DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

18 August 1992

Tuesday, 18 August 1992

Tuesday, 18 August 1992

MADAM SPEAKER (Ms McRae) took the chair at 2.30 pm and read the prayer.

PETITIONS

The Clerk: The following petitions have been lodged for presentation:

By **Mr Stevenson**, from 32 residents, requesting that the Assembly legislate to permit the use of exotic and other animals in circuses.

By **Mr Humphries**, from 402 residents, requesting that the Assembly prohibit the availability of all X-rated material and the possession of child pornography.

The terms of these petitions will be recorded in *Hansard* and a copy referred to the appropriate Minister.

Circus Animals

The petition read as follows:

> TO THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY:
>
> The petition of certain residents of the ACT drew to the attention of the Assembly that we support the traditional circus that has exotic and other animals as part of its presentations as long as strict conditions are applied in terms of the welfare of the animals.
>
> Your petitioners therefore request the Assembly to legislate to permit the use of exotic and other animals in circuses.

X-Rated Material, Pornography and Violence

The petition read as follows:

> To the Speaker and members of the Legislative Assembly for the Australian Capital Territory:
>
> The petition of the undersigned citizens and residents of Australia draws to the attention of the Assembly the fact that the availability of mail order X-rated material and goods from the Territory has caused Australia to surpass the highest world statistics for sexual crimes.

Your petitioners therefore request the Assembly to:

- prohibit the availability of all X-rated material from the 1983 Ordinance

- prohibit the POSSESSION of child pornography by amending the 1983 Ordinance

- prohibit considerable violence and all forms of sexual violence in the 1983 Ordinance.

Petitions received.

PAPER

MR HUMPHRIES: Madam Speaker, I ask for leave to present a petition from interstate petitioners.

Leave granted.

MR HUMPHRIES: Madam Speaker, I present a petition from 12,755 interstate residents, requesting that the Assembly prohibit the availability of all X-rated material and the possession of child pornography.

QUESTIONS WITHOUT NOTICE

Land Tax

MR KAINE: I would like to direct a question to the Chief Minister and Treasurer. I note that last week the Chief Minister made much of the fact that ACT land tax arrangements were the same as, or at least comparable to, those in the States and the Territories. Given that, and the fact that the ACT's only two private nursing homes pay land tax while nursing homes of that kind in New South Wales do not pay land tax, will the Chief Minister put some substance in her claim by bringing the ACT into line with the practice in New South Wales in this regard?

MS FOLLETT: Madam Speaker, I will take Mr Kaine's question on notice. I think that is the best way of getting him a full response on this matter. I would like to say that the purpose of land tax is for commercial enterprises to pay that tax. If the nursing homes are indeed commercial enterprises, as I suspect they are, I would need a very strong precedent before I would contemplate any such change. But, as I say, I will take the question on notice and make sure that Mr Kaine gets a fully researched response.

MR KAINE: I ask a supplementary question, Madam Speaker. Is the Treasurer saying that, even though private nursing homes are exempt from such tax in New South Wales, she will not necessarily bring them into line, despite her earlier claim on this matter?

MS FOLLETT: I have taken that on notice, Madam Speaker.

Communications and Computer Industry

MS ELLIS: My question is directed to the Chief Minister. Can the Chief Minister comment on Mr De Domenico's suggestion that the Government has declined to "jump on the band wagon" in relation to his technopolis because it was not the Government's idea?

MS FOLLETT: Madam Speaker, I would like to comment on Mr De Domenico's claims in this regard. I am particularly aware that Mr De Domenico said, "But the Government were, or have been, invited through all this". Let me say at the outset that Mr De Domenico has not approached me, as the Minister responsible for industry development, for economic development, in the ACT, on this matter, let alone invited me to his closed workshop on the matter. So I think that it is incorrect to say that the Government have been invited and have simply declined.

It is, however, a matter of Mr De Domenico leaping onto a band wagon - one which has been going for some time. The Government has been pursuing - in fact, since before Mr De Domenico was a member of the Assembly - the promotion and the encouragement of communications and computer technology development in the ACT. We have been committed to the concept of the ACT as the nation's capital in communications and computing and have taken a number of actions in that regard. In May, I launched a campaign in association with representatives from AOTC and Optus, who are the leaders in the communications field in Australia. As part of that campaign, some 1,500 brochures were sent out. That brochure was entitled "Canberra - Australia's communications and computing capital".

The brochure was sent to four target groups. They included our own local information technology business; government decision makers; decision makers in major companies; and interstate information technology businesses. That brochure has drawn a very gratifying response. There have been 164 inquiries about it and 154 of those inquiries have been for further information about Canberra's potential as the communications and computing capital. There have also been some tangible results from that campaign. I quote just one instance: A New Zealand company called Azimuth, which is a consulting company, has actually chosen Canberra, ahead of Melbourne and Sydney, for its Australian headquarters. They have, in fact, started advertising for senior executives, so we expect that that new business will be getting under way and new jobs will be created in the ACT. There have also been a number of inquiries from other companies wishing either to expand or to start a new business in the ACT.

Following on from that campaign launch, Madam Speaker, the Government has also been putting forward a proposal for a televillage. That proposal is expected to be finalised by the end of this month. It comprises a number of elements. They include, for instance, the incorporation of advanced telecommunications networks into the development of Gungahlin and an advanced telecommunications centre to manage that network and to provide linkages between Australian industry and the Gungahlin demonstrator site. The aim of the televillage is to provide a demonstrator site at Gungahlin that is based on the delivery of advanced telecommunication services. Obviously, AOTC is expected to benefit for a number of reasons, which include the development and the experience of delivering value added services. Australian industry would also benefit from that because of the products and services that would be able to be developed for the advanced network before they were made generally available both nationally and internationally.

The campaign that I have referred to, Madam Speaker, received quite extensive coverage in the media, including the *Canberra Times*, the *Australian*, the *Australian Financial Review*, the Commonwealth Government *IT News*, the *Monitor*, the *Directions in Government*, and so on. So, rather than the Government failing to jump on Mr De Domenico's band wagon - a band wagon which, I might say, is totally lacking in direction - we have been well ahead of him in this game. We have our own projects under way and are very well ahead in the game. I would like to repeat, Madam Speaker, that Mr De Domenico has not contacted me about his proposal; he has not invited me. I am the Minister responsible. I think that he may have, perhaps unwittingly, misled the Canberra audience on that matter.

There is one aspect of Mr De Domenico's belated and rather half-hearted campaign that I would like to comment on, and that is the reported involvement of the Royal Australian Mint. Madam Speaker, I would have thought that, if the Royal Australian Mint wanted to play a role in the advancement of computer and communications technology in the ACT, I might have heard from them or at least from their Federal Minister. What I propose to do, given their reported interest, is take it up, perhaps at a Federal Government level, with the Minister responsible and see whether there is a way that they would like to be involved in what the Government is already doing.

Supported Accommodation Assistance Program

MR CORNWELL: We all seem to be having problems with invitations. My question is directed to Mr Connolly. I refer to a media report in the *Canberra Times* of Friday, 14 August, concerning the supported accommodation assistance program and the statement that was made by a spokesman for Mr Connolly's office. The spokesman said, "Mr Cornwell had been invited to a sit-down discussion on the issue with Mr Connolly, but he had declined". Minister, when was this invitation issued? No approach whatsoever was made to my secretary, me or any Liberal staffer on the first floor to invite me to a sit-down discussion with you. Frankly, I resent the implication that I had refused to cooperate by declining an invitation that was never made. I would be quite happy to sit down at any time to discuss this matter with you.

MR CONNOLLY: Thank you. Madam Speaker, I do not have the invitation with me; but a copy of it is actually, as I understand it, pinned to the wall in the *Canberra Times* office, because I made a copy of it available to Mr Cornwell and indeed to the media. When Mr Kaine announced the shadow ministry in April, as a courtesy, I wrote to each member of the Opposition with shadow responsibilities, making it abundantly clear that there was a standing offer for any briefings from me or my officials, simply on the condition that the briefing be arranged through me. I had no response from Mr Cornwell to that offer of a briefing.

The Commissioner for Housing, Mr Templar, the officer with responsibility for the Housing Trust, has file notes which show that twice Mr Templar contacted Mr Cornwell's office with a view to asking whether he wanted to take up the offer of briefings on Housing Trust matters. There was no response. I am concerned that Mr Cornwell is absolutely pounding the notice paper with masses of detailed questions on Housing Trust matters, which my officers would be more

than happy to deal with by way of briefing. But he has not accepted my invitation for a briefing from me or my officers; nor has he accepted repeated invitations from my officers. So I do not know what he is upset about.

Even if the first letter got lost in the mail, another was sent to him. As I say, it was dispatched through the ordinary system in April. I know that other opposition members received a letter in similar, terms because I know that other opposition members - quite sensibly, in my view - availed themselves of the opportunity to have briefings with either me or my officials and have gone on tours of various areas of my responsibility. Mr Cornwell did not see fit to take up any of those offers.

MR CORNWELL: I ask a supplementary question, Madam Speaker. I have a copy of that letter before me. It is dated 23 April. It states nothing about sitting down and having discussions with you, Mr Connolly, in relation to SAAP or anything else.

Mr Kaine: Table it.

MR CORNWELL: I seek leave to table this letter.

Leave granted.

MR CORNWELL: I think it should be made quite clear for *Hansard* that Mr Connolly's letter referred to extending an offer to me for Mr Connolly's officers to brief me on housing related issues in the ACT. He went on, at one stage:

> In addition I would be happy for the Trust to arrange a tour for yourself and other members of the Assembly who would be interested in acquainting themselves with the different elements of Housing Trust stock.

There is no question, Madam Speaker, of an invitation to sit down and discuss the SAAP, and that is what we are discussing and that was what was referred to in the *Canberra Times*.

MR CONNOLLY: I do not know how that is a supplementary question, but this is the most incredibly churlish and petty thing I have ever heard. If you wish to move a censure motion on me because I did not say, "Sit down", please do so, and you will be judged by the Canberra community for the churlish Opposition that you are. The point remains, Madam Speaker, that this person did not take up either the sensible offers in that letter or the repeated offers from the Commissioner for Housing. He continues to besiege us with pettifogging questions which I would be happy to answer. Fortunately, other members of the Opposition take a more sensible view and took up such offers, so they are better informed of the workings of government and better able to fulfil their responsibilities as opposition members.

Dog Exercise Areas

MS SZUTY: My question is addressed to the Minister for the Environment, Land and Planning, Mr Bill Wood, and concerns the recently designated off-lead dog exercise areas in the ACT. I did give Mr Wood's office notice that I would be asking this question this afternoon. Could the Minister inform the Assembly as to what consultation processes have been undertaken and why particular suburban areas have been designated as off-lead dog exercise areas, when these areas at times include school and community ovals and playing fields?

MR WOOD: I thank Ms Szuty for her warning. It is the case, however, that this issue has been much in my mind and one that I have debated internally and with no small number of people. You asked why particular suburban areas have been designated as off-lead dog exercise areas. The question is simply answered by saying that it is clear from all the consultation that has occurred over a period that the community wants dog owners to have much more control of their dogs.

The policy for determining which areas would be designated off-lead exercise areas was developed in consultation with relevant land managers within my department and with the two major dog clubs in the ACT. The current policy is that dogs may be exercised off lead on non-irrigated areas of public land, except where dogs are prohibited for specific reasons. Here and there you see a sign with a red diagonal stripe crossing out the dog. We spent a great deal of time endeavouring to determine which areas would be so designated. It seemed to us ultimately that an irrigated area versus a non-irrigated area provided a pretty good point of demarcation, and that was the reason for doing that. There are some extensions of that. The law prohibits dogs from being on children's playgrounds and near food preparation areas such as barbecues in public parks and other places and also on sportsfields and ovals when a sporting activity is actually taking place. We have developed maps showing these areas and they are available for public viewing around the libraries and other public places. I believe that the system will work well. Obviously we will listen to comment if there are particular difficulties in some areas.

Emergency Rescue Service

MR HUMPHRIES: My question is to the Attorney-General. Has the Attorney recently renewed the ACT road accident rescue memorandum of understanding for a further 12 months? Does the Attorney acknowledge that this arrangement, whereby the ACT Fire Brigade attends road accidents north of the lake and the Australian Federal Police those south of the lake, is arbitrary and has led to interservice rivalry, overservicing at some accident sites and the wasteful duplication of road rescue vehicles, equipment and training? When will the Government summon up the courage to attack this costly and inefficient practice once and for all, rather than succumbing to the vested interests of some of the unions concerned by endlessly renewing the memorandum of understanding?

MR CONNOLLY: The memorandum originally signed under the Alliance Government has been renewed for a period of 12 months. Unlike the Alliance Government, which just did it, I have directed both the Chief Police Officer and the Fire Commissioner to get together to come up with a solution to this problem. I also intend to set up a working party of the two unions. I, frankly, do not care who provides the rescue service, so long as it is provided well and efficiently. The dilemma is that there is no simple solution to this.

There is one view that says, "Chuck the police out of it altogether and let the fire service do it all". The dilemma with that is that you need to have a police rescue capability for other purposes and it would be foolish to have sitting unused the police rescue capability available for urban motor vehicle accidents. The alternative view is that you should chuck the Fire Brigade out of it and have the police fully servicing it. The dilemma with that is that - - -

Mr Kaine: It is your job to make a decision, Minister; that is what you are there for.

MR CONNOLLY: There are no simplistic decisions. Under your Government, no decisions were taken, which was why you were not able to achieve savings anywhere. If we simply said, "The police will do it all", we would have to increase the police's resources. We also have the dilemma that the Fire Brigade need a lot of this rescue equipment in any event because the "jaws of life" type of gear and the cutting tools are required for getting in through security doors in premises and the like. So a modern urban fire pumper is equipped with most of the rescue gear anyway. We also have the fact that, whereas, obviously, the prime use for the police is law enforcement, the fire service needs a certain level of personnel. When there is no fire, those personnel are sitting around waiting for action, so it is sensible to use them.

What I am trying to achieve is the most efficient utilisation of both resources and I am trying to cut down on some of the interservice rivalry. There is no simplistic solution to this. If the Opposition think they have solutions, I would be most interested in their positive contribution to debate.

Mr Kaine: You are paid to come up with solutions, Minister; that is your job.

MR CONNOLLY: Mr Kaine, I am coming up with the solution, in that I have extended the agreement which was entered into by your Government as a sort of finish, end of the day, sign the north-south divide and forget about the problem, it will go away. I have extended that for 12 months; but I am working on the solution with the two relevant senior officers - the Chief Police Officer, Mr Dawson, and the Fire Commissioner, Mr Kerr - and the relevant unions to come up with a solution. So we are working on the problem. Mr Humphries identifies it quite properly as a problem for public policy. The current situation is not ideal, but we have extended it in the interim and are working for a better solution.

MR HUMPHRIES: Madam Speaker, I ask a supplementary question. Given that it has taken the Minister 14 months in office to get to the stage of appointing a subcommittee and getting the two unions to agree to get together, how long does he anticipate it will take to actually get this matter resolved rather than just to the point where it starts to be talked about?

MR CONNOLLY: Madam Speaker, we have been doing other things during that 14 months, including achieving significant reforms in the buses area and working on budgets, which you, Mr Humphries, were unable to achieve. The matter is in hand and closer to a solution than when the Liberals had responsibility; but, as I say, as in all matters, I am open to constructive solutions from any member of the Assembly.

Woden Valley Hospital - Electroconvulsive Therapy

MR LAMONT: My question is to the Deputy Chief Minister in his capacity as Minister for Health. Could the Minister please advise the Assembly what steps ACT Health has taken following the reported electroconvulsive therapy incident at Woden Valley Hospital?

MR BERRY: Thank you, Mr Lamont, for the question. This matter has been investigated fully, Madam Speaker. I would like to point out to members some of the steps that have been taken. This matter was first raised with the Community Advocate and, as soon as there was a request for information from my office, that information was released under the Health Services Act in order that the matter could be fully investigated by the Community Advocate. The Board of Health immediately met and established its own independent committee. That independent committee was subsequently appointed as an approved committee by me - - -

Mr Humphries: Madam Speaker, I raise a point of order. I understand that only today some charges were laid against certain persons alleged to be involved in this matter. I wonder whether you should ask the Minister whether the matters he is traversing are sub judice and the raising of them might therefore constitute a contempt of court in some way, or, certainly, whether they are matters that should not be traversed by a Minister at this time.

MADAM SPEAKER: Thank you for bringing it to my attention. I believe that Mr Berry is well aware of those issues.

MR BERRY: That might be something that you might do, but it is not something that we would do. The Director of Public Prosecutions was notified at an early time of possible non-compliance with the Mental Health Act. Since then, some administrative arrangements have been made to reinforce an understanding amongst staff of the requirements of the Mental Health Act.

It is important from the Government's point of view to make clear to the community that we have been able to act with urgency and openly to examine an issue of such importance to the community. We acted swiftly to review the situation so that staff could have a better understanding of the Mental Health Act as a result of improved processes and so on. Everyone concerned with this issue acted responsibly and immediately, once the facts were clear. I do not think there is any question in anybody's mind about the quality of the staff. They are all highly trained and experienced staff. I have every confidence that the management and staff of Mental Health Services will continue to provide first-class service. Of course, I look forward to building on the changes arising from the incident.

I also would like to raise, Madam Speaker, the issue of the establishment of the independent complaints unit. I think this incident gives rise to an opportunity to further discuss that issue. It reaffirms, in my view, the importance of our commitment to establish an independent complaints unit. A discussion paper will be issued shortly in relation to that matter.

Preschools - Suggested Closures

MR MOORE: My question is directed to Mr Wood, the Minister for Education. Many people in the community are very anxious about suggestions that preschools, particularly in Downer, Hackett and Watson, are about to be closed and consolidated into an area preschool at Majura Primary School. Will you give an assurance that these freestanding preschools and others, particularly in the inner north and inner south regions, have your protection?

MR WOOD: Mr Moore says that many people are concerned. That is probably the case with respect to those three preschools, because my office also got a number of calls asking whether it was true that I was going to close them. That confused me, because I had no intention of closing them, Mr Moore. I had no debate about it. There had been no discussion anywhere on that matter. On inquiry, I discovered that the Majura Primary School Board report of late July has in it an article by, presumably, the chair of that board - certainly a member - in which it is stated that that might be expected. He had no basis on which to make those remarks. I think they were speculative, perhaps mischievous. We have no intention of closing down those preschools.

You asked a wider question about preschools. A number of preschools have been relocated or co-located in the last year. I am not accelerating any process on that. If it transpires that some of them do relocate or co-locate as a result of earlier actions, and the communities agree, that is fine by me; but I have no plans under way in that respect.

Drug Use in Schools

MR WESTENDE: My question is directed to the Minister for Education. Can the Minister give us an indication of the level of drug use in ACT schools, what types of drugs are being used and what counselling services are provided within the schools? Is there an ongoing education program to warn children of the dangers of all forms of drugs, including smoking and alcohol?

MR WOOD: That is a good question. To answer the last part first, yes, in our schools there are strong programs on drug use, including drinking and smoking. Indeed, I think one of my colleagues - it may be the Chief Minister - is shortly launching a program to deter binge drinking. These threads of smoking and drinking are very strongly pursued through schools and are formally part of school curriculums. Use of other drugs such as narcotics and the like - or the misuse or abuse of them - is also a feature of programs in schools. We support, for example, a program like the Life Education Centre, which operates quite well in our schools. Recently I had further discussions to ensure that these programs are wideranging and cover all areas.

You asked about the incidence of drug use in our schools, and that is a question I cannot easily answer. Various surveys on drug use are done, I believe, by health authorities and the like. They may well encompass school communities, but the school sector itself does not do extensive recording of this and, in fact, I am not sure how reliable the data would be. The approach we take is clearly that drug use of an addictive or difficult nature is to be discouraged. Some programs caution children about the use of prescription drugs and the normal routine medical treatment they receive and emphasise that care needs to be exercised with all drugs. It is certainly an important feature of programs in our schools.

Road Signs - Removal of Graffiti

MR STEVENSON: My question is directed to Mr Connolly. An article in the *Community Times* on 5 August reported that signs welcoming people to the ACT were defaced by graffiti. The report indicated that delays in removing graffiti were occurring because of budgetary restrictions. I ask: Is this report accurate, and are there any prospects for the prompt removal of such graffiti on welcome signs and other prominent signs within the Australian Capital Territory?

