



DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

4 DECEMBER 1996

Wednesday, 4 December 1996

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

PETITION

The Clerk: The following petition has been lodged for presentation:

By **Mr Hird**, from 30 residents, requesting that the lease and development application for the community sporting facilities in McKellar be approved.

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

National Soccer Centre

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 Australian Capital Territory draws to the attention of the Parliament that: the undersigned residents living in the Belconnen area can identify huge benefits to our community from the proposed project to introduce much needed community, sporting and other amenities by the Belconnen Soccer Club. This project is to be located in McKellar at Section 71, bounded by William Slim Drive and Owen Dixon Drive.

Your petitioners therefore request urgent attention by the Assembly to approve this lease and development application.

Petition received.

SCHOOLS AUTHORITY (AMENDMENT) BILL 1996

MR MOORE (10.31): Mr Speaker, I present the Schools Authority (Amendment) Bill 1996.

Title read by Clerk.

MR MOORE: I move:

That this Bill be agreed to in principle.

This is the first of two pieces of legislation that deal with corporal punishment in our schools. The question that these pieces of legislation raise is: What sort of society do we want? What sort of society do members in this Assembly wish to take responsibility for? The basic structure of our society is that we teach by example. We teach by example from those who are leaders in our society, as in the case of each and every member of this Assembly. We teach by example in families. We teach by example in schools, and generally throughout society. Outside the home, the schools are the most important setting for the socialisation of children. Children spend over a thousand hours each year in the school environment. We look to schools - in fact, we expect schools - to complement the family and to instil appropriate social values in our children.

This legislation also takes a lead from the Convention on the Rights of the Child, and I shall read from Article 19 of the International Convention on the Rights of the Child, to which Australia is a signatory and, as such, every member here has a responsibility in terms of that convention. On this issue it is unequivocal. It says:

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence -

that is the critical part as far as I am concerned today -

injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

This international convention is unequivocal. It says that we "shall" - and each member knows the significance of that - "take all appropriate legislative measures to protect the child from all forms of physical violence". I believe that we have no choice but to support this legislation. Schools are well placed to promote non-violent values, non-violent means of conflict resolution, and to instil non-violent behaviour patterns to work towards a more non-violent society. In speaking to the legislation in front of us, I will also be speaking to the Education (Amendment) Bill, which I will introduce in a few minutes, and then I will speak quite specifically to the clauses in each.

The National Association for the Prevention of Child Abuse and Neglect, NAPCAN, advised the National Committee on Violence that the effect of corporal punishment on students can remain with them into their adult life, when violence can be used against their own children as a disciplinary measure or as a means of resolving conflicts with other adults. Recommendation 33 of the report states:

Corporal punishment in all schools, public and private, should be prohibited by law.

This legislation deals with government schools and the second piece of legislation to be introduced deals with private schools. Violence is not the way to solve problems, and the fact that we sit here in this chamber is testimony to our society and the fact that we appreciate non-violent ways of resolving problems. Contrast that with so many nations in the world that do resort to violent measures to resolve differences.

Remember that often in schools the inappropriate behaviour of a student is inappropriate only because of laws or rules imposed by the principal or staff to keep control and to maintain what those people see as compulsory respect. We all know that respect is earned, never gained simply because of someone being a teacher or a principal. The behaviour is often bad because a staff member sees it as bad, often because it is annoying, distracting or takes away from what should be done in the class at that time. This does not warrant a punishment of physical violence under any circumstances. I am sure that everyone has experienced in their lives at school the situation where students have been dealt with with excessive punishment. In those olden days, canes and straps were commonplace. Some here will say, "It did me no harm", to which I can reply, "Are you sure?".

Mr Osborne: Look at Mr Osborne.

MR MOORE: Mr Osborne takes the next few words of my speech: "Look at you now"; but Mr Osborne interjects and says, "Look at Mr Osborne". Indeed, that is a good example; but I cannot apply that to Mr Osborne without applying it equally to myself as being a recipient of a significant amount of corporal punishment. I think it is important to draw attention to the fact that we do not even allow corporal punishment of adults after a full process of the legal system, with appeal. Why, then, would we allow corporal punishment as a summary measure in any of our schools?

