a debate and an issue that we should continue to pursue aggressively.

MR SMYTH (Minister for Urban Services) (12.18): Mr Speaker, I thank the committee for its endorsement of the Government's draft variation. I move:

That the debate be adjourned.

Question resolved in the affirmative.

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL (NO 3) 1999

Detail Stage

Clause 1

Debate resumed from 15 February 2000.

MR STANHOPE (Leader of the Opposition) (12.19): Mr Speaker, this Bill was introduced by the Attorney-General on 25 November 1999 and it proposes amendments to a range of legislation largely concerned with consumer affairs.

MR SPEAKER: The question is that clause 1 be agreed to. We are not debating the agreement in principle.

MR STANHOPE: Did we do that?

MR SPEAKER: We did that. The question is that clause 1 be agreed to.

Clause agreed to.

Clauses 2 to 4, by leave, taken together.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (12.20): I move:

That the debate be adjourned.

Mr Berry: Why?

MR HUMPHRIES: Because you have dropped amendments which we have not seen before today. We have not had a chance to look at them.

Mr Stanhope: I take a point of order, Mr Speaker. The Attorney-General has just suggested that we dropped amendments today that he has not previously seen. That is not correct. They were hand delivered by my office to the Attorney's office last week. I resent the fact that he is here and now suggesting that that was not done.

MR SPEAKER: That is more of a personal explanation than a point of order.

Question put:

That the debate be adjourned.

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The Assembly voted -

AYES, 10

Ms Carnell
Mr Cornwell
Mr Hird
Mr Humphries
Mr Kaine
Mr Moore
Mr Rugendyke
Mr Smyth
Mr Stefaniak
Ms Tucker

NOES, 6

Mr Berry
Mr Corbell
Mr Hargreaves
Mr Quinlan
Mr Stanhope
Mr Wood

Question so resolved in the affirmative.

PERSONAL EXPLANATION

MR HUMPHRIES: Mr Speaker, I seek leave to make a personal explanation under standing order 46.

MR SPEAKER: Proceed.

MR HUMPHRIES: Mr Speaker, after the comments I made a little while ago I received some advice from my department on the amendments which Mr Stanhope has just circulated in the chamber. Although I have not seen the amendments before, it appears that my department has them. It may be that they were received by my office and sent to the department before I had a chance to see them. I do not know whether my office has or has not received them at this stage. I still have not seen them, but I certainly apologise to Mr Stanhope for suggesting that my office has not received them.

Sitting suspended from 12.27 to 2.30 pm.

QUESTIONS WITHOUT NOTICE

ACTEW - Expressions of Interest

MR STANHOPE: Mr Speaker, my question is to the Treasurer. In answer to a question from the Labor Party about contestability in the domestic electricity market, the chief executive of ACTEW, Mr Mackay, said, among other things, that 15 competing suppliers had won contracts in the ACT and ACTEW had lost competitive load. The 1998-99 annual report for ACTEW, however, reports the chairman of the board as saying that the corporation continued to cope well with the challenge of competition. He went on to say:

Modest early losses of some ACT contestable electricity customers to competitive electricity suppliers were largely offset by gains in winning the business of customers outside the ACT.

Can the Treasurer say whether there has been any dramatic change in ACTEW's success in coping with competition in the past eight months? If so, can the Treasurer say whether the ACTEW board has formally resiled from its annual report?

MR HUMPHRIES: I thank Mr Stanhope for that question. First of all, I will not comment on what Mr Mackay may have said to the Opposition or to anybody else in correspondence unless I have seen the context in which claims are being made, because it is extremely easy for claims to be made about what was being said without their being substantiated by the context. Secondly, let me say that in my discussions with both the chairman of ACTEW and the CEO of ACTEW, I have had no difference of view whatsoever about the nature of the risk which ACTEW is going to experience in the future. They quite candidly admit that ACTEW has been able to weather quite well the storm which has been brewing for some time and that the advent of contestability for some of their existing customers, while it has resulted in some disappointing losses, has been a process that they have been able to make a reasonable fist of, but it is also worth remembering that during the same period ACTEW has become leaner and meaner as a way of dealing with that new competitive environment.

Ms Carnell: Cutting staff.

MR HUMPHRIES: Principally, as the Chief Minister reminds me, it has been through eliminating staff. There has been a reduction of some 200 staff on ACTEW's books over the last year to 18 months. That is a large number. I recall that the other day the Opposition characterised the comments of the chief executive of ACTEW on this very issue as scaremongering when, in fact, almost exactly what the chief executive had predicted in the event of a failure to sell ACTEW outright had actually come to pass. Do not imagine that ACTEW is just sailing on blithely into the future without dealing with the future. It has taken large steps, but the biggest steps it will need to take will be in response to the introduction of contestability in the domestic electricity market - the sales to you and me and to ordinary householders around the Territory. That is where the real competition will come. ACTEW is very plainly on the record - and there is no division between the chief executive and the chairman of ACTEW on this issue - as saying that without a move to a more competitive basis in the future through an arrangement such as a merger or joint venture with AGL there will be no possibility of guaranteeing the maintenance of job numbers in ACTEW at the moment.

Mr Moore: Two hundred jobs on your shoulders.

MR STANHOPE: Crap, Mr Moore, crap.

MR SPEAKER: Withdraw that, please.

MR STANHOPE: Rubbish, Mr Moore, rubbish.

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MR SPEAKER: Did you withdraw the earlier comment?

MR STANHOPE: I do. I withdraw it.

MR SPEAKER: Thank you. Do you have a supplementary question?

MR STANHOPE: Yes, Mr Speaker. My supplementary question to the Treasurer is: What competitive load, in the words of Mr Mackay, has ACTEW picked up in the past eight months to offset losses in the ACT?. How many customers does the corporation now have outside the ACT, compared with June 1999?

MR HUMPHRIES: Mr Speaker, I cannot give Mr Stanhope details of the new customers they have picked up in the last eight months, but I am happy to take that question on notice if he would like me to do so. I can say that the search for new customers and the acquisition of new customers has come in large part from a very intense process of competition on ACTEW's part, which has meant necessarily, since ACTEW has a relatively small base by comparison with other players in the Australian utilities industry, paring back profits very substantially and in many cases basically earning new customers on the basis of a break-even proposition from ACTEW's point of view; that is, it has taken on new customers without the immediate prospect of making profits of any significance from those new customers - in other words, a break-even proposition. Mr Speaker, at the end of the day, that approach will come at a cost to the ACT community because the dividends which ACTEW pays to the ACT community necessarily will go down if it has too many customers of that kind on its books.

ACTEW/AGL - Proposed Joint Venture

MR QUINLAN: Mr Speaker, my question is to the Treasurer. In a recent paper on the proposed merger between ACTEW and AGL, Dr Clive Hamilton of the Australia Institute pointed out that a claim that a new gas-fired electricity station would deliver environmental benefits was possibly or probably ill founded. He points out that the station could well substitute for hydro-generated power, thereby making a negative contribution to the national greenhouse effort. Will the Treasurer at least concede that Dr Hamilton's conclusions exhibit a greater appreciation of the issue than has been put forward by the Government in selling the merger blank cheque proposal?

MR HUMPHRIES: I thank Mr Quinlan for that question. First of all, let me say that there are a number of issues in the Australia Institute report which I will have to examine in some detail. I will give it the benefit of the doubt until it is possible to examine the extent to which it has properly addressed the issues which are before the Assembly at the present time.

Mr Speaker, I have to say that it is my view that the community is going to be well served by the establishment of a gas-fired power station in the ACT. Of course, there is not presently a market at work in Australia to provide for the trading of greenhouse credits; but, clearly, that is foreshadowed by the various decisions that the Federal Government and other Australian governments have made in recent days to address the greenhouse problem. It flows out of our commitments under the Kyoto protocols that we should establish such a credit system in the future. My view is that, clearly, the

establishment of a system of power generation in the ACT which is significantly less damaging to the environment, which produces significantly less in greenhouse emissions than ordinary black coal and, in particular, fewer emissions than brown coal, is going to contribute to the reduction of the ACT's greenhouse gas problem.

I have not seen the basis of Dr Hamilton's claims with respect to the greenhouse gas effect of a gas-fired power station. I note that the report of the Australia Institute apparently was available yesterday but was not provided to the Government until today, and even then it was via a journalist rather than via the Australia Institute itself and I would have to take the recommendations of that report with a very large grain of salt. My view is that clearly there is a significant advantage to be obtained by establishing such a facility in the ACT.

MR QUINLAN: I have a supplementary question, Mr Speaker. In response to written questioning, the chief executive of ACTEW stated, I think, that some 25 or 30 per cent of the output of the proposed power station would be used in the ACT. Treasurer, to your knowledge, has any deal at all been done in relation to that power station? If so, is that indicative that more of the merger deal has been stitched up than we have been advised at this point? Is the Assembly being treated as a rubber stamp in this exercise?

MR SPEAKER: We have had a three-part supplementary question, which I am not prepared to allow. I have told you about these things before.

Mr Berry: Do you want to stop questioning on ACTEW?

MR SPEAKER: No, I do not, but you must tailor your questions so that they fit in with standing orders.

Mr Quinlan: It was the same question just emphasised, Mr Speaker.

MR SPEAKER: In which case it is repetition and does not have to be answered at all.

MR HUMPHRIES: I will try to encapsulate the thrust of the question. Mr Quinlan quoted a figure for the amount of power that would be taken for ACT use from the gas-fired power station. Let me say that the figure I have seen from ACTEW is a minimum figure of a third, approximately, of the output of the station. It could conceivably be higher, as I understand it, than the third which has been referred to and which Mr Quinlan just quoted. Secondly, has any deal been done about the use of the station's output? No, as far as I am aware it has not been done. I am certainly aware that people are discussing the proposal and that there will be the issue of addressing what kind of role the gas-fired power station would play within the ACT's energy needs if this proposal were to get off the ground. As to whether any deal has been done, not to my knowledge, Mr Speaker. Is the Assembly being treated like a rubber stamp? No, Mr Speaker. After the experience of recent months, we would not be treating the Assembly with anything other than the most tender of kid gloves and we are doing it on this occasion as well.

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Bruce Stadium - Rock Concert

MR KAINE: Mr Speaker, my question, through you, is to the Chief Minister. It is not about gas-fired power stations, although at the end of the day it might generate as much heat and perhaps less light. It is about the aborted rock concert at Bruce Stadium last Saturday night, which was apparently cancelled at about the time that people were turning up at the gate to gain admission. Chief Minister, what were the contractual arrangements between the promoters of the concert and the ACT Government and its agencies, particularly Bruce Operations and/or the Stadiums Corporation? In particular, were any financial guarantee arrangements entered into? Has the cancellation of the concert left the ACT financially exposed in any way?

MS CARNELL: Mr Speaker, I have to say that I was one of the people ready to go to the rock concert and - - -

Mr Kaine: Yes, I heard you were one of the last to be advised.

MS CARNELL: That is the way it is these days, Mr Kaine. The Ultimate Rock Symphony was a joint venture between the International Touring Co. and Bruce Operations Pty Ltd. As we all know, the show was scheduled to go ahead on the night of Saturday, 4 March - last weekend. The Ultimate Rock Symphony is being put on in Australia by the promoter, the International Touring Co. Canberra was one of nine venues. By the time the show was to play in Canberra, it had already been to Perth, Adelaide, Newcastle, Sydney and Wollongong.

The International Touring Co. and BOPL were joint venturing on a fifty-fifty basis, which means that both entities would share 50 per cent of both the revenue and the expenses. The International Touring Co. are the event managers and coordinators, which means that they are responsible for the artists, production, show logistics, marketing and the advertising program. The International Touring Co. is therefore the promoter and BOPL provided the facility.

The revenue for the show was to be generated out of ticket sales, food and beverage sales and marketing. The International Touring Co., as the promoter, made a decision on Saturday evening to cancel the show, due to the illness of four of the show's stars - Roger Daltrey, Paul Rodgers, Nikki Lamborn and Billy Thorpe. Roger Daltrey was involved in a car accident the day before and the doctor who looked at him on Saturday night determined that he was suffering from concussion and whiplash and would not let him perform. The other three were suffering the effects of the flu. Those four performers, particularly Roger Daltrey, were a large part of the show; hence, the promoter decided that the show could not go on.

The International Touring Co. had taken out insurance for the tour, so it is believed that all the costs incurred to date in relation to the show and the costs associated with the cancellation will be covered. This includes both the promoter's costs and BOPL's costs. I am advised that ticket sales for the show were very good and that ticket refunds were processed on Monday, with credit card transactions being reversed on the Sunday. I certainly share the disappointment of many of the ticket holders with not being able to see the show.

MR SPEAKER: Do you have a supplementary question, Mr Kaine?

MR KAINE: Yes, Mr Speaker. My estimate is that the loss on the cancellation was of the order of \$0.5m, just based on the ticket sales. I am not clear on how the insurance policy taken out by the promoter in fact covers the ACT's costs. Can the Chief Minister be more explicit about whether the amount is approaching \$0.5m? What is the mechanism by which the ACT Government is covered under an insurance policy taken out by the promoter?

MS CARNELL: Mr Speaker, the basis of BOPL's arrangements with the touring company was that they took out insurance for the concert in Canberra for both BOPL's and the touring company's costs, so it was part of the arrangement between BOPL and the touring company for them to pay for the insurance for the concert rather than for one side or the other. I am advised that the insurance that was taken out includes the costs for both the promoter and BOPL. I think the \$0.5m cost you are talking about is the actual total cost of putting on the concert, Mr Kaine.

ACTEW/AGL – Proposed Joint Venture

MR CORBELL: My question is to the Treasurer. The ACTEW/AGL joint venture proposal outlines administrative arrangements for the proposed venture. The document says that on commencement the joint venture would be serviced by approximately 900 ACT-based employees. How many of those employees will come from existing AGL operations and how many will be existing ACTEW employees?

MR HUMPHRIES: Mr Speaker, there are 900 employees of ACTEW at the present time - I think 901 was the figure at the last census that I saw - and I think the intention is to have the services of all those people available to the joint venture. Mr Mackay, on behalf on ACTEW, has made it clear that, if this arrangement is approved by the Assembly, there will be no more than 20 redundancies in the space of the next two years - that is, the redundancies from ACTEW will be contained to that number - and some 100 permanent direct and indirect jobs will be created by the joint venture, as well as 100 temporary jobs during the construction phase of the various processes, including the gas-fired power station.

The guarantee there is that no ACTEW employee need be deprived of their present entitlements as an ACTEW employee. Any ACTEW employees that are devoted to the joint venture's work or the partnership's work will remain employees of ACTEW. Therefore, the capacity to have a relatively stable work force within ACTEW, on ACTEW's books, will be retained. How many of its own employees AGL wants to put into that arrangement, I do not know. That is a matter for AGL. We have not sought any guarantees about what AGL would do with its work force, nor should we, as that is up to AGL, but it is most important that there be a clear indication of what the impact will be on ACTEW's work force. I think that the ACTEW board has made that issue extremely clear.

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MR CORBELL: I have a supplementary question, Mr Speaker. I thank the Treasurer for his answer. Given that ACTEW had a work force of 915 as at June 1999, will you confirm that all but those 20 employees you indicated in your previous answer will be transferred to the joint venture? Can you provide the Assembly with a break-up of where the new jobs will come from and who will employ them?

MR HUMPHRIES: First of all, as I said, the latest figure on ACTEW employees, as of a few days ago, was 901; so that is the state of play. The point has to be made that we are actually losing employees all the time from ACTEW.

Mr Quinlan: Shedding, I would have thought.

MR HUMPHRIES: Shedding, losing, it is all the same, Mr Quinlan. Those job losses have gone on throughout the last 12 months, probably longer, because ACTEW has an overriding concern to ensure that it remains capable of protecting the value of the asset which it represents in the hands of the ACT community. That is why ACTEW continues to shed jobs. That is why it has lost 200 jobs in the last year. Two hundred jobs is a very heavy price to be paying. I think members need to be reminded of the fact that guaranteeing that only 20 further jobs will go is a fairly significant benefit to this community, given that in the last little while alone there has been a significant number of jobs shed from ACTEW.