MR CONNOLLY: I thank Mr Stevenson for his question, which raises some important issues. The problem of graffiti on tourist signs is not a problem that can be solved either by a police response - punishing people for putting the graffiti there - because you will not really catch them, or by the Government pouring unlimited funds into removing the graffiti every time it occurs. It is a community problem and we really need some greater cooperation from the community and from parents whose kids are obviously coming home with paint cans or with paint all over them.

I will admit that there have been delays in removing graffiti from some signs around the ACT. Road safety signs that have been defaced, such as "Stop" or "Give Way" signs, take priority. While maintenance of tourist signs is a high priority, it is not as high a priority as the maintenance of safety signs. There have been some delays, although I believe that work on signs on the Federal Highway has now been completed - although it is quite possible that last night those signs may again have been defaced. When graffiti becomes fashionable in the community, you can easily get into the cycle that, as quickly as our officials go out and scrub it down, it recurs.

So we really need some community cooperation on this. We need parents, in particular, to ask a few questions about paint cans. Particularly if kids are coming home splattered with paint, parents could perhaps ask some probing questions. The Government cannot cope with this alone, unless we pour virtually unlimited funds into clean-ups. We cannot cope with it as a policing priority, unless we effectively put a police officer at every road sign, which is clearly impractical. So we are dealing with the problem. There have been, occasionally, some delays, and that is because we have to give priority to safety signs over tourist signs.

Parking - Manuka

MRS GRASSBY: My question is to the Minister for the Environment, Land and Planning. The Manuka shopping fraternity has expressed some anxiety about the closure of two car parks, the result of which has been a loss of customers. What has the Government done to ease parking problems at Manuka?

MR WOOD: Madam Speaker, as a result of a draft variation that went through this house last year, extensions to the Capitol Theatre in Manuka are about to get under way. As part of the arrangements for that, the developer is putting up a new car park nearby. That means that for a time there is going to be a problem with car parking in Manuka. I think the shopkeepers there will need to be careful and perhaps a bit patient. Above all, they should see that people who work in the shops do not take up space best set aside for short-term parking.

I understand that arrangements have been made with parking inspectors to monitor short-term parking to see that it is not abused. We have gone out of our way to find alternative sites for long-term parking. For example, we have a month's trial of parking within the grounds of Manuka Oval and there will be parking adjacent to Manuka Oval and other areas very close to Manuka that we have identified and that will be on display around Manuka. We hope that these methods will prevent loss of trading or undue inconvenience in Manuka.

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

Investigations Unit

MS FOLLETT: Madam Speaker, on 11 August, Mr Moore asked me a question without notice about the Investigations Unit and whether the costs of that unit were justifiable in terms of savings from dealing with fraud. It is a lengthy answer, Madam Speaker, and I will just table it rather than read it out.

Secondary College Students

MR WOOD: Madam Speaker, a little while ago, Mr Cornwell asked me a question about whether we have an upper age limit on students attending schools and colleges. He wanted me to look at the legal questions that he raised. The answer to that, Madam Speaker, is that, providing students are over the age of 15 years, there is no legal obligation to readmit repeating year 12 students as a matter of course. The department needs to ensure that the selection of students who apply to repeat year 12 does not contravene the provisions of the Discrimination Act 1991.

SUBORDINATE LEGISLATION
Paper

MR BERRY (Deputy Chief Minister): Pursuant to section 6 of the Subordinate Laws Act 1989, I present subordinate legislation in accordance with the schedule of a gazettal notice for a regulation, as follows:

> Ozone Protection Act - Ozone Protection Regulations - No. 13 of 1992 (S138, dated 14 August 1992)

LAND (PLANNING AND ENVIRONMENT) ACT LEASES
Papers

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning): Madam Speaker, for the information of members, I present the following papers:

Leases granted pursuant to the Land (Planning and Environment) Act 1991, for -

Block 1, section 21, Belconnen.

Block 7, section 72; block 7, section 788; blocks 16, 22, 23 and 26, section 750; blocks 16 and 17, section 758; and block 16, section 750, Calwell.

Block 11, section 575, Chisholm.

Block 19, section 13, Cook.

Blocks 25 and 27, section 408; and block 2, section 409, Fadden.

Blocks 24 and 26, section 2, Griffith.

Block 6, section 15, Holt.

Block 17, section 25, Phillip.

Block 40, section 613; block 15, section 614; and block 2, section 615, Theodore.

Block 19, section 46, Weston.

together with explanatory statements.

PAPER

MR BERRY (Deputy Chief Minister): Madam Speaker, for the information of members, I present the National Road Trauma Advisory Council's annual report, 1991.

PRINTED MATERIAL DEGRADING WOMEN
Discussion of Matter of Public Importance

MADAM SPEAKER: I have received letters from Mrs Carnell and Ms Szuty, both proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, I have determined that the matter proposed by Ms Szuty be submitted to the Assembly, namely:

> The need for the ACT Legislative Assembly to recognise community concerns over the issue of printed material degrading women being on public display in newsagencies, service stations and other retail outlets.

MS SZUTY (3.08): Madam Speaker, I have been approached, as have other members in this Assembly, by many people who are concerned by the public availability of material that they feel demeans and degrades women and therefore should not be freely available to everyone, including young people. Most of the debate thus far has revolved around the actions of a particular group that has taken physical action and protested at specific newsagencies, tearing up magazines they had bought for that purpose.

In addition to the radical groups opposed to the material, there are views being expressed by everyday community members who feel that they have no control over what they are exposed to when they visit a newsagent, service station or other retail outlet that stocks magazines that depict women in what they believe is an offensive manner. Interstate, where State governments have additional controls over censorship, there are restrictions on the material displayed imposed by way of specific categories or legislation. However, we in the ACT are deprived of an easy remedy by the Australian Capital Territory (Self-Government) Act, which under paragraph 23(1)(g) prevents the Legislative Assembly from making laws with regard to censorship. It would be easy, if this provision did not exist, to classify publications in the ACT according to a general community standard, and then regulate for their display and access.

What remedies are possible under the current legislative framework? To control the distribution of non-violent erotica, planning laws were enacted, which has limited this activity to the industrial suburbs of Fyshwick, Mitchell and Hume. I am not suggesting that newsagents should be restricted in their location. In addition, it does not serve the general community well to confuse the two issues of non-violent erotica videos and magazines. Non-violent erotica videos are classified and, as I have already stated, these businesses are restricted in their physical location.

Many in the magazine debate are calling for the introduction of legislation which makes the use of so-called blinder racks compulsory for newsagents who sell publications depicting nudity and explicit sexuality. This remedy gives adults access to the material, but prevents children, young people and people who find the material offensive from being exposed to it as a matter of course. As the Attorney-General, Mr Connolly, has pointed out, there is the question of what constitutes offensive or degrading material. I do not subscribe to the belief that all material that depicts sexuality is degrading or demeaning to women. The magazines that we all identify as being those complained of are primarily *Picture* and *People*, but have included *Post*, *Playboy* and *Penthouse*. However, I recognise that these are not the only magazines which offend people.

Other magazines which are classified by the censor as category 1 or 2 are all wrapped in clear plastic wrappers. They are still on public display, but can be perused more thoroughly only by the purchaser. What makes these magazines offensive to many people in the community? I have had the words "demeaning" and "degrading" suggested to me. However, the definition of these terms is vague, and I have encountered different viewpoints among those who found common ground in finding publications I have referred to offensive. My *Macquarie Dictionary* defines the word "degrade" as, "to reduce from a higher to a lower rank, degree, etc.;" or "to lower in character or quality; debase". "Demean" is defined as, "to lower in dignity or standing; debase". I would have

to agree that the sight of women in *Picture* magazine, bare-breasted and slathered in cream, accompanied by the picture of another woman taken from the rear in a bent over position, debases women generally - and here I am referring to the cover.

Inside this magazine, which I am using as an illustration, there are even more images which, I consider, demean the participants, and women in general. They do not portray women realistically. The language that accompanies the pictures is vile and degrades both those who use the language and its subject, the women depicted. Sexual intercourse is described variously as bonking, shagging and rooting. Women are called sheilas, spunks and girls - never women. I find it bewildering that the next most popular topic in *Picture* and *People* magazines appears to be animals. I admit that my research in this area is minimal, but that appears to be borne out by the few publications I have seen. What this says about the readers of these magazines I will leave to the psychologists.

The magazine which contained the vile language and depraved images I have talked about is for sale along with newspapers at a city newsagency. I find this somewhat surprising, as the Office of the Chief Censor has only recently issued new guidelines for the display of such material. In the unrestricted category it says, of covers and advertising posters:

> Photographs must be suitable for display in public. They may depict discreet nudity if it is not overtly sexually suggestive or if it does not imply sexual activity. Depictions of genitals, pubic hair, fetishes or implications of fetishes are not permitted.
>
> Language on magazine covers should not be assaultative or sexually suggestive. Some lower level coarse language is acceptable, but sexually suggestive combinations of words or colloquialisms for sexual acts or genitals are not permitted.

The magazine I have been quoting from is the 5 August edition of *Picture*, and I suggest, Madam Speaker, that it contravenes current voluntary guidelines. On the issue of contents the guidelines say:

> Photographs of discreet male and female nudity are acceptable but not if sexual excitement is apparent.
>
> Depictions of sexual activity between consenting adults are acceptable only where they are discreetly implied or simulated.
>
> Illustrations, paintings, statues etc which are considered bona fide erotic artworks and depict explicit sexual activity or nudity may be acceptable in Unrestricted categories when set in a historical or cultural context.
>
> Written descriptions of sexual activity between adults are acceptable in mainstream works of literature and in publications not overwhelmingly dedicated to sexual matters.

I find it difficult to understand the stipulation in the guidelines that apparent sexual excitement is not acceptable. The question needs to be asked: How is it determined? Male sexual excitement is fairly obvious in depiction, but are the women depicted in this issue of *Picture* sexually excited? I would be of the opinion that this is the intention of the editors and publishers of this magazine.

I would be interested to discover just what the Chief Censor and the Attorneys-General consider to be signs of female sexual excitement. Let me remind members that I am talking here about unrestricted material. In the preamble to the guidelines, the Chief Censor says:

> Publications considered to be offensive to some adults and unsuitable for those under 18 years of age are assigned a restricted category.

In my estimation, *Picture* magazine conforms to that definition of material which is not suitable to be publicly available for people under 18 years of age. I accept that young people engage in sexual activity. However, if we have guidelines that restrict publications that depict sexuality, why can they not be enforced to offer some relief for those people who find these publications offensive and who wish to shield their children from such material until they are able to understand them; that is, when children understand sexual relationships?

I find it a strange set of guidelines that restricts the depiction of consenting and loving sex between two adults in non-violent erotica videos sold in special premises, but which allows magazines which portray an unrealistic image of sexuality to be sold over the counter in newsagencies, service stations and other retail outlets and to people under 18 years of age. Again the guidelines say:

> An adult should be able to frequent public places without unsolicited and unwanted exposure to offensive material. Parents, also, should be able to assume that their children will not be exposed to unsuitable material. Consequently, covers and posters classified as Unrestricted and Category 1: (1) will be suitable for display in a public place; and (2) should not be unsuitable for perusal by persons up to 18 years of age.

If these are the standards that are to be met, why is there still debate over the material that can be found on the shelves of newsagencies, service stations and other retail outlets? The answer is: Because the codes are voluntary and publishers have to volunteer to have their publications classified. If they are not, then the guidelines assume that publishers would act as though their magazines had been classified. I seek leave to table this *Picture* magazine, Madam Speaker.

Leave granted.

MS SZUTY: As can be seen from this *Picture* magazine, there is perhaps a hope that the Chief Censor will not check some of the material unless it comes to his attention. However, I would think that these publications have been brought to his attention, as the groups who have been lobbying on this issue would have been remiss had they not approached the Chief Censor with their concerns. There must have been some recognition of the problem for the guidelines to have been redrawn in June of this year. I acknowledge that some newsagencies have already responded to community concerns and no longer stock the magazines mentioned, or do so more discreetly.

I believe, Madam Speaker, that this Assembly needs to discuss this issue, which is why I have raised it today as a matter of public importance. I believe that remedies should be available to us as a community to ensure that our ability to move around our neighbourhoods and to conduct business with our newsagents and service station proprietors should occur without confronting material which

we find offensive. Proponents of not restricting access to the publications that I have discussed tend to feel that they do no harm, and I cannot find any definitive research that allows an interpretation of what impact these publications have. Some people wish to extrapolate American research into video pornography to this issue. I do not see this as valid.

However, it is logical to assume that some impact does occur, given the way we educate our children about other issues. We ask them to observe the world around them. We model by repetition and the use of visual imagery. We subliminally inform them about what is acceptable by what we allow into our environment. There is a case for making this material available to what the censor sees as its target audience, over 18-year-olds. In doing so, we are saying to our community, "We are not going to restrict what you read. However, we will ask you to read this material in a way which will not offend others". We ask this with smoking and there are other behaviours which we allow, but place checks on, in an attempt to limit the access by young people and others who find particular behaviours offensive.

In conclusion, Madam Speaker, there is much to be gained from listening to the concerns of the members of our community who are distressed at the public availability of offensive material. As the elected legislature of the ACT, it is incumbent upon us to listen to these concerns, not to give the false impression that we do not care, or that we as an Assembly feel that this issue is a case for the too-hard basket. Censorship is a matter for the Federal Government; but it appears that censorship has failed in the case of these publications, and we must make every endeavour to give our community appropriate legislative or regulatory relief from the public display of this material. Madam Speaker, we should ensure that we are open to suggestions on how this can be best achieved, take on the role of examining the work of other legislatures and find out how and whether they have addressed this issue. It may even be appropriate to examine the possibility of the Federal Government enabling the ACT to determine its own laws with respect to censorship.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (3.21): The points raised by Ms Szuty are extremely valid and important ones, and this is an appropriate matter for a matter of public importance. The Government would generally share Ms Szuty's concerns, but would differ from her in respect of her final remarks calling for improving the legislative or regulatory framework. I have discussed this issue of demeaning publications and demeaning images with a range of groups in the community, particularly with Ms Redmond, who was achieving some notoriety in the community as a leading proponent of a tougher line on this. I think we have left it at the point where we agree that we share goals but differ in our views on the means that should be applied.

My position, and the position of the Government, has essentially been that the best response to this type of material is an educative one. I would agree with Ms Szuty's comments that we really have to question who reads this material and that the material is essentially rubbish. But I really doubt whether it is appropriate for us to try to move in with a new form of censorship, a new form of regulation. Censorship is an inherently dangerous game to play, although we all acknowledge that there are points at which the community most properly says, "This is the line we draw". We all agree that bestiality and child pornography are

on the wrong side of the line. Indeed, this Assembly last year unanimously passed an amendment to the Crimes Act to make the possession of child pornography - the mere possession, rather than the trading in child pornography - an offence. We are the only jurisdiction in Australia where that is presently an offence.

It gets more difficult, however, when we get down to asking: What is a demeaning image? I think none of us would have had any difficulty with identifying a particular *People* cover that caused controversy back in March as being a demeaning image. That featured a young woman, unclad, on all fours and with a dog collar and a chain around her neck. In my view, that would have been a demeaning image had she been clothed. I do not think the fact that she was unclothed was what was demeaning; it was the pose and the use of the dog collar. It would have been an equally demeaning image if it had featured a male Aboriginal person with a collar. That was the demeaning aspect, not the sexual nature of it.

Since that issue of *People* magazine was published, there has been some change to the existing regulatory framework. I attended a meeting in Perth of Commonwealth, Territory and State censorship Ministers in late June which was held in conjunction with the Standing Committee of Attorneys-General. At that meeting a revised set of classifications of printed materials was published. At the conclusion of my remarks, I will table the current classification of printed matter guidelines, which introduced, for the first time, the concept that material which is demeaning may be restricted or refused classification. In addition to that, some arrangements have been made by the Commonwealth Censor - the Office of Film and Literature Classification - with Australian Consolidated Press, which publishes most of this material. The arrangements require the publisher to clear before publication the covers and some of the material, which is a fairly onerous requirement. I think there has been an improvement. There still will remain a view that any of this material, however, is demeaning.

Ms Szuty tabled the 5 August issue of *Picture* magazine. During her remarks I came over just to have a look at the cover, because it was not apparent from this distance in the chamber whether the person featured on the cover was clad or unclad. As Ms Szuty indicated, a reasonable person could quite reasonably conclude that that picture was demeaning of the young woman there pictured and that it was intended to be sexually titillating to male purchasers of the magazine. However, examination of the photograph shows that the young woman is, in fact, clad. She has on bikini pants. Indeed, a simple and clinical description of the picture is that it resembles the pictures that you would see of pantihose or other articles of apparel on display in David Jones. So we have this dilemma that it is not just physically what is pictured, but its context and the whole nature of what is suggested.

I take the view that the best way to get this material out of public circulation, reduce demand for it and reduce its presence in newsagencies is through public education and voluntary moves by newsagents. Since this controversy erupted in the ACT community, it is pleasing to note that a number of newsagents have moved to blinder racks voluntarily. I pop into service stations around Canberra from time to time - despite our fuel price control legislation, Mr Humphries, I am still a welcome guest in service stations around Canberra - and have particularly noted that this sort of magazine and some of the more clearly pornographic

magazines like *Playboy* and material beyond that, which used to be very prominently displayed as you go into a petrol station, now tend to be on blinder racks well towards the rear of the stations in a large number of cases. So there has been movement that way.

I think we have to take a long-term view in relation to how community expectations of this sort of material have changed. A decade ago, every afternoon newspaper - admittedly, there are not so many of them around these days - seemed to think that it was necessary to have an unclad woman on page 3. The tabloid press throughout Australia no longer do that. Again about a decade or so ago, it seemed de rigueur in summer that the person who gave the weather forecast would be a young woman who would appear in some sort of scanty attire. That seemed to be the case during the summer. Again, public opinion has been raised and that sort of thing these days would not be tolerated. It is intriguing, though, that at the same time that this sort of publication has become rather more fashionable, or rather more in circulation, we are also seeing on commercial television - and, indeed, the ABC - a whole range of documentaries which would suggest that sex has only just been discovered and is something that commercial television needs to educate the community about.

I was particularly intrigued to read a feature in the *Canberra Times* last Sunday about the intriguing result of those sorts of shows. I refer, in particular, to the Sophie Lee so-called documentary. Now that commercial television stations are using people meters for their rating systems, as opposed to the old diary system, they are noticing a remarkable difference. With the old diary rating system, very few people would acknowledge that they actually watched such rubbish, so such shows rated fairly low. But with the people meter, lo and behold, the result is different. A large number of people would write in their diaries that they were watching something edifying on the ABC, SBS or another channel, but in fact they were glued to Sophie Lee.

Clearly, we have a bit further to go in educating the community about appropriate use of sexual imagery. Of course, one of the most important aspects of that is educating the community and reforming the law and practice in relation to the role and status of women, because in a society that was truly equal - and that is the vision of society that certainly we on the Labor side of the house share, and I am sure it would be the vision of society that Ms Szuty and Mr Moore would share - one would hope that there simply would not be a demand for this sort of material and, as attitudes to that change, so this material goes out of vogue.

I recently went around quite a lot of the industrial workshops within ACTION, which is one of the ACT's main sources of industrial style employment - the heavy vehicle workshops and the like. You do not see, scattered around the walls, the girlie magazines or the girlie posters that were once almost expected to be seen in a motor vehicle workshop. I think that is essentially because a lot of work was done through the unions, in the public sector, in particular, about the appropriate and inappropriate use of calendar girls and pin-ups in the workplace. Unfortunately, I suspect, the private sector is lagging somewhat on that, and one can visit private sector workshops around this town and elsewhere and still see that type of thing - without mentioning any particular workshops. But attitudes are changing and what was once the norm now strikes one as being almost the exception. Again, education and changes in attitudes are the best way to resolve the matter.