We need adult role models capable of providing non-violent ways of dealing with problems. To achieve this, we may need more support in schools and in general society to enable people to feel confident with non-violent forms of punishment. This does not mean that we need less discipline in our schools. I am very comfortable with the notion of some schools saying that they want to have more discipline. Indeed, they can do that, and the vast majority of schools in the ACT are achieving quite significant improvements in discipline processes without using corporal punishment. The Education Minister, Mr Stefaniak, obviously agrees with this. He said in a recent press release relating to the safe schools policy framework:

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... this new Framework provides guidelines for dealing with and minimising violence, bullying and all forms of harassment in Canberra's schools.

The Minister needs to be congratulated for that work. The Bill ensures that this will be the case by removing any legitimacy previously given to corporal punishment or even corporal punishment being proposed within a school. *Violence, Directions for Australia*, the report of the National Committee on Violence, chaired by Professor Duncan Chappell, commented:

To the extent that a society values violence, attaches prestige to violent conduct, or defines violence as normal or legitimate or functional behaviour, the values of individuals within that society will develop accordingly. The use of violence to achieve ends perceived as legitimate is a principle deeply embedded in Australian culture. Violence on the sporting field, in the home and in schools is tolerated by many Australians.

The physical characteristics of a location and the kind of activity occurring there can communicate that violence is more or less acceptable.

There is a need to engender non-violent values in children by helping to ensure that they are brought up in an atmosphere free from violence.

Recommendations 31 and 32 of the National Committee on Violence propose that conflict resolution strategies should be an integral part of teacher training, school and education curricula. I believe that that is important, and that is the sort of issue Mr Stefaniak was referring to in his press release. Recommendation 33 of the committee, which I have already spoken about, is that corporal punishment in all schools, public and private, should be prohibited by law. Recommendation 34 states that educational authorities should develop constructive, non-violent means of social control to replace corporal punishment, and they have been achieved in the ACT. The National Committee on Violence embraced the principle that the state and its agencies should be moral exemplars and that the use of violence as an instrument of school discipline is simply unacceptable.

There are ways of dealing with the problem of violence in schools with a reasonable level of success. The ACT Schools Authority, in its submission to the National Committee on Violence, spoke of the approach to school discipline without violence which focuses on the development of mutual respect between students and teachers through the establishment of friendlier relationships, and said that students must know the rules and agree to them as a result of their participation in the process of establishing them.

To speak specifically about the Schools Authority (Amendment) Bill, I have defined corporal punishment. The main thrust of it is that, within the functions of the Authority, the Authority shall ensure that any disciplinary policy implemented at a school precludes corporal punishment. It also puts a responsibility on a school board to ensure that any disciplinary policy implemented at the school precludes corporal punishment.

This is an important step which effectively legitimises a practice that is already largely in place, and I think it will make a major contribution to a move to ensure that we have less violence in our society.

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

EDUCATION (AMENDMENT) BILL 1996

MR MOORE (10.43): I present the Education (Amendment) Bill 1996.

Title read by Clerk.

MR MOORE: I move:

That this Bill be agreed to in principle.

The speech I made on the Schools Authority (Amendment) Bill applies equally to this legislation. There is a difference, in that the Schools Authority (Amendment) Bill applies basically to government schools; whereas the Education (Amendment) Bill 1996 applies primarily to private schools, but it does have an impact on government schools, in that it removes the protection of in loco parentis as it applies to somebody who uses corporal punishment as a method of discipline. It also seeks to ensure that schools have a disciplinary policy implemented which precludes corporal punishment, using a similar technique to that implemented in New South Wales.

It will mean that schools will not be able either to get provisional registration or to be registered if they do not have a disciplinary policy implemented at the school which precludes corporal punishment. The prime method we have of dealing with private schools in Canberra is through the registration procedure, and I think this is an appropriate way to deal with it. Similarly, even apart from the registration process, in terms of setting a tone in schools, we also have the ability to ensure that, if staff have used corporal punishment, they cannot use as a defence that they were acting in loco parentis.

There is one other factor in the legislation that I would like to draw to members' attention. A staff member who uses physical effort to defend themselves from an attack will not be covered by this legislation. It will still be legitimate for a teacher to defend themselves, and I think that is entirely appropriate. This legislation is really about setting a tone that violence is unacceptable in our society, that it is an unacceptable way of resolving problems, that it is an unacceptable way of people dealing with each other. I commend it to the Assembly.

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

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PUBLIC SECTOR - AGREEMENT NEGOTIATIONS

Motion (by **Mr Moore**, on behalf of **Ms Tucker**), by leave, agreed to:

That order of the day No. 1, private Members' business, relating to the negotiations for an all of government agreement for the ACT public sector, be discharged from the Notice Paper.