It is not necessarily the case that all the present ACTEW employees will be employed in the joint venture. That remains open to the joint venture, but is not necessarily a requirement of the joint venture. If, for some reason, it was felt that some jobs should remain within ACTEW itself, they would do so. I cannot provide you with a break-up of how they will be employed. I think you asked about the 100 new jobs. A small number would be employed on a permanent basis in the operation of the gas-fired power station, although such operations are quite efficient; so only a very small number, probably well under 10 people, would be employed in that particular business. I think a large number would come through the establishment of a call centre in the ACT by AGL. I understand that other corporate functions of AGL are being considered for relocation here and they will generate a large part of the other jobs. The details of those exact numbers will be provided in due course when they are clearer. But the guarantee is there - - -

Mr Corbell: How do you know that there are to be 100?

MR HUMPHRIES: Because the guarantee has been provided by - - -

Mr Hargreaves: It is a guarantee, is it?

MR HUMPHRIES: Yes, it is a guarantee. It has been provided by ACTEW and the details of that guarantee have been put on the table already in this place.

ACTEW/AGL – Proposed Joint Venture

MR BERRY: My question is to the Chief Minister and is in relation to the proposed ACTEW/AGL joint venture. Chief Minister, noting firstly the Government's decisions, announced in your media statement of 6 December 1999 and AGL's media statement of 7 December 1999 where you personally sing the praises of the joint venture, secondly, the obligations of voting shareholders under the Territory Owned Corporations Act – I can go to some of them if you would like me to, but I am sure that you are aware of them - and, thirdly, Mr Rugendyke's requirement, announced on ABC radio this morning, that there be no Kate Carnell fingerprints on this deal like there were in the Bruce Stadium matter, will you say to this Assembly today that you have had nothing to do with this deal?

MS CARNELL: Mr Speaker, I can guarantee that neither Mr Humphries nor I will be involved in the contractual negotiations between AGL and ACTEW. It would not be appropriate for us to be so. Neither of us will be involved at all.

MR BERRY: I have a supplementary question. Chief Minister, how can you deny that your fingerprints will be all over this deal when you have publicly given the deal the thumbs-up and, as a voting shareholder, you will have to give your written consent before ACTEW can dispose of any of its main undertakings? Notwithstanding your prudential obligations as a voting shareholder - - -

MR SPEAKER: Never mind the editorial. That is the supplementary question. You may answer the section relating to whether you have to sign things, Chief Minister. The rest of it - - -

Mr Berry: I take a point of order, Mr Speaker. There were not two parts to that question; it was a one-part question. I will not be muzzled - - -

MR SPEAKER: It was a one-part question and a great deal of it was out of order.

Mr Berry: It was not out of order at all.

MR SPEAKER: I call the Chief Minister.

MS CARNELL: Mr Speaker, again I can guarantee that Mr Humphries and I will not be involved in the negotiations between AGL and ACTEW. The ACTEW board, headed up very capably by Jim Service, will handle those negotiations. When the shareholders are asked - - -

Mr Berry: You have to sign the deal.

Mr Stanhope: You have to rubber stamp it. Our shareholders are rubber stamps.

MR SPEAKER: Questions, please. I call Ms Tucker.

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Civic Redevelopment

MS TUCKER: My question is to the Minister for Urban Services. The Planning and Land Management Group in Urban Services has three processes under way at the moment - an environmental management plan for Civic, due for completion in June; a cultural strategy and action plan for Civic, due for completion around now; and data collection and analysis of social services and facilities in and around Civic, taking into account the proposed increase in Civic's population, also nearing completion. However, the functional briefs for the Griffin Centre and the nearby youth facility for the redevelopment of section 56 have already been completed under the guidance of the Department of Education and Community Services and the preferred tenderer, Queensland Investment Corporation, is proceeding to design stage on that basis. Given that the analysis of social services and facilities and the environmental management plan ought to have a strong impact on the nature of the development, how do you justify proceeding to this degree of detail on functional briefs alone when your own research and planning have yet to be completed?

MR SMYTH: Mr Speaker, the world does not end because one section of PALM is doing some work. QIC is quite entitled, under the brief that they have been given as the preferred tenderer, to start the work that they wish to do. We will have input to what they do and I am sure that they will take account of the plans that we are putting together.

MR SPEAKER: Do you have a supplementary question, Ms Tucker?

MS TUCKER: That was not an answer to my question in any way, Mr Speaker, but I will not ask the same question again because I can see that you would probably rule it out of order as repetition.

MR SPEAKER: It would have to be much briefer.

MS TUCKER: I will ask a supplementary question, even though I did not get an answer. Mr Smyth, will you stop this process until the three studies commissioned have reported and we have had a proper and informed community discussion about community needs and the environmental imperatives for our city before this significant development proceeds? Mr Moore is helping you with the answer, I can see. It is not necessary, Mr Moore. Mr Smyth fails to answer it on his own.

MR SMYTH: Mr Speaker, the whole process on section 56 has been going on for some time and there has been an enormous amount of consultation on what the community wants there. The process can continue; but, of course, we will take into account and QIC will take into account the things that we will determine in the three reviews that are currently under way. There is no reason to stop a process that began several years ago when there has been more community consultation on what should happen with section 56 than there is on many projects that go ahead in the ACT. The process is good, Mr Speaker.

Reid Court

MR WOOD: Mr Speaker, my question is to the Minister for Urban Services and is in respect of housing. It has two parts to it. Is that too much?

MR SPEAKER: I will be the judge of that, Mr Wood.

MR WOOD: I am sure that Mr Smyth will understand it, but whether he will answer it is another matter. Minister, let me take you back to your answer to a question in this chamber a couple of weeks ago about Reid Court, which is up the road from here. You said then that you had difficulty in getting the right mix of older people who would fit into that community. You also referred to a problem with filling the first floor. Firstly, have you been able to find tenants for the vacant ground floor units, and there are some vacant ones? There should be no difficulty, given the present shortage of rental accommodation in Canberra. Secondly, if you think that there is a problem about there being one flight of stairs - remember, you said that the second floor is very hard for older people to utilise - what do you intend to do about the hundreds, perhaps thousands, of older public housing tenants who live up one or more flights of stairs?

MR SMYTH: Mr Speaker, as Mr Wood would be well aware, tenants are offered accommodation as they come to the top of the list and they have the right to refuse it. The Government tries to meet tenants' needs where it can.

Mr Wood: Answer the question or sit him down, Mr Speaker.

MR SMYTH: It is the answer to the question. You might not like the answer, but the answer to the question is that there is a process - - -

Opposition members interjected.

MR SPEAKER: It is also true that he can hardly answer the question if he is being constantly interjected upon.

MR SMYTH: They choose to ignore standing order 61, Mr Speaker; they do it all the time. The reality is that there is a process in place whereby a tenant who comes to the head of the list is offered accommodation that meets their needs. Tenants have the right to refuse it. Mr Wood may make light of there being one flight of stairs, but for some of our older tenants having one flight of stairs is something that presents incredible difficulty for them. I will have to seek information on how many people have been offered a ground floor flat and tell Mr Wood later.

MR SPEAKER: Do you have a supplementary question, Mr Wood?

MR WOOD: Yes, Mr Speaker. I will await that response about the ground floor units, in particular, and the second floor units. Minister, I was really pointing out the inanity and evasiveness of your first answer a couple of weeks ago. The real point of that question and this supplementary is: Will you tell us what the strategic assets management plan has to say about Reid Court?

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MR SMYTH: Just because you choose to use the word “inane” does not mean that the process that is in place is incorrect. Members opposite might not like the answer, but the reality is that we have a program whereby tenants are offered accommodation against their needs and the criteria that they match. We have difficulty in offering older people accommodation on the first floor. They might not like that, but this Government is one that will try to meet the needs of tenants as far as it can. In terms of all of the accommodation, this Government has not tried to hide the fact that it is unhappy with the type of accommodation, the mix and the location that we have, and what we are doing is putting in place - - -

Mr Corbell: I have a point of order, Mr Speaker. Standing order 118(a) says that the answer to a question shall be concise and confined to the subject matter of the question. Mr Wood’s question was very specific, Mr Speaker, and we are yet to have the Minister get onto it.

MR SPEAKER: I cannot speak for the way that the Minister wishes to answer the question, Mr Corbell; but I can watch the time and I am watching it.

MR SMYTH: Mr Speaker, as I have said often in this place, we are aware of the inadequacies of some of our housing in terms of location and the amenity that it offers our tenants. We are working progressively to ensure that the accommodation we offer meets their needs.

Mr Berry: I take a point of order, Mr Speaker.

MR SPEAKER: That was the end of the answer.

Mr Berry: That is just not good enough. The fact of the matter is that you said last week that you - - -

Mr Moore: Which standing order?

Mr Berry: Standing order 118. Last week, you said that you were going to sit these people down if they did not answer the questions that they were asked in the context of the standing orders. The standing orders are clear. The answer shall be concise and confined to the subject matter of the question. The supplementary question put by Mr Wood was: “Will you tell us what the strategic assets management plan has to say about Reid Court?”. He never even attempted to do that and you did not sit him down. Are we going to be fair about this?

Mr Moore: Speaking to the point of order, Mr Speaker: If you are going to be totally black and white, as Mr Berry would have you being, the *Hansard* will reveal that Mr Wood had a preamble to that question; so, if they want to do it in black and white, they will not be able to do it in that way.

Mr Wood: Mr Speaker - - -

MR SPEAKER: Just a moment. It is a reasonable question. The question in relation to Reid Court - - -

Mr Wood: I did not get an answer, any more than I got one a few weeks ago.

MR SPEAKER: Did you wish to add anything?

MR SMYTH: Mr Speaker, they choose not to listen. What we have said is that across the entire housing stock, including Reid Court - I have made no bones about it in this place on many occasions - we have a dilemma with the age of our stock, the location of our stock and the type of stock that we have. We are making sure that we build appropriate stock where we need it. The 200 APUs, of which we are half-way through, are part of that.

Mr Berry: I take a point of order. It is obvious that the Minister does not know what this is all about. Will you suggest to him that he go away and find out what the strategic assets management plan has to say about Reid Court and come back and tell us?

MR SPEAKER: That is entirely up to the Minister.

Industrial Relations Email

MR RUGENDYKE: My question is to the Minister for Health and Community Care, Mr Moore. Minister, could you please inform the Assembly whether it is departmental policy to email the results of Industrial Relations Commission hearings concerning former staff members to other staff members of the department? If so, how many times has this occurred recently?

MR MOORE: Thank you for the question, Mr Rugendyke. I presume that you are referring quite specifically to Community Care rather than Health. I believe that you are referring to a specific example concerning somebody within the drug and alcohol unit. It is not the normal custom for that to happen. I believe that it has been a matter of discussion between the officer who emailed it and senior management in Community Care. We are doing what we can to ensure that it will not happen again.

MR RUGENDYKE: Mr Speaker, I seek leave to table that email.

MR SPEAKER: Is leave granted?

MR RUGENDYKE: I have a supplementary question. Was that just vindictive behaviour, or what was the purpose of the - - -

Mr Berry: Does what he is tabling name people?

Mr Moore: Does it have a name in it?

MR RUGENDYKE: Yes.

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Mr Moore: Normally, we would not. You can remove the names.

MR RUGENDYKE: I withdraw the request. Was that email simply just vindictive behaviour, or what was the purpose of the email?

MR MOORE: Mr Speaker, the question is out of order. I am asked to express an opinion on whether the behaviour was vindictive. I certainly do not know the answer to that question, nor should I answer it.

ACTEW/AGL – Proposed Joint Venture

MR HIRD: My question is to Mr Humphries as Treasurer. Is the Treasurer aware of a media release from an organisation known as the Australia Institute which claims that there is no benefit from the proposed joint venture partnership between ACTEW and AGL? Is this correct?

MR HUMPHRIES: Mr Speaker, I thank Mr Hird for that question.

Mr Corbell: I take a point of order, Mr Speaker. Surely that is asking for an expression of opinion.

Mr Kaine: He said, "Is it correct?". Presumably, the Minister can only venture an opinion and I did not think that that was permissible under standing orders.

MR SPEAKER: That is very true.

MR HUMPHRIES: Mr Speaker, as I understand the question, it was: "There are claims that there is no benefit from a proposed joint venture partnership between ACTEW and AGL. Is this correct?". This is a matter that goes to the very heart of the debate that I am responsible for and I have been asked continually for the last three weeks questions about the benefits of a proposed joint venture between ACTEW and AGL.

Mr Hargreaves: Can we have a ruling, Mr Speaker?

MR SPEAKER: Just a moment, Mr Minister. The question was that the Australia Institute had made this claim.

Ms Carnell: Yes, it is on the public record.

MR SPEAKER: Just a moment. If the question is turned around to say that it has been claimed that there are no benefits - - -

Mr Hargreaves: Come on, rule it out of order.

MR SPEAKER: Just a moment. That is not an unreasonable thing. But the Minister is not responsible for the Australia Institute; that is the point I am making. Would you like to swing it around?

MR HIRD: Mr Speaker, could I rephrase the tail and just say: Is the Treasurer aware of a media release from an organisation known as the Australia Institute which claims that there is no benefit from the proposed joint venture partnership between ACTEW and AGL? Is there any evidence of this?

MR SPEAKER: That I can allow, but I cannot ask him to speak on behalf of the Australia Institute.

MR HUMPHRIES: Mr Speaker, I thank Mr Hird for that question in whatever form it finally got to me. Mr Speaker, I have already been asked in one question today to comment on the Australia Institute's report and I am being asked to do so again in another form at the moment, so I think it is fair that I do so.

Mr Berry: No, no, he said, "Is there any evidence?"

MR HUMPHRIES: The question I am going to answer is: What evidence is there for the claims that have been made by the Australia Institute? Let us remember what the Australia Institute has said in recent days as a contributor to public debate in this country. The Australia Institute has claimed that 65 people will die each year as a result of the introduction of the goods and services tax. I quote from a media release they issued a few months ago:

At least 65 more people will die each year due to increased air pollution and traffic accidents if the Government's proposed changes to fuel prices and the GST package go ahead, according to evidence given today to a Senate committee into the GST.

Mr Kaine: I rise to a point of order, Mr Speaker. I must draw attention to standing order 118. Is that relevant to the question? Is it pertinent to the question?

Ms Carnell: But it was pretty funny. Isn't entertainment value worth something?

MR SPEAKER: I am sorry, but I do have to uphold Mr Kaine's point of order. It is amazing, but
- - -

MR HUMPHRIES: Yes, Mr Speaker. I would simply say that if you get higher prices you should thank the Australia Institute as it is for our own good that we are paying higher petrol prices. The fact is that it is very difficult to understand a number of the claims made in the Australia Institute's report, if you can call the five-page document that they have issued a report, on the proposed joint venture between ACTEW and AGL. Mr Speaker, we heard from Mr Stanhope yesterday that 10 per cent - I think it was one per cent in the Assembly yesterday, but it was 10 per cent in the paper - of the - - -

Mr Stanhope: It was never one per cent.

MR HUMPHRIES: I seem to recall a question about how Californian suppliers experienced only a one per cent shift in their customer base. It was last Thursday that you said that. In the paper yesterday you said only 10 per cent of the business is at risk. The

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Australia Institute takes a similar line. But the fact is, Mr Speaker, that they simply do not understand, with great respect, the changes which are clearly taking place with respect to a whole range of Australian institutions and markets. For example, yesterday I was speaking to a couple of representatives of the Commonwealth Bank who commented on the fact that Internet trading in stocks and shares has been an innovation in the Australian stock market in recent years. As a result of that, a massive number of stockbrokers are losing market share to ordinary traders who are going straight to the horse's mouth for their access to shares. The idea that the market is not changing as a result of those sorts of new competitive opportunities is quite bizarre. Clearly, it is changing and it is changing dramatically. Mr Speaker, we are told by the Australia Institute as well that - - -

Mr Berry: Mr Speaker, I do not mind if Mr Humphries wants - - -

MR SPEAKER: I assume that you are taking a point of order.

Mr Berry: Yes, I am. I do not mind if Mr Humphries goes up to his office and seethes about the Australia Institute, but I wish he would answer the question that Mr Hird asked him, that is: "Are you aware of this press release?". It seems as though the answer to that is yes. The second part was about the evidence. I suppose the evidence was in relation to ACTEW. I do not know whether what is happening with the diesel fuel excise and so on and so forth has got much to do with his portfolio.

MR SPEAKER: Thank you. The point is taken. I am listening carefully. Mr Humphries is - - -

Mr Stanhope: Waffling.

MR SPEAKER: No, he is coming around to answering the question. Mr Humphries is an experienced answerer of questions.