I seriously doubt that, as an ACT legislature, we could move to introduce a new form of censorship. There is that constitutional point that the Commonwealth Parliament has reserved to itself the issue of censorship. I guess we could argue that a law relating to the way such magazines are displayed in blinder racks would simply be a law relating to method of display, not censorship. But again, I would say that it would be rather foolish for us to head down that path. If you had to identify a society or a part of Australia that had problems of sexual repression, of sexual offences, of teenage pregnancies in Australia in recent decades, you would look at Queensland in the seventies, when Joh was making a public fool of himself and the community with his Queensland edition of Playboy and the rest. Historically, societies that are obsessed about pure images and that are obsessed about censorship tend to be those societies that are most repressive. One harks back to Victorian England and obsessions about piano legs being covered, masking a society in which women were certainly significantly repressed and in which inappropriate sexual behaviour was rampant.

Openness is something that we value in our free and democratic society. Unfortunately, that openness means often that images that we may find personally unpleasant or inappropriate will be found. I was unsuccessful in trying to track down the source of a particular quote, so I cannot appear to be terribly learned and cite the author. But someone once said that the only freedom that really counts is the freedom to express an idea or a thought which you disagree with. Everyone is in favour of freedom when the freedom that is being exercised is something that we all find pleasant or agreeable. The only freedom that really counts is the freedom to express an idea or a concept that the individual who values that freedom disagrees with.

I certainly find disagreeable, as I suspect all members would, the sort of imagery that is displayed in these fairly trashy magazines. But I do not think we should be intervening by force of law. In a sense, all that does is give additional credibility or notoriety to those magazines. I think we should give the tighter censorship guidelines that were introduced in June a chance to operate. There has been, I believe, a significant change in the type of imagery that is pictured on the front pages of those magazines, although still it is imagery that most of us would find, with reason, degrading or demeaning. One always has to decide at what point to legislate and at what point to try to agitate for change in community expectations tastes, so that there is just not a demand for this type of thing. That is the approach that we would favour.

This is, quite properly, a matter of public importance. We would agree with Ms Szuty that the ACT Assembly should recognise community concern about this type of material - and we do - and we will continue with our approach, which is to raise the status of women within the community and to try to beat this material by education rather than repression.

MR HUMPHRIES (3.34): Madam Speaker, I get the impression that there are two Terry Connollys running around Canberra at the moment: The one that was running around at the end of March this year and a second one that is now rising in this place today to make supportive sounds about the way in which this community should be dealing with magazines of the kind that are the subject of today's matter of public importance. I want to remind the Minister of what he said about this issue when it was raised originally by Mr Moore at the end of

March this year. In the *Canberra Times* of 29 March, Mr Connolly is reported to have poured cold water on the concept of doing anything about *Picture* and *People* magazines as they appeared in newsagents, service stations, food outlets and other points of sale in the ACT. He said - - -

Mr Connolly: I said that you could not legislate.

MR HUMPHRIES: No, you went further than that. Mr Connolly said that we could not legislate. He did say that, but he also went further. He said:

> I and most of my colleagues in the Labor Party tend to take the view that censorship is a bad thing ... it is like covering Victorian piano legs -

this is interesting -

> these magazines contain nothing you do not see on Bondi Beach.

Mr Connolly: Well, often that is true. That is true.

MR HUMPHRIES: Often it is true, Minister. The magazine that Ms Szuty quoted did not have anything I have ever seen on Bondi Beach. I have not been there for a while, but I am sure it does not appear on Bondi Beach. I do not think it appears on any beach anywhere in the country, unless it is a private beach.

Mr Connolly: No; you would not see that much clothing on Bondi Beach. The young woman was wearing a dress.

MR HUMPHRIES: That is not the point, and you know that it is not the point. The point is that those magazines are degrading of women; they depict women in degrading poses and positions; they are designed to titillate the sexual desires of their male readers; they are - for the reason that Ms Szuty has outlined - degrading of women; and we ought to do something about it. We should not be denigrating those who take steps to do something about it, comparing them to the people in the Victorian era who covered piano legs; nor should we be saying that you see the same sort of thing on Bondi Beach. I quote further from the *Canberra Times* article, which paraphrases what the Minister is supposed to have said:

> The issue was not something he would get excited about and there were better issues for the Assembly to consider such as homeless youth, and improving services for alcohol- and drug-affected people ...

Mrs Carnell: Circus animals.

MR HUMPHRIES: We could even say that the issue of circus animals is a very good alternative issue. The fact is, Madam Speaker, that the Minister was doing more there than just saying, "It is legally difficult to legislate in this area"; he was saying, "The issue is not important". At that time, he was saying that the issue was not important. We know, I think, that the issue is important.

What has changed between the end of March and the middle of August is that other States and Territories around this country have begun to act on this question and have, to some extent, forced the hand of this Minister. In Western Australia, legislation was introduced - and, I think, passed - in the Western Australian Parliament to restrict heavily the capacity of newsagents and others to

display material of this kind in public places. In South Australia - of course, under a Labor government again - we have seen a cracking down on the sale of *People* and *Picture* magazines. Future issues - this is as of May - will be available only to people over 18 in restricted areas such as adult bookshops. The problem apparently was not too much for them.

Victoria has followed suit. The Victorian Opposition introduced a Bill which was designed to close a loophole in the Victorian Classification of Films and Publications Act. It was again designed to outlaw the display of unsuitable magazines to youngsters. That Bill, I understand, had gone to the lower house in Victoria, but I do not know what its fate is. If it has not already been passed, I am sure that it will be passed some time after 3 October this year.

Again, the New South Wales Parliament has been acting in this matter. Dr Marlene Goldsmith, MLC, has prepared legislation designed to do much the same kind of thing - classify material which ought not to be on public display. Interestingly, though, I have also received word from a Federal member of parliament, Mr Keith Wright, the Federal member for Capricornia who is also, I recall, a former leader of the Australian Labor Party in Queensland - a former State leader and now a Federal Labor member for Queensland. He says that there is growing community concern about the availability of these magazines. He says that the solution is:

> To request, and if necessary require, newsagents, service station proprietors and other relevant retailers to display soft porn publications on high shelving in such a way that the pictorial representations on the cover of the magazines are hidden by the publications on the shelving in front of them.

Again, action is being initiated by not just the conservatives, not just the Joh Bjelke-Petersens of this world, but also members of the Minister's own party who understand the level of community concern about this matter. The Commonwealth Government, of course, has also taken steps, which the Minister has referred to.

The complaint that I have, Madam Speaker, is not that the Government has run up against the snag of the legal and constitutional problems which bar or prevent the ACT from taking effective action in the same way that some other States have taken action - and I acknowledge that that bar is very much there - but that the Government, until today, had not acknowledged that there is a problem in this area.

Mr Connolly: Nonsense! I have said it every time. Would you table the full press statement that you are quoting from?

MR HUMPHRIES: I will happily table the comments that Mr Connolly made, as reported in the Canberra Times of 29 March. I seek leave to table those comments, Madam Speaker.

Leave granted.

MR HUMPHRIES: Thank you, Madam Speaker. This material degrades women because it reduces them to objects of sexual satisfaction. It propagates myths which I would have thought that this Government, which avows itself to be in pursuit of social justice, would be very anxious to challenge and destroy.

It has been put to me, Madam Speaker - and I think Ms Szuty made this comment in the course of her remarks - that this material should be removed from public exposure because it offends the sensibilities of women and children in our community. Frankly, Madam Speaker, I disagree. I believe that this material should be restricted not so much because of its impact on women and children but because of its impact on men, in particular, young men, whose attitude towards women is formed in part by the sorts of images of women they see around them in the community. Their perception of women is, I believe, affected by constant exposure to this kind of publication and these sorts of images. These sorts of publications, I believe, are an integral part of the process which breeds in our community a series of phenomena ranging from sexism, perhaps, at the one extreme to domestic violence and worse crimes at the other. Those sorts of things go hand in hand.

We have talked in this Assembly before about the persuasive power of the image. The Minister for Health, for example, has spoken at length about the powerful effect on young people of advertising of tobacco products at sporting events. We concede that point; it is very true. If the sorts of images used to advertise a brand of cigarettes make an impact on young people, what sort of impact do magazines of this kind have on those same young people? It clearly must be of a similar or greater order.

Mr Berry: Come on, Gary!

MR HUMPHRIES: Not at all. I have said before in this place that the power of these sorts of images is very great and we should not be denigrating or underestimating the extent to which they affect people's perceptions and their attitudes.

There are problems legally with this question of how to do something about putting them in the same category as materials that are classified X by the Commonwealth. Certainly, I acknowledge the argument put forward by the Attorney-General that the Commonwealth's reserve of the power to classify material in the ACT greatly retards our capacity to do the same thing; but we have to look at other ways of overcoming those problems - and there are other ways, I believe. I am not aware, for example, of whether the Government, through the Attorney or somebody else, has taken the step of approaching newsagents in this Territory to talk to them about the question of how they might voluntarily prevent these materials being put on public exposure. Maybe the Minister has had those discussions; maybe he has not. Again, I say: Where is the concern about this issue? It has not manifested itself until now and I think it is about time it should.

I do not believe that we should do as they have done, for example, in Western Australia and expect newsagents to be censors of themselves, deciding in fact what is of prurient interest to a child and what is not. That clearly is not acceptable. We cannot put newsagents and other retailers in those sorts of positions. We can expect the Government to set some kind of lead, if not through the sort of implicit threat put on petrol station owners about petrol pricing, then through some other method of persuasion which will get the job done. Frankly, I believe that this Government has so far sat on its hands about this issue, and it is about time it started to move.

Mr Connolly: Madam Speaker, I neglected to table the document that I said I would table at the end of my remarks. I seek leave to table the classification of printed matter guidelines of June 1992.

Leave granted.

MR MOORE (3.44): Madam Speaker, I recently addressed the Assembly on this topic under the heading of the status of women. I believe that this is, once again, the issue with which we are wrestling. In fact, Mr Connolly in his speech mentioned the status of women half a dozen times, if not more. Mr Connolly also mentioned the notion that it was not about pure images. I would like to emphasise that we are not talking about nudity, but about sexism. Whilst we must be ever vigilant against the push to control others through moralistic and evangelical arguments, we have an obligation to ensure that all people, regardless of race, colour or sex, are not singled out and debased in our society. I would like to ask members today to imagine the magazines referred to by Ms Szuty as depicting only men in our society - or only Asians or only Muslims, for that matter. How the hue and cry would rise from all departments. The point is that current attitudes and legislation regarding racism prevent this from happening.

Society's own sanctions do not allow the plethora of magazines depicting women in this fashion to extend to men - men who, of course, have been in a majority in parliaments and governments in Australia. They have ensured that, when their bodies are shown, they are invariably hidden behind, perhaps, a convenient shovel, baseball bat, motorbike, or any other large phallic symbol. Perhaps Shakespeare, with tongue firmly in cheek, summed up the situation in his well-known titles: The merry wives of Windsor feel that the two gentlemen of Verona should display their winter's tale measure for measure with the opposite sex. Perhaps a constant display of their genitals will cause a cry of "Much ado about nothing" or perhaps "As you like it". I feel that it may be more akin to a comedy of errors. The taming of the shrew, unfortunately, is the main agenda in this inequitable treatment and is the reason for the tempest which is raging as it does.

All jokes aside, Madam Speaker, the fact is that, in order to purchase a magazine that does contain this graphic representation of men, one expects to go to a designated adult Fyshwick or Mitchell retailer, not a newsagent or a service station. Those who choose to have this material can purchase it and peruse it privately. Men are not constantly confronted with this material depicting male genitalia, whatever size, in their day-to-day lives when they go to buy a newspaper, stamps, or whatever is in the newsagent, petrol, or last minute grocery items at the local service station or their Weet-Bix at the local supermarket. I venture to suggest that, because they are not confronted with this material on this barraging level, they have perhaps failed to understand how the women who are increasingly objecting to it really feel. I believe that they must feel that their right to choose whether or not they want to see themselves depicted thus is non-existent. To complain about it is to be labelled a wowser, enviously unattractive, unfeminine, pushy, unreasonable, a ratbag, et cetera. What they are really exercising is their right to speak out about false and potentially dangerous advertising.

If we accept the premise that advertising cigarette smoking and overindulging in alcohol had a direct impact on the acceptance of those behaviours in our society - and there have been a number of moves to change that, particularly with reference to cigarettes - why are we finding it so difficult to accept that constant and prolific advertising of women in such a degrading manner has a direct impact on society's attitudes and expectations of women? Do men really think that they would be taken seriously if they were confronted with similar implied statements about men on such a saturated level in our community?

When raising the possibility of equal representation of men in magazines to that of women, it has been a revelation that many women would be horrified to see men degraded in that way. It is not a case of wanting to see males share in the humiliation of being thus depicted - unless, of course, nothing is done to address the situation; it is a case of women wanting to be treated with the same respect as that endured unquestionably by males in our society. It is, in other words, an issue about sexism. It is about equal treatment in our society for both sexes. If we cannot have a situation where a woman has a right to choose not to be confronted with this material on a daily level, perhaps we should ensure that men are depicted in magazines, and other advertising material, in equal amounts, in equal positions, with equal implications regarding their bodies, their intelligence, their sexuality and their submissiveness to the opposite sex.

So the two options seem to be equal treatment in depictions in magazines for both men and women and action taken to ensure that these magazines are restricted to designated areas so that those who choose to purchase them can do so. It seems to me, Madam Speaker, that if we take this issue seriously, if we take appropriate action with due respect to all in our society, then we might cry, "All's well that ends well".

MRS CARNELL (3.51): It is important at this stage in the debate to draw on what I think is an interesting analogy. That is the analogy with something that is near and dear to all of our hearts and is a problem for all of us - that is, Canberra bashing. We see that in various newspapers and publications all over Australia. This has led, as we know, many Australians to believe that Canberra is a soulless, heartless city full of public servants - a situation that we all know is untrue. Why do people outside Canberra believe that? They believe it because they constantly see it in publications. They constantly read it. This shows the very real danger of constantly depicting anything or anybody or any group in a particular way. People start believing it. This is the crux of the problem of constantly depicting women in a degrading or, shall I say, sexual manner in places where people cannot but see these depictions. Women, as we know, are depicted in less than human ways, and we all know about the lady on the *People* cover, but I think we should look past that.

I think Mr Connolly brought up some good issues. It is not necessarily women without any clothes on that we are talking about. It is women as in the community calendar advertisement that we all had somewhat of a problem with. That woman was clothed. She had on a leopard-skin bikini, but she was behind bars in a position where she looked like she was fairly desperate. It was fairly obvious what the advertisement attempted to suggest she was desperate for. This sort of advertisement cannot but cause problems for other women in the community because of the attitudes that it is obviously trying to portray. It also has the added problem of suggesting that women seem to be on heat from time to

time, a condition from which, thankfully, women do not suffer. They may suffer from a lot of other conditions, but not that one. Seeing women, even women with clothes on, in very compromising positions, indicating to the reader or to the person seeing the magazine that those women are fairly desperate, cannot be giving a positive message to the community. It cannot be positive, to give people and children the right or proper attitude to women. The clear message that these photographs send out is that women are always "after a bit", even if they do not admit it; if you have to use a bit of force, so be it.

I think everybody in the Assembly today, Madam Speaker, is aware that violence against women is a continuing problem and a growing problem and that we must do everything possible to stop the growth in this area. If it means putting magazines behind blinder racks, so be it. Even if there is only a chance of that approach working, it is worth giving it a go. This is the message, though, that we are giving not just to adults like everybody here, but also to our children in newsagencies, service stations and wherever magazines are sold. How can we possibly expect these children, very young children in many cases, to grow up with a positive attitude to women? How can we expect our young men to respect women when the clear message is quite the opposite? If our young men have no respect for women, domestic violence and rape are so much easier. If there is no respect, who cares? It is okay. How can we expect our young women to come to grips with their own sexuality in an appropriate and positive way, to have a good sense of self and where they are up to with their lives, if every time they go into a newsagency to buy a newspaper they see women portrayed in a degrading sexual fashion? The signals, I say again, are all wrong.

The problem, as I see it, is very much a matter of what we expose our young people, our children, to at a time when they are forming their attitudes and beliefs. It is really a matter of balance. We must give our young people an opportunity to see what the world is all about, but at the same time we must not constantly expose them to such material. This is not an issue of censorship; it is an issue of not exposing young people, while they are forming their belief structure, to material which cannot but give them the wrong impression of women. I think that we all believe - and I am much kinder than Mr Connolly - in equality and equal opportunity for everyone in our society; but we continue to allow women to be depicted and to be used, shall I say, in positions or in ways that are totally inappropriate, and not just at Fyshwick or at Mitchell or where people actually have to make an effort to go out and have a look. I totally accept that position, but to allow this sort of thing to happen in our local shopping centres cannot but upset all of the efforts that we are making as a society to have real equal opportunity and equality. I think we all should remember the Canberra-bashing analogy. If people see and hear something often enough, unfortunately a large percentage of those people will believe it.

Mr Humphries and Ms Szuty have rightly raised a number of the issues and it would be wrong of me to raise them again. They have adequately put the position that legislation is possible.
Mr Connolly has often suggested that it is not the appropriate way to go, but we see from the experiences in other States that it can work if that is what is required. I think the position in New South Wales is very interesting. If Dr Goldsmith's legislation goes through in New South Wales we will have the usual situation where women in Queanbeyan are treated in a different way from women in Canberra. That would be totally unacceptable.

I think, though, we also have to look at the situation of newsagents and the responsibility of newsagents versus the responsibility of publishers. I agree with Dr Goldsmith's suggestion that blinder racks be used. I understand that a number of newsagents in Canberra are already using them; I think most small business people have a real social conscience. I think it is a bit unfair, though, to suggest that small business people should bear the brunt of this whole problem. I think that it has to come back to the publishers and how the publishers present their magazines. We should be looking at whether it is possible to require the publishers to present those publications only in such a way that explicit material is not shown. Whether that means brown paper wrappers, I do not know.

Again, the issue is not censorship; it is about the unsolicited exposure of children to this sort of information. The impact is not necessarily obvious at the time. I am sure that it is really quite subliminal in its impact upon children of five, six, or even younger. We must use everything we can to protect our young, who do not have any capacity to make decisions for themselves; we have to make those decisions for them at a time when they are forming their views and should not be exposed to this sort of material. Again, I am not talking only about nude women posing like dogs; I am suggesting that all material that depicts women in a different way from that in which it would depict men is necessarily wrong and necessarily misleading.

MS FOLLETT (Chief Minister and Treasurer) (4.00): Madam Speaker, I think this has been a very interesting and very worthwhile debate. I am very pleased to be taking part in it, because I certainly do not condone in any way the depiction of women in ways which are degrading or demeaning. In fact, I take every opportunity that I can to make sure that such portrayal is stopped. It is simply an inappropriate way to portray women - or men or children, come to think of it - in this day and age. The fact that it happens only to women is, as Mr Moore said, just sheer sexism.

I am particularly indebted to some of the previous speakers in this debate, because they have tried to come to terms with some of the issues that are involved. I think it has been too easy up to this point for various parties or various lobby groups simply to target the whole of what they would see as pornography as a political issue and to condemn it out of hand. What we have seen in the debate today is more of an attempt to come to terms with what is degrading to women and why it is offensive. I think that is a much more useful course for us to follow.

We have, for instance, Madam Speaker, traversed the issue of trying to legislate for public taste, and that is quite simply impossible. I do not believe that that can effectively be done; certainly, this Government would never consider doing it. But we have heard today some of the issues which are degrading to women and which are regularly portrayed in the media. We have seen women portrayed as sexual objects, as I think Mr Humphries referred to, slaves or prisoners, animals, children, or commodities of some kind. In fact, there are any number of portrayals of women that make them out to be less than human beings, and that is what is degrading. As Ms Szuty and Mr Moore pointed out, it is really not a question of nudity or lack of it; it is the context of the portrayal that is all important, and that means making judgments very often.

So, as I say, Madam Speaker, it is not a matter that lends itself to a legislative solution, other than in a blanket ban which has been tried, for instance, in Queensland in the past, and has failed miserably. I would like to say, Madam Speaker, that I also find it very interesting that, whilst there has been a good debate on this matter, there has not been a strong party political division in the speakers; nor has there been a strong push for a legislative solution. I think I am correct in saying that. Again, I think that is probably the best course of action; we must look at what it is that is offensive and deal with it in an educative way.