TRADING HOURS (AMENDMENT) BILL (NO. 2) 1996

Debate resumed from 20 November 1996, on motion by **Mr Osborne**:

That this Bill be agreed to in principle.

MR DE DOMENICO (Minister for Urban Services) (10.48): Mr Speaker, the Government will not be supporting the Bill. The Government will be putting forward an alternative, which it will put in place by way of regulation as from tomorrow, should the Assembly decide not to pass Mr Osborne's Bill. Mr Osborne's Bill, in my view, is an erosion of the retail policy already passed by this Assembly. Perhaps Easter trading will be next. The Government's alternative has been developed in consultation with the retail industry, and also takes into account the opening hours of the town centre malls.

Mr Moore: Not in consultation with the community, though.

MR DE DOMENICO: Mr Moore will probably contribute about half an hour to this debate in the very near future.

Mr Osborne: This will get you elected, Tony.

MR DE DOMENICO: Should the Assembly agree not to pass Mr Osborne's Bill, the Government will announce tomorrow the Christmas trading hours arrangements for supermarkets in town centres. The exemptions would be Monday to Friday, 7.00 am to 10.00 pm; Saturday and Sunday, 7.00 am to 8.00 pm - - -

Mr Osborne: How nice!

MR DE DOMENICO: It is quite nice, Mr Osborne. If you went out there and talked to the people you should be talking to, they would agree with this as well. Should the Assembly rationally agree not to support Mr Osborne's Bill, these trading hours will apply from Monday, 16 December, until Tuesday, 31 December. The trading hours are a reasonable compromise which will ensure that the town centre supermarkets will not profit excessively over the local shops during the festive season. The Government's proposal, we believe, represents an opportunity for town centre supermarkets to trade for extended hours in the lead-up to and just after Christmas, but it does not give an open mandate to town centre supermarkets to continue to drive local centres out of business.

Mr Whitecross: Just take all their Christmas business.

MR DE DOMENICO: Settle down, Mr Nobody; you will be all right. The exemption will be for a nine-day period in the lead-up to Christmas and the week after Christmas. There is no need, in the Government's view, for that extension to last for any longer. For it to do so would be a reflection on what this Assembly decided to do not too long ago. We have consulted with town centre management - - -

Mr Whitecross: I think you are reflecting on a vote now.

MR DE DOMENICO: If you do not like this, Mr Whitecross, you support Mr Osborne's Bill. Let the Assembly decide, as always. We are always in the hands of the Assembly, Mr Whitecross.

We consulted with town centre management to identify at what times their shops would be trading over the Christmas period. Clearly, it would be unreasonable for those shops to be open, attracting pre-Christmas trade, while supermarkets are closed. The Government is not deserting local shops, nor will we desert local shops, in the festive season. The exemptions are reasonable and for the period required - no more and no less. In our view, the exemptions are fair and reasonable for all in the market. We therefore say to the crossbenchers: Do not support Mr Osborne's Bill, and retain the legislation this Assembly passed some time ago. The Government will be prepared to accommodate the supermarkets in the major town centres, after consulting with them, should the Assembly decide not to pass Mr Osborne's Bill.

MR WOOD (10.51): Mr Speaker, the Opposition will be supporting Mr Osborne's amendment to the foolish legislation that was passed some little time ago. The Government's proposal I read in the paper today, to extend Christmas trading hours in the major town centres, is a clear acknowledgment by the Government that it made an awful mistake. It is not too often that we get to see the Government beating its breast and saying that it was wrong, but we have on this occasion. It is also a confession on the part of the Government that it is clearly lacking any logic in the way it is proceeding. The Government has claimed - I do not believe that it has been borne out by events - that it is protecting small business. If it were to sustain that argument, it would protect small business by allowing them to get the cream of the trade at Christmastime. That is when many businesses in Canberra do most of their trading, or the trading increases markedly. If the Government's argument were valid, and I do not think it is, they would allow small business to reap the benefits of the increased trade at Christmastime.

We can see that the argument of the Government simply lacks logic. They made a mistake at the time, a mistake confirmed by subsequent arrangements, when we hear small businesses in various parts of Canberra saying that, in relation to new developments, the Government is attacking the businesses it claims to defend. This was a short-sighted argument at the time when the Government wanted simply to appear to be delivering what it promised at election time. It wanted to give the appearance of doing something.