MR HUMPHRIES: I am answering the question as asked, Mr Speaker. The question was: What evidence is there for the Australia Institute's claims? I am pointing out that there is no evidence for their claims. That is the point I am making; there is no evidence for the claims. For example, they claim that the hedging arrangements that ACTEW has entered into to protect the value of its share of the market by protecting the price are perfectly satisfactory and can continue into the indefinite future. The Australia Institute fails to understand that, since the introduction of contestability into the national electricity market in 1996, New South Wales and Queensland, between them, have lost something like \$2 billion in taxpayers' money from the introduction of contestability.

Mr Hird: Two billion dollars!

MR HUMPHRIES: Two billion dollars. We have not got \$2 billion to lose in ACTEW, but losses of that size, proportionate to the size of our marketplace, are perfectly possible once contestability fully impacts on the ACT. They are perfectly possible. Indeed, Mr Speaker, sooner or later they are very likely to occur. Why would avaricious enterprises anxious to increase the size of their market share overlook a small, ripe plum which the ACT market represents, a very compact market, a market with a high

disposable income? Why would they not seek to intrude into that marketplace? It just makes no sense whatever. Suggestions that we can protect our present position through the existing hedging contracts being continued are, frankly, extremely short-sighted. Mr Speaker, I believe that there is little basis for the claims of the institute and I believe that the Assembly should proceed on the basis that the warnings clearly sounded from a number of quarters ought to be heard and heeded.

Bus Fares

MR HARGREAVES: My question is to the Minister for Urban Services. Minister, IPARC has indicated that there will be a 3 per cent increase in monthly, weekly and quarterly tickets for buses, but not in cash fares or school fares. Will this 3 per cent rise apply to pensioner and other concession fares? Is it expected that, due to the GST, all fares - all fares - will rise by 9 per cent on 1 July?

MR SMYTH: Mr Speaker, I believe the reason that it applies to the prepaid tickets is that there is a capacity in there for an increase. If you put it into the cash fares you would end up with odd amounts and that would make it difficult. It would become a disincentive for people to pay cash. We are still awaiting the final determination on the impact of the GST on the fares. Indeed, there was a radio report either this morning or yesterday that it is not expected that the full impact of 10 per cent would be added to the top of the fares, but it is yet to be finalised. When we have that detail, we will know what we can pass on to the consumer.

MR HARGREAVES: Minister, you did not answer part of the question, so I will rephrase it as a supplementary question. Will you rule out the application of the 3 per cent rise to pensioner and other concession rates? If not, will you compensate these people by allowing them to use their concessions during peak times?

MR SMYTH: Mr Speaker, we will be looking very closely at what IPARC has said. The reason the concessions are not available during peak times is that, of course, it is at peak times that we have to move a large number of people. It is the time that we make the most revenue from the system and it is actually the time that we provide the most service. It is reasonable that those on concessions should use them outside that period.

Bruce Stadium – Rock Concert

MR OSBORNE: My question is to the Chief Minister and relates to the concert at Bruce Stadium the other night. Chief Minister, was a break-even figure set for ticket sales for the concert? If that is the case, could you tell me how many tickets were, in fact, sold prior to the concert going ahead?

MS CARNELL: Mr Speaker, my advice on the number of tickets sold was that it was over 10,000. From memory - I will check this and correct it if I am wrong - the break-even figure was in the vicinity of 7,000 to 8,000. Certainly, the figure of 10,000 was significantly above the break-even point.

I ask that all further questions be placed on the notice paper.

Industrial Relations Email

MR MOORE: Mr Speaker, I would like to clarify an answer I gave to Mr Rugendyke. I am pleased that he did not table the email, but I asked him whether I could read the email because I had not seen it. I would like to remind members, most of whom would be aware of this case, that, although it was inappropriate to put out that email, the motivation behind it, I believe, may well have had something to do with the fact that the matter was very well known by all people in the drug and alcohol program. It had been a matter of great discussion among all the members and the commission did find in favour of Community Care on all the matters that went before the commission, not in favour of the particular individual. Although I cannot be a judge on whether it was vindictive or what was really the motivation, I do know that there was that issue to be taken into account.

DISABILITY PROGRAM - STATEMENT BY MINISTER

MR MOORE (Minister for Health and Community Care): I seek leave to make a short statement on the disability program and the matter raised by Mr Wood in the adjournment debate last Thursday.

Leave granted.

MR MOORE: ACT Community Care do not deny that they have a duty of care to the client group they serve. They do not and have not at any stage of this unfortunate incident denied the fact that two of their officers failed to provide an appropriate standard of care. The disability program also acknowledges that the two officers have breached the ACT Community Care code of conduct. They consumed alcohol, which could have adversely affected their work performance, and jeopardised the safety of both their clients and themselves.

I wish to reassure members of the Assembly that all efforts have been taken to investigate the incident, take disciplinary action against all relevant officers and give every assistance to the client and his family. Immediately after the incident occurred, an external investigator was appointed to fully investigate all aspects of the situation. An authorised officer was appointed by the chief executive officer to determine a decision. Mr Speaker, I have just commented that all efforts have been taken to assist the client and his family. I would have to say that until now the assistance to the family has not been the best, but we are now making sure that all assistance will be provided in that case. I am aware that, through Mr Wood, they have asked a series of questions, which will be replied to in writing.

The external investigators were a team of ex-police detectives who are highly experienced in investigation and the taking of witness statements. The investigators have found that there was indeed evidence of alcohol. However, there has been no evidence found by those police officers of the use of marijuana. The Government Solicitor has

been involved, as have legal representatives of the young man against whom assault charges were alleged. They have been endeavouring to have the assault charges dropped in view of the significant contribution of the staff members to the incident.

Regional management of the disability program have recognised the benefits of outdoor activities for this particular client group. However, their enthusiasm has failed to incorporate tight planning procedures. Regional management are extremely regretful of this omission and have been counselled accordingly. In spite of the significant benefits that outdoor activities provide for people with behavioural and anger management difficulties, all such excursions have been cancelled pending explicit and stringent guidelines being developed. In future, there will be no alcohol allowed, even when all participants are adults.

A full report of the weekend camp was compiled by Disability Services immediately following the weekend. The two staff members were suspended from duty and an independent and thorough investigation was conducted into the allegations made by the family. The inquiry concluded that the staff mix and the client mix were inappropriate. The inquiry partially exonerated the staff because of their relative immaturity and inexperience. If the staff had been more experienced, the inquiry would have had no hesitation in recommending the termination of their employment.

Following the staff's suspension, they have been counselled and their probation extended. Regional office management have been counselled regarding their oversight in not ensuring that stringent guidelines were in place. Both the staff and the disability program accept responsibility for failings in their respective duty of care. They are most regretful about these events and the impact upon all has been distressing, and for some traumatic. The disability program also regrets the consequences for the client who was within their care and who is now the subject of further court hearings, with a threat of previous bail conditions.

While not condoning the alleged actions of the client, or dismissing his share of responsibility, Disability Services acknowledge that the precipitating factor was the consumption of alcohol, which could have been and should have been avoided. This unfortunate incident has proven to be a difficult balancing act for ACT Community Care. They must balance the needs and rights of the client together with the natural justice rights of the staff.

DISTINGUISHED VISITORS

MR SPEAKER: Before I move to the presentation of papers, I would like to mention that earlier in question time we had a delegation from the Federal Republic of Germany's Bundestag present in the gallery. Unfortunately, they left before I could formally welcome them, but I think it would discourteous of me - - -

Mr Quinlan: Did they rush out?

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MR SPEAKER: I will not speculate, Mr Quinlan, but it would be discourteous, I think, not to make mention of them. I understand that they are guests of the Australian Political Exchange Council. Is that correct, Chief Minister?

Ms Carnell: That is right, Mr Speaker. Mr Humphries and I spent time with them today.

QUESTIONS WITHOUT NOTICE

Bruce Stadium - Redevelopment

MS CARNELL: Mr Speaker, I wish to provide a response to a question I took on notice from Mr Wood last Thursday. I have already given him some of the information in it, so I table the response to his question and seek leave to have it incorporated in *Hansard*.

Leave granted.

The response read as follows:

Mr Wood - Asked the Chief Minister on 2 March 2000:

Have all bills for the redevelopment of Bruce Stadium now been paid by the Government? Were all those bills covered by the supplementary appropriation the Government sought from the Assembly last year?

Ms Carnell - The answer to the Members question is as follows:

a) *Have all bills for the redevelopment of Bruce Stadium now been paid by the Government?*

Not all bills in relation to the redevelopment for the Stadium have been paid yet. I understand that some invoices have yet to be received. Indeed there are also warranty and defect guarantees that do not lapse for at least another five to six months.

The warranty and defect period for a lot of the work at the Stadium in terms of construction runs for a twelve-month period. The Construction Manager holds either a security deposit, a bank guarantee or retains 10 per cent of the final invoiced amount until the warranty and defect period is over.

The process for authorisation and payment of an invoice is as follows -Haskins Pty Ltd (Construction Manager) makes a recommendation to CRI (Project Manager) for payment who then makes a recommendation to WT Partnership (Cost Controller/Quantity Surveyors). WT Partnership then submits a final recommendation and authorisation to the ACT Government.

Until these processes have been followed no invoice or bill is paid, thereby ensuring that only invoices that represent work that has been performed and is of a satisfactory quality and standard are paid.

In relation to the "last minute electrical wiring contract that you referred to, I assume that you are referring to a claim submitted by Kilpatrick Green, which was for acceleration costs. This claim is under review and there is still an amount of money outstanding to Kilpatrick Green.

I am advised that Haskins Pty Ltd, the Construction Managers, have recently provided a recommendation including supporting documentation to the Project Manager CRI, who have reviewed the claim and sought additional information. This as I understand was only delivered recently and WT Partnership are now preparing a report and a final recommendation on which payment can be made.

b) *Were all those bills covered by the supplementary appropriation the Government sought from the Assembly last year?*

The supplementary appropriation that the Government sought from the Assembly last year covered all expenditure in relation to the redevelopment of the Stadium. Payment of invoices though, is subject to the certification and authorisation process as identified in my response to the first part of the question.

Bruce Stadium

MS CARNELL: Mr Speaker, I took on notice a question from Mr Rugendyke with regard to press facilities at Bruce Stadium. I think it is appropriate that I read the response into *Hansard*.

There are two television broadcast rooms in the stadium, both located on the centre-line on level 3. They are typically used by Foxtel, Channel 9, Channel 2 or Channel 7, depending on whether the Raiders, Brumbies or Cosmos are playing. The print media room is on level 4 of the northern concourse and has a television monitor in it. Additionally, there is a radio broadcast room on level 3 which is situated almost on the halfway line. It is used by the ABC and/or guest broadcast radio stations. On most game days there is a spare television broadcasting room available as there is usually only one television station broadcasting. Accordingly, the stadium has suggested to each of the codes that in future the print media be located in the spare room. That will ensure that they are on the centre-line.

The general manager of the stadium will now, as a priority, review in conjunction with all media their current requirements to ensure that their needs are met as best as possible. This will concentrate initially on options specifically to improve the print media room. Additionally, this week more telephone lines, monitors, suitable chairs and desks will be located in the print media room. It should be pointed out that, in relation to the print media facilities, I am advised that at the moment only the *Canberra Times* uses it.

Despite the concerns that Mr Rugendyke has raised, the contracted media for the National Rugby League and the Australian Rugby Union have complimented the stadium management on the media facilities. It is difficult at any venue to accommodate all media, whether they be the contracted media or not, and get them all onto the halfway

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line, which is, of course, a prime position. Revenue forgone by positioning all media on the centre-line adds significantly to the cost. Mr Speaker, I go back to the point that the contracted media, radio and TV, are on the centre-line.

In relation to Olympic football, both the IOC and SOCOG have consistently approved the existing facilities at the new Bruce Stadium. During the Olympic football tournament, there will be considerably more media in attendance than there would be for any national or local event. In particular, the international media must be catered for at these events. For this reason, under the Sydney Olympic Broadcasting Organisation arrangements, some temporary facilities will be constructed to enhance the existing facilities. Similar overlay works will be carried out at all interstate venues hosting Olympic football. I table a copy of that answer for Mr Rugendyke.

AUTHORITY TO BROADCAST PROCEEDINGS Paper

The following paper was presented by **Mr Speaker**:

Legislative Assembly (Broadcasting of Proceedings) Act, pursuant to subsection 8(4) -
Authority to broadcast proceedings for:

The public hearings for the Standing Committee on Planning and Urban Services on
Friday 3 March 2000.

The public hearings for the Standing Committee on Health and Community Care on
Monday 6 March 2000 –

dated, 2 March 2000.

PRESENTATION OF PAPER

The following paper was presented by **Mr Smyth**:

National Environment Protection Council - Report and financial statements, including the
Australian National Audit Office Report, for 1998-99.

POSTPONEMENT OF ORDERS OF THE DAY

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

That orders of the day Nos 2 and 3, Executive business, be postponed until a later hour
this day.

The Assembly voted -

AYES, 11

NOES, 6

Ms Carnell
Mr Cornwell
Mr Hird
Mr Humphries
Mr Kaine
Mr Moore
Mr Osborne
Mr Rugendyke
Mr Smyth
Mr Stefaniak
Ms Tucker

Mr Berry
Mr Corbell
Mr Hargreaves
Mr Quinlan
Mr Stanhope
Mr Wood

Question so resolved in the affirmative.

ACTEW AND THE AUSTRALIAN GAS LIGHT CO. - JOINT VENTURE

MR SPEAKER: Is it the wish of the Assembly to debate this motion concurrently with the order of the day relating to the ACTEW/AGL Partnership Facilitation Bill 2000?

Mr Berry: No.

MR SPEAKER: There has been a dissenting voice. Just move your motion, please, Mr Humphries.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (3.35): Mr Speaker, I move:

That this Assembly approves the vesting of the main undertakings, except their water and sewerage facilities, of ACTEW Corporation Limited and its subsidiaries (including all or any of their assets, rights and liabilities) in a joint venture by way of partnerships between subsidiaries of ACTEW Corporation Limited and the Australian Gas Light Company.

Mr Speaker, this motion approves the vesting of the main undertakings, other than water and sewerage facilities, of ACTEW Corporation and its subsidiaries in a joint venture between subsidiaries of the ACTEW Corporation Ltd and the subsidiaries of Australian Gas Light Co. Members will recall that there is a requirement under subsection 16(4) of the Territory Owned Corporations Act for approval to be obtained by the Assembly before there is any disposal of the main undertakings of the Territory or its territory owned corporations. This motion seeks to facilitate the proposed joint venture between ACTEW and AGL, which has been the subject of considerable debate in this place and elsewhere in the last few weeks.

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The Territory Owned Corporations Act is somewhat unclear about what constitutes a main undertaking and more so about what amounts to a disposal. It is the Government's view that the spirit of the Act should be acknowledged by having placed before this place a clear issue which allows the Territory's Assembly, the democratically elected members of this Assembly, to consider and vote upon the issue of whether ACTEW should be in a position to proceed to form a joint venture with AGL - that is, whether assets of ACTEW, other than water and sewerage assets, should be put to the service of the new partnership between those two major Australian utilities, namely, ACTEW and Australian Gas Light.

It is evident that the ACTEW/AGL partnership proposal can deliver significant flow-on economic benefits to this Territory. The partnership will ensure that ACTEW is strategically positioned to compete effectively in the national electricity market. The partnership can provide benefits - the flow-on to ACTEW stakeholders, including consumers and taxpayers, through improved customer services and lower prices. I put before the Assembly that this partnership will transfer risks associated with the ownership of ACTEW away from taxpayers to third parties.

Energy trading will be managed under this arrangement as part of AGL's substantially larger energy trading portfolio. The energy trading risk will be substantially reduced through contractual arrangements with AGL whilst the partnership will be able to benefit from AGL's greater buying power and larger customer base. As part of the partnership proposal, AGL will provide the ACT with substantial economic development opportunities through a gas-fired electricity generation plant, AGL's national call centre and the national headquarters of one of AGL's energy infrastructure service businesses. The fifty-fifty partnership will ensure that both the ACT Government and AGL do not lose control of their existing businesses.

Only AGL has significant energy assets in the ACT which can be pooled with ACTEW's energy assets. In addition, the ACT will retain full ownership and control of the water and sewerage assets. Under the terms of the partnership, services will continue to be provided by existing ACTEW and AGL staff. The primary objective of the partnership is to enable the ACT Government to maintain effective control of the core services of ACTEW whilst addressing the issue of market risk in the retail electricity and trading areas and the ACT's lack of economies of scale as one of the smallest utilities in the country.