One of the ways in which I have been dealing with the matter as a Minister is through participation in the Commonwealth-State Ministerial Council on the Status of Women. This is a body that has met a couple of times, most recently in June of this year in Darwin. It is interesting, I think, to note that there are at least three government leaders on that body. Mrs Kirner from Victoria, Mr Perron from the Northern Territory and I are members and senior Ministers from all other States as well as the Commonwealth and New Zealand participate. The issue of degrading portrayal of women is one which this body has taken up. At our last meeting, in fact, we agreed to ask the Standing Committee of Attorneys-General and censorship Ministers to develop some guidelines for classification of print and video material and we have asked them to look at three particular issues in regard to print and video material. The first issue is whether the material condones or incites violence against women. As Mrs Carnell pointed out, the purpose of many of these depictions is in relation to violence against women. We have asked them to look also at material that shows women in demeaning sexual poses and at the banner advertising of restricted magazines.

The council's decision to carry out this work follows on from a similar initiative taken in September last year by the same body. We asked for an issues paper to be prepared on the media portrayal of violence against women. The research undertaken for that paper covered the areas of, firstly, media response to family violence and sexual assault in particular; the approach taken by the media on matters of race, class and ethnicity; and, finally, whether the media generally reports violence against women as a crime. That body of research has been done. The paper examines also the effectiveness of current State and Commonwealth guidelines on the reporting of violence. The paper will be publicly available, Madam Speaker, when the work is completed. It will be an interesting contribution to the kind of debate we are having today. I do know also that all members of that ministerial conference take very seriously the issue of the portrayal of women. The debate we have had today would go a further step from the general debate in that ministerial conference. For that reason I find it very interesting.

In addition to that action taken at ministerial level and, indeed, action taken by the Standing Committee of Attorneys-General and censorship Ministers, I believe that the community has responded to this issue. We have seen, for instance, voluntary action taken by a number of newsagents and supermarkets to try to display these publications in a way that causes less offence to their customers. In my local area, whilst I do not recall any outlet having gone as far as blinder racks, certainly a number of retailers have lifted their displays up from floor level, so that they cannot actually be seen by small children. That is a sensible step to have taken. A number of them also have displayed the magazines and publications in such a way that only the title is visible. You cannot actually see the cover, just the title. Obviously, purchasers know what they are looking for, in general terms, and purchase by title, rather than by the incitement of a cover which would cause offence. There is no doubt that many of these depictions do cause offence.

In conclusion, I point out that, no matter how offensive many of the pictorial presentations may be, and they are, any member who cares to dip into the narrative of these publications would be totally shocked and appalled. The pictorial presentations are bad enough, but they at least leave it to your imagination as to where the offence lies and how offended you are. The narrative is thoroughly degrading. In many cases it is degrading not just to women, but also, I believe, to men. As Mr Humphries pointed out, there are assumptions made about men, there are stereotypes of men and their behaviour, that are thoroughly offensive. We are looking at the degradation of humankind, not just of women, in many of those publications.

I am indebted to members' contributions in this debate. I find it helpful in continuing in my role as Minister with responsibility for the status of women. I would particularly like to thank Ms Szuty for having brought this matter forward, and brought it forward in a manner which meant that we could have this kind of a debate rather than the general cut and thrust of political debate.

MADAM SPEAKER: The time for the discussion has expired.

MR STEVENSON (4.10): Madam Speaker, I seek leave to extend the time on this matter to enable me to speak for five minutes.

MADAM SPEAKER: You will need to suspend standing orders to do that, Mr Stevenson.

MR STEVENSON: I move:

> That so much of the standing and temporary orders be suspended as would prevent Mr Stevenson from speaking for 10 minutes.

Question put:

> That the motion (**Mr Stevenson's**) be agreed to.

The Assembly voted -

AYES, 7	*NOES, 10*
Mrs Carnell	Mr Berry
Mr Cornwell	Mr Connolly
Mr De Domenico	Ms Ellis
Mr Humphries	Ms Follett
Mr Kaine	Mrs Grassby
Mr Stevenson	Mr Lamont
Mr Westende	Ms McRae
	Mr Moore
	Ms Szuty
	Mr Wood

Question so resolved in the negative.

SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION - STANDING COMMITTEE
Reports and Statement

MRS GRASSBY: I present reports Nos 9 and 10 of the Standing Committee on the Scrutiny of Bills and Subordinate Legislation. I ask for leave to make a brief statement on these reports.

Leave granted.

MRS GRASSBY: Report No. 9, which I have presented, was circulated when the Assembly was not sitting, on 2 July 1992, pursuant to the resolution of appointment of 27 March 1992. Report No. 10 contains the committee's comments on four Bills, 70 pieces of subordinate legislation, and six government responses. I commend the reports to the Assembly.

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 2) 1992

Debate resumed from 25 June 1992, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

MR WESTENDE (4.13): Madam Speaker, this is one of the Bills we have had a reasonable time to examine, and we will not oppose it. In fact, we are in agreement with the Motor Traffic (Amendment) Bill 1992. It is appropriate to tidy up any loose ends or ambiguities concerning the very important matter of road safety.

In terms of the first amendment, concerning the traffic priorities applying to slip lanes, I am always pleased to see a move to national uniformity of the road rules. It is important for safety reasons and to make our roads in Canberra more friendly for tourists. Canberra does have a reputation for the difficulty that tourists have in finding their way around and contending with the incompatibility of some road rules with other States' rules.

In terms of the slip lane that enables traffic to build up the same speed as traffic with which it merges, the right of way must surely be given to the vehicle in front. We therefore commend to the Minister that, where the slip lane merges with an existing road, he should look at getting some signs up: "Care - Merging Traffic". That is a recommendation only, but we believe that the Minister ought to take it on board.

Another small problem we have is with the illustrations accompanying the explanations. We have no problem with illustrations Nos 1 and 2, but example No. 3 has me somewhat confused. Maybe the Minister could explain example No. 3. Examples Nos 1 and 2 are very straightforward and we accept them, but is example No. 3 a slip lane or is it just that the road suddenly has widened? If it is still a slip lane, then surely when those two roads merge into one there should be a give-way sign, or you should give way to traffic on the right. I raise the matter only for clarification. It would seem that No. 3 is unnecessary.

As for the second amendment proposed, we agree that evidentiary certificates in respect of radar speed measuring devices are appropriate, and we support the proposal. Even these certificates will depend on the frequency of the checks made on the equipment. I assume that these would be fairly regular.

The amendment on child restraints is vitally important, and of course we support it. I was pleased to see further amendments making it compulsory for all children travelling in a motor vehicle to be restrained by a child restraint or a seat belt. There has always been the temptation for people to pile a whole lot of kids in the car just to go down the road from school or to and from sport. Whilst there is a lot of goodwill behind these shuttle services the parents set up amongst themselves, there are great potential dangers in the practice.

The final amendment concerning the banning of radar detectors and jamming devices is well overdue, and we totally support it. Any device that encourages speeding and unsafe practices must be banned. However, it should not be expected that banning radar detectors will produce any significant reduction in speeding infringements or, indeed, motor vehicle accidents. That solution still seems to evade us. We agree with the Bill.

MS SZUTY (4.16): I am pleased that the Government has moved to clarify and reinforce certain areas of the Motor Traffic Act which are covered by the amendment and supplementary amendment before the Assembly for consideration today. The clarification of who has right of way where a slip lane exists will be most welcome, especially if the Government takes the opportunity to ensure that the community is well informed of the effect of these changes to sections 120 and 123A of the Motor Traffic Act. I am convinced that the best legislation in the world is ineffective if members of the community are not made aware of their rights and obligations. With road traffic rules this is doubly important, given that we live in a city with higher than average car usage rates. I would therefore urge the Government to ensure that its public awareness campaign to follow the introduction of the amendments to this Act is broad both in scope and in approach, to ensure that all drivers - young, old and occasional - understand how the law now affects them.

The provisions relating to radar detecting devices at first glance, I felt, were onerous, given that they convey a right of seizure of a person's property. However, I appreciate that this legislative change brings us into line with New South Wales and other States and does provide a real discouragement to people who would try to escape detection by police using radar traps. The idea that the rules of the road can be disobeyed if you have the right equipment or can escape detection is, I believe, rightly to be condemned. Speeding motorists still often feel that they are committing an offence only if they are caught and do not appear to heed police warnings about the dangers of speeding to drivers, their passengers and other people.

There is merit in the idea of approaching driver training in the same manner that we approach the learning of other life skills. Teach them early and teach them well. Before drivers get behind steering wheels their attitudes should be shaped by traffic awareness and stress management strategies, to ensure that their impatience and frustration with traffic conditions and road rules do not lead them into unnecessary and thoughtless mistakes which can have tragic consequences.

I welcome the introduction of evidentiary certificates into the court system, which will assure the community and the courts that radar equipment being used by police is regularly tested and will prevent the delays outlined by the Minister for Urban Services, Mr Connolly, in his opening address. Delays have meant that a New South Wales expert needed to be called in on every occasion the radar speed measuring device's accuracy was called into question. I am sure that the financial resources of the ACT police, the Director of Public Prosecutions, the Attorney-General's Department, or whoever paid for this advice, can be better directed.

I turn, finally, to the issue of child restraints and welcome the redrafting of these sections, which will ensure that no child or young person shall be allowed to travel in a vehicle without proper restraints. The message will be clear that, from now on, the law will state that if you want to carry children or young people in a vehicle they must travel in safety appropriate to their needs. The proposed new section 164D clearly sets out the intent of the amendment quantifying expectations that a child or young person should travel in the safest position in the vehicle. Again, I urge the Government to conduct a public awareness campaign which will stress that it no longer accepts that children should be put at risk when travelling in cars, trucks, utilities or other vehicles. There are still exceptions, including taxis, hire cars, buses, and cars that are exempted from having the appropriate bolts fitted, interstate vehicles where such laws are not in force, and Commonwealth vehicles.

The Motor Traffic Act is one piece of legislation that will constantly need attention due to the changing nature of traffic on our roads and the need to make our roadways safe for all who use them. I commend the Government for their efforts in making these new sections of the law clear and understandable. I remind the Government again of the need for a public awareness campaign to follow these changes that is both wide-reaching and targeted at specific groups in the interests of improving road safety for all of us.

MR MOORE (4.21): This amending Bill will benefit people in the ACT, particularly children and the way they are carried. I find it interesting that the Bill provides that children be carried in the back seat. It has always been a matter of contention in my own family that the children always think the ideal thing is to be travelling in the front seat. The one concern I have is that there are times when children are not feeling well, particularly travelling on winding roads back from Namadgi National Park or somewhere like that, and there is an advantage in being able to sit in the front. I suppose the solution is to carry Kwell tablets. However, I think the safety of children under these circumstances is paramount, and the legislation will actually make the job a little easier for parents who say, "No, sorry, you cannot sit in the front; it is against the law".

In my first reading of this I felt that there might be a further problem. To say that a 14- or 15-year-old could not sit in the front of a car seemed extraordinarily ridiculous. Indeed, the legislation has recognised that, because the definition of a child goes to the age of eight. I think that is most appropriate. The resolution of the issue in terms of suitable child restraints in a vehicle is most appropriate.

The only other issue that I guess parents will consider, and in fact it should come out in the publicity, is when a parent takes three or four children to soccer or basketball. The front seat then becomes usable because the other seats are occupied. It is important that it be understood that, on my reading of the Bill,

there is room for that to be the case. Where there is the opportunity for a safer way for a child to travel, then the child ought to be in the safest position in the vehicle, and I think that is the intention of the law. It seems to me, on my reading of it, that it has met that intention.

I was interested in the exceptions for the purpose of this proposed section, those exceptions being public motor vehicles, private hire cars, those vehicles that do not comply with the specific Australian design rule, and cars with a Commonwealth plate and star. They are what we know as the Comcars. It may be appropriate for hire vehicles and Commonwealth cars to ensure voluntarily that they have with them the normal child restraints in a position to clip them on - that is not a terribly onerous thing for them to have to do - and that they have cars set aside for when they are carrying children.

I would encourage those people to have the ability to do that, but at the same time I think it is appropriate to exempt them from the legislation because there will be times when they will pick up people with a child who has to be carried. Those vehicles are driven by professionals and, whilst they are occasionally involved in accidents, as any vehicle can be, they probably have a far better record, given the number of kilometres they travel, than most other vehicles. It is an issue that was worth raising, although I do not seek to move an amendment on it.

Mr Lamont: All the TWU members - - -

MR MOORE: I hear a little interjection from next to me about TWU members. I hope that somebody close to those TWU members will pass on what a positive attitude I have to them and how much I appreciate the safety in which they have carried me on the occasions I have had to use their services.

MR LAMONT (4.25): I rise to support the legislation, and in particular two components of it. While all of the proposals in this Bill are deserving, there are two aspects that I wish to draw attention to. The first is prohibiting the use of radar detectors and, secondly, the matter of child restraints.

Before we rose for the long winter break we had a lengthy debate concerning the compulsory wearing of bicycle helmets. Indeed, the debate, as I recall, stretched over some hours and some quite significant and conflicting contributions were made by members of the Assembly. At the end of the day the legislation was passed, and for the same reasons. In fact, had this been a contentious matter, we could have had exactly the same debate in relation to child restraints as we had in relation to bicycle helmets.

Mr Moore: Not at all. One is about adults and one is about children. They are totally different.

MR LAMONT: My friend here says that one is about adults and one is about children. I suggest that maybe in his seven-week holiday he forgot the issues that were being debated in relation to bicycle helmets. There is basically no difference, and I would refer Mr Moore to the debate that occurred at that time, which he can find in *Hansard*. I am sure that at the end of re-reading that he will be as convinced as I was that that was a good thing, and so are the propositions in this legislation.

I go on to the question of radar detectors. Having spent a considerable time in the transport industry, I am aware of the imperatives that are placed on transport operators to meet timetables, not only in delivering freight but also in delivering passengers. It was a real problem for legislators around Australia to come to grips with in trying to regulate driving hours and speed limits, knowing full well that there was a deliberate campaign by some sectors of the transport industry - and I emphasise "some sectors" - to overcome the radar traps and compliance traps used by Victorian and New South Wales police in particular.

It is well known, and the statistics quite clearly prove it, that road accidents involving heavy vehicles are caused by one of two factors. One is excessive speed and the other is fatigue. When you combine the two, the results are catastrophic. The banning of radar detectors in Victoria was seen by some people in the same light as the wearing of bicycle helmets is seen in the ACT. The amazing thing is that we did not end up having far more trauma on our roads by the use of these devices to evade the statutory speed limits. In Victoria, when those people took on the legislation and challenged the basis upon which the devices were made illegal, it was of great concern to me, and I think to all responsible road users. Thankfully, the legislation nationally, and also in Victoria, was changed to accommodate the prohibition of radar detector devices.

In the ACT we are, to some extent, fortunate, because of our geographical size, that we have not a great number of roads where excessive speed can be used, although from time to time some pretty amazing speeding convictions are recorded, not the least of which was someone doing 120 kilometres an hour in a 40 kilometres an hour zone. I think I speak for all of the ACT community when I say that I would not like to see in the ACT the situation where a person with a radar detector could do that sort of speed past a school or in other built-up areas. The provision in this Bill to outlaw radar detectors in the ACT, in recognition of what has happened in New South Wales and Victoria, is a move I applaud.

One question remains for us to deal with, and I believe that we will be considering it at some later stage. Other devices can be used in the ACT to restrict excessive use of speed, and I hope that the Government considers, in the short term, the proposition that we increase the incidence of road markings, similar to the markings that are used on the Barton Highway at what I think is called the roundabout. There is a deliberate attempt there to reduce the speed of trucks, cars and buses coming off the Barton Highway at 100 kilometres an hour to 80 kilometres an hour.

I believe that similar markings elsewhere in the ACT - for example, approaching schools, where you go from 60 to 40 kilometres an hour, coming off the Tuggeranong Parkway, where you go from 100 to 80 kilometres an hour, and in some areas back to a 60 kilometres an hour zone - should be considered by the appropriate area in the Minister's portfolio. It would be interesting to assess the effectiveness of those lines on the Barton Highway. I hope that that can be done and, if my gut feeling is borne out, it could be expanded for use in other areas. I have much pleasure in supporting all the proposals in the Bill.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.32), in reply: It is pleasing to note that members generally are supportive of this package of four significant road safety measures. A common theme that emerged in the remarks of Mr Westende, on behalf of the Opposition, Ms Szuty, Mr Moore and Mr Lamont was that we can do so much with road rules but we can do a lot more through education campaigns.

Mr Westende suggested that we might look at better signage at some of the slip lane points. Mr Westende was looking at the three examples that were given. It is hardly breaching Cabinet or Caucus solidarity to indicate that some of us were puzzling over some of these examples, when we saw the diagrams. Generally, the community is probably not as aware as it might be of what slip lanes are and what their obligations are. Additional education, either by way of signs, as Mr Westende suggests, or by way of a better education campaign, as Ms Szuty suggests, is something we will look at very seriously. I suspect that the people who best know about slip lanes are our 17-year-olds who have just gone through their written examinations for driving licences. The rest of us who got our licences many years ago probably would have difficulty sitting that written test if it were put in front of us today. So we can do more about education on that.

Mr Lamont's point is well taken that you can often reduce speeds through signage, white lines and other engineering mechanisms. There has been some controversy in this place and in the community about how we reduce speeds around schools; it is particularly controversial around the Calwell school. The Government has been coming up with a range of engineering solutions by way of better signage, greater visibility of the school crossing, and the use of fluorescent bins. It is trialling at Erindale College, with a view to later use outside Calwell and other schools, not quite a speed hump, because of the dangers a speed hump presents to a car travelling at speed, but a lower form of wooden rumble bar. The car driving along the street gets a minor vibration, not sufficient to cause a safety problem or to affect braking or steering performance but sufficient to alert the driver that something is going on and to be additionally careful near a school. Essentially, it is the feature Mr Lamont was referring to at the big roundabout on the Barton Highway. It achieves that effect through a substance on the road that gives you a slight vibration and rumble and alerts you to the fact that a hazard is coming up by way of a roundabout. So we take those general remarks of members that we need to address road safety issues by way of better education and information, as well as changing the legislation.

I foreshadow an amendment in the detail stage of this Bill to the child restraint provision. Members may have seen a media report a couple of weeks ago that suggested that there may be some problems with this legislation. As we looked very carefully at the drafting, we did think there were some potential problems with the form of the child restraint provision in the original Bill. We have come up with an amendment, which has been circulated today, although I did provide that to Mr Westende, as opposition spokesperson, some little time earlier. It is essentially a tidying up and closing of loopholes provision. One of the significant things is that we open up a "not unreasonable circumstances" exception to the requirement that a child restraint be used. Mr Moore put some circumstances when he thought it might be okay for a child to travel in the front seat or absent the restraint, and he instanced taking kids to and from school sports. I think we would not see that as falling on the exception side of the not unreasonable line.

The explanatory memorandum I have circulated gives some examples of what we think would fall within that. We have the circumstance where, if a child had to be picked up from school because of some emergency or the parents were delayed or unavoidably detained, other parents could take that child in a car not appropriately fitted. Another would be going to hospital. A further example we have used is a child caught in an electrical storm. We have to accept that there will be circumstances where persons will not have a child restraint in a vehicle, yet for them to lend a hand and give a child a lift somewhere should not be a criminal offence.

We are seeking to put the onus on parents who are carting children around - whether their children or other people's children - to use these restraining devices. Car pooling or trooping off to junior sports, I think, would be circumstances where the use of a restraint would be required. In the event of lending a hand to get your neighbour's sick child to hospital or the doctor, or picking up a neighbour's child when the parents are ill and unable to use their vehicle with child restraints, would fall on the acceptable side of the line. It is always difficult to be precise in these circumstances; but we felt that it was appropriate to have that form of general exemption, recognising that there will be a myriad of circumstances where people will be carrying young people in the car and on occasions it may not be unreasonable for the person to carry the child absent the restraining device. These amendments are designed to tidy up and close off loopholes and to provide that reasonable exception defence.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.39), by leave: I move:

Clause 14 -

Page 6, line 4, proposed section 164D, omit the section and substitute the following section:

Children and young persons

"164D. A person shall not drive a motor vehicle on a public street if -

(a) a child in the vehicle is not restrained by a child restraint;

(b) a young person, or a child who is not restrained by a child restraint, in the vehicle is not restrained by a seat belt; or

(c) a child in the vehicle occupies a position abreast of the driving position -

(i)being a position that is equipped with a child restraint - while there is an unoccupied position to the rear that is, or that could be, equipped with a child restraint;

(ii)being a position that is not equipped with a child restraint but is equipped with a seat belt - while there is an unoccupied position to the rear equipped with a child restraint or seat belt; or

(iii)being a position that is equipped with neither a child restraint nor a seat belt - while there is an unoccupied position to the rear.".