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Mr De Domenico: Shock, horror; not delivering our promises! You would not contemplate doing it, would you?

MR WOOD: You did not deliver any effective outcome. You went through some sham, which has met totally with opposition from Canberra shoppers, who have made it quite clear that they do not like what you have done. You now acknowledge that in a small way in proposing to extend Christmas trading hours. Let us support Mr Osborne's amendment, and as soon as possible, as soon as this Assembly will allow, return to the former situation.

MR MOORE (10.54): Mr Speaker, we have a situation where Mr Osborne has tabled a piece of legislation, and he has indicated publicly what he is going to do. It is a very sensible piece of legislation to allow Christmas shoppers the opportunity for open Christmas shopping. Throughout South Australia, even when I was growing up and we had very limited shopping hours - much more limited than the Government has proposed here - when it came to Christmas shopping hours there was always much more open time. It was not just at Christmas that times were extended; it was also into the new year sales period. That is what Mr Osborne's amendment recognises.

The normal and polite approach, I would have thought, in dealing with an Assembly, would have been to say, "If we do not quite like the times Mr Osborne is proposing, we will move an amendment to Mr Osborne's legislation". But not this Government, no. This Government says, "No, we will not do this; we will use our regulatory power, a lower order power, in order to achieve this, and knock off Mr Osborne's legislation".

Mr Humphries: That is the way it is done every year, Michael.

Mr De Domenico: That is the way it is done every year.

MR MOORE: I think that should be understood as being, at the least, impolite. Mr Humphries and Mr De Domenico are interjecting that that is the way it is done every year, but this is the very first year that our shopping centres have been operating under the Trading Hours Act 1996.

Mr De Domenico: Under the deregulated program.

MR MOORE: I hear Mr De Domenico interject. I think the word he used was "deregulated", but I believe the term he meant to use was "reregulated" - the reregulated trading hours this Assembly reregulated. I think Mr Wood was pushing his luck before when he said that this was a very bad decision. In one sense, that appeared to me to reflect on a vote of the Assembly. I happen to agree with Mr Wood in that assessment, but it was pushing the standing orders. However, I think it was done in the appropriate context.

This is a very good piece of legislation. There are no two ways about it. This is a very simple piece of legislation, and it is one of the easiest pieces of legislation to read: In the period from 9 December to 8 January we will have deregulated shopping hours. In other words, for a very short period they will go back to being the same as they were before the Trading Hours Act 1996. It is not an attempt to undermine the whole process

the Liberals and the Greens put together to protect small shopping centres. It is a very small Bill that is about Christmas cheer. It is about saying that Christmas is a special time. Christmas, and the new year period that follows it, is a time particularly for those who enjoy shopping. I must say that I am not one of those; I do it, but I do it reluctantly. I hate it. For those who do hate shopping, some of them, like me, prefer to shop when there are fewer people around, and this Bill would provide the opportunity if the shops were able to make the hours available. In other words, it would put the decision back to the shops to make a market decision about what are the best hours, whether it would be to the benefit of the people, what is their response to the demand.

This is a very sensible move. If Mr De Domenico had stood up and said, "We think this is a bad idea because 9 December is too early; it really should be from 13 December. And 8 January is too late; it really should take into account just the post-new year period; it should be 2 January", I would say, "That is logical. I can understand the commonsense in that. You have a slight difference in view, and therefore an amendment would be an appropriate way to go on this legislation". Instead, they go about knocking it off.

Of course, their co-conspirators, the Greens, are in exactly the same frame of mind. It is the Greens who have been very keen - and I think rightly so - to seek to have legislation amended so that it comes out the way they believe it should come out. Why have they not done it here? They have gone into this phobic view, this very narrow view, this telescopic vision, saying, "Aha, trading hours! All we can do with trading hours is make sure they are restricted so that we can protect shopping centres". This has nothing to do with protecting local shopping centres at this stage. This is about a short break for Christmas. It is a very sensible piece of legislation, and I would ask you to consider that and to review your position. If the Greens have a problem with specific dates, a hand-drawn amendment now would be very simple. It is just a matter of saying, "Omit 9, substitute 13", and "Omit 8, substitute 2", for example. It is not a difficult amendment to draw; anybody could do it now, and you could have a very sensible approach, instead of this hardline approach that has been taken by the Greens and the Libs over trading hours.