Mr Speaker, the partnership will strive to drive down prices and improve customer services, particularly in energy products that will stimulate economic growth and investment in the ACT. The improved economies of scale and scope from the combined operation of ACTEW and AGL will provide an environment in the ACT in which businesses can operate as effectively as possible, thereby assisting in the economic development and attractiveness of the region. On the revenue side, multi-energy sales and marketing to a consolidated customer base will enable increased customer retention and margins as contestability continues to develop in this country.

ACTEW and AGL are now in a position where they are confident the partnership can be successfully implemented. However, ACTEW and AGL are reluctant to proceed with the due diligence, which will require substantial time and resources, only to find Assembly

approval may not be forthcoming, on the basis of an in-principle objection. The due diligence assessment will involve detailed planning and evaluation requiring a major commitment by the management and staff of both ACTEW and AGL. ACTEW and AGL need the support of this Assembly to enter into the process that will lead to that partnership, based on the results of the due diligence process.

The ACTEW/AGL Partnership Facilitation Bill, which is also before the Assembly, provides the framework of the requirements to be met in entering into a partnership. A key provision of the Bill requires the approval of the Assembly prior to the vesting of the assets, rights and liabilities of ACTEW to the partnership or partnership entity. In addition, ACTEW and its subsidiaries are, and will continue to be, subject to the Territory Owned Corporations Act.

I have to pause to note that in the midst of this immensely important debate there are precisely no members sitting on the Opposition benches at this time - not one.

Ms Tucker: There are two there.

MR HUMPHRIES: Strangely, they have now come back.

Ms Tucker: There are only three Liberals and two Labor members.

MR HUMPHRIES: There are five members of the Government present, and there are only six of us altogether. You can only get one more than we have present at the moment.

Mr Speaker, ACTEW and its subsidiaries are, and will continue to be, subject to the Territory Owned Corporations Act. It is necessary, therefore, for the Assembly to approve this motion to vest the main undertakings of ACTEW or a subsidiary. The motion gives effect to subsection 16(4) of the Territory Owned Corporations Act.

A great many things have been said about this proposed joint venture in the last few weeks. Much of what has been said has been based on conjecture and hypothesis, resting ultimately, if one is charitable, on the assumption that there is much unknown about the future of energy trading and energy selling in the Australian market. If one was uncharitable, one would say it is based on a desire to throw red herrings and smokescreens across the path of this proposal.

I believe that we need to accept one thing as a given in this debate. That one thing is that, whatever we may feel about the position of ACTEW, we cannot deny that the energy market in Australia faces a period of enormous uncertainty. The report from the Australia Institute, which was referred to earlier in question time, accepts that there is a degree of uncertainty about the Australian energy market. Other reports have made similar comments. Nobody in this place can come to this debate and quantify precisely the measure of risk which ACTEW will experience after whatever date it may be that full contestability comes to the ACT marketplace. None of us can say with certainty what percentage of the customer base of ACTEW will be lost, what percentage will be picked up or what businesses will be at risk as new competitors move in. The quantities are impossible to know in this environment, but what cannot be denied is that a failure to act

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now on that level of risk, however great it may be, would be a dereliction of our duty to the people who have elected us. It would be a dereliction of our duty to ensure that we read the signs of danger of problems with the corporation which is the ACT's largest single tangible asset. We cannot afford to say that the status quo is going to be good enough, because it simply will not be. Whether you believe that only the energy retail section of ACTEW is seriously at risk or whether you believe other sections of ACTEW will also suffer if they are not included in this deal, it is clear that some action needs to be taken.

We have placed our proposal on the agenda. It is not the first proposal which the Government has put forward to deal with ACTEW's position in its marketplace. In fact, it is the third significant proposal the Government has put forward. Irrespective of the outcome of this debate today, it will be the last. We hear that there are other options which others may support in the context of this debate, but the detail of those is not clear and in any case what we understand to be the option preferred by the Opposition - that is, the sale only of the electricity retail business - is in our view very unlikely to deliver a measure of security to ACTEW that will see it safe in the coming period.

Let me illustrate that point by referring to the break-up of staffing of the ACTEW Corporation at the present time. As I said in question time today, ACTEW employed 901 people as of a couple of weeks ago. I forget the exact date, but it was very recently that that figure was provided to me. As at that date 319 employees were employed in the electricity distribution business of ACTEW, a fairly substantive part of the total ACTEW business. There were 305 employed in the water and sewerage business of ACTEW, 19 in TransACT, 51 in information technology, 51 in customer accounts and 109 in finance and resources, the support services for other operations of ACTEW. That leaves just 47 employees in the electricity retail business of ACTEW - 47 out of 901 employees.

We are expected to believe that a decision to sell the part of the business that employees those 47 people is going to make the jobs of the other 850 or so employees secure, safe from the changes in the Australian energy market which are coming down the pipeline very fast at this Territory and other places. We are expected to believe that shifting 47 employees out of public ownership is going to provide that level of security.

Mr Speaker, the Government's proposal for dealing with ACTEW's major assets does not involve any of those employees moving out of public ownership. It does not involve any of the businesses in which those employees are working being lost to the public asset register, if you like. All those employees - subject to their personal desire, of course - will remain employees of ACTEW Corporation. The businesses they work for will undoubtedly change significantly in the middle future, but those employees' businesses, at least in the case of businesses other than water and sewerage, will be devoted to the partnership between ACTEW and AGL on the basis that when and if the partnership ends those assets will be returned to the ACT, to full direct ownership and control of ACTEW Corporation and, in turn, to the ACT community. Mr Speaker, that is a significant difference between these two proposals.

Mr Speaker, I repeat the assurances that have been given to employees as part of this arrangement. When it boils down to it, this proposal, as much as anything else, is about the security of employees in the ACTEW Corporation. *(Extension of time granted)* The

guarantee which has been provided by ACTEW is very clear. I want to repeat it in the context of today's debate. The initiatives by AGL, if this proposal is approved, will create 100 new permanent jobs in the ACT and 100 temporary construction jobs. Existing ACTEW employees - about 900, as I have said - will have access to a broader range of career opportunities. Job losses within ACTEW will be contained to no more than 20 redundancies over the following two years. All existing ACTEW employees' entitlements - for example, as manifested in the various awards and enterprise agreements - will be protected.

On the other side of that same coin, ACTEW have made it absolutely clear that they cannot guarantee the retention of job numbers if this process is not approved. In fact, it expects that at least 50 jobs will be lost in the next 12 to 18 months. Remember, no offsetting 200 jobs would be created. ACTEW's chances of growth and prosperity in the medium to long term would be severely diminished.

We should add into the equation which looks at that number of potential jobs gained or lost, depending on the course of action the Assembly decides on today, the fact that in the last year to 18 months there has been serious job shedding on the part of ACTEW. Why has ACTEW shed jobs? ACTEW is extremely sensitive to the question of employment. ACTEW has not shed jobs because it chooses to trim down its work force for the sheer hell of what the balance sheet might look like at the end of the day. That is not the objective. The objective is to make sure that ACTEW is lean and mean enough in its marketplace to offer competitive prices to its customers and to retain as much as possible of its present customer base, to ensure that people who presently buy their electricity or services from ACTEW will continue to do so in the future. ACTEW has achieved some of that efficiency, some of that good performance, that Mr Stanhope referred to in question time today through the shedding of jobs - through the reduction of its overheads, in other words. If contestability in the field of corporate or commercial customers has led to the shedding of 200 jobs in ACTEW, what might contestability in the domestic energy market lead to?

For all the calls for the Government to provide guarantees and assertions about job security in light of the proposal for the ACTEW/AGL joint venture, I note that no guarantees or predictions have been offered by those who believe that we should continue as we are now, or possibly that we should sell the 47 jobs associated with the electricity retail arm. There have been no guarantees or predictions from those who say, "Let us go down the path of only a very limited restructuring of ACTEW".

I put on the table what the Government foresees as a result of the changes it puts to the house today. I have asked the Assembly to accept that the Government will stand behind the guarantees it has made in respect of jobs both within ACTEW and within AGL. I stand behind those guarantees, Mr Speaker. If the Assembly has a better offer of security for the employees of ACTEW, then they should probably take it. But there is not a better offer of security.

We have heard all the huffing and puffing of the Australia Institute and the wild assertions of the Opposition about what will happen if we go down this path, including the claim we heard the other day that Patrick Stevedores is going to come to the ACT in

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the guise of AGL's partnership with ACTEW. Talk about scaremongering! That is a good example of it. We have not heard anything of substance from those opposite, only scares about what would happen if we went down this path. These scares have been met by clear guarantees from the Government, from ACTEW and, by implication, from AGL. That is a reasonable deal for the ACT, and I ask members to consider supporting the arrangement, because it does offer that certainty of outcome, that security of outcome. The alternatives do not.

Mr Speaker, a great many issues have been raised about this proposal which I do not have the time to answer in detail now. Now doubt they will be raised in the course of the debate on the detail of the Bill before the Assembly. I simply want to repeat the comments I have made before about the need for the ACT to engage in a process of considering its position. It would be politically much more comfortable for the ACT Government not to have to take steps of this kind. (*Further extension of time granted*) The political gain for the ACT Government from the joint venture between ACTEW and AGL is that if there is a benefit to be obtained it will be in the form of an equalisation payment, which the Government has already indicated it is going to devote to the superannuation liability of the Territory.

I daresay that very few members on this side of the house will still be in office when 5, 10, 15 or 20 years down the track the benefits of that payment start to be reaped by ACT employees who retire and need the benefit of that superannuation provision at that stage. We will not be around then to say, "We took care of that matter for you back in the year 2000". The question needs to be asked: What benefit is there for the Government in offering this arrangement now? There is no political benefit particularly for this Government. The benefit is for the people of the ACT - for ACT taxpayers, for ACT customers of ACTEW. They will be the beneficiaries of this arrangement. I ask the Assembly to support this proposed joint venture on that basis.

MR QUINLAN (3.58): Mr Speaker, I foreshadow that I will move an amendment to this motion. However, as it may cut across the amendment moved by Ms Tucker, I will hold back on that until later. After listening to the first half of Mr Humphries' speech I thought, "I agree with some of what this bloke is saying". I think he has identified some of the problems. Certainly he has misused them in justifying what is to be done. I did find it quite incredible to hear the term "smokescreens" raised.

I think it is worth while to reflect on how we got to this point in the first place. The Government claimed at the previous election that privatisation of ACTEW was not on the agenda. That claim has well and truly been discredited, along with the Government in many of its other activities. The privatisation debate commenced and we had misleading information as to the extent of the risk. The risk, we have all agreed from day one, focuses on, or is confined to, the retail arm of ACTEW. But the Government and Mrs Carnell kept attempting to infect the rest of the organisation with this risk.

We then had a statement of doom and gloom. The superannuation liability figures were quoted. Again the claim was discredited. The figures turned out to be overstated. In fact, the Government today is dining out on claims that it has achieved good financial management because it is getting the benefit of write-backs of overstatement of superannuation.

We then moved to the merger proposal with Great Southern Energy, which New South Wales dismissed out of hand. At the same time as we had that proposal to enter a merger with Great Southern Energy, we had an eleventh hour call for expressions of interest. Mrs Carnell and Michael Egan from New South Wales announced the investigation of the Great Southern Energy merger on 9 April, and on 10 April suddenly we had an invitation for expressions of interest to launder the process of a one-on-one negotiation that we had gone straight into. Surprise, surprise, we were starting to subvert due process right from that point. I might add that the Chief Minister, in a previous time, under different pressure of course, informed this house that the expressions of interest were not tenders.

The Government now needs to give that expressions of interest process credibility. Why? Because right from the start they have flouted due process. Through that, we have arrived at another one-on-one deal. Information is seeping out that some of the considerable amount of the detail of that particular deal has been thrashed out. The problem we all accept is that there is risk in the retail business.

The first solution should be some arrangement to ameliorate the risk in the retail business. The Government, through Mr Humphries and through Mrs Carnell, has claimed, "We have put up three proposals but, every time, we have attached a caveat, a condition, to addressing that retail risk. You have to sell some assets. Each of the deals that have been offered to this place involves the sale of public assets, even though through the course of about 12 months the people of Canberra made it fairly clear that they did not want public assets sold".

If you want to look at the Government's decision and persistence in attaching the sale of assets to fixing the real problem, just look at the invitation for expressions of interest. It talks about providing the opportunity for releasing significant excess capital from ACTEW. What is that code for? I would say that is code for selling part or all of public assets. It did not want a solution that just fixed the problem. It said, "We want a solution. Yes, we are prepared to fix the problem but you have to sell assets as well". It has always been a case of doom and disaster if we do not sell it now. According to ACTEW's CEO, it would wither on the vine.

In question time last week, the question time that changed question time forever, I asked the Treasurer how the water business of ACTEW would grow or shrink, depending upon change in ownership or maintenance of the current ownership. I still ask: How will the water business change, dependent upon the ownership? How will it wither on the vine? How will the sewerage business wither? How will it grow or shrink, depending on the ownership? How will electricity distribution grow or shrink or wither on the vine, depending on a change in ownership. A week ago I think I could have paraphrased Mr Humphries answer as: "I have no idea. I have been told by the ACTEW board and I have faith in them". Why is the ACTEW board not sitting across there running the ACT? Why do we not cut out the middle man - if you are in the loop at all?

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I remember on the same day one of those appalling speeches from the Chief Minister about being excited about growth here and growth there and growth wherever. I would like to hear how our water business is going to grow. I would like to hear how our sewerage business is going to grow. I would like to hear how electrical distribution around the ACT is going to grow. I would like to hear how the electrical retail business is going to grow when we are a junior partner of AGL, when we are buying our wholesale energy from AGL.

Mr Humphries: We are not a junior partner. We are a fifty-fifty partner.

MR QUINLAN: Not with the AGL that has two million customers, not with the AGL that goes out and buys all the energy. You are not going to be fifty-fifty with them. You are going to be a subsidiary. That is what we are going to be. Still we have doom, doom, doom unless you flog it now.

According to figures published by ACTEW, I think when the current CEO was in place, and when most of the members of the board who are there now were in place - figures that were regurgitated by ABN AMRO - ACTEW will not wither on the vine. ACTEW will produce profits exceeding \$70m and growing through to the year 2003, where the table ends. That is without retail, with retail contributing nothing, or next to nothing. It seems to me that we get a different story for a different plot.

This time the plan does address to some extent the retail arm of ACTEW, but it also has the baggage: "You have to sell some assets. We are not giving you a straight deal". The strategy is different now. We have no information to speak of, we have no figures, we have no target and, as far as the Government is concerned, we have no public debate if it can be avoided.

As we have said, the only problem clearly identified is the risk in retail electricity trading. AGL - I think it is AGL, because we got a list of unnamed people or organisations that submitted expressions of interest - had as its option No. 1 a partnership in electricity retail, with all the benefits that we talk about, the amelioration of the risk in retail gone, the attachment to AGL's acquisitions at the wholesale level and no sale of assets. That option is not preferred. What was wrong with that one?

That would have fixed the problem, and at the same time it would have complied with the wishes of the people of the ACT so clearly expressed during the ACTEW privatisation debate. But it is not even on the table. This Assembly has not been given the courtesy or the credit of having made available to it all of the propositions that have been available to this Government. Ask yourself why. From time to time we see both the Chief Minister and the Treasurer ducking behind the board of ACTEW, saying, "The board of ACTEW decided this, not us. We did not decide this. Should you people on the other side of the house dare to criticise them, then we will piously defend their honour. We have used them as human shields. We will piously defend their honour, as we do with public servants". Look at the public servants the Chief Minister has thrown out of the boat along the way as fiasco upon fiasco has become public knowledge. It is very cynical. She cynically showers praise on her public servants at Christmas time.

Option No. 1 would have fixed the problem. It would have left us with a home-grown, home-owned, thriving business. Yes, ACTEW is relatively small in terms of the ACT electricity industry, but it is very substantial by Canberra standards, and importantly it will grow with Canberra. It will grow as the population grows. The Assembly should send this Government back to the negotiating table and say, "We want option No. 1 resurrected. We want to see the detail and we want the opportunity to consider it". Instead, the Government says, "We have picked out just one for you to select. You should approve it. Why? Because we put up two other deals that involve asset sales. We have given you three chances. What more do you want?". What we want is the real problem identified and isolated. What we want is the real problem solved genuinely with goodwill and honesty. But we have consistently had this additional baggage applied to each of the options put forward. I do not believe that the proposal put forward here offers much in growth in the long term.

Mr Humphries: What do you believe, Ted? Tell us what you do believe.