Page 6, line 33, proposed subsection 164DA(1), omit the subsection, substitute the following subsection:

"(1) In section 164D, a reference to a child restraint or a seat belt in relation to a child or young person shall be read as a reference to a child restraint or seat belt that is suitable for use by him or her, that is securely fastened around him or her and is properly adjusted.".

Page 7, line 1, proposed subsection 164DA(2), omit "section 164D", substitute "this section".

Page 7, line 11, proposed subsection 164DA(3), omit "section 164D", substitute "this section".

Page 7, line 15, proposed subsection 164DB(1), omit "Subsection 164D(2)", substitute "Paragraph 164D(a)".

Page 7, line 28, after clause 14, insert the following new clause:

Defences

"14A. Section 164E of the Principal Act is amended -

(a) by omitting from paragraph (6)(c) 'subsection 164D(2)' and substituting 'paragraph 164D(a) or (b)'; and

(b) by omitting from subsection (7) 'subsection 164D(1) or (2)' and substituting 'paragraph 164D(a) or (b)'.".

I foreshadowed these amendments in my closing remarks on the in-principle debate. On closer examination of the final form of the legislation as presented by the police and the road safety authorities, there were some potential problems in the way it was drafted. In order to make abundantly sure that it is appropriate, we come into this chamber with some amendments. The significant effect of these is to provide that reasonable excuse defence. Rather than trying to delineate every circumstance where a restraint need not be used, we have put in a catch-all defence of reasonable excuse, as outlined in my earlier remarks.

MR MOORE (4.40): In replying to the in-principle debate, Mr Connolly gave an example I had suggested of taking the soccer team and said that perhaps they would not be covered by the Bill. Perhaps he misunderstood what I was saying. I think it is actually covered by amendment No. 1, which reads in part:

> A person shall not drive a motor vehicle on a public street if -
>
> ... ...
>
> (c) a child in the vehicle occupies a position abreast of the driving position -
>
> (i)being a position that is equipped with a child restraint - while there is an unoccupied position to the rear ... equipped with a child restraint.

So they cannot drive while there is an unoccupied position. The clear implication to me is that, if all the positions are occupied by the rest of the soccer team, you can take somebody in the front seat. That is the point I was making. You do not have to say to the neighbour, "No, I cannot take your kid to soccer, even though I have this spare seat". In those circumstances, once the car is filled up, you can. I suppose the reasonable parent would be looking for the biggest of those children to put in the front seat because that would be the safest way to do it. The biggest would probably get his way anyway, depending on how the family operates. I thought that point was worth clarifying.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.42): I apologise to Mr Moore. I was addressing a different point, which is a catch-all defence rather than this specific provision that you should not be in the front seat unless the back seat is taken up. Mr Moore is quite correct in saying that, when taking the soccer team, the person in the front seat restrained is okay. I was referring to this catch-all defence, which says that it is a defence to not having a child in a restraint if you can show that the act or omission was in the circumstances not unreasonable. That would cover the emergency of taking a child to the hospital or what have you, but it would not cover taking a child to the soccer unrestrained at all, as opposed to in the front seat when the back seat is full. I should not be taken to have been criticising what Mr Moore was saying.

Amendments agreed to.

MR STEVENSON (4.43): I move:

> Clause 15, page 7, line 28, omit the clause.

The amendment specifically concerns radar detectors. There are a number of problems with making radar detectors illegal in the ACT. Experience throughout Australia has shown that many people have been detained by police and spoken to quite harshly on a number of occasions, unfortunately, because the police assumed that they had radar detectors. In other words, their equipment showed that someone had a radar detector. Such was the case some three months ago with a barrister from Canberra heading out to Cooma in New South Wales. He was pulled over and his car was searched. He was kept for 20 minutes.

The police simply would not believe that he did not have a detector. There were three people in the car. One of the people in the car had a portable telephone and another had some other electronic equipment, but none of them had a radar detector. It was a quite concerning experience to be kept for 20 minutes. I have heard that this has happened fairly frequently with truck drivers.

I can well understand that the police, if they get a signal showing that a person has a radar detector, want to make sure that they find it. But it has been shown conclusively that other things can set off that signal. Someone suggested that electric fridges in a car can also do that. So I do not believe that radar detectors should be made illegal. There are also other reasons. I think it was in Victoria that a gentleman received a notice for speeding. He had been clocked apparently at 756 kilometres an hour - perhaps a little faster than he had been going at the time.

Ms Ellis: Did it show his altitude?

MR STEVENSON: That is a very good point. Indeed, you would have to have some altitude to get up to that speed on our roads, although many of them are getting better. There have been problems with detectors, both in America and in Australia. Most of the problems do not come to public notice. I think people should have the right to have a detector and to check their speed at the time. I note that Mr Connolly is writing down what I said. I said it deliberately and gave him plenty of time to do that. I think a person should have the right, if he is being booked, to check his speed at the time. There are occasions when people are not speeding.

Mr Lamont: That is why they have speedometers.

MR STEVENSON: Mr Lamont mentions speedometers. That is exactly the point I was about to make. It is not an uncommon occurrence for speedometers not to show the correct speed. One could well say that that is the car owner's responsibility. I suppose that is reasonable, although many people are not aware just how far their speedo can be out. Indeed, it can increase the faster you go. It might start out being five kilometres an hour out at 60 kilometres an hour on your speedo, and at 100 kilometres an hour it can be 15 kilometres an hour out. I think it would be worth letting people in Canberra know that it is a good idea to check their speedos. I do not think this has really come across. I mention that to the Minister as a suggestion.

There are various reasons why people do not believe that radar detectors should be prohibited. In the last week we conducted a survey on the question: Should radar detectors be illegal in the ACT? The results we got from 300 people were that 33.33 per cent said yes, they should be illegal; 53.66 per cent said no, they should not be illegal; 11 per cent were not concerned about the issue; and 2 per cent said that they did not have enough information to make a decision. It would seem clear that the majority of people in Canberra do not agree with the banning of radar detectors. The Minister might say that that does not matter, that we need to control the people for their own good, even if it is a majority. In this case, I disagree.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.48): I must say that I was intrigued by the results of the Dennis poll that said that only about one-third of people supported this and two-thirds probably disapproved. I suspect that, if you asked people whether they thought we should have speeding police who book motorists for speeding, you would probably get two-thirds saying no, they should not be there.

Mr Kaine: You would get 100 per cent.

MR CONNOLLY: Indeed, 100 per cent. Most Canberra motorists do tend to think they have a God-given right to speed; it is only those other ratbag drivers on the road that are the nuisances.

Mr Moore: Especially when it is raining.

MR CONNOLLY: Yes, there does seem to be a general view that when it rains the Tuggeranong Parkway is turned into a speedway and people go faster. Mr Stevenson does, however, raise a serious point in his amendment. I am not sure how closely he has looked at the legislation. His amendment has clearly been scribbled out on the run, and I am not sure whether he has looked closely at proposed section 164H.

The serious point Mr Stevenson makes is that other electronic equipment can send out a signal that can operate to jam a police radar and can thus be picked up by the police as a radar jamming device. That is a well-made point. Indeed, the incident he referred to, as I understand it, occurred in much the circumstances he described. Proposed section 164H says:

> It is a defence to a prosecution for an offence under section 164G -

that is, having the jammer -

> if the defendant satisfies the court that the device concerned was not designed as a radar detecting device or a radar jamming device but was designed for another purpose.

So there is a clear provision in the Act. If you are pulled over by a police officer because the police radar shows that there is a jamming signal emanating from your car, the law makes it quite clear that, if that signal is emanating from your car fridge, your car telephone, your car mixmaster, your car microwave, or whatever - - -

Mr Kaine: Or your cigarette lighter.

MR CONNOLLY: Or your cigarette lighter or whatever.

Mr Humphries: Are these ministerial cars that we are talking about?

MR CONNOLLY: No, Mr Humphries, they are not. Whatever device you have - the jacuzzi in the stretch limousine, or what have you - you will not be prosecuted. So, Mr Stevenson, if we had an absolutist law which imposed a penalty on anything that had the effect of jamming a police radar, your point would be well made; but we have clearly seen that possibility of other items having unintended consequences and provided for it by way of a defence to a prosecution. Of course, in the sensible administration of this Act, it would not

get to the point of prosecution because a sensible police officer would realise immediately that that had been picked up by the law and would not book you for the telephone or what have you. The sensible point that some objects can give out a signal that operates as a jamming device is well taken. We thought about it; we provided the defence.

To go on further and say that people have a right to have a radar jamming device is a proposition the Government fundamentally disagrees with. The parliaments of Victoria, New South Wales and other States have fundamentally disagreed with it. Basically, a radar jammer is purchased solely for the purpose of jamming police radar, solely for the purpose of breaking the law and not being detected. That is something that parliaments in other jurisdictions have legitimately said is not acceptable. I hope we would say that it is not acceptable because of the obvious safety factor. Your point about unintended consequences is well made. It would have been a legitimate criticism of the Bill had we not picked it up, but we have picked it up.

MR HUMPHRIES (4.53): I think it is worth reflecting for a moment on the reason those provisions about the radar detector and jammer bans appear in this legislation. I think the Minister made reference to it in his presentation speech; I cannot recall. The Commonwealth made arrangements with the ACT and other States some two years ago as a response to a series of quite horrendous accidents on Australian roads. The Federal Government took the view that a series of measures - a 10-point plan, I recall - would be appropriate to deal with these problems in such a way that the community as a whole was going to indicate a get-tough approach on factors that led supposedly to the incidence of accidents on our roads, particularly on roads with higher speed limits. Although there are arguments about some of those measures, I think the package as a whole has been a welcome move. That is certainly why, after extensive debate, the Alliance Government supported the 10-point package and would have been moving legislation such as this had it still been in power.

There are some aspects of this Bill which do rather raise the question of what people's rights are, in certain respects, to conduct themselves in their cars or on the roads in certain ways, and the debate about bicycle helmets has already been raised. That was seen by some in our community as a terribly onerous and burdensome infringement of their right to conduct themselves as they saw fit on the road. I do not take the argument Mr Stevenson has put up about this being in that category. I believe, as the Attorney has indicated, that it is important to be able to cover this kind of beating of the rules, and the Opposition, therefore, would not be prepared to support the amendment Mr Stevenson has put forward.

However, I hope that in future, when we develop strategies for dealing with deaths on our roads, we examine them in the context of the way in which they will be most effective and the way in which the community as a whole would respond to those things as being appropriate to their own communities. For example, I do not know that there would be a great deal of point in having radar detectors if they were for use exclusively in the Australian Capital Territory. My understanding is that they are not very much good in urban areas because of interference from other things.

Mr Berry: How would you come to understand that?

MR HUMPHRIES: I am reliably informed, Mr Berry, never having owned one. I must admit to having once travelled in a car which had one. I am sure that it has since been disposed of.

Mr Lamont: Was that in New South Wales and when was it?

MR HUMPHRIES: I forget, Mr Lamont.

Mr Stevenson: Many years ago.

MR HUMPHRIES: Probably, yes. We need to consider whether particular provisions are appropriate for the ACT. This provision is to provide us with our 30 pieces of silver, you might say charitably, but certainly with our $3m, or whatever it is, from the Commonwealth to satisfy its desire to do something about road trauma in Australia. It is not particularly relevant to the ACT, but it may have some marginal application to the ACT. It is not a bad provision in itself, although there are quite extensive powers for the police virtually to seize these sorts of devices. On the balance of probabilities, I think it is better to have these sorts of provisions in place than to be out of step with what the rest of Australia is doing.

MR STEVENSON (4.56): Mr Connolly mentioned that most people would ban speed police. I think we are looking at a different situation there. After all, when someone has a radar detector in the ACT they are not necessarily speeding and there is no suggestion that they have to be speeding to have a detector. Many people believe that it is their right when they have been pulled over to check their speed at that time. As I mentioned, there have been instances where trees have been clocked doing alarming speeds.

Mr Connolly: They tend to jump out in front of cars a lot.

MR STEVENSON: That is right. Other motorists believe that they were not speeding at the time. We have a situation where Mr Connolly says that the defence - - -

Mr Kaine: Every time I have been caught for speeding, it is a fact that I was not, I know.

MR STEVENSON: Mr Kaine, I think, just said that every time he has been caught for speeding it was a fact that he was not.

Mr Humphries: That was off the record.

MR STEVENSON: It was all alleged. If he had had a speed detector he could have checked his speedometer at the time and made sure. Mr Connolly said that there is a defence. Let us look at exactly what that does. After you have been pulled up by police and they have kept you for perhaps 20 minutes, you have to go to court and produce evidence - this will be the requirement - that the particular electronic instrument or electrical unit you had in the vehicle would cause such a signal to emanate. Very few places will be able to give you that sort of evidence. The cost would probably be around $80. Then you have to take that along to court to give your defence. It may be all right for the Minister to suggest that that is all covered, because people can be detained when they are not breaking the law and they also have the opportunity, after being charged, having not broken the law, to prove that they were not breaking the law. Most people in Canberra disagree.

Question put:

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

The Assembly voted -

AYES, 1	*NOES, 16*
Mr Stevenson	Mr Berry Mrs Carnell Mr Connolly Mr Cornwell Mr De Domenico Ms Ellis Ms Follett Mrs Grassby Mr Humphries Mr Kaine Mr Lamont Ms McRae Mr Moore Ms Szuty Mr Westende Mr Wood

Question so resolved in the negative.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Sitting suspended from 5.01 to 8.00 pm

FOOD BILL 1992

Debate resumed from 18 June 1992, on motion by **Mr Berry**:

That this Bill be agreed to in principle.

MRS CARNELL (8.01): The Liberal Party will be supporting the Food Bill 1992, although I must say that the inordinately long time taken in getting the legislation to the Assembly is a matter of disappointment and concern. I am sure that it is also a matter of disappointment and concern to Mr Humphries, who had similar problems. On the other hand, I commend the Government for the staged manner of its introduction. It was certainly better than doing nothing. The Government obviously realised that it would take even longer to draft the entire legislation in one package. I agree that it would not be good to get bogged down in such a process. Further time delays would be unacceptable to everybody.

The Government must, however, as a matter of priority, continue to work to get the further legislation needed in front of the Assembly in the shortest possible time. This does not mean listing food legislation as a third priority, as we see in the recently released government legislative program. One of the things we are waiting for in part 2 of the legislation is specific controls which would prohibit the use of tobacco where food is being prepared. I think this is important and it deserves more than a third priority.

Mr Berry's suggestion in his opening speech, to make it an offence to sell food beyond its use-by date, was a complete red herring. I think Mr Berry recognised this himself because, in his introduction speech, he went on to discuss the reasons why it is impractical. For instance, it would be inconsistent with uniform national food laws. It could also encourage suppliers to extend the shelf life of products beyond the optimum time for protecting the quality of food. I will add some further points. Members should be aware that, under the National Food Authority Act, there are no so-called use-by dates. Use-by dates in this area simply do not exist. They are in fact best-before dates. Food is not necessarily off if sold after the best-before date. It would be wasteful to prevent a consumer from using food which is still perfectly good but beyond its best-before date, especially if the consumer can obtain this food at lower prices.

In this regard, we should look to the provisions already contained in this Food Bill. They are more than satisfactory. Under the Bill, it is clearly illegal to sell food which has deteriorated or is contaminated. Furthermore, a matter like this is usually best addressed by community education. In fact, the National Food Authority itself recognises that encouraging the community to use best-before information is a matter of education, not legislation. As it is, people probably do not make the full use of information already provided to them on food labels. It must be a priority to remedy this situation through improved consumer education. I think the Government should look at this as a matter of priority.

Another important aspect to mention is hygiene in preparation. The greatest proportion of food contamination is microbiological, and it occurs through handling. Apart from meat and milk, the Food Bill does not deal with hygiene in preparation. Some of these questions are dealt with under a variety of other regulations and Acts, for example, the Public Health Regulations. I understand that the National Food Authority is to begin working on developing standards for uniform national hygiene regulations. This will take about two years. The whole process of considering changes to food legislation will not truly be over until we have these standards to consider.

I would also like to comment on the offences contained in this Bill. These offences provisions will have to be administered very carefully. I would like to foreshadow that I will be proposing an amendment to the offence entitled, "Sale not complying with purchaser's demand". Other provisions which provoke some concern but which we will not be seeking to amend are subclause (2) of clause 12, and clause 17. These two clauses relate to the manner in which food is displayed. They are very nearly duplications of each other. A person who is guilty under subclause (2) of clause 12 will almost certainly be guilty of misleading presentation under clause 17.

The whole area of display and advertising raises concerns because there seem to be so many examples in the marketplace of food being displayed in a manner which could be regarded as misleading. One might say, for example, that the pictures of hamburgers above the counter in McDonald's are misleading. Quite often they really do not seem to look the same when you get them. I would hope that the Government would not be looking at this sort of example in their legislation. Butchers often use pink lights to display meat. Fruit and vegetable sellers often use green plastic bags to make their fruit and vegetables look better. I hope that the Food Bill is not intended to apply to these sorts of trivial examples. I accept that there are similar provisions in other States, and, to my knowledge, there have been no problems.

Another area of some concern is the offence entitled, "Sale of falsely described food", in particular, paragraph 12(3)(b). Under this provision the sale of food for which a misleading claim about physiological, curative or therapeutic effects is being made is illegal. Claims are often made about such foods as lecithin, celery juice, oatbran, and the list goes on. These claims, such as oatbran's supposed cholesterol-fighting properties, may be hard to prove in a scientific way. This is not to say that such representations should be an offence. Where these practices need to be controlled, it may be a matter best resolved by trade practices or consumer affairs legislation rather than in the Food Bill. I acknowledge that sometimes claims about a product's alleged therapeutic effects are matters of concern, and on that basis we will not be trying to amend this clause. At the same time, the Food Act will have to be enforced with due sensitivity.

I think it is very important that we have effective food laws. The Liberals will monitor this legislation carefully. The Government should take note that, if there is any indication that powers under this law are being abused, obviously we will introduce amendments. Finally, I urge the Government to remember the very real imposts, in both time and cost, that this sort of legislation can place on small business, and to keep this in mind in the continuing evolution of this important topic. To conclude, the Liberals will support this Bill. Let us hope that the next stage of the Act does not take as long as the first.

MR HUMPHRIES (8.11): Madam Speaker, I also rise, like my colleague Mrs Carnell, to support the passage of this Bill. The Liberal Party is very pleased to see this legislation come before the Assembly. It will give me pleasure later on this evening to discharge the private members business which was introduced a few months ago by the Liberals as a stopgap measure. We are pleased to see this stage reached in this debate. I must say that I rather expected that, this process having gone on for so long, at the end of the day we would see something a little more fulsome than what we have before us at the moment.

Mr Berry: It is not the end of the day yet.

MR HUMPHRIES: At the end of the day, yes.

Mr Berry: The end of the day is a little bit later on.

MR HUMPHRIES: That is right. Madam Speaker, the question is not so much just what successive governments in this place have been able to achieve, but also what successive Federal governments have been able to achieve as stewards of the ACT as they dealt with the aftermath of a decision in May 1980 to provide for

a uniform food code for Australia which would eventually be manifested in separate Food Acts in each of the States and Territories. I would have thought - to use a food analogy - that wine which had aged for 12 or so years would taste a little better than this does. Nonetheless, that is not to denigrate the achievement.

We do have, at last, comprehensive food legislation before the Assembly. It puts in place, as far as I can see, one of three important planks for making this comprehensive legislation effective, and I welcome its arrival at last. I understand that there will be at least one other Bill in this package, and perhaps two, dealing with both licensing and enforcement issues. When they arrive, I think we will be able at that stage to pat ourselves on the back and say that the Territory and its citizens are properly protected against unsafe, unhygienic or unhealthy food.

Madam Speaker, having called for this Bill for such a long time, I do not think that that excludes me from also commenting on what I would perceive to be some possible areas of weakness in the legislation. I would like to make reference to that in a minute. May I say, first of all, however, that it is important that the ACT remain part of the network around this country which is presently operating to protect Australians in the food that they eat and drink. That is a process which is being fostered through the National Food Code and through the operation of the National Food Authority.