MR SPEAKER: Mr Moore made a reference to a possible reflection on previous votes of the Assembly. I would remind members that on 27 August 1996 I gave a ruling that, as far as I was concerned, that rule should not be interpreted in such a way as to prevent a reasonable expression of views on matters of public concern, and I hold to that view.

Mr Moore: On a point of order: Under standing order 46, Mr Speaker, just to clarify it, I was saying that Mr Wood pushed it, but I do accept your ruling and I think it is a good ruling.

MR HUMPHRIES (Attorney-General) (11.01): As Mr De Domenico has indicated, the Government does not support the legislation, and I would like to explain why. Let me, first of all, pick up some points Mr Wood made in the course of his comments. He described the exemption the Government has announced in the last 24 hours as an admission of a mistake. Let me ask the question: If granting exemptions is an admission of a mistake, why, then, was the power to grant exemptions in the legislation in the first place?

Mr Moore: Don't ask me. I voted against it.

MR HUMPHRIES: I certainly would not ask you, Mr Moore, but I will tell you what the answer is. It was always contemplated that there be the power to grant exemptions to account for things such as Christmas and possibly other times of the year when there are unusually heavy demands on shopping centres.

Mr Osborne: What is unusual about Christmas? When did that change?

MR HUMPHRIES: It is unusual because it happens only once a year, Mr Osborne. That is what is unusual about it. I know Mr Osborne would like Christmas to happen once a month, and perhaps you should introduce legislation to that effect, Mr Osborne; but, unfortunately, under the tight-fisted Liberal Government that runs this Territory, Christmas occurs only once a year. We are very scroogelike in that respect. We ration it to once a year.

The exemption power exists in the legislation, in the first place, so that circumstances can be judged on a case-by-case basis to provide for particular needs of the shopping community. That is exactly what we have done in this case. The business community has indicated to us what kinds of trading hours they would like to operate in the shopping centres in which those supermarkets we are talking about are generally based. Based on what they have proposed to do, we have created trading hours around those shopping centres which will mean, essentially, that if you are a late-night shopper, or, indeed, a worker in one of those late-night shops, during this period leading up to Christmas and slightly beyond it you will have the capacity to do your grocery shopping in a town centre supermarket, if you wish to do that, at a time about one hour beyond the time the rest of the centre will trade for.

Supposing you work in a small shop in the Woden Plaza. You will be able to work until, say, 9 o'clock at night at that centre on one of the nights when it is open until that late, and after the shop closes you will have a further hour to go and do some grocery shopping, if you want to do it. Whole centres are opening until these hours, and I will table a copy of the trading hours. We have consulted with the centres and asked them for how long they propose to have general trading in the centres.

Mr Berry: So what about the shops you were supposed to be protecting over Christmas?

MR HUMPHRIES: I am glad Mr Berry has raised that point. We have consulted with the Small Business Council. I am sure you have not.

Mr Moore: I am sure you have, Gary.

MR HUMPHRIES: I am sure you have not gone anywhere near the Small Business Council on this issue, Mr Berry, or, for that matter, Mr Osborne or Mr Moore. I table that trading hours program. We have consulted with them, and they have expressed their acquiescence to a program to allow extending trading hours to accommodate the needs of those larger centres. The concept we have constantly tried to

explain to people in this place - people who have seen only the electoral advantage in canning this move towards protecting small centres, so they think, and therefore have failed to understand that this is about allowing the synchronisation of the supermarkets in the town centres with the trading going on elsewhere in the town centres.

Mr Osborne: It is an election winner, Gary.

Mr Berry: I can imagine the campaign material - "We cut trading hours in 1996".

MR HUMPHRIES: It is about saying that, if a town centre has its shops trading until 9 o'clock at night, you have your supermarket trading slightly beyond that to accommodate those particular needs.

Mr Berry: "You lost your job in 1996 because of us. Vote for us".

MR HUMPHRIES: Mr Speaker, it is very noisy in here. I wonder whether you might turn a hose on some of the people on the other side of the chamber.