MR QUINLAN: Mr Humphries, if you have not been listening, I am prepared to repeat it. I believe that you should have the common decency to resurrect some of the other options that were put forward with the expressions of interest - those that address the particular problem and do not involve asset sales.

Mr Humphries: Which one particularly?

MR QUINLAN: How about option 1 from AGL? We have involved ourselves directly in a one-on-one deal with AGL. I have every reason to think that AGL is a very credible company. I also have every reason to believe that AGL will do absolutely the right thing by its shareholders. But shareholders and ACT residents probably have competing interests in terms of who gets the best deal out of this amalgamation. In entering into one-on-one negotiations, we have totally compromised any bargaining power we have, because we have eliminated anybody else that might be interested. I firmly believe there are other credible organisations that would be prepared to negotiate. (*Extension of time granted*) I firmly believe there would be other companies interested in doing a deal that solves the problem but maybe does not sell the local assets, which has always been on your agenda.

Mr Humphries: Except retail assets, of course.

MR QUINLAN: What retail assets might they be?

Mr Humphries: Retail assets.

MR QUINLAN: What are they?

Mr Humphries: Electricity retail assets.

Mr Stanhope: What is the asset you are going to sell?

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Mr Humphries: You want to sell the business associated with the retailing of electricity, don't you?

MR QUINLAN: What are the assets?

Mr Humphries: Assets to do with the sale of electricity.

MR QUINLAN: Gary, you do not have a clue. Just keep out of it. Keep pretending. Within this deal there are promises of a gas-fired power station and a call centre. But if we have compromised our negotiating position, it is highly likely we are buying them anyway. The only difference is we will not own them. But we will have sacrificed our competitiveness in negotiation. We have got a lesser deal than we might have got otherwise. As a function of that, we would be virtually buying our own power station, except that AGL would own it. We would buying our own call centre, except that AGL would own it.

I have further fears. These are not fears born of my imagination. They arise from a few words dropped in briefings that I have had on this matter. I fear that after this partnership is formed there will be further asset stripping. We have a recidivist public assets seller in the Government and we have an expanding AGL that is investing capital in quite a number of ventures. How long will it be after we form a partnership with AGL that we hear that the joint venture is probably overcapitalised, that we need to make it more commercially competitive and that we need to change its capital gearing and restructure its capital structure?

What is that all going to be code for? That is going to be code for: "Let us load it up with a bit of debt and take some more money out of it". The term is "selling down". That was the process embedded in the Great Southern Energy report that came forward. We were going to take \$686m out of that deal. Had that happened, had we taken an equalisation payment and sold down the organisation - asset stripped it, effectively - then the promise of this easy back-out would become very complicated, would it not? All of sudden, if we wanted to get our assets back, we would have to go further in debt, beyond critical level, or we would have to find the money we already took in the equalisation payment.

We have heard the Treasurer's assurances that the equalisation payment would go to the superannuation fund, but that is not enough if you do not put in your normal annual payment as well. If you put in the money you get from selling assets to AGL and then do not make the normal annual contribution at the same time, it effectively boils down to nothing. They are hollow words, and it is a hollow promise. We had a hollow promise before about the \$300m that is coming out of ACTEW. No further cash is going into the superannuation fund, when the superannuation fund requires both. We have taken capital out of ACTEW and put it in the superannuation fund because we have not put the annual contribution in the superannuation fund. We are spending the capital we took from ACTEW. We are spending it now.

There is no reason to think that this Government will change its spots in the space of 12 months. The promise that the money will go into the superannuation fund, that it will be quarantined, is hollow unless that promise extends to this Government, for the first

time in five years, making a genuine contribution to the superannuation fund out of operations. It has not happened yet. This is the only government we have had in Canberra that has not made any contribution. It has made none in five years.

I believe that this Assembly should do the right thing by Canberra and not give this Government an open cheque today, on Thursday or whenever this debate comes to a conclusion. Send them back to solve the real problem. The real problem lies in electricity retail. All the other doom and gloom cliches that attach to the future of the business of ACTEW are so much nonsense. The figures are in ACTEW's forward plans, and they are in the ABN AMRO report. If you believe either or both of those documents, the rest of ACTEW's future is secured. It will return \$70m to the Territory in 2003, even if it is not in the retail business at all.

I foreshadow that I will move an amendment to change Mr Humphries' motion so that the Government does not get an open cheque today. Go back and negotiate and try to resurrect the sensible option, that which fixes the problem without selling public assets, but you do not have a blank cheque to sell off half the assets and put ACTEW in the position where it can be further asset-stripped. When the facilitation Bill comes forward, I will be moving some amendments to it to ensure against asset stripping and to ensure the future of the non-system assets of ACTEW - buildings, depots, the hardware that has gone with the business - which are also at risk. (*Further extension of time granted*)

I repeat that I believe the risk associated with retail does not infect the rest of the business. The claims that it does are claims designed to scaremonger, to the point that people feel that we had better grab this deal, another deal brought forward by government that requires us to sell assets to fix our problem. It is possible to fix the problem that ACTEW faces in the market without the sale of one public asset - or maybe the desks in the retail office, if that is what Mr Humphries had in mind.

MR KAINE (4.22): I must say that this debate, as often in this house, has started off on a strange tack. Perhaps it is due to the idiosyncrasies of this place or the exigencies of it, I am not sure which. But I am rather surprised that the Opposition refused to debate the Bill with Mr Humphries' motion because, in doing so, they have forced this place to deal with a motion which, if passed, is effective whether the Bill is passed or not. It will empower the Minister to transfer assets without the enabling legislation that should be leading this argument, rather than following it. I am not surprised that people have taken this course of action, but I think that it is a totally irrational way to go and I foreshadow that I, too, will be moving an amendment to Mr Humphries' motion to allow it to pass before we get to debate the Bill without detriment, and I will explain that when I move the amendment.

It astonishes me sometimes, Mr Deputy Speaker, that we lose sight of what the objective is here and the debate becomes more important than the outcome. We have been debating off and on, with varying degrees of intensity, the future of ACTEW for a long time. Although the Opposition is knocking the proposal that is now before us, if you analyse what has happened over the last year or so you will find that the number of people who have expressed an interest in going into some sort of arrangement with us in connection with ACTEW has been getting progressively smaller and smaller.

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Where does that process end? A merger with AGL is pretty much a merger of complementary organisations which together will produce, in my view, a very effective organisation with a wider base than ACTEW currently has. If we refuse to accept this proposal today, where is the next offer going to come from? Can the Opposition tell us which organisation is next in line to come forward after we reject this proposal, after AGL take their marbles or their bat and ball and walk away? Where is the next proponent going to come from?

First of all, I would have to argue that there will be none. Why would there be? We have successively rejected a series of proposals that have been put forward. I would have thought that any organisation out there that might have had some pretensions to doing a deal with us would be very much disheartened and would say, "Why bother? This mob is not serious. They have no intention of consummating any proposal that would involve ACTEW, even if it is a good one". You can always find people who will knock the proposal that is on the table now, which is what we have seen, saying that this proposal is no good for this reason, that reason and the other reason. I could produce a document which outlines that, but I do not think I need to. But when is somebody going to look at the positive side and say, "This is good deal because ..."? That is what I have been looking at and I believe that we are at the stage where, to mix a few metaphors, we have to grasp the nettle, take the bull by the horns and confront the issue head on, because if we do not, we never will.

The task that I set for myself some weeks ago was to look at this proposal and see whether it would be good for the Territory. I have had to conclude that, subject to a bit of finetuning, which Mr Quinlan refers to and Mr Rugendyke refers to, and with a good heart and good intent, we can make this deal a good one for the ACT. We can make it a good deal because, as I have said, it involves an amalgamation of two complementary organisations which would broaden the base of both and make a stronger organisation and at the same time, if we do it right, we can protect the interests of the ACT community in the doing. I think that even Mr Quinlan will agree with me on that. He is proposing to make some amendments to the Bill when it comes up to tighten it up a bit so that those interests are preserved. If they can be preserved, why would we reject the proposition if, at the end of the day, we can come up with an arrangement where the interests of this community are preserved and the organisation has the potential for a better future than it has at the moment? I cannot see on what grounds we would reject that kind of proposal.

I have spoken to the Minister, I have spoken to Mr Quinlan and I have spoken to Mr Rugendyke. I have also spoken on a number of occasions to the chief executive of ACTEW and to officials of AGL because I want to find out what they are about. I am satisfied that they have answered all the questions that I have had and that we can make this legislation something that will make it work. That is why I support in principle what the Government is doing. I think we would be up against a brick wall if we do not accept this one, because nobody in his right mind would come to us with another proposal. We could go round the whole country touting businesses, saying, "Please come and do some business with us", but why would they bother because we would have well and truly indicated that we are not interested? So I support the proposal in principle.

Okay, how then can we make it better? Some of us have ideas about that. I know that Mr Quinlan has. But I think that by debating this issue first we have put the cart before the horse, for the reasons that I expressed earlier. I do not want to give the Minister the authority to flog off the assets of ACTEW without the enabling legislation for a particular form of merger to go ahead. I think that the two are complementary. The Minister is quite right, of course; he has to come and ask for the approval of this place even after the Bill is enacted into law. Even though clause 11 says that the Minister may do certain things, he cannot do so in connection with the assets of ACTEW without coming back to us and asking for our permission to do so. So he does need that permission.

It would have been better to have dealt concurrently with the Bill or perhaps to have voted on it after we had voted on the Bill and put the Bill in place and then said, "Okay, Minister, we have given you the enabling legislation. Here is the last piece of authority that you require, that is, to transfer certain assets". But we have gone about the thing back to front. So, to allow us to vote on this motion before we deal with the legislation, I foreshadow an amendment which adds to the end of the words that Mr Humphries has proposed the words "subject to the passing by the Assembly of the ACTEW/AGL Partnership Facilitation Bill 2000".

The effect of that would be that the Minister would have the approval to transfer these assets provided that the enabling legislation is in place, and the enabling legislation would be more specific about the arrangements by which that might be done. I support in principle what the Government is doing. I think it is sensible. I do not think that we will have anywhere to go if we kill off this one, and I do not want to see in 10 years' time that ACTEW has withered away and died, that the asset inherent in it has been lost. I want it still to be there and I want it to be enhanced, if that is possible. I see this proposal as a way of doing it. I will leave it at that for the time being, Mr Deputy Speaker, but I will move an amendment to Mr Humphries' motion in due time.

MR STEFANIAK (Minister for Education) (4.31): Mr Quinlan mentioned in passing electricity retailing . I want to concentrate on that. The ACTEW/AGL partnership would put ACTEW's electricity retailing business in a much stronger position to grow and prosper in an environment where we have seen massive changes in recent years, and further major changes are foreshadowed for the future. That is something that we cannot get away from.

One important issue is how moves to allow for more competition in electricity retailing - in other words, to give smaller customers the opportunity to choose their own retailer, a choice enjoyed at present by larger customers - would be served by the partnership proposed. The best answer is that, despite the complexity of the issue and the major uncertainties that remain about how this further reform would be implemented in Australia, the partnership would provide a framework on which ACTEW's electricity retailing business could grow and prosper.

It is important to consider this question in the context of the massive change in the operations of electricity companies over the last decade, especially over the last five years. The business environment for electricity retailers has changed fundamentally over

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the past five years or so. The way that retailers buy their power has changed. The way that they sell their power to their customers has changed as well. Five years ago, ACTEW bought its electricity from interstate generators, basically Pacific Power and the Snowy, under stable arrangements that were dictated to it by the suppliers. It was clear that these arrangements did not favour the ACT. Five years ago, all ACT electricity users bought their power from ACTEW; there was no other option. Now, ACTEW buys its power on the open market under national electricity market arrangements. Generators from South Australia, Victoria and New South Wales bid power into a central pool and retailers such as ACTEW bid to purchase power from that pool.

The competitive market arrangements and the tough approach taken by regulators on the pricing and transportation of electricity have translated into far keener prices for the large and small customers that are most competitive. They are lower in real or relative terms than the prices charged before the reform process started. The problem is that the price of electricity from the pool varies enormously, depending on how much generation is available and how much power is required by retailers. The normal pool price is around \$30 per megawatt hour, far lower than in previous supply regimes. But prices can vary by as much as \$200 to \$300 per megawatt hour in the space of just a few hours. Indeed, in extreme cases, the price could go to as high as \$5,000 per megawatt hour.

Similarly, retailers can be at risk if, for whatever reason, their customers require more or less power for a particular period than was anticipated. All retailers need to guard themselves against the risk of unexpected high prices or changes in demand through a suite of hedging and insurance instruments. Such insurance costs money, something that falls particularly heavily on smaller players such as ACTEW. Price hedging arrangements, like all insurance, is a tricky, highly technical business. Already one generator, Pacific Power, has been badly burned by a hedging arrangement that it got wrong. The same could happen to a retailer.

There are several trends making the price hedging issue more and more complex. Prices in the national electricity market are gradually trending upwards, reflecting the generally tighter supply-demand situation, particularly in the southern States. Price volatility is becoming more marked. That was particularly so during the extreme climatic conditions experienced over the last month or so.

On the retailing front, ACTEW's monopoly on ACT electricity retailing ended two years ago. All customers using more than 160 megawatt hours per annum are now free to choose their own retailer, and around 18 retailers are competing for their custom. The customers with retailer choice are few in number, less than 1,000 compared with over 120,000 smaller customers, but the amount of electricity involved is quite significant. About half of the ACT's electricity is now contestable. The retailers which now compete with ACTEW in the ACT are, for the most part, large corporations.

The outcome of retail competition has been that retailers' margins all round Australia have been cut to the bone. Larger customers have been looking for cost savings and have generally found them. The message is out to all retailers that customers can and will change retailer if they can get a better deal. The next step in retail competition will be the extension of retailer choice to smaller customers - small business, community groups, domestic customers. For the ACT, we have envisaged that this process will start in

January of next year, in line with the dates announced for New South Wales. Further retail competition will mean further challenges for ACTEW's retailing business, but in some ways they will be a continuation of the challenges that ACTEW now faces day to day.

Some people have queried how many customers one can expect to shift from ACTEW if all customers were able to choose their own retailer. That is a question that, quite frankly, nobody in Australia is in a position to answer right now. Overseas experience of full retail contestability is important, but it is not very helpful in coming to a firm landing about the expected number of customers who will shift. It is not sensible to make direct comparisons between the effect of changes in Australia and the changes that have taken place in the United Kingdom, parts of the US, Scandinavia, New Zealand and elsewhere.

There are two main reasons for that. The first is that systems to allow small customers to choose their retailers are in their infancy everywhere in the world. Even in the UK and in California we have only around two years' experience. Secondly, no two countries have the same market arrangements or regulatory arrangements. In the UK, for example, any attempt to reduce prices for customers was bedevilled for quite a while by a perceived lack of competition between generators, a problem that is now being overcome. Compare that with Australia, where many competing generators are battling it out in the national electricity market and have driven down wholesale prices to levels lower than expected.

Having said that, initial trends were that far more customers changed electricity retailers in England and Wales than anywhere else where competition has been instituted. The UK regulator reported that 11 per cent of electricity users and a quarter of gas users had changed their suppliers since contestability was introduced. Despite the caveats that must be placed on such figures - the electricity figures were based on only a year's experience, for example - one must conclude that it is not a given that customers will be slow to transfer. Another report from the UK has been on the interest of consumers in joint electricity/gas deals for their homes. That, of course, is a major argument for the ACTEW/AGL partnership.

The detail of regulatory arrangements for retail competition varies greatly from country to country. For example, in America, you cannot talk about a national electricity market. There are many market arrangements, some of them very new, some small and some large, in different parts of the country. California, for example, has instituted full retail competition, but under Californian laws many utilities - those owned by cities - do not have to participate in the market and, if they choose to do so, are allowed to impose special charges on customers who change their retailer. That particular regulatory decision worked against customers changing retailer. Early reports were that only one per cent of customers shifted, and of those most were customers who wanted to buy green power from new retailers at charges far higher than the usual rate. In Australia, of course, green power is already available to small customers and competing retailers offer competing green power products.

Another constraint round the world has been the availability of cost-effective systems that allow for the transfer of customers from one retailer to another by recording the energy consumed by each customer and charging it to the customer's preferred retailer.

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That was not a problem for larger customers, but there is no point in a smaller customer getting a lower energy charge and then paying a higher bill because of high metering costs. That was the constraint in New Zealand when competition in retailing was first introduced. Small customers were free to choose their retailer, but faced charges of several thousand dollars to install advanced metering. It came as no surprise that few small customers switched retailer.