The authority has the responsibility for accepting, in a sense, or formulating what standards will be adhered to by each of the Australian States and Territories. We have, I think, some surrender of sovereignty going on in a process which allows us to refer to this national body, to some extent, the process of setting up what standards we will adhere to in the ACT. There are some fundamental questions to consider in that respect, as to how we conform with those national standards and whether those standards should change urgently or over a period of time. One small example, which I am sure has been referred to before, is that in this jurisdiction it is legal to purchase and consume kangaroo meat. I understand that in most other jurisdictions, except for South Australia, I think, it is not legal. So we have to assess how the ACT will fall into line with that national pattern, if it does at all.

The National Food Authority plays an important role, obviously, in coordinating that process and setting the sorts of standards which we, individually, as different States and Territories, would be quite unable to set. Many new products each year come onto the market, both nationally and internationally. People want to export those to Australia and we, as a community, have to decide whether they are acceptable for our consumption or not. I am told, for example, from my contacts within the authority, that we are soon to see the Mars Light Bars, the Mars Bars which are low in fat and cholesterol. Those of us who enjoy Mars Bars but do not enjoy the aftermath might be very pleased to hear that that is coming down the track. Let us hope that the authority quickly deals with the necessary paperwork and tests.

Mr Lamont: There is not a sponsorship offering here, is there?

MR HUMPHRIES: I am not prepared to disclose that at this stage, Mr Lamont. Mrs Carnell has drawn attention to a number of areas of concern in this Bill and I will just touch on those again briefly. We do have what is perhaps a distressingly familiar sight in this legislation - the creation of very wide offences.

It contains quite general provisions which will catch a large number of acts which currently occur in ordinary day-to-day trade and commerce in this community. It will need to be enforced and policed with great diligence and care. There is the great danger that an overzealous authority responsible for enforcing this legislation could come to the point where we find offences which are not considered, on community standards, to be offences at this time being prosecuted because they fall within the ambit of this Act.

Mrs Carnell has made reference to the representation of food and the way in which people present food. I think the presentation of food is almost invariably much like advertising. It is designed to present the best side of the product, and that invariably involves, to some degree or other, some distortion or misrepresentation. It is part of the nature of trying to persuade people to do something which they might not otherwise think of doing. For example, certain lights are directed on food to enhance its appearance, and food is dressed up to make it look better than perhaps it really is. I think we have all seen food which looks absolutely wonderful but does not taste quite as good as it looks. Those sorts of things are, on the face of it, caught by some of the provisions of the legislation. Let us hope that that is not the way in which this is actually put into practice.

I have had some concerns about provisions in this legislation. Subclause 15(3) gives rise to considerable concern. I understand that an amendment is coming forward from Mrs Carnell on that matter, and I will not discuss it at this point. Rather, I will refer to that when that amendment is reached. There are also concerns about a number of reversals of the onus of proof in this legislation. This matter has been raised already by the Scrutiny of Bills Committee directly with the Minister for Health, who has referred it to the Attorney-General, and an answer has been received. The committee was able to consider that at its meeting this morning. I have to indicate that I personally am not entirely convinced yet that we have settled this matter satisfactorily. My party is extremely concerned at any attempt to reverse an onus of proof and make a defendant liable to prove certain things in order to establish his or her innocence in a court. That is, prima facie, a situation which should be avoided unless there are very good reasons for it to occur. In this case it may be that there are some good reasons. That is a matter that I think we will have to address in the course of the debate.

To recapitulate, Madam Speaker, the Food Bill is very welcome. It will be supported by the Liberal Party, although, I hope, with some amendments. I might indicate to the Government that the amendments circulated earlier in my name will not be proceeded with, the persuasiveness of their advice being what it is; but I do hope that the Assembly will seriously consider and support an amendment to be submitted by Mrs Carnell later in the debate.

MR LAMONT (8.19): I also rise to support the provisions of this Bill. Madam Speaker, on 30 July 1991 a national food standards agreement was signed between the Commonwealth of Australia and all of the States and Territories. This revised food regulation system embodies a Commonwealth, State and Territory cooperative mechanism for establishing and applying uniform national food standards. As part of this mechanism, the Commonwealth has established the National Food Authority as the body responsible for developing and recommending food standards to the National Food Standards Council. The States and Territories participate in the process for developing food standards and adopt them by reference.

Madam Speaker, in brief, the 1991 agreement reflects the new role of the National Food Authority. It commits the States and Territories to adopt the food standards by reference; it establishes majority decisions as the basis for outcomes from the National Food Standards Council, and that is extremely important; and it enables differences in State and Territory food standards to be phased out in concert with the review of existing standards. The agreement was acknowledged by the Government last year, and the Bill we are debating today gives practical impetus to that agreement.

As mentioned in the Minister's speech, the Food Bill is the first part of a four-part process which will see introduced into the Assembly Bills which will give comprehensive coverage of food standards and food safety. This method of dividing the original Bill into four parts has much to commend it, in that it allows detailed examination of the various aspects of food legislation without an omnibus-style Bill.

The Bill we are debating today is a vehicle to provide for the adoption of the National Food Standards Code. It provides definitions as to what food is and defines what is included in the term "premises". It will cover all food, including water, that is sold. Generally, however, Madam Speaker, it does not cover food that is given away; but it does cover food that is given away if the person offering the food stands to gain a pecuniary benefit. Madam Speaker, concern has been expressed that this legislation covers charities, and it does. However, in my view, this is the correct approach to take. Food that is sold for human consumption must be of a proper quality and safe to eat, whether or not moneys derived from the sale of that food are used for a worthy cause. This is not relevant when protecting public health.

There is a provision in the Bill for the Government to make its own standards, but this can be used only in special circumstances. Madam Speaker, under the 1991 agreement, a State or Territory may make its own standards where a matter of public health is concerned and the due process of changing a standard nationally would take too long. In this instance, any such change must be notified to the National Food Authority; but, should the National Food Standards Council, the council of health for all States, Territories and the Federal Health Minister, not approve the changed standard, it lapses and cannot be used by the State or Territory which originally implemented it.

There have been occasions in the past when this ability to introduce or change a standard quickly has been of importance to public health. For example, in one Australian State vanilla essence was being sold in one-litre bottles. This product has a high alcohol content and teenagers were found to be buying the essence for that content. The State moved quickly to create a standard and to restrict the sale of vanilla essence to very small bottles only. I could make an observation about where that occurred, Madam Commissioner, but it would probably embarrass my colleagues opposite.

Mr Humphries: Madam Commissioner?

MR LAMONT: That goes back a long time. Madam Speaker - - -

Mr Cornwell: Do you mean commissioner or commissar?

Mrs Grassby: They are all the same, aren't they?

MR LAMONT: If you had been before some of the commissioners I have been before, you would probably think that way, yes. Madam Speaker, there will need to be considerable education within the food industry in Canberra as to what the new standards will mean. For example, it will be an offence to sell minced meat containing sulphur dioxide as a preservative, and signs which display words like "Freshly Squeezed Orange Juice" must be for just that - orange juice squeezed in front of the customer.

The road to implement this legislation has been long; but I firmly believe that the passage of this Bill - the first of a series of four Bills - will greatly enhance the safety and quality of food in the ACT. Madam Commissioner, as has already been said, it has - - -

Mr Moore: Have you been drinking?

MR LAMONT: It was not even a glass of red wine, Madam Speaker. This has been a long time coming.

Mr Cornwell: You have been drinking some of that essence, haven't you?

MR LAMONT: I deny the allegation that there are one-litre vanilla essence bottles in my office. Madam Speaker, this legislation has been a long time coming. I believe that the Minister for Health should be congratulated for bringing it forward so early in the life of this Assembly.

Mr Humphries: What? Three years.

MR LAMONT: It would have been here six weeks ago if you people over there had not delayed all the circus stuff. We could have had that out of the road in the last sitting. Shame on you!

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (8.25), in reply: I thank the members of the Opposition who have indicated their support for this Bill. Unquestionably, the Bill has been a long time coming and it has taken a Labor government to get it onto the floor of this chamber. If there is any credit to be taken on this matter, the Labor team will take it. It has been an issue of high priority for Labor and that is why it is before the chamber now.

Mrs Carnell did mention that the second stage of the process has been given a third priority in the budget sittings of the Assembly. I do not think that is a legitimate criticism, because it is very clear from the early introduction of this Bill that the Government intends to get on with the job.

Mrs Carnell: That is what you said the first time you were in power, in 1989.

MR BERRY: This is a complex issue. Mrs Carnell interjects, "That is what was said some time ago". I remember her colleague Mr Humphries struggling with this matter, and he was not able to come up with the goods. Immediately on coming to office, the Labor team put its head down and got stuck into the job. Ms Follett signed the agreement with other States and we got on with the job; and here we are. We have delivered the matter into this Assembly. Everybody is grateful that we have done that, and we will take the credit.

It is my intention - I know that the Assembly shares my views on this matter - to ensure that the public of Canberra receive the benefit of the National Food Standards Code in the form of new food laws. The National Food Standards Code, which is very detailed and complex, has been developed and adopted nationally to give maximum health and consumer protection. The code covers every aspect of food standards, from labelling to the level of preservative permitted in foods.

For many years, Madam Speaker, it has not been possible for environmental health officers in the ACT to take any action against manufacturers who cheat the public by adding excessive preservative to products to make them last longer, or who use excessive fat in the making of food such as sausages. These new standards, adopted in the ACT by this legislation, will redress that situation. Foods will have to meet the national food standards, or an offence will have been committed. If I buy a loaf of wholemeal bread, how much wholemeal flour should be in the bread? At the moment ACT legislation is satisfied if there is some wholemeal flour in the bread. Under the new standard, a specified minimum of 18 grams per kilogram of crude fibre must be available in the finished product. Mixtures of any other flours will no longer do. All wholemeal bread made or available for sale in the ACT must meet this national standard.

When consumers purchase food, they should be provided with adequate information to allow them to make an informed choice. This Bill will ensure that the consumer has this information. The weight of the product, as well as all the ingredients, will be clearly detailed on the packaging in a non-misleading manner. When persons with specific dietary requirements purchase food, they need to know that the food labelling is accurate - for example, that food labelled as being gluten-free is actually free of gluten, and that a low-salt label does mean that the food is low in salt. The national code that we are adopting with this legislation requires that products comply with prescribed standards in relation to labelling, and provide consumer information to protect the health and interests of the consumer.

This brings me, Madam Speaker, to the subject of use-by dates, which is an issue of some concern to the Canberra public. As stated in my presentation speech, the Government is concerned about the whole issue of the sale of food which has passed its use-by date, and we will be raising this matter with the National Food Authority. However, as has been discussed by other members in this debate, use-by dates would more properly describe their intention if they were called best-before dates or had some other description.

Many people outside the food industry do not appreciate that use-by dates are placed on food by the manufacturers themselves. Use-by dates are an indication by the manufacturer that, given correct transport and storage conditions, the food as manufactured will be at its optimum quality until that date. It does not mean that food suddenly deteriorates after that date; nor does it mean that food still within its use-by date is necessarily wholesome and safe to eat. Many of us would have had in the fridge something that was past its use-by date and would have found it quite wholesome. The use-by date is not a clear indication of the state of the food. A use-by date does not offer magical protection to the contents of the package. Perishable food that has been poorly handled or stored may have deteriorated long before the use-by date. However, with or without use-by dates, it is an offence to sell such food.

Finally, this legislation includes a range of penalties. The scope and extent of the penalties highlights the serious intention of the Government to ensure that the consumer is protected. As I outlined in my presentation speech, these penalties include a $5,000 fine or six months' imprisonment for most offences, and a $3,000 fine for others. A body corporate, that is, a registered company, can expect to pay up to $25,000 for contravention.

The Bill we are now debating, Madam Speaker, is the first step, a very important step - and I see from the reaction of the Liberals that it is a very welcome step - towards bringing the ACT into line with the rest of Australia by automatically adopting the latest food standards as they are published by the National Food Authority. The second stage of this process will be the introduction of a food safety Bill, which could see the ACT set a standard for the rest of Australia to follow. Stage three of the legislation will focus on enforcement arrangements, and stage four on licensing details. The Food Bill is an important and essential piece of ACT legislation. I commend it to you for your consideration and adoption. I look forward to your support as we approach the final stages of the debate.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 14, by leave, taken together

MR HUMPHRIES (8.32): Madam Speaker, there are some significant provisions within the first 14 clauses of the Bill. Obviously, the definition clauses are very important in providing for the parameters within which this legislation will operate. For example, I draw the attention of members to provisions such as the definition of "premises", which includes vehicles. The standard of food that is served in an aeroplane, for instance, will become very much part of the things caught by this legislation. "Sell" has an extremely wide definition. Mr Lamont has made reference, I think, to the wideness of that definition already.

Clause 5 of the Bill refers to the question of a standard being prescribed. We talk about a national standard, which is a standard which is prescribed by reference, in a sense; but it is also possible for the Territory Minister, presumably the Health Minister, to prescribe different inconsistent standards. That, as I understand it, Madam Speaker - and I am sure that the Minister will advise me if I am wrong - ensures that the ACT can, if it so desires, depart from the national code. It can not accept a National Food Authority formulated standard if it so wishes. I believe that, in certain circumstances, that might be appropriate, and I hope that the Minister will be able to advise me if I am not right in that respect.

Clause 7 contains a number of reversed onuses of proof. This was raised by the Scrutiny of Bills Committee. The Minister responded - and I think that this is a point that we take - that the reversal of the onus of proof in those cases occurs because the matters which are assumed to be the case in a prosecution are matters which are peculiarly within the knowledge of a defendant. He or she would be the best person to know whether the food was to have been sold for human

consumption or not. It would be very difficult for a prosecution to prove that a plate of sausages sitting in the kitchen of a restaurant was intended for human consumption. One can see that there are reasons for those assumptions, and I believe that therefore the Assembly should support them in that format.

It may be, as I said earlier, in the in-principle debate, that there are some unintended consequences if one reads the provisions of this Bill very widely. For example, subclause 14(2) refers to packaging and labelling. It says in paragraph (b) that a package must "refer to the food contained in the package by a name that describes fairly and sufficiently specifically its true nature". When I read that I thought, for example, of the case of peanut butter, which in fact is not butter at all. That is now commonly accepted as a phrase widely used in some places, at least in this country. However, for example, in Queensland, I am advised, peanut butter is in fact called peanut paste, which would be a more accurate description of what is actually in the jar.

Mr Wood: That is dead right. Spot on, Mr Humphries.

MR HUMPHRIES: Yes, or it might also be called Joh paste.

Mr Lamont: It has some other names that I do not think we should repeat here, either.

MR HUMPHRIES: It has other names. The question has to be asked: Does "peanut butter" on the outside of a jar refer to the food contained in the package by a name which describes fairly and sufficiently specifically its true nature? Actually, there is no butter in it. I have encountered people who believe that they do not need to put butter on their bread before they put the peanut butter on, because there is already butter in the peanut butter. It is not an academic question; it is a very real one. That is just one case that came to my mind.

Mr Lamont: You mix in the wrong circles, obviously, Gary.

MR HUMPHRIES: There will be many such cases where those sorts of issues will arise. As you can see, I have been thinking about this very hard, Mr Lamont. I think, Madam Speaker, as I have said before, that we have to be extremely careful about the way in which this is applied. I, for one, give notice that, if there are any prosecutions which go beyond the obvious intention of such legislation and in fact become nitpicking and intrusive, then certainly my party will be very quick to come back to this place with amendments to this legislation.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (8.37): Mr Humphries raised some issues on, though no opposition to, a number of clauses in the Bill which are significant in the way that they affect the people who will be guided by the intent of the Bill. This Bill does have a wide definition of "premises", and for very good reason - because it is intended to cast a wide net and to ensure that nobody escapes. This legislation is serious about protecting the community from people who sell poor quality food. That is the nature of the Bill, and that is why there is a wide definition of "premises".

The same applies in relation to the definition of "sell". Again it is meant to cast a wide net to catch all in its effect. If we do not cast a wide net - I am sure Mr Humphries would agree - the loopholes would pretty soon render the Food Act meaningless. In relation to clause 5, which talks about standards inconsistency, I think the clause speaks for itself. It says:

> Where a standard is prescribed, a national standard does not apply in so far as it is inconsistent with it.

It suggests, on the face of it, that standards can be prescribed here and, in so far as any inconsistency exists with the national standard, the national standard does not apply. That seems to me to be a pretty clear interpretation of that. Subclause (2) says:

> Where a prescribed standard provides for the interpretation of a national standard, the latter -

the national standard -

> has effect as interpreted in accordance with the former.

I think that is pretty clear. I do not think it is a matter that Mr Humphries should be concerned about. Madam Speaker, I am hopeful of fully-fledged support for clauses 1 to 14.

I should refer to Mr Humphries's peanut butter argument. I think it would be fair to say that some foods that are marketed under their traditional names may well be affected by this legislation. I think it would be fair to say that some foods will be caught in the net.

Mr Humphries: So we cannot call it peanut butter any more?

MR BERRY: I am not going to make a judgment about peanut butter, but I think there will be some foods caught in the net and they may well have to be sold by a name that describes fairly and specifically their true nature.

Mr Cornwell: Aeroplane Jelly is going to be ground jelly, is it?

MR BERRY: It is not a laughing matter. Many humorous things could be said about the names of certain foods. I will not refer to them. This is groundbreaking legislation for the ACT and I am sure that there is going to have to be a bit of tolerance about foods and practices which are caught in the net. It might appear, by the intervention of the Government, that there is an overzealous approach to the enforcement of the legislation, but enforce it we will. It has to be enforced. At the same time, we have to recognise that there will be effects from the legislation that might warrant a more compassionate approach to the concerns of people affected. In all, I am pleased that Mr Humphries and the Liberal Party will be supporting clauses 1 to 14 inclusive.

Clauses agreed to.

Clause 15

MRS CARNELL (8.42): I move:

> Page 6, lines 21 to 23, subclause (3), omit the subclause, substitute the following subclause:
>
> "(**3**) A person must not to the prejudice of the purchaser sell any food that is not of the nature, substance or quality of the food that is demanded by the purchaser.
>
> Penalty: $5,000 or imprisonment for 6 months.".

This amendment is minor, but important. The offence under clause 15 is entitled, "Sale not complying with purchaser's demand". Subclause (3) says:

> A person shall not sell food that is not of the nature, quality or substance demanded by the purchaser.

It is very possible that this wording could be abused. We certainly would not want to see a situation where a restaurant owner is liable for a $5,000 fine or six months' imprisonment for a trivial breach of subclause (3), such as substituting raspberries for strawberries, or bream for trevally, or even when food of a better quality is provided. This regularly happens in restaurants. In Victoria the equivalent provision says:

> A person must not, to the prejudice of the purchaser, sell any food that is not of the nature, substance or quality of the food that is demanded by the purchaser.

This wording provides some protection to the vendor as long as he or she does not act to the detriment of the purchaser. Therefore, some damage has to be done. More importantly, it makes it clear that we are not after trivial incidents. I suggest, therefore, that we amend the Bill in line with the Victorian wording. This is substantially more important. I would hope that any legislation we bring down here is designed to help somebody who has been hurt or disadvantaged. If we are just doing it as a revenue raising exercise, that would seem to be very inappropriate.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (8.44): The Liberals are here striking at the very heart of this legislation. This clause is about consumers getting exactly what they demand when they purchase food. Consumers are entitled to get exactly what they demand and pay for. There is no question about that.

Mr Humphries: Up to a point.

MR BERRY: Mr Humphries says, "Up to a point". They are entitled to get exactly what they pay for.

Mrs Carnell: What happens if there is no damage, if they get something better?

MR BERRY: Mrs Carnell says, "What if they get something better?". That is not the issue. It is about customers demanding and receiving what they want and what they pay for, not what some seller might decide is better for them. A seller might decide that a particular type of food is better for that customer, and might pursue an argument later on, if it were to go to the courts, that what he actually sold the customer was better than what had been asked for.

Mr Humphries: Why not? Why should he not be able to do that?

MR BERRY: There are very good reasons, and I will come to those. The current wording of subclause 15(3) of the tabled Bill is the same as in the National Food Act and in the New South Wales Food Act. It is important, from my point of view, where practicable, to maintain the standard of the National Food Act.

Mrs Carnell: That does not mean that there cannot be better wording.