There is a lot of work going on now to try to demonstrate what is the best, most cost-effective customer transfer approach for Australia. It is a big issue, especially for Victoria and New South Wales. It is possible that this highly technical work will delay the date of introduction of full competition for a few months, but it simply means that Australia is learning from overseas in trying to get things right. It does not affect the transition, Australia-wide, to competition.

Both the Victorian and New South Wales governments have reaffirmed their commitment to full retail competition. New South Wales envisages a transition process, as in the ACT. In Victoria, where the law states that each and every customer will be contestable next year, the task will be a tough task, but it is one that is receiving a lot of attention.

One watchword at the moment is flexibility. There is flexibility to exploit new technology as it becomes available over the next decade, technology which it is reasonable to expect will make customer transfer and metering easier and more affordable than before. There is the flexibility that will enable utilities to retain their customers by offering gas and electricity on the same account. But concentrating too much on the precise details about how an increase in competition will affect ACTEW retailing is concentrating on the wrong issue. (*Extension of time granted*)

Some people have suggested that all the technical concerns about metering and customer transfers and the possibility that most domestic customers may, in the short term at least, stick with the company that they trust, mean that we can stop thinking about the future of ACTEW. That is not sensible. The reality is that the present situation, where one half of the electricity is contestable, means that times are tough for retailers and that customers have every interest in keeping it tougher for them. Even a small shift of customers to another retailer would make the wholesale trading issues faced by ACTEW on a day-to-day basis even more extreme. Even a small shift would mean that retailers would have to work harder to keep costs low. It would also mean that they would have to work harder to manage their risks.

In summary, it is clear that customers, both large and small, have benefited from the reform of the electricity industry. Life for the electricity companies, particularly the retailers, has become harder. It is very likely that further retail competition will make life tougher still, but that is simply a continuation of a process. In managing risk, in driving down costs in a very competitive industry and in keeping prices low for customers, size is a thing that does matter. The ACTEW/AGL partnership provides the means by which ACTEW's retailing operation can face the future with increased confidence.

I agree with comments made by a couple of speakers so far that this is very much the last chance for the ACT. If this chance is knocked back now there will not be another one. I do not think we would be putting up another possibility there and all we hear from the ALP is the continual raising of problems. I do not think that there would be anything that would ever satisfy them. We just have continuing negativity.

I think there is much in what Mr Kaine said in terms of the sense of this proposal and I was very happy to hear it. The proposal is something which would benefit the ACT. AGL is a big company and the partnership would give ACTEW a great deal of strength, diversity and flexibility. ACTEW, AGL and everyone else in this industry are in an increasingly competitive and dynamic marketplace. As I see it, this partnership would benefit the ACT through increased returns and improved infrastructure, ACT customers through greater choice and improved services, and ACTEW and its staff through having reduced risk, increased efficiencies and expanded opportunities. I think that the proposal is something that we need to grasp. We will not have another chance.

MS TUCKER (4.45): At this point, I will move the amendment circulated in my name and Mr Stanhope and other members will be able to address it when they speak. I move:

Omit all words after "Assembly", substitute "calls on the Government to not pursue options for the future of ACTEW which involve the sale, franchising, entering into joint ventures or contracting out of ACTEW's electricity network, water or sewerage businesses."

I appreciated Mr Stefaniak's explanation to us of the issues surrounding deregulation of the electricity market, but I think that most of us have grasped them. He seemed to think that we have not. I think it is clear from all the debates that have occurred here that no-one has said at any point that they do not recognise that there are some risks involved with the retailing part of ACTEW's business. Obviously, there is disagreement about the degree of the risk. I did not hear him deal with that in any detail, which I think would be useful if we wanted to have a really close analysis of it.

The point is that I think that everyone in this place is acknowledging that there is some risk involved in the retailing of electricity under the deregulated market. There is not much disagreement on that. But there is disagreement fundamentally about whether we need to sell the whole lot of ACTEW to deal with this problem. The amendment I have put to Mr Humphries' motion basically would turn around what the Government is proposing with the ACTEW/AGL merger. I do not want the Government to pursue options for ACTEW's future which involve the sale, franchising, entering into joint ventures or contracting out of ACTEW's electricity network, water or sewerage businesses.

If my amendment is passed, the proposed ACTEW/AGL merger will have to be shelved, although the Government could still pursue options for the electricity retailing business of ACTEW. I understand that AGL has entered into such an arrangement in South Australia and will work with the retailing section of the business there. While I am talking about that, I found Mr Kaine's argument quite intriguing. He seemed to be saying that if we do not go ahead with this proposal the business community will run away with

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the bat and ball and be really cross because we have been obstructionist in some way. That seems to me to be a totally unsatisfactory argument for not continuing to raise the concerns felt.

If, in fact, there was genuine concern in this Assembly about what this sale, merger or whatever it is going to be would result in, of course we would have to keep saying what those concerns were and would have to express those concerns in this place. I would be very surprised if our actions have totally frightened off every person who is involved in the business sector. I can understand there being some frustration about a couple of proposals that have been put forward, but the issue today clearly is whether we agree as an Assembly that the risk is in the retail sector and that it is a reasonable thing to look at some other arrangement for the management of that side of ACTEW's business. That is why I have put forward my amendment.

I think that it is not a strong argument to say that because there has been consistent disagreement about selling the whole lot, going into a joint merger, franchising or whatever. Basically, what has been consistent in this place is the disquiet that has been expressed about what is happening to our essential services. That is why I have moved my amendment, which is putting a clear position to the Government. The Government likes to say that we are all just being negative and to ask us what we want. I am telling the Government what I want, the Greens want and many of the people who have contacted my office want, which is a guaranteed quarantining of these essential services. We recognise the risk in the retail sector, but we see no need to do any more than that. We are very cynical about the claims that have been made about guaranteeing the future of those essential services.

It is generally acknowledged, even by the Government's ABN AMRO study, that the only part of ACTEW that is subject to significant financial risk is the retailing of electricity. We know that ACTEW's electricity network business - the wires - and the water and sewerage businesses are all natural monopolies. There will never be a competitive market for those services, unless someone wants to construct a second set of wires, pipes or dams, which is extremely unlikely. The electricity network, water and sewerage businesses provide around 90 per cent of ACTEW's earnings and, being regulated monopolies, they will continue to return a steady, if regulated, profit. There is no need for the Government to give away control of these businesses in the guise of minimising risks to ACTEW. The Industry Commission has said that the public sector manages natural monopolies as well as, if not better than, the private sector.

The Government keeps pushing the line that, unless ACTEW grows, somehow it is just going to wither away. That is dubious logic. It ignores the fact that it is okay for an organisation just to stay in a steady state. That does not mean stagnation as it is always possible to change the nature of an organisation's functions to meet changing circumstances. In fact, there are concerns that once you enter into a contractual obligation the flexibility will not be there for you to address issues relating to, say, new standards or new technology that may be developed in this field. There are concerns about how flexible the industry will be to be able to meet changed circumstances.

In the electricity networks, water and sewerage businesses of ACTEW it is unrealistic to expect a major increase in growth, apart from incremental growth in the networks and pipe systems to meet any increase in population in the ACT. On the water side of the business there is also an environmental imperative not to promote an increase in water use. Water is a scarce essential resource that we should be conserving, not seeking out new markets for. Restructuring or selling the electricity retailing business of ACTEW would not reap the huge amounts of money that the Government is claiming that it would get from the ACTEW/AGL merger, but I believe that that approach would be more sustainable in the long run.

The Government says that the Territory would get around \$100m from this merger deal, but it has not addressed the question of how much we will be losing in the long term if we have to share half of ACTEW's operations and profits with AGL. An issue that has to be looked at is what costs and benefits, other than economic benefits, there will be. One can challenge how long it will take for that \$100m to become insignificant in terms of the ongoing lost opportunity to bring in revenue from the running of these services. If you have a serious interest in the long-term benefits and costs, you have to look also at the long-term environmental benefits and costs and the social benefits and costs. Of course, we never see a very sophisticated analysis being made of those things. Although we do hear it said that accrual accounting is a more sophisticated method of accounting, it fails miserably to take into account what are called externalities in the discussion, which are fundamental and important things for the community and the environment.

We have yet to see a detailed financial analysis of this merger, yet the Government wants us to accept on faith that this deal is in the best long-term interests of the ACT. At least when the Government tried to sell ACTEW a year ago it put out the ABN AMRO study, which attempted to justify the economics of the sale. However, with the AGL merger we have seen none of this financial analysis. I am surprised that Mr Kaine and Mr Rugendyke are comfortable with that lack of information. The Australia Institute has asked a number of important questions which I am looking forward to hearing Mr Humphries' answer.

I find it odd that the Government wants to give away, effectively, half of its control of ACTEW in return for gaining half control of AGL's local gas business. The Government wants to reduce the risk from electricity retailing, yet it will be taking on the risk of AGL's local gas business just when the gas market will be opening up to competition. You have to wonder whether AGL is actually getting a better deal out of this proposal by spreading its own risks in gas retailing. I would have thought that the Government had had its fingers burnt enough from speculative business ventures. I also fail to see how a fifty-fifty partnership between a government business enterprise and a private company can survive in the long term when each party will bring different and often contradictory objectives to the joint venture.

I hope that ACTEW will continue to be accountable to this Assembly and ultimately to the ACT people for its operations. Members should remember that written into the ACTEW legislation is an obligation on ACTEW to pursue ecologically sustainable development and to exercise social responsibility in its operations. While these

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objectives have not been achieved as well as I would like, they are a significant imperative on ACTEW. However, there is no such imperative on AGL. Its imperative is to make a profit for its shareholders.

I am greatly concerned that the ESD and social responsibility objectives will be subsumed by this merger. I would love to see more detail on the plans of AGL. What is the current green power program? How is it structured? What is AGL doing in Victoria? What does it intend to do in South Australia? What are the green energy sources that it tends to promote, and so on? I understand from the information that I have been able to access that they are interested in biomass gas, landfill gas. (*Extension of time granted*) That is interesting and it is worthy of pursuing at this point as we are trying to capture methane, but it is not a totally renewable source of energy because we know that if we reach the goals of the current environment Minister we will not have much landfill from which to make methane. It will be interesting to see what is going to happen in the future in terms of having appropriate technology if this merger is completed.

Issues surrounding what happens with a fifty-fifty partnership are coming up in Telstra, with the demands that it be fully sold because of the internal conflicts it faces from being government controlled but having significant private shareholding. I can see the same pressure mounting on ACTEW in the future. We normally see gas and electricity competing with each other for market share. I did ask about that in one of the briefings and the answer was that gas is good for some things and electricity is good for other things. That is quite a cosy, cooperative answer for two business corporations dealing with different products. I found that a little interesting because normally you would think that the consumer would benefit from the competition that is happening between gas and electricity.

I am also concerned about the carrots AGL is offering in this joint venture and whether they have the real benefits that have been claimed for them. The gas-fired power station, in particular, may sound a good deal, but it really is the second-best option from an environmental perspective when compared with the promotion of green power sources, which produce negligible greenhouse gas omissions and are renewable. Also the electricity generation market is just as risky as electricity retailing, so the ACT could still be exposing itself to risk.

We have come to the conclusion that we should hang on to our water, sewerage and wires businesses and restructure the electricity retail only. We have to ask: Why do we want to move a public monopoly which deals with essential services, delivers an income and is working well out of public control? Ultimately, these essential services have huge implications for public health and for the environment and they should always be the responsibility of the government of the day. If something goes wrong, if the community of the ACT does not get clean water, has an unreliable electricity system, has a sewerage system which is breaking down, it will be the government of the day which will have to take responsibility.

Why put these services under greater market pressure? Market philosophy requires maximising profit and managing risk. If this risk management is incorrectly handled and there is a problem, the effects felt will be more than just economic. There will be environmental and health effects, and serious ones at that. Take, for example, the

Longford incident. Clean water, sewerage systems that work, and a reliable, safe and secure electricity supply are what we are talking about. Experience in other countries has shown that private operators have neglected the infrastructure and that it is virtually impossible to monitor exactly what the situation is. The Utilities Bill is important, but we will not have the final form of the regulatory environment settled before we are asked to vote today. The community has the choice of saying that it cares about essential services enough not to put them in the hands of the for-profit sector. We are cynical indeed about the promises of best practice in the long run.

I must say at this point that it may well be the case that this will be a good arrangement - we do not have enough information to know because we do not have the Utilities Bill in its final form and we do not have the detail of this arrangement - but if it is, we will have to have the long term in mind when we make decisions on it in this Assembly. I cannot believe that people in this place do not understand the ongoing pressures that will be put on this organisation. We are talking about moving it a step away from public control. As soon as we do that there will be ongoing pressures into the future. We are doing that today; we are putting at risk these essential services. I hear members say, "It looks okay to me. They seem like good people". They have not seen the regulatory environment and cannot predict what will happen in the future. They cannot guarantee that we will not see this organisation become a different organisation. It may have nothing to do with AGL. We all respect AGL; it is good Australian company. Yes, I like natural gas; I have a natural gas car. That is not the point. The point is that what we are doing today is moving from public control the essential services of our community.

We need to realise that this proposal will have long-term impacts on the ACT and we have been given scant information on it. *(Further extension of time granted)* We have been subjected to intimidatory tactics by the Government, which is throwing its hands in the air and saying, "Everyone is being negative. No-one likes what we do". Today, the Government has before it something that we like. If it would like to separate the retail sector, we will look at a different arrangement under the deregulated market. You know what we would like, so you have something to deal with that you have support for; although I would have to say, disappointingly, that it looks like you have support today from Mr Rugendyke and Mr Kaine, so it will be for the residents of Canberra in the future to look back and see who is responsible for what has happened.

At 5.00 pm the debate was interrupted in accordance with standing order 34. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.

MS TUCKER: We are very concerned about how enthusiastic and committed such a corporation would be about reducing the need for its own product by pushing energy conservation, for example. We are concerned about the commitment to green power. We are concerned that the profit motive will compromise best practice. We are concerned about what will happen in the future even if the current arrangements seem satisfactory. There will be pressure to change, to be more commercial and to sell water that we do not have. We are concerned that the contracts will not be flexible enough to deal with new standards or developing technology. As I said, we have the choice today to say no to the threats and predictions of economic failure and to say, "We know what we value as

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a community. We know that we want to guarantee best practice management and flexible ecologically appropriate technology transfer and development. We want to guarantee equitable delivery of essential services now and for future residents of Canberra". We are supporting the Government in looking at alternative ways of managing risk in retailing, but we are saying no to this unfounded major transfer of our assets. Mr Kaine said that we need to look at this proposal with a good heart and a good intent. I am sorry, that is not enough.

MR STANHOPE (Leader of the Opposition) (5.03): The motion before the Assembly today is, in my view, nothing more than a very crude attempt by the Government to rewrite history. We have had this debate. We had this debate just over 12 months ago when we rejected the Government's driven and flawed first attempt to sell this community's largest and most valuable asset. Yet today we are being asked to debate much the same thing in much the same climate. Make no mistake, the Government is just as driven today as it was 12 months ago and this proposal is just as flawed. What has changed, and it is a significant change, is the Government's tactics.

Last year the Government tried to snow the Assembly with a barrage of reports from highly-paid consultants - reports, of course, that supported the Government's contention that the only possible solution to the Territory's unfunded superannuation liability problem was to sell ACTEW. The Government's problem then was that it relied on flawed consultants' reports and flawed assumptions. This time the Government has learnt a little. This time there are no expensive consultants' reports. In fact, this time there has been very little information at all. There is a vacuum. The Assembly is being asked to decide the future of the community's largest asset with all the significant questions left hanging. The process might be different from the one last time, but it certainly is just as flawed.

What do we have before us today? We have a Bill - the ACTEW/AGL Partnership Facilitation Bill - and we have the Government's motion. We need to understand what the Government intends to do, and it is quite clear and it is quite simple. If we pass the motion before us, we have agreed to the vesting of the main undertakings of ACTEW's electricity arm in a joint venture between ACTEW and AGL. If we pass the Bill, and we are not debating it at the moment, we give the Government the mechanism to process the vesting of ACTEW's electricity assets in the joint venture. But it is the motion that we have before us today, and those are the implications.

It is perhaps instructive to look at what we have not got before us. There is no definition of the problem, which is the risk from competition to a relatively small part of ACTEW's business. There is no assessment of where the risk will fall and the consequences of it, and there is no proposed strategy to deal with those consequences. Surely it is not unreasonable for the Assembly to expect to have these issues before it. Surely it is not unreasonable for the Assembly to expect the Government to offer a logically constructed argument in favour of its proposition. We should not forget that we are dealing with the future of the community's single largest asset. Canberrans own ACTEW. We have to be absolutely certain that decisions we make on the corporation's future are well grounded and protect the interests of its owners, the Canberra community, the public.

We need to be absolutely clear about what it is that we are debating. Essentially, it is about the future control of the assets ACTEW takes to the joint venture. Clause 11(2) of the Bill vests the property jointly and severally in each joint venture partner. The legal and equitable interest in ACTEW that the community now possesses would transfer to this joint venture. Ownership of the property would transfer to the joint venture. On the admittedly flimsy evidence that we have so far been given, it is total control. That is what it is; it is total control of the asset. Perhaps that control will be hedged by an agreement between the parties to the joint venture. But if that is the case, where is the agreement? What are its terms? What are its terms to be? What rights will the ACT retain to its property in ACTEW? What control will the ACT have over the disposal of its assets? On the evidence before us, the answer is that it will have no rights.

The Bill has some provision for ending the joint venture and the return of at least the electricity distribution assets to ACTEW. But what assets would be returned? What assets would be available for return? The Bill requires Assembly approval of any proposal to reduce ACTEW's share of the joint venture below 50 per cent. ACTEW must retain its half share of the cake. But where are the provisions to stop a reduction of the cake? There are none. We are asked to take it on faith. So, if the day comes and the joint venture is wound up, what will come back to the ACT? Does anybody know what will come back to the ACT? We simply are not told in any documentation put before us what will come back. Of course, what will come back in those circumstances will come back only with the agreement of AGL.

What role will ACTEW or anyone else have in protecting the interests of the ACT community, the owners of ACTEW? The answer seems to be that it will be very little. The indications of what is before us are that AGL will provide the asset management services to the joint venture. AGL will buy the electricity and gas. AGL will sell the electricity and gas. It will control the staff. It will provide the call centre. AGL will provide the billing system, the operation systems and the corporate functions. Who or what will look after the ACT's interests? Strategic management groups within ACTEW, we are told: An ACTEW stripped to nothing, a bare shelf. On the evidence given so far, this proposal is totally ineffective to the extent that it can protect the interests of the ACT.

The questions I pose need to be addressed by members of this Assembly before they make a decision on what is before them. These questions must be answered before this Assembly can meet its responsibilities to the Canberra community. If members find the questions simply cannot be answered - Labor cannot find an answer to these questions and I challenge anybody else in this place to do so - there is no option but to vote against this proposal.

Before we can deal sensibly with the matters in front of us we need to get back to the real issue. We need to cast aside the Government's dire, Hanrahan-like warnings of impending doom for ACTEW unless we rubber-stamp this half-baked joint venture proposal. Remember last year's debate: The Government said that ACTEW would be worthless to the Territory, that it would better to sell it then while we could still realise a healthy cheque. The sky did not fall in, and there is no need now to rush into a decision that betrays the trust of ACTEW's owners.

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The real issue in this debate revolves around the risk to ACTEW from deregulation and the consequent competition. ACTEW's retail business, according to the Government's consultants, is worth 3 per cent of its overall operations and about 10 per cent of its electricity business. That is what ABN AMRO tell us. Yet the Government argues that the risk of an unfettered market is such that dramatic solutions, such as this joint venture, must be embraced. Not only that, but the Government and ACTEW overstate the case. As recently as 30 June last year, ACTEW boasted of its capacity to meet the challenge of increased competition. In his report in the corporation's annual report last year the chairman, Mr James Service, wrote:

In the year under review ACTEW Corporation continued to cope well with the challenge of competition in the electricity industry. Modest early losses of some ACT contestable electricity suppliers were largely offset by gains in winning the business of customers outside the ACT.

That was said by Mr James Service, chairman of the board of ACTEW, in last year's annual report. That is what he said; that is the report that was tabled in this place for the information of members. We are now being asked to believe that, in fact, that is not the situation, that ACTEW is not coping with competition. That was said in last year's annual report. What are we to believe?

Members of this Assembly have an interest in knowing what has changed since June last year. Competition is not new in ACTEW's core business. Nationally, markets have been open to competition increasingly in recent years. In fact, the only sector left to throw open is the domestic or household sector, and there is a good reason to believe that competition will have its least impact on that sector of the retail market.

If ACTEW was coping well last June with the effects of competition on its retail markets, as advised to us by the chairman of the ACTEW board, what has changed in the last eight months to make the situation dramatically worse? The Government has given the Assembly no evidence of any dramatic change. Mr Mackay, the corporation's chief executive, has been beating up the issue, but he offers no evidence. In fact, in reply to questions of mine about the joint venture, Mr Mackay makes no mention at all of the corporation's success in winning business outside the ACT. (*Extension of time granted*) Instead, Mr Mackay makes the point that prices to contestable customers have decreased and the corporation had lost a competitive load in the ACT. There is no mention of the new customers Mr Service bragged about last June. Does Mr Mackay disown the statement of his chairman or does Mr Service now resile from his very positive annual report? If so, when did he resile, why, and to whom did he report his change of heart?

It is probably appropriate at this point that I refer to a matter raised in the debate by my colleague Mr Quinlan, further to a question he asked of the Treasurer last week. Mr Quinlan made the point that he had asked the Treasurer in question time last Thursday about what impacts on growth changed ownership would have on ACTEW's water, sewerage and electricity distribution businesses. So much has been made of the need to entertain this joint venture in order to allow the business to grow. Mr Quinlan asked the Treasurer, "What impacts on growth will changed ownership have on ACTEW's water, sewerage and electricity distribution businesses?", which are the basis,

the guts, of ACTEW. What was the response of Mr Mackay to that very question that I put to him pursuant to the invitation made to all of us to have these questions answered by ACTEW? Mr Mackay said to me, "The impact will be no major change from the present". So we have the CEO admitting, when put to the test, that the joint venture will create no major change from the present in relation to growth in water, sewerage and electricity distribution.

That is now the justification that Mr Mackay gives. Having been basically bearded in relation to what effect on growth the joint venture will have, he now says, "However, the partnership should be better placed to respond to increasing potential redundancy in the wires, pipes and treatment plants brought about by increased use of domestic solar energy and recycled water". So the reason for the joint venture has now been reduced to the need to deal with potential redundancy as a result of increased use of domestic solar energy and recycled water. The enemy that we are now dealing with, in fact, is solar energy and recycled water. That is the issue we are now pursuing.

The Opposition attempted to get these matters dealt with in question time, but the Treasurer chose instead to introduce a preposterous new contention. He said that the biggest threat confronting ACTEW is contestability in the domestic electricity market - in the words of the Treasurer, "the sales to you and me and ordinary householders around the Territory". Mr Speaker, as the corporation's chairman has reported, ACTEW has coped well with increasing competition amongst its commercial market. Where is the evidence that it will not deal equally as well with the domestic market?

Further, in its media release announcing details of the joint venture, ACTEW said that the risk it faced came from increased competitive pressures in the generation and retail sectors; but ACTEW is not in the generation business, not yet at least, not unless the joint venture goes ahead and the corporation buys equity in the proposed gas-fired generator offered by AGL as a sweetener. We will love to see the way in which that proposal is dealt with in the contracts between ACTEW and AGL, will we not? We will love to see the timeframe put on the construction of the generator.

There is a further risk of competition, too - not in ACTEW's current business, but in the business it wants to get into. Just as the electricity business is being opened to competition, so is the gas business. Through this joint venture, ACTEW is exposed to the risk AGL faces in its core business, a risk that will be exacerbated by the arrival of the east coast gas pipeline and the redundancy of supply that that will bring.

Labor understands the nature of the risk argument; but, while the potential is there, the argument is unproven. The Government has not demonstrated or even attempted to demonstrate, because it cannot, the extent of the risk posed by a deregulated retail market. (*Further extension of time granted*) That begs the question: Why take such a dramatic step as this joint venture to cope with the threat of an unknown risk? If we do not know the extent of the risk to ACTEW's retail electricity business, what do we know of the prospects for the other elements of the corporation's operations?

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What do we know of ACTEW's electricity distribution business? We know with certainty that the hardware associated with it is a natural monopoly. ACTEW owns the power poles and lines. No-one will build another distribution network. Distributors new to the Canberra retail market will have to pay ACTEW to use the network. There is no threat to that aspect of ACTEW's business. In fact, there is a prospect of new business.

Mr Speaker, perhaps some indication of the real thinking behind the enthusiastic support of the ACTEW board for this proposition comes from the preamble to the joint venture proposal, which says:

Reform of Australia's energy sector has increased competitive pressures in the generation and retail sectors ... The retail function involves significant low margins and significant economies of scale. These characteristics make it very difficult for small retailers such as ACTEW to compete.

So, according to the joint venture proposal, the risk to ACTEW quite clearly lies in the retail sector of its business. Then comes the magic leap in logic:

The proposal with AGL would provide the ACT with a unique opportunity to establish Australia's first multi-utility. The proposal would maximise the potential for the joint venture to be a viable ACT-based participant in the emerging national energy markets.

So that is what we are to become. We are to become a player in the emerging national energy markets. That is what the people of the ACT are signing up to become. Is the joint venture proposal a strategy designed to cope with the emerging risk to ACTEW's retail business - remember, a business that makes up 3 per cent of its overall operations - or is it something more on a grand scale, giving ACTEW and its shareholders, the Chief Minister and the Treasurer, the opportunity to strut the national stage and giving the CEO an opportunity to be a player in a game somewhat more exciting than the "boring little business" that he told ABC radio it was his fate to be a part of if ACTEW did not grow? One wonders whether a good enough reason to enter into a joint venture is so that the CEO will have a little bit more excitement in his working day.

The Government, as is its habit, has made much of its willingness to provide members with all the information available about this joint venture, to answer any questions and to provide whatever briefings are necessary. That process, again fitting the Government's habit, has been a farce, loaded with rhetoric and short on detail. What are we left with on which to base an informed decision about this joint venture? Not a lot.

Labor asked Professor Allan Hodgson, head of the School of Accounting, Banking and Finance at Griffith University, for his view on the adequacy of the evidence offered in support of the commercial viability of this proposal, and that was the sum of it: Not a lot. Professor Hodgson said that he was unable to make any assessment of the commercial viability of the proposal, based on his review of the joint venture proposal and the Treasurer's presentation speech. There was simply too much information missing. Professor Hodgson asked: "What were the details of the total values of the assets being brought to the joint venture by both parties?". How could we possibly be debating this

today when we do not know the value of the joint assets. We do not know the value of AGL assets in the ACT. Professor Hodgson asked, "Where are the estimates of the future profits of the venture?". We have no information on the future profits of the venture.

Professor Hodgson points out that sound commercial practice requires a budget to be made out with appropriate analysis of the potential of a range of financial scenarios vis-a-vis the current situation. The advantage of such an approach is to quantify in dollar terms - surely they are the terms that this Government is interested in - the gains from the joint venture and the financial cost of the potential risks involved. But, as we know, there are no estimates of cost savings - none. There are no estimates of the financial benefits to customers - none. There is no timetable for the equalisation payments to be made by AGL. We do not know when AGL is going to make the payments. As Professor Hodgson says, without negotiating an exact up-front contribution, the agreement is fraught with costly agency and monitoring problems, not to mention uncertainty.

Finally, there is no estimate in the papers reviewed by Professor Hodgson, the papers that this Assembly is being asked to make a decision on, of the cost of the much vaunted gas-fired preparation plant. (*Further extension of time granted*) Perhaps more importantly, there are no comparative costings for the electricity from a gas-fired plant versus the purchase of electricity from other generators. There is no analysis of the prospects of selling the power generated from the gas-fired plant to an already highly competitive market. None of these issues has been dealt with. We have no information on any of these questions and we are being asked to vote on the proposal. We debate in ignorance and have been asked to vote without having any of the facts before us.

Mr Speaker, what the Government proposes with this quite bizarre scheme is a sledgehammer to crack the nut that is the threat to the retail sector of ACTEW. ACTEW's retail business is worth 10 per cent of its revenue. It is at acknowledged risk from competition, although the extent and potential of that competition are hinted at, not demonstrated. The Government wants us to approve a scheme in which it sells half the community's power business in order to buy half a gas business. It wants us to approve a joint venture with a much larger and, from the evidence we see around this place, a much cannier private sector corporation and cede control over the assets of our most valuable public asset. It wants us to believe that the whole deal is kosher: "Trust us, we are from the Government". We have that from the Government with such a proven disastrous record in dealings with the private sector. We have that from the Government that gave us a map of the Cayman Islands in its attempt to extricate itself from the Bruce Stadium fiasco. We have that from the Government that underwrites football clubs, car races and, as we discovered today, rock concerts.

Mr Speaker, what the Government proposes and how it argues its proposal is simply not good enough for the Labor Party. It is not good enough for the community we represent. Sadly, this Government has shown itself to be happy to accept half-baked, illogically argued constructs that are designed more to show off to the big boys than to protect public assets and public money. Labor believes that we in this place would be derelict in our responsibilities were we to approve the stripping of ACTEW. We acknowledge that there is a problem that has to be addressed. This is not the solution. That is clear to all of us.

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Mr Speaker, as I just said, I believe that we would be derelict in our duties if we were to sell off ACTEW's assets. I believe that this Assembly would be doubly derelict if it did so on the total lack of evidence or genuine justification as evidenced by today's debate and the information this Government has not put on the table. Mr Speaker, we should put off this proposal until the Government comes back with a reasonable range of options that are fully argued and substantiated.

MR QUINLAN (5.26): Mr Speaker, I would like to speak very briefly on that amendment. I rise to support it because it is very logical. It quarantines asset sales from addressing the problem of the retail sector. I have to observe, though, that during the day we have had confirmation of the total ineptitude on that side of the house. The Treasurer, in an exchange while I was on my feet before, quite clearly indicated that he does not have a clue as to the asset structure of ACTEW. This follows a question without notice, a week or so ago, his answer to which showed that he did not have a clue where growth was going to happen within ACTEW.

This follows an appearance on ABC radio, about a week before that, in which it was apparent that he did not have a clue where the assets were going to end up and, in fact, assured us that there were no assets changing hands whatsoever. This is the man who is leading the Government's case, and if that is an indication of the competence of this Government in this business I think we should stop this process immediately. If we can place that much faith in the ACTEW board, then maybe we should be looking across this room at the moment at the ACTEW board, and not the Government, because this Treasurer seems to have not a clue about this particular exercise at all.

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

MR HARGREAVES (5.30): I move:

That the resumption of the debate be made an order of the day for the first sitting day in June 2000.

Mr Speaker, a lot of vitriol and a lot of emotive words have been thrown around this chamber today, and I have been here for the most part, listening to it, and I notice that, unless members opposite have been glued to their television sets upstairs, they have been notably absent all day. I wanted to make that point. I make an exception, of course, for Mr Hird. Mr Hird has put in most of the day and I congratulate him. I think his colleagues could take a lesson from his behaviour. Mr Speaker, the reason I moved that the debate be put off for so long is that the Treasurer over there can now get a clue about the points just mentioned by Mr Quinlan.

Quite a few clues are missing. Perhaps he ought to go and get those clues and come back. I noticed his embarrassment earlier today when we talked about retail assets. Mr Speaker, there are so many questions that have not been answered. I, like Mr Rugendyke and Mr Kaine, have received a raft of information, but still not enough.

Mr Humphries: It never will be for you, John, will it?

MR HARGREAVES: “Trust me”, says the acolyte from the Joh Bjelke-Petersen years. “Trust me, you can believe me. Don’t you worry about that”, says Mr Humphries, Sir Humphrey over there. Well, I do not believe him and I do not think I ever will, Mr Speaker.

I want to see some answers to questions. Today he tried to bag the Australia Institute, Mr Speaker. It needs recording. It was not the Labor Party that commissioned the Australia Institute report. Not even in your dreams, Minister, was it the Labor Party. In fact, if I understand it, Mr Rugendyke had, to his credit, a little bit to do with that and I say, “Good on him”. He is a man who will go digging in the gold mine looking for the dirt and I think he has probably found it. He has snatched defeat from the jaws of victory, and I congratulate him for that.

Professor Hodgson asked a lot of questions about that. He said, “What are the total values of the assets?”. Mr Humphries does not even know what the assets are. He says, “There are no estimates of the future profits from this venture”. I would suggest that there is not one member in this chamber who could tell me a dollar figure for those future profits. There is no estimate - - -

Mr Humphries: Of course not. How could you possibly tell?