MR BERRY: I do not think it will come from the Liberals, Mrs Carnell. Under this Bill it only has to be proved that the customer did not get the product asked for. That is all that has to be proved.

Mr Humphries: It is too wide.

MR BERRY: Mr Humphries says that it is too wide. It is not too wide. If I go into a shop and I ask for a particular product and pay the old hard earned cash across the counter, I expect to get what I want - not what some shopkeeper or some seller decides I should have because he has an oversupply of a particular thing that might be just about to go beyond its use-by date.

Mrs Carnell: Then you would be right, under my amendment.

MR BERRY: No, I would not be. If the vendor sold the customer something that he did not want, even though it was a dearer product and was about to pass its use-by date, you would say that the vendor was right.

Mrs Carnell: That is not true. That would be covered under trade practices, and you know it.

MR BERRY: That is what is proposed by what you are saying. What your amendment - - -

Mr Humphries: And other clauses of this Bill.

MADAM SPEAKER: Order!

Mr Kaine: It is all right. The Minister does not understand.

MR BERRY: I hear Mr Kaine. He would be the greatest example of a lack of understanding that I have seen since I came into the place. Mrs Carnell's amendment would require the prosecution to prove that the purchaser was actually prejudiced to his detriment by the sale.

Mrs Carnell: Innocent until proven guilty, you mean.

MR BERRY: To prove that they were actually prejudiced; to prove not that they had been given the wrong product, but that they had been actually prejudiced. In some circumstances this would be difficult to prove, as consumers place different values on particular foods because of dietary, religious or personal preferences.

Mrs Carnell: But then there is detriment. It is easy.

MR BERRY: I would like to see the argument in court. It could go on for ages. There are some groups who, for example, do not eat particular sorts of fish that do not have scales on them; but it might be a more expensive fish and some vendor might decide that a person should have the more expensive fish rather than the cheaper variety and - - -

Mr Humphries: You cannot send someone to gaol for doing that, Wayne.

MR BERRY: Why would you want to strike at the heart of the legislation? You are just trying to create circumstances whereby people can argue that somebody has not been prejudiced by the purchase of a product that they did not want.

Mr Humphries: It is too draconian. It is unfair.

MR BERRY: What about the consumer? The consumer is the one we are trying to look after.

Mr Kaine: That is why we are saying that if it is to the prejudice of the consumer it is an offence; if it is not to the prejudice of the consumer, it is not.

MR BERRY: This is where we differ. Under this legislation, if the consumer does not get what he demands, it is to his prejudice. Under Mrs Carnell's proposal, if the consumer gets what the vendor decides he ought to get, he has not been prejudiced. That is ridiculous. For example, under Mrs Carnell's proposed amendment, if a person wished to buy a sandwich spread with margarine, asked for margarine and then received butter, it could be argued that the butter was superior to the margarine and therefore the sale was not to the prejudice of the customer.

Mr Humphries: That is a good point. Is it to the prejudice of the customer?

MR BERRY: It might be.

Mrs Carnell: Are you going to put them in gaol for six months for that?

Mr Kaine: They might put mayonnaise on it, and that is even better.

MADAM SPEAKER: Order! Mr Berry has the floor.

MR BERRY: That just shows the lack of concern that these people have for consumers.

Mr De Domenico: What rubbish!

MR BERRY: Listen, James Cagney, we do not want to see any more of your demos here. It is not a pantomime.

Mr De Domenico: I take a point of order, Madam Speaker. For the benefit of Mr Berry, my name is Tony De Domenico, not James Cagney. He probably was a better actor than I will ever be.

MADAM SPEAKER: Thank you, Mr De Domenico.

MR BERRY: If a person wishing to buy a sandwich gets butter instead of margarine, there could be, as I said earlier, some difficulties because of dietary or personal preferences. It is not a question of the court deciding what is good for somebody; it is about the court deciding whether the customer got what he demanded and paid for.

Mrs Carnell: He does not have to pay if he does not like what he got.

MR BERRY: This is the ACIL report coming through again. The Liberals searched this piece of legislation and could not find a thing wrong with it. They had to come up with this ridiculous amendment that strikes at the heart of the Bill, just to prove that they have a different position.

Another example could be where a customer wishes to purchase a particular type of fish, because of a preference for the taste or texture of that fish, or because of a religious preference, and is sold a more expensive type for the same price. Mrs Carnell says - - -

Mr Humphries: What a terrible thing to happen! My goodness! Put them in gaol. Lock them up.

MR BERRY: Okay. What a foolish attitude! Say that somebody goes into a fish shop and orders a cheap cut of fish, for example, mullet - it is usually cheap - and the vendor thinks, "I do not have any mullet and I am going to lose this customer, so I will quickly wrap up some leatherjacket. It is a bit more expensive, but I will give it to him for the same price".

Mr Connolly: And not tell him.

MR BERRY: "I will not tell him. I will give it to him at the same price". If the customer had a religious preference for the fish with scales, under your argument you would be able to go to court and prove that it was not to the prejudice of the customer. That is absolutely ridiculous.

Mrs Carnell: If they do not tell them, it is misrepresentation and it is covered by other bits. If they do tell them, they get done anyway.

MR BERRY: No. You are quite clear in what you are trying to achieve with this amendment. You are trying to strike at the very heart of the Bill. You are trying to take away the right of consumers to demand. So there we have it; the Liberals were searching around, thrashing around, to find something wrong with this legislation and could not do so. The best they could come up with was something ridiculous. They are trying to undermine the whole intent of the clause, which is headed, "Sale not complying with purchaser's demand". Surely the customer is right.

Mr Humphries: Not to the extent of six months in gaol, they are not.

MR BERRY: Here we go with this silly penalties argument.

Mr Humphries: It is there; six months in gaol.

Mr Connolly: The boy at the peach tree.

MR BERRY: Yes, the old "boy with the peach" story. Oh, go away! It is unbelievable. The Bill says:

> (1) A person shall not sell food that does not comply with a standard that is applicable to the food demanded by the purchaser.
>
> (2) If -
>
> (a) a person demands any food by name; and
>
> (b) there is a standard that applies to food of that name;
>
> the person is to be taken to have demanded food that complies with the standard.

The Liberals are trying to superimpose on that a condition which would provide a let-off for vendors who sell people products that they do not want, because they have not asked for them, and products that the vendor has decided the consumer should have. That is absolutely ridiculous.

Mrs Carnell: But they might be quite happy.

MR BERRY: The vendor has decided that the customer should have a particular product, not the customer.

Mr De Domenico: What if the customer is happy with what he or she got?

Mr Connolly: Then he will not bring a complaint. There will be no prosecution.

MADAM SPEAKER: Order! Mr Berry has the floor.

MR BERRY: You take away the right of a consumer to choose and demand. That is what you are saying to us. You are saying that the vendor should have that right to impose. Well, we are not going to have a bar of that.

MR HUMPHRIES (8.54): Madam Speaker, obviously the Government does not have any intention of keeping an open mind about this. Therefore I hope that the Independents at least will listen seriously to the argument being put here. Nobody is suggesting that the consumer ought not to have rights to demand things and to get those things. That is inherent in the whole thrust of this legislation. Provision after provision after provision in this Bill sets standards for food that is sold. It cannot be substandard food - - -

Mrs Carnell: It cannot be falsely described.

MR HUMPHRIES: It cannot be falsely described; it cannot be falsely presented; it cannot be incorrectly packaged; it cannot be incorrectly labelled; it cannot be falsely advertised; it cannot be presented in a misleading fashion. All those provisions apply there. Even in clause 15 there are protections for the consumer. It states:

> (1) A person shall not sell food that does not comply with a standard that is applicable to the food demanded by the purchaser.

That stays. It continues:

> (2) If -
>
> (a) a person demands any food by name; and
>
> (b) there is a standard that applies to food of that name;
>
> the person is to be taken to have demanded food that complies with the standard.

That also stays, under our amendment. We are talking about whether a person who actually gets something which is not to their detriment ought to be able to take somebody to court and make them face serious consequences when they get there. That is the basic question. I agree with you that, if I order a sirloin steak in

a restaurant but I get a T-bone steak, that is pretty reprehensible. I may choose not to pay the bill or not to give a tip, or something of that kind. But to say that, as a consequence of that, that person should be liable for criminal offences, criminal charges, a very substantial fine or even imprisonment in extreme cases, even in the case of repeated offences, is going too far.

Mr Lamont: You have admitted it now - extreme cases.

MR HUMPHRIES: Even in extreme cases. If I have suffered no detriment, why should an offence have been committed by the defendant? Madam Speaker, I do not ask you to accept the logic of the ACT Liberal Party; you are obviously not prepared to do that. Instead, accept the logic of the Victorian Labor Party. The Victorian provision says:

> A person must not, to the prejudice of the purchaser, sell any food that is not of the nature, substance or quality of the food that is demanded by the purchaser.

Mr Berry: It is one of the rare occasions when the Victorian Government has been wrong.

MR HUMPHRIES: It is all coming out now, is it not? The rats are deserting the sinking ship, as they say. Madam Speaker, there is no logical reason why we should be prosecuting people in these circumstances. Other examples were given by those opposite. If a person is allergic to a food, clearly they will have had a food which is to their detriment, and the supplier will be prosecuted in the court, for the full extent of the $5,000 and the six months in gaol, if you want. If the person suffers some kind of demonstrable detriment by reason of that purchase, they ought to be able to face the full force of that subclause (3). But, like the Victorian Labor Government, we cannot see why you should be able to establish an offence without proving some detriment. That is logical and sensible.

Mr Berry: Time passes; we are moving on.

Mr Connolly: Probably the Victorian upper house - your mates - did this.

MR HUMPHRIES: No. Time passes! You have to pass legislation in both houses, Mr Connolly - in case you were not aware of that - and that means going through the lower house, where the Victorian Government has the majority. The Victorian Government must have agreed to that amendment. So, the Victorian Labor Party sees the need for this; why cannot you? There is really no logical case. You cite the example of someone ordering margarine but getting butter. If they are not allergic to the butter or do not have a religious principle against butter, no detriment of any kind can be established.

Mr Berry: What about somebody who has a heart condition?

MR HUMPHRIES: They will have suffered a detriment, will they not? Therefore, they will be in the position of being able to claim some damage. With a heart condition, it is usually the case that you suffer some damage as a result of taking the food that you should not have; that is fairly clear.

Mr Lamont: What happens when the shopowner has five tonnes of ling that he is trying to get rid of because it is going to go off next morning? Because he wants to get rid of the ling, if I go in and ask for mullet he wraps up ling.

Mr Kaine: On a point of order, Madam Speaker: Are we engaged in a one-to-one debate here, or are we operating in accordance with the standing orders?

MADAM SPEAKER: I remind members that Mr Humphries has the floor.

MR HUMPHRIES: I think it is reprehensible. Frankly, I would like to put some people who have served me some food in some of the restaurants around this place in gaol, too. But I realise that that is the sort of sentiment which is not best reflected in legislation that we pass in this Assembly, much as it might be desirable in the eyes of some people. If a person sells somebody ling when they have asked for mullet, they have a better quality fish and they cannot prove any detriment because of that. Why should they be able to sue? They would not be able to sue or prosecute in Victoria. Why should they be able to do so here? It really does not make sense. We are getting silly in prosecuting people for supplying better goods than were ordered. That really is quite silly. We have to be sensible about this. Let us consider whether this really is the most appropriate provision to have here. If we look very hard, I think we will see that it is not.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (9.00): Madam Speaker, I had to agree with Mr Humphries when he said that we are getting silly here, referring to the Liberal Party's desperate attempt to find a point of difference in this legislation, reflecting, as Mr Berry said, their adherence to the ACIL charter. The line of argument that they are running betrays a fundamental misunderstanding about what consumer protection legislation is all about, but that is perhaps not surprising coming from the Tories.

Consumer protection legislation is about honesty; it is about consumers getting what they order. This basic commitment to honesty is not new. This basic provision that what you order is what you should get and that it should be sanctioned by law is hardly a new proposition. Mr Humphries is fond of older legislation, the honourable precedents of the law. The Sale of Goods Act 1954 has this proposition, going back, I believe, to the Usury, Bills of Lading and Written Memoranda Act 1902 of New South Wales and, I think, even back to 1890 sale of goods legislation in Britain.

Mr Humphries would be familiar with the basic proposition of sale by description; where there is a contract for the sale of goods by description there is an implied condition that the goods should correspond with the description. It is true that it gives rise to civil penalties, not criminal penalties; but the basic proposition is that where there is a sale by description the goods shall meet the description, not that they might be better than the description and that is okay. It is the basic proposition of honesty.

The proposition was picked up in 1974 by the Trade Practices Act, which has never been tampered with by any government, Labor or Liberal. Section 53, about false or misleading statements, states:

> A corporation shall not, in trade or commerce ... falsely represent that goods are of a particular standard, quality, value, grade, composition, style or model or have had a particular history or particular previous use ...

Again, it states "falsely represent that goods are of a particular standard or quality", not with the exception that it does not matter if they are better. The penalty there is $20,000 for individuals and $100,000 for corporations. So, massive penalties have been in force since 1974, based on correspondence with description.

What the Liberals are trying to do, Madam Speaker - the Independents should bear this in mind - is introduce this subjective quality of, "But it is okay if it is better". What do they mean by "better"? What does "to the prejudice" mean? The example to which Mrs Carnell referred was, "If you ordered raspberries and got strawberries it really would not matter". It might matter if you have an allergy, as Mr Berry very clearly said. Basically, you have the right to expect that what you order and pay for is what you get. If the restaurateur happens to be short of raspberries on that day but has strawberries - and let us assume that it is during a glut of raspberries when strawberries are scarce, so that strawberries are rather more expensive than raspberries - all he or she has to say is, "Look, I am sorry; I am short of raspberries, but I will give you strawberries for the same price".

Mrs Carnell: And then they contravene the legislation.

Mr Humphries: You send it back, do you not?

MR CONNOLLY: This betrays a fundamental misunderstanding. Mr Humphries could not share that view; I can understand that. When one goes through Contracts 1, one is taught what a contract involves - offer and acceptance. "I would like to order raspberries". "We are sorry, we do not have raspberries; we have strawberries". "I will have the strawberries". Therefore, there is a sale that complies with demand because the contract is for the strawberries; it is not a problem. The legislation in our format requires, in every case, the trader to be honest and straightforward and supply the goods that the consumer demands or say, "I am sorry, consumer, I do not have those goods, but I have these other goods; would you like them?". The consumer can then say, "Thanks very much; I will have those at the same price", or, "I am sorry, but I happen to be allergic to that, even though it is a higher quality good", or "I happen to have a religious faith that says that I cannot eat a certain fish" - scale or non-scale - to take Mr Berry's example.

It is a fundamental principle of consumer protection legislation that has been adhered to in the civil sense at least since the 1890s; and it has been adhered to in the criminal sense, giving rise to penalties of up to $100,000, since at least 1974. That applies throughout this legislation. If the Liberals are serious about this proposition that you should introduce a subjective element of whether the goods are better or worse in relation to this clause, they ought to be consistent and move it throughout, because false advertising of food, misleading presentation and all of these offences are essentially variations of the theme of requiring honesty, requiring a trader to supply to a consumer what the consumer asks for. It is simply that.

Mr Humphries: The punishment is too high, though.

MR CONNOLLY: "The punishment is too high", says Mr Humphries. I fear that we are going to hear this like a broken record for the next 2 years. Under the Commonwealth Trade Practices Act the punishment for a corporation providing goods that do not comply with the description is $100,000 maximum. It seems that Liberal governments did not have any difficulty with that when they held sway. So, that is hardly a problem. In every case, as we have said, the penalty that is prescribed in an Act of this Assembly must cover the most serious offence, and every magistrate will weigh individual offences in relation to a scale of severity. To say that this is too high is to say that the penalty for theft under the Crimes Act is outrageously high because the little boy who steals the peach is liable, on your argument, to 10 years' imprisonment. We know that it is an argument of absurdity. But perhaps we can expect nothing better from this Opposition.

MRS CARNELL (9.07): I think both Mr Berry and Mr Connolly missed the point of our amendment. Mr Berry spoke for a very long time, but not quite as long as Mr Connolly did, about restaurateurs or shopkeepers, small business people, who falsely describe food, who sell food that is different from what the purchaser wants. That is covered in clause 12, which says:

> A person shall not sell food that is falsely described.
>
> ... ...
>
> Penalty: $5,000 or imprisonment for 6 months.

It is totally covered in that area. I think Mr Lamont interjected to talk about ling that would go off tomorrow. Clause 10 says:

> A person shall not sell substandard food.
>
> Penalty: $5,000 or imprisonment for 6 months.

Mr Berry: No, it is not substandard; it will be tomorrow.

Mr Humphries: What is wrong with it, then?

Mr Connolly: It is not what you ordered. Honesty is what we are about.

MRS CARNELL: If it is not what you ordered, then the restaurateur or shopkeeper is falsely describing that food, unless they make it clear to the purchaser that the food is not what was ordered. If they make it clear, then clause 15 comes in. It says:

> A person shall not sell food that does not comply with a standard that is applicable to the food demanded by the purchaser.

All we are requiring is an amendment which suggests that there should be prejudice in this area. If one would like to look at the definition of "sell" in the Bill, it is very, very wide. Again, I say that false description is already covered by clause 12; substandard food is covered by clause 10; but clause 15 is in question.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (9.09): During the debate I heard Mr Humphries interject, "You can sue for damages". That is the sort of argument that we have heard from conservatives over the years - throw it back in the courts where only the rich can pursue it.

Mr Humphries: What are you going to do with this? You are going to put it in the courts as well. The penalty is $5,000 or six months in gaol. You are still in the courts.

Mr Connolly: The state prosecutes, not the consumer.

MR BERRY: The state will prosecute.

Mr Humphries: Where? In a football stadium? At a local pub? They will go to the courts.

Mr Connolly: In the courts, but at no cost to the consumer.

MADAM SPEAKER: Order, please! Mr Berry has the floor.

MR BERRY: The Tories often argue that it should be subject to legal challenge, and that is why Mr Humphries interjects, "You should sue for damages". A lawyer-led recovery might ensue, but it would not have too many working-class people trying to pursue a legal course through the courts.

Under the proposal which has been put forward by the Labor Party, the consumers' rights will be pursued by the state. That is what this legislation is about. We are setting out to ensure that the consumers' demands are met, not the shopkeepers'.

Mrs Carnell: "I do not care. No, we do not care about them".

Mr Humphries: "No, it does not matter about them. They are little capitalists. Get them".

MR BERRY: They are protected by this legislation as well, because it levels the playing field.

Mr Connolly: They do not like this one.

MR BERRY: They do not like this one. It levels the playing field so that unscrupulous vendors cannot exploit the market, because they will be covered by this law which will be pursued by the Territory. You should understand that.

In relation to the matter of principle, it is clear that the Liberals intend to impose what has been correctly described by my colleague Mr Connolly as a subjective remedy in this legislation, which would lead to many pages of transcript of court proceedings in deciding what is or what is not to the prejudice of the purchaser.

Mr Humphries: Use Victorian precedents.

MR BERRY: Mr Humphries says, "What about Victoria?". I am glad he raised that again, because I say, "What about New South Wales, just across the border?". They adopted the same approach as we are trying to adopt.

Mr Humphries: Was it a Liberal government in New South Wales?

MR BERRY: It must have been more recent legislation. Let us not forget that last July all State and territorial governments signed the pledge, so to speak, to participate in this process. At any rate, you have made your position clear: You do not intend to protect the consumers' rights; you intend to make it open slather. Clearly, the Labor Party has set out to ensure that consumers get exactly what they demand, and that is what they are entitled to; no less.

Question put:

That the amendment (**Mrs Carnell's**) be agreed to.

The Assembly voted -

AYES, 7	*NOES, 10*
Mrs Carnell	Mr Berry
Mr Cornwell	Mr Connolly
Mr De Domenico	Ms Ellis
Mr Humphries	Ms Follett
Mr Kaine	Mrs Grassby
Mr Stevenson	Mr Lamont
Mr Westende	Ms McRae
	Mr Moore
	Ms Szuty
	Mr Wood

Question so resolved in the negative.
Clause agreed to.
Remainder of Bill, by leave, taken as a whole

MR HUMPHRIES (9.15): Madam Speaker, I referred before to the reversal of the onus of proof. The Scrutiny of Bills Committee referred to subclause 16(4), which contains these words:

> ... an advertisement is deceptive notwithstanding that every particular of it is true if it creates, or is intended to create, in the mind of a reasonable reader, listener or viewer, an untrue or inaccurate impression.