MR HARGREAVES: Well, this is the man who wants to sell us this huge pig in this little poke. He says, “Of course there is not”, Mr Speaker. What an admission from the financial wizard from the other side of the house - what an incredible admission! That is almost as bad as “I don’t know what an asset is”. Perhaps you ought to go back to school. I suppose that when you have a lawyer dabbling in financial matters you could expect nothing more.

Mr Speaker, this Minister has not put down a timetable for the equalisation payment anywhere that I can see. In fact, if my memory serves me correctly, he has put down some rather interesting contradictions. One is that they are going to put some \$100m into the great superannuation problem, and yet we might also put that same \$100m into buying a gas-fired generator. But he also said that he is going to lock that payment into superannuation. Now if, for some reason, the deal falls apart, he says, “We can buy it back”. But he will not be able to buy it back because he has locked up that \$100m. There are huge contradictions in this.

I will give you another contradiction, Mr Speaker. This Minister - and I hope that he hangs his little grey head in shame - has said, “The gas-fired generator will reduce greenhouse gas emissions in the ACT”. What manifest bunkum that is. For openers, Mr Speaker, we do not have any generation of electricity in this town and therefore we are not making any emissions. The mere fact that you are introducing a fossil fuel-driven generator will add emissions. I do not see how the introduction of something new - another big lump of machinery - is going to have the slightest effect on the current gas emissions.

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Certainly I will pay the point that a gas-fired generator in the ACT may have an effect on the coal-fired generators in Victoria and New South Wales. But Mr Humphries said, and I think I can quote him here, "It will reduce the ACT's greenhouse emissions".

Mr Humphries: It will, yes.

MR HARGREAVES: Well, I do not believe you, yet again. I think you are basically wrong. You have not been able to convince me and I have been sitting here most of the day. There are so many other questions that I need answered. Mr Rugendyke has a barrel load of questions. Presumably you had all your answers delivered around morning tea time?

Mr Rugendyke: Did I?

MR HARGREAVES: According to the radio this morning you expected to, Mr Rugendyke, certainly. Mr Speaker, I will address the members through you, of course. I understand that Mr Rugendyke was expecting a raft of information to be delivered mid-morning, and we know how quick Mr Rugendyke is at assimilating this information, as a result of the training that he has had in the police force.

Mr Humphries: How to win friends and influence people. It is a great job, is it not?

MR HARGREAVES: I am not bothered about winning friends and influencing people, Mr Humphries. You do not need to worry about that. I crossed you off my list a long time ago.

Mr Humphries: I move that Mr Hargreaves have an extension of time.

MR HARGREAVES: Very droll, Mr Humphries.

Mr Humphries: A big one. Keep going.

MR HARGREAVES: There is no prize for second, Minister.

Mr Humphries: As you are about to find out, I suspect.

MR HARGREAVES: I shake in my boots, Minister. Mr Speaker, I really think that this town deserves a lot more answers than it is getting. This Government are saying, "We have been talking about this thing for two years now". What they have been talking about, Mr Speaker, is flogging off the asset - nothing more and nothing less. What they need to do is come clean and answer the questions that the average citizens out there in the community want the answers to, and they have not done it. This side of the house did not say, "No, no, no, no". It said, "There is a risk to the retail sector. We understand that, and it is fine". We also said, Mr Speaker, "Show us the detail", but you have not shown us the detail. All you have done is hidden it, if you do indeed have it, or if you have the wit to understand it, which I doubt.

MR BERRY (5.37): Mr Speaker, the Government will not agree to put this matter off and they will, of course, oppose the motion to delay it so that full disclosure is avoided, because the more information that comes out about this deal, the more trouble they get into. I think the Minister has more or less admitted that. They have learnt from past mistakes. Never give this lot full information, otherwise they might work out what is going on; that has been the attitude of the Government. Clearly the Treasurer, in this case, is playing the same game as his predecessor, Mrs Carnell - making sure that there is little information to go on so that they do not have to answer the criticisms.

If you have a look at the information that has been provided to the chamber today, what is most striking about it is that it demonstrates and catalogues the information that is not available, and why we need to see it. There may well be a need for those who, at this point, support the merger or the sale - however you describe it - to prevent a long and tedious debate, as they could well be proven wrong in their assessment of the issue, and be exposed.

I know when talking to the dozens and dozens of people to whom I talk in my electorate, from all levels of society, that they are concerned about this, and they are mostly concerned about this because they have experience with this Government. They know that Kate Carnell will be involved in this; they know that she announced it and gave it her imprimatur in the first place. They would not know the detail of the Territory Owned Corporations Act, which required her signature for this matter to reach this point, and will require her further signature for the matter to go further, along with that of Mr Humphries. What probably many would not know is that the Cabinet endorsement of this proposal would also have included the Chief Minister. Those of us who know this place also know that the Chief Minister has most of the say in these matters, as she would have had up to this point.

Mr Speaker, we also know that - notwithstanding the Chief Minister's comments - there can and will be negotiations between the voting shareholders and the board, and we will never find out what they were about. Unless there is a disagreement and a direction from the voting shareholders, it never finds its way here. So you can bet that there are going to be discussions and negotiations between the voting shareholders before they sign away a deal. There may even be written matters that never find their way into this place unless there is a disagreement.

When it comes to this place, what happens when there is a disagreement is as set out in the Territory Owned Corporations Act. So, if there is a disagreement, and the voting shareholders issue a direction to the board of ACTEW, that is when we find out about it, because it has to come back to this place. I heard Mr Rugendyke this morning on public radio saying, "Oh, I do not want the Chief Minister's fingerprints on this". Sorry then, Dave, this deal fails, because she has them on it already and she will have another set on it before long. You will have two sets.

MR SPEAKER: Mr Berry, you must not debate that motion.

Mr Humphries: I take a point of order, Mr Speaker. This is a debate about the substance of the matter, not about the motion to adjourn the debate.

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MR SPEAKER: Thank you. I was hoping you would swing it back to where the extra time was needed, Mr Berry.

MR BERRY: That is what I was going to do. Mr Rugendyke needs to be satisfied with these matters and as time passes he will be convinced more and more about the Chief Minister's involvement in this process. He will be convinced more and more about the Treasurer's involvement in this process, and other financial disasters in which he has been involved as a Cabinet Minister along the way. Now, Mr Rugendyke

Mr Hargreaves: He is laughing.

MR BERRY: No, he is not laughing at this. He could not. This is too serious.

MR SPEAKER: Is this the reason that you want it postponed until June 2000?

MR BERRY: Indeed, because I want to expose these people.

MR SPEAKER: I see.

MR BERRY: I want to expose these people and, bearing in mind the public statements that have been made by Mr Rugendyke, I think we need time to better demonstrate that, time and time again, you will find the fingerprints. They will try to keep them away from you. Now, there is a great deal of information that has not been provided, about which we ought to be concerned.

I turn to the Australia Institute report. This one has been dealt with as well, I think. Professor Allan Hodgson, the head of the School of Accounting, Banking and Finance - we will come back to that one in a minute. "What are the expert assessments of the prospects of both ACTEW and AGL in the new energy market?". Well, would you trust Kate Carnell and Gary Humphries on this? I do not. "Exactly what are the synergies that could be expected from the merger?". Would you trust Kate Carnell - - -

MR SPEAKER: Again, Mr Berry, it is not a question of whether you are trusting or not, the fact is that you have to justify - - -

MR BERRY: I need to get further expert information, Mr Speaker. I want to hear more about this. I want to know about the method to be used for calculating the equalisation payment before I give approval for this matter. I already know that the Government says we will get \$100m or so when we hand over the gold-plated assets to this organisation at bargain basement prices. Mr Humphries says that, if it all collapses, we will get all those assets back, but he never mentions that we are going to have to cough up the money - probably borrow it - to get the assets back.

"What would be the precise legal structure?". Who knows, because that has to be agreed to by the two shareholders in the end, and signed away after we make the decision. You would have to be mad to let this pair sign anything without knowing the full details of it. The Australia Institute report asks:

How would the new board operate and to whom would it report? What would be the dividend policy of the Joint Venture? What would be the capital structure of the Joint Venture? What are the taxation implications of the various possible capital and legal structures of the Joint Venture? How will the ACT public know whether it had achieved a good deal in the merger?

On the issue of greenhouse benefits, today we still hear this Minister talking about the benefits of this for the greenhouse effect. I think the frailty of those arguments has already been exposed. Let us look again at the Australia Institute report. Mr Humphries might seethe in private about that; nevertheless, it hits all the right buttons. It goes on to say:

Nor is the new plant likely - - -

Mr Hird: What does this have to do with adjourning?

MR BERRY: We need to get to the bottom of all of this information that has not been provided. I continue:

Nor is the new plant likely to contribute to reduction in Australia's greenhouse gas emissions. The plant would have greenhouse benefits if it replaced electricity generated from coal-fired power stations. However, the gas-fired plant in the ACT would provide electricity into the national grid at peak periods. As such it is unlikely to replace coal-fired electricity, but would substitute for gas-fired electricity generated elsewhere, or hydroelectricity (from the Snowy or from Tasmania's HEC should Basslink go ahead). In the former case, the new plant would be greenhouse neutral; in the latter case, the new plant would increase Australia's greenhouse gas emissions.

The issue of competition in relation to the generating plant has not been properly explained.

Mr Humphries: Because you have not asked the right questions have you?

MR BERRY: Why has that not been explained?

Mr Humphries: Because you have not asked the question.

MR BERRY: Mr Humphries says we should ask. We want to hear it from you. You do not know, that is your problem. You only have the ideological baggage "I want to sell it". You have always wanted to sell it from day one, and that is all you are interested in. You might be able to mesmerise a few people around this place with your charm, Mr Humphries, but not us.

Mr Hird: Mr Speaker, I take a point of order. Mr Berry is not addressing the matter before you. He is debating another subject.

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MR SPEAKER: He is getting very close to debating it, I grant you.

MR BERRY: I admit that I have been close on a couple of occasions, Mr Speaker. I now want to refer to the financial assessment of the joint venture proposal between ACTEW and AGL, which I understand has been tabled. Professor Hodgson - again, this is information that needs to be clarified - said:

My conclusion is that I am not able to make an assessment of the commercial viability of this proposal based upon the financial information provided in the above documents.

Mr Speaker, whom else do we need to tell us that there is inadequate information? How many times do we need experts to tell us that we are being kept in the dark? How many times do we have to experience the problems of being kept in the dark - Bruce Stadium, Canberra Hospital, the futsal slab
- - -

MR SPEAKER: Careful now.

Mr Stanhope: What about the rock concert?

MR BERRY: The rock concert.

MR SPEAKER: You are running very close again.

MR BERRY: Mr Speaker, those are examples of where we have been kept in the dark before. We have learnt our lesson on this side of the house: Do not trust them. We need all the time in the world to get to the bottom of this. I am not even sure that we will get to the bottom of this by June.

Ms Carnell: Or this year. Or this century.

MR BERRY: I am not saddled with the ideology that you must sell public assets. I am interested in public assets being used to produce public benefit.

Mr Hird: It was a shame your Labor Government did not have the same attitude with Belconnen Mall.

MR BERRY: I heard that interjection. If you had been outside with your camera, you would have been able to take a picture of me because I was on the picket line. Where were you?

Mr Hird: Right there.

Mr Humphries: Where were you when Qantas was sold, Wayne, and Australian Airlines?

MR BERRY: I was wearing a T-shirt saying "I own an airline and a bank and they are not for sale".

MR SPEAKER: We are discussing ACTEW.

MR BERRY: That is where I was - underneath a T-shirt, demonstrating my ownership and the fact that they were not for sale as far as I was concerned. Where were you?

Mr Kaine: On the other side of the picket line.

MR BERRY: Yes, that is right. Mr Kaine raised the point, "Nobody will come along and buy this if we do not get rid of it now". That is not a good enough reason. I have to base my decisions and judgment on better evidence than that. There are many experts issuing a litany of reasons why we need to delay this, and listen, and question, and make sure that we have all of the goods on these people opposite. Those of you who have seen the financial and management disasters in this place, emanating from this Cabinet, dominated by this pair, have to be cautious. If you are not cautious, we will see again the kinds of events that followed from the Bruce Stadium matter and the sorts of things that still flow from the hospital implosion - that is still going to cost the Territory millions of dollars.

Mr Speaker, you cannot trust the word of these people in relation to financial matters. You have to examine it yourself. A simple press release from the Chief Minister singing the praises of this particular venture is just not good enough. The information that we have before us today clearly demonstrates that we need to wait. Now, we think that by June we might begin to uncover some of this. I promised not to sell ACTEW, and it will take a lot to convince me that I should change my mind. I never hid my feelings on the issue, which is what this mob opposite did, and they need to be exposed a little more in relation to that. Mr Speaker, there is absolutely no reason why we should rush this through, and there are many reasons why we should wait and consider the matter more closely.

Mr Speaker, we have been presented today with ample evidence for waiting. Even if we only relied upon the evidence given to us by the Government, we should be cautious, given our experience with these people. Mr Speaker, we have ample evidence showing that we should wait, and so we should wait. This is a motion that deserves the support of this Assembly.

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

Omit "the first sitting day of June 2000", substitute "the next day of sitting".

MR QUINLAN (5.52): Very briefly, Mr Speaker, I do not think we could support that on this side of the house. I rather think that two days is insufficient time for Mr Humphries to find out which way is up in relation to this particular deal.

Question put:

That the amendment (**Mr Humphries'**) be agreed to.

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The Assembly voted -

AYES, 10

NOES, 7

Ms Carnell
Mr Cornwell
Mr Hird
Mr Humphries
Mr Kaine
Mr Moore
Mr Osborne
Mr Rugendyke
Mr Smyth
Mr Stefaniak

Mr Berry
Mr Corbell
Mr Hargreaves
Mr Quinlan
Mr Stanhope
Ms Tucker
Mr Wood

Question so resolved in the affirmative.

Ordered that the resumption of the debate be made an order of the day for the next sitting.

ADJOURNMENT

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

That the Assembly do now adjourn.

Reid Court

MR SMYTH (Minister for Urban Services) (5.56): Mr Speaker, I have some more information for Mr Wood in regard to Reid Court. There are 24 ground floor units and 24 first floor units in this older persons flat complex. I am advised that, as of today, one ground floor unit and three first floor units are vacant. Another first floor unit is vacant from time to time, as we use it for short-term allocations. I am further advised by ACT Housing that there is currently no-one on the applicant list who is waiting for the specific type of accommodation that is in this complex. We acknowledge that it is a difficult complex to let and ACT Housing is looking at ways in which we can improve this.

ACT Housing has no plans to dispose of Reid Court in any of its housing strategies and, in fact, will be looking at upgrading it in the medium term, particularly its bathrooms and kitchens. ACT Housing has also recently completed a landscape upgrade and is currently upgrading the car parking.

Mandatory Sentencing

MR HIRD (5.57): Mr Speaker, I will shortly be seeking leave to table an extract from an article on mandatory sentencing. While I am conscious of the fact that the matter has been debated in this chamber, I think it is fair that I table the facts about mandatory sentencing in the Northern Territory as put forward by the Hon. Denis Burke, MLA,

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Chief Minister and Attorney-General for the Northern Territory, and the rationale behind the introduction of mandatory sentencing in that Territory. It goes into detail about juveniles aged 15 and 16 years, burglary and stealing, car thefts and property damage. On the first occasion, the result is police caution; on the second occasion, court; on the third occasion, court; and on the fourth occasion, court.

His statement then goes further to discuss adults aged 17 and over. A first offence results in 14 days and court; a second offence, 90 days and court; and the third offence results in 12 months. Mr Burke says:

The controversy over mandatory minimum sentencing in the Northern Territory has some people believing offenders are imprisoned on their first brush with the law. This is not true.

He continues:

Juveniles are not incarcerated for a single housebreaking or stealing offence - only after they have established a pattern of criminal behaviour and offer no remorse or regard for the rights of their victims.

Adults do face gaol on their first offence, but criminal history incurred as a juvenile does not count for the purpose of mandatory sentencing. Even adults can escape imprisonment under "exceptional circumstances" provisions.

This is how this aspect of the NT justice system works. Mandatory Sentencing is only one of the ways the Government tackles law and order issues.

This extract balances the view on mandatory sentencing and gives the Chief Minister's view. I now seek leave to table the document.

Leave granted.

Question resolved in the affirmative.

Assembly adjourned at 5.58 pm