We are not opposing this subclause; but I will say, Madam Speaker, that it goes some way towards putting the defendant in the position of saying, in effect, "Look, I can prove every particular of what I have said, but because another person - - -

Mr Berry: This is a nonsense, too.

MR HUMPHRIES: It might be a nonsense to you; but the Scrutiny of Bills Committee took advice, and that was the view that it reached and that was what we reported on to the Assembly. So, do not just look to me; look also to the others who are on that committee. We took the view that there was this serious question about, as it were, subjective opinion - making an offence out of something which was technically not an offence because everything that had been said, on its merits, in a statement was true.

We are not amending or voting against this provision, because we accept that there will be circumstances in which you can say something which is technically true but which creates a false impression, in a way. The concern that I still have is that we talk here not just about the intention of the person making the statement to create the misleading impression but also about the creation itself - if you like, to use the word that Mr Berry used before, the "subjective" creation in the mind of a listener of the impression that something is the case when in fact it is not.

I also point out, again without suggesting that we amend this, that the provisions of subclause (2) are quite draconian. It states:

> In proceedings under this section against the manufacturer, producer or importer of any food ... it shall be presumed that the defendant published the advertisement, but the presumption is rebuttable.

What do you need in order to establish that presumption? You need no more than the fact that a prosecution is launched against Bloggs, who has been involved in the manufacture, production or importing of food. The department says, "Right; we are suing you for false advertising". The assumption is that you published whatever advertisement they have found and at which they take offence, and then you have to prove that you did not publish that advertisement.

That is a reversal of the onus of proof. It is fairly hefty. It is established merely by the fact that a prosecution is launched against an individual who is involved in some way in getting a particular food product onto the consumer's plate. It, again, goes quite a long way. I will accept that there are certain circumstances in which that would operate in a fashion which is not unfair, and we are prepared to accept that provision. But again I say that, if there are signs of abuse of that sort of provision, if it goes too far in its operation, then certainly we will be moving amendments to the legislation.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (9.18): Madam Speaker, these criticisms that were picked up by the Scrutiny of Bills Committee were rebutted. As I indicated in the letter to the chair of that committee, Mrs Grassby, in relation to the advertising point, that is a rebuttal of a presumption, and it is essentially there because it would otherwise be very difficult. It would force the requirement of proof that the ad from a corporation or an individual trader was placed in a newspaper. One can normally assume, that when a paid ad appears in a newspaper, that they placed it there. It would be onerous to require the proof of every such matter, but a rebuttable onus of proof for such technical matters is not an uncommon provision in legislation. I note Mr Humphries's criticism. I also note that he says that he will accept that but will watch it for abuse. We would be quite happy to say that, if there were abuse of that, we would be concerned as well. But I would expect that that would operate as many such rebuttable presumptions of technical matters do.

In relation to an advertisement which, even though every bit of it is true, can still give rise to an offence, I would remind the Assembly of a scam, which was operating in Britain a few years ago, by a particularly clever Australian entrepreneur and Ms Samantha Fox, a prominent pop singer and page 3 girl - - -

Mrs Carnell: The diuretic tea man.

MR CONNOLLY: It was in relation to tea, as Mrs Carnell interjected. That was a particularly effective rort, because it was basically advertised that if you took the tea diet you would lose weight. The tea had absolutely nothing to do with losing weight.

Mr Cornwell: And Samantha Fox was involved?

MR CONNOLLY: This is true. Yet people were conned into paying an exorbitant amount of money for this elaborately packaged tea which was simply herbal tea which they could have got from Selfridges for a quarter of the price. By not eating any other food and just drinking large quantities of this particular tea, apart from beating a track to the nearest convenience, over time they did lose some weight. They did so because they were consuming vast quantities of tea.

Mr Humphries: But it was true, was it not?

MR CONNOLLY: Indeed it was, Mr Humphries. It is the classic example of how an advertisement can be technically true yet clearly, to any fair-minded observer, give a misleading impression. This was a particular scandal. I cannot recall whether the Australian entrepreneur ended up being extradited from Australia to Britain to faces charges.

Mr Lamont: No, they are still chasing him around Queensland.

Mr Cornwell: He is on the Gold Coast at the moment.

MR CONNOLLY: I thought he did. They may still be chasing him around Queensland or the Gold Coast; but I can recall seeing *60 Minutes*, or some such program, doing quite an expose on this. It was widely regarded as a scandal, but it was a situation in which an ad was technically true. So it would seem to follow from that that Thatcher's Britain had similar legislation. So, Mr Humphries, it cannot really be a problem.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (9.22): Madam Speaker, I rise just to go to an issue which Mr Humphries raised in relation to peanut butter.

Mr Humphries: I might take a point of order as to relevance on this. It had better be good.

MR BERRY: Standard M2 describes a product as peanut butter or peanut paste, and it goes on to describe all of the aspects of peanut butter or peanut paste. Peanut butter or peanut paste is described as a product prepared by comminuting roasted peanut kernels. It goes on to list all of the things that it shall contain and the minimum amount.

I am pleased that the amendment which was pursued by the Liberals did not get up, because somebody might have wanted to put less salt or something like that in the mixture, which might have conflicted with the legislation. People would be forced to eat something that is not actually peanut butter or peanut paste. If you would like a copy of this, I am happy to give it to you, and you can sleep easier at night.

Remainder of Bill agreed to.

Bill agreed to.

DISCHARGE OF ORDER OF THE DAY

MR HUMPHRIES (9.23), by leave: Madam Speaker, I move:

> That order of the day No. 4, private members business, relating to the Consumer Affairs (Amendment) Bill 1992, be discharged.

Mr Connolly: But it was such a well drafted Bill, Gary.

MR HUMPHRIES: I know. It was a great Bill, was it not? Luckily, Madam Speaker, the Government has now produced its own Bill. I point out that the Minister has been very fulsome in saying that it is wonderful that the Labor Government - the Labor team, as he puts it - has finally produced this piece of legislation. I feel a bit like an Australian standing in one of the stands at Barcelona and watching our prize runner running into the stadium towards the finishing line and crossing in a blaze of glory, only unfortunately to realise that he is the last runner to arrive in the stadium and that all the others had finished half an hour beforehand. It is great to see us coming home. It is a pity that it could not have happened a bit sooner.

Question resolved in the affirmative.

BUILDING (AMENDMENT) BILL 1992

Debate resumed from 18 June 1992, on motion by **Mr Connolly**:

> That this Bill be agreed to in principle.

MR KAINE (Leader of the Opposition) (9.25): I must say, Madam Speaker, that when I read this Bill it was almost as though it had been drafted by the Liberal Party, and I wondered whether it was yet another one of those Bills that were carried over from 14 months ago when the drafting instructions were issued by the Liberals when they were in government.

The thrust of this Bill is, in the Minister's own words, to "reduce regulation by government". It makes it easier for people to do minor works around their properties. Until now, it was required that they go through the full gamut of approvals before they could begin relatively minor things. It covers things up to and including fences, pergolas, timber decks and the like and, at the smaller end of the scale, it gets down to - I am quoting from the Minister here - "a simple letterbox or an ornamental garden wall". In the Minister's presentation speech he even went as far as saying that we could even contemplate that a garden gnome, if permanently fixed, could be illegal if not approved under present legislation. The present legislation, Madam Speaker, is quite absurd in that people cannot do minor things around their properties, like these things that are mentioned here, without going through this full approval procedure.

There is one aspect of the Bill, as presented by Mr Connolly, that does worry me, however. I am referring to the explanatory memorandum, where it notes that minor building work will no longer be subject to the full approval - and emphasis is on "full" - building permit and inspection process. It states that these minor building works are "prescribed buildings"; and regulations will be prepared following the passage of this amending Bill, setting out the circumstances in which buildings will be classified as "prescribed buildings". So there is still a bit of a question mark as to whether, on the day this Bill is put into effect, people will be able to get on with putting up a new letterbox or a new garden wall without going through the process, because presumably it depends upon the Government issuing regulations which will set out the circumstances in which buildings will be classified as prescribed buildings. So, there is still some way to go, even after the Assembly passes this Bill tonight.

Madam Speaker, it is good legislation. It gets the Government out of regulating the private lives of people and allows them to get on with their lives; and, to that extent, the Liberal Party supports it. However, when we get to the detail stage I will be proposing an amendment. I have discussed this with the Minister. It would appear that in drafting the Bill there has been an oversight on the part of the drafters. In the explanatory memorandum it is noted specifically that clause 11 and the schedule provide for the amendment of the principal Act so that sexist language is eliminated, which is fine. But it then points out that there were two clauses of the Bill in which the word "workmanlike" is used and that, since "proper and workmanlike" has a judicially defined meaning, those two clauses cannot be amended. To quote the explanatory memorandum, it "could lead to uncertainty and confusion". However, having said that, the Bill then proceeds to amend those two clauses, clauses 7 and 12. I foreshadow that in the detail stage I will move that those two clauses be deleted from the Bill. Unless the Minister has taken other advice since I spoke to him, that is necessary to achieve the objective that is stated in the explanatory memorandum. With that, Madam Speaker, the Liberal Party supports this Bill.

MS SZUTY (9.29): The Government is to be commended for the introduction of the Building (Amendment) Bill, which will exempt minor construction works from the planning approval process, the building permit process, the issue of certificates of occupancy and use, and the requirements for statutory warranties and insurance. As the Minister outlined in his speech, part of the problem has been that 85 per cent of minor constructions inside and outside of homes are not submitted for approval now. People often experience delays in conveyancing while awaiting approval of minor structures. It is also interesting to note that, of the plans lodged in the last 12 months, some 16 per cent could be defined as building work of a minor nature, and it is therefore difficult to substantiate the cost to government of processing applications, interviewing owner-builders and undertaking inspections for minor constructions.

I must admit, Madam Speaker, that in considering this amendment Bill I wondered what the definition of "minor construction" would be and whether public health and safety would continue to be protected under appropriate legislation as it is now. I recalled the very tragic accident in South Australia recently, when two children were killed after a pillar which "may have been illegally erected" collapsed.

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

BUILDING (AMENDMENT) BILL 1992

Debate resumed.

MS SZUTY: After considering the proposed draft building regulations amendment which specifies exactly the dimensions of fences and walls, retaining walls, carports, pergolas, sheds, gazebos, greenhouses, external timber decks, antennas and aerials, swimming pools, ornamental ponds, barbecues, letterboxes and various internal building structures, I am confident that public health and safety will continue to be protected, where it is necessary, under the regulations.

I make one further suggestion, however, and that is that when the new building regulations come into being they be promoted widely in the community, to the extent where community awareness and knowledge is extensively increased. As well, a review of the new building regulations and their operation after 12 months would give the Minister and the ACT Legislative Assembly some feedback on the success of the new arrangements.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (9.31), in reply: I thank members for their comments. As Mr Kaine said, this is a significant piece of reform which, as I think he said, gets the Government out of people's hair; it provides some freeing up of regulation. Ms Szuty's point is well taken, that we need to be careful that this does not lead to a reduction in health and safety standards. I think the recent controversy within the ACT as a result of the leaked report of the audit on building inspection shows that we need to be somewhat cautious of deregulation, that deregulation is not a golden road; it can lead to problems. But I am confident that the regulations which will implement this, which I can assure Mr Kaine will be promulgated as soon as we can do so, will try to strike that balance, and certainly it is our intention simply to free up the minor building work. It is not our intention to allow any risk to the public as a result of minor building works which may be a bit shoddy. With Canberra being a small and compact city and with our building inspectors being out and about on other tasks, I think we can keep a pretty good hold on what is going on.

As Mr Kaine indicated, we have discussed the amendment which he foreshadowed. It appears that we have conflict between the explanatory memorandum and the terms of the Bill. As I understand it, there was some debate as to whether it was appropriate to remove "workmanlike" and replace it

with "skilful". The obvious thrust of the proposal was to get rid of sexist language, which is an avowed policy of the Government. As we have indicated, in all our amending legislation that we bring before this chamber we will consequentially pick up removal of sexist language.

The replacement of "workmanlike" with "skilful" was an attempt to do that. The problem is that "proper and workmanlike" does have a recognised meaning. There is a question as to whether "skilful" means the same as "workmanlike". "Workmanlike" can mean a fair, average quality job. "Skilful" could imply something more. While it is a bit of a line ball, after discussion with my colleagues, I am inclined to accept Mr Kaine's amendment. "Workmanlike" will remain in the legislation. "Workpersonlike" would be very inelegant and clumsy, and I think we would be ridiculed for it. Until we can come up with a better compromise, we will leave that alone. I thank members for their support for the thrust of the legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 6, by leave, taken together, and agreed to.

Clause 7

MR KAINE (Leader of the Opposition) (9.34): Madam Speaker, I foreshadowed that I would move for the deletion of this clause; but we can achieve that by simply voting against it, if the Government supports us.

Clause negatived.

Clauses 8 to 11, by leave, taken together, and agreed to.

Clause 12 negatived.

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

Bill, as amended, agreed to.

ADJOURNMENT

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

> That the Assembly do now adjourn.

Assembly adjourned at 9.36 pm

Blank page.

ANSWERS TO QUESTIONS

MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 8

Teachers - Professional Development

MR CORNWELL - asked the Minister for Education and Training on notice on 7 April 1992:

How much money has been allocated for professional development of teachers in the following ACT budgets: 1989-90, 1990-91 and 1991-92.

MR WOOD - the answer to Mr Cornwells question is:

The Department of Education and Training adheres to the Training Guarantee Policy that 1$ of wages is spent on the training and development of its staff. However, almost 2% is currently being expended. Teachers form approximately 76% percent of the Departments full-time equivalent staff and it is considered that teachers would receive at least this proportion of the training and development expenditure.

Analysis of expenditure on Training for the financial year:

1989/90
Total Wages $136,250,000
Total Expenditure on Training (Esteem es) $1,380,899

1990/91
Total Wages $145,000,000
Total Expenditure on Training (Estimates) $2,850,000

Figures for 1991/92 are not yet available. A Training and Development Survey 1991/92 is currently being conducted within the Department and should provide more comprehensive information on expenditure for training in future.

1797

MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION
QUESTION 202

Government Schools - Capital Costs per Student

MR CORNWELL - asked the Ministerifor Education and Training on notice on the 16 June 1992:

What is the capital cost per student in Government (a) primary schools; (b) high schools and (c) colleges.

MR WOOD - the answer to Mr Cornwells question is:

The capital cost per student is not calculated by the Department. To estimate this would require the valuation of each school building, its equipment and the application of depreciation allowances as well as discounting for community use which would vary over time and from site to site. The costs of furniture and equipment per school, donated assets and assets not financed by the ACT are not readily available. The different accounting bases used over the years and the current accruals accounting system does not allow provision of a meaningful assessment of capital costs per student.

1798

MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION
QUESTION 204

Capital works.Program - Education Projects

MR CORNWELL - asked the Minister for-Education and Training on notice on 16 June 1992:

In relation to the accelerated public works program of $35 million announced by the Chief Minister on 27 February 1992
(1) How much of this money was allocated to education projects.

(2) How much of the money allocated to education projects was used in the non-Government schools sector.

MR WOOD - the answer to Mr Cornwells question is:

(1) The allocation from the accelerated pubic works program for government schooling was $6.59 million.

(2) No funds were allocated to non-Government schools under the program. Non-government schools are not funded through the public works program.

Non-government schools will receive funding for maintenance and new works from the Commonwealths One Nation Package of $362,923 for 1992 and $356,604 for 1993.

1799

MINISTER FOR URBAN SERVICES

LEGISLATIVE ASS£MBLYQUESTION

QUESTION NO 242

Totalcare Industries - Linen Service

Mrs Carnell - asked the Minister for Urban Services: In relation to linen services provided by Totalcare Industries

(1) Does Totalcare have.sales tax exemption.

(2) Is motorcars exempt from any taxes or charges a similar,.but privately-owned, enterprise could expect to pay.

If there are .any exemptions,,-are these in all cases matched by -an equivalent amount paid by Totalcare to the ACT Government.

(4) goes motorcars receive.any:subsidies from. the Government.

(5) Can the Minister confirm whether, prior to corporatisation, costs of the linen service at Mitchell Health Services Facility (now Totalcare) amounted to $4.00 per kilogram..

(6) What was the average cost per.kilogram of.the linen service over the three years prior to corporatisation.

(7) Can the Minister confirm reports that Totalcare has-.recently been providing quotesof between $1:3Q-$1.40 per kilogram.

(8) If true, how hasTotalcare achieved this. price.. .

(9) Can the Miyster:guarantee that. Totalcare receives no -..special services- exemptions or. other support from. -the Government other-than.the 3-year guaranteed contract with ACT Health.

(10) How many tonnes of linen -per week (on average) does.
Totalcare clean..

(11) How many people are employed to process this amount of linen.

(12) Does the Minister believe that Totalcare linen service.
competes on an equal footing with other Agribusiness
operators, and,.has:no special advantages as a result of its
Government ownership.

1800

Mr Connolly - the answer to the Members question is as follows:

(1) .The Australian Taxation Office has ruled that Totalcare Industries Limited is exempt from Sales Tax at the federal level under Item 74 of the first schedule to the Sales Tax (Exemptions andClassifications) Act. This ruling is based on the current status of court decisions but may be. reviewed in light of future decisions on cafes currently before the courts.

Notwithstanding the current exemption from sales tax at the federal level, Totalcare is liable to pay an equal amount of otherwise applicable sales tax, on purchases made by the company, to the ACT Government as a sales tax equivalent.

(2) No. Totalcare is liable to pay all taxes and charges which would apply to similar, but privately owned enterprises. The payments are made to either the Federal Government or to the ACT Government in the form of direct taxes or charges or a federal tax equivalent.

(3) Yes

(4) No. The company:

(1) earns revenue from its linen, sterilising and incineration operations from normal commercial sales of these products and services

(ii) operates its Engineering, Automotive and Transport services on a cost recovery basis from ACT Health, and

(iii), has working capital borrowings in place from ACT Treasury. Interest is paid on these borrowings.

(5) and (6) Operating costs of the linen service of the former Health Services Supply Centre (HST) cannot be confirmed at $4.00 per kilogram. For the majority of the time since original commissioning of the facility in 1975 the HST operated as a branch of the ACT Board of Health and its antecedent bodies. While direct cash operating costs were accounted for at the operating centre level other costs incurred were accounted for within-other . budget allocations of Health. As such,

. full operating costs were never costed against the centre.

(7) (8) (10) and (11)

Matters of pricing, production volumes and production staffing levels are commercial-in-confidence to the company and disclosures of this information would be detrimental to the companys competitive position in the market.

(9) Yes. The company has full responsibility for management of its cash flow and pays interest on borrowings for working capital and capital expenditure.

(12) Yes. Totalcare has been established on .a similar commercial footing to its competitors. The company meets the full regime-of applicable taxes and charges. .

1801

MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION ON NOTICE No 273

Asbestos Removal Program - Canberra Show Contract

Mr Cornwell asked the minister for Urban Services

In relation to the Asbestos Program and its contracts as detailed in the ACT Gazette No 31, 5 August 1992, in particular to contract 701944-1 Canberra Show Equipment $12159.75:

(1) Why was it necessary to hire equipment for the Canberra Show.

(2) What equipment was hired.

(3) For a program such as the ACT Governments Asbestos Removal Program, for which a lengthy waiting list is already established, why was it necessary to participate in the Canberra Show.

Mr Connolly - the answer to the members question is as follows:

(1) The Department of Urban Services contribution to the 7992 Canberra Show was co-ordinated by an Asbestos Program officer. This officer arranged for the hire of all equipment necessary for displays to be presented by the Department of Urban Services. For ease of administration, payments for this equipment were made frog: the Asbestos Program. All other areas of the Department who were involved in the Show have subsequently reimbursed the Asbestos Program for their expenses.

(2) The equipment hired included flooring, carpet, partitions, lighting and display accessories.

(3) The Asbestos Program did not have a display at the Show this year. Although Program staff were employed to provide general information about the Department of Urban Services, as were staff from many other areas of the Department, their participation had no impact on the Asbestos Removal Program.

1802