Granting an exemption is not an admission of a mistake. There has always been the capacity to grant an exemption and therefore, if there was ever an admission of a mistake, it would have been in the legislation in the first place. We are not removing all benefit from small business, and that is the key difference between what we have done with this exemption and what Mr Osborne's legislation does. Mr Osborne's legislation does remove all benefit to small business that the trading hours legislation has granted throughout the period from 9 December until 8 January, a period of an entire month. Mr Osborne's legislation seeks the repeal of the legislation every year for one month. That is what it amounts to. Mr Osborne would actually like to repeal it for the other 11 months as well; we know that. Mr Osborne would like to repeal it for the full 12 months, but he should at least be honest enough to admit that he is proposing the suspension of the legislation altogether for one whole month of the year. If there are benefits to the broader community throughout the year, and I believe that there are benefits, they ought to flow to some extent during this month as well, but not so as to prevent there being some access to supermarket trading in the town centres for extended hours during that period.

Let me turn to the issue Mr Moore has raised of amending Mr Osborne's Bill. Let me make it clear, first of all, that the Government has always made it clear that we would be considering exemptions at this time of year, and we prefer to use the regulations for a number of reasons - in fact, for four reasons. First of all, as Mr De Domenico indicated, regulation has always been the device used to create exemptions for the usual trading hours practices during this time of year. It has always been the regime. Secondly, regulation is inherently more flexible. We may have come to the conclusion that different centres should have different trading hours. We decided not to do it in this case, but we could have done so, and provided for particular cases for particular centres. To do that in legislation is obviously much more cumbersome.

The third reason we use regulation is that the regulation can change from year to year. Mr Osborne's amendment is not just for this year; it is for every year. We would have to have new legislation next year, presumably, were it decided that some different regime were to apply from the one he is suggesting in his Bill. Some different regime would have to be done every year, and that means legislation every year to change the trading hours. That would be silly, Mr Speaker. The fourth reason is that, to be frank, the proposal we have put forward is much closer to the legislation we have already passed. It is only a modification of that and is much nearer to that than it is to the other end of the spectrum, where Mr Osborne's legislation comes in. I would suggest that it is more appropriate to base the changes on our legislation and modify that slightly than to take Mr Osborne's legislation and amend that very heavily. That is why the Government has taken this course of action.

Mr Speaker, I have had a clear demonstration from a number of smaller traders that they believe there are benefits flowing to their centres from this legislation. Members in this place who are ideologically opposed to the idea of this kind of regulation will refuse to admit that there is any possibility of that, but I would strongly urge those people to talk to people in small centres, local centres, around this town. I went to a centre in Mr Berry's electorate the other day - I think it was Charnwood; I forget the suburb - on the western side of Belconnen.

Ms Follett: Belconnen?

MR HUMPHRIES: Yes, that is Mr Berry's electorate. I think it was the centre in Charnwood; it was some weeks ago, and I forget which one it was. They were extremely pleased and very positive about the changes that had been made. They said that it had made their centre viable when it was not viable before. That was their view. That was one of Mr Berry's constituents and they were very definite about that. If members of this place cared to speak to some people in local centres, I think they would all hear the same message. There has been some discernible difference in outlook as a result of the legislation. It has not been overpowering or turned huge losses into huge profits - nothing like that - but some of those centres have been on the margin for a long time. We all know that centres in this town have closed altogether because of pressure from town centres. We know that that has been the case. I think in our heart of hearts we know that there are some benefits - we might dispute the extent - that have flowed from this legislation. I would urge members not to throw it out wholesale for the sake of one month's free-for-all for the town centres. Let us agree to some sensible modification to ensure that there are still benefits flowing to the broader community.

MS HORODNY (11.11): Mr Speaker, the Greens recognise that there is increased shopping activity over the Christmas period, but we do not believe that it is necessary for a permanent amendment to be made to the Trading Hours Act to accommodate this.

Mr Berry: "Greens make another mistake. We are sorry".

MS HORODNY: It is not a mistake, Mr Berry.

MR SPEAKER: Order; otherwise some members may be getting an early opportunity for Christmas shopping.

MS HORODNY: Under the Trading Hours Act, the Minister already has the power, as he has said, to change the hours of supermarkets by instrument. We note that Mr Humphries has today announced his agreement to extending the trading hours for town centre supermarkets over Christmas, and I think it is a very sensible compromise on this issue. We believe that this approach allows more flexibility than Mr Osborne's Bill in matching the extended trading hours of supermarkets with the changing days on which Christmas and new year fall each year. It also allows the matching of supermarket times with the times at which other shops in town centre malls are planned to be open before Christmas. We also believe that the one-month extended hours period allowed in Mr Osborne's Bill, particularly its extension into January, is too long relative to typical shopping patterns over Christmas and would distort the intention of the Trading Hours Act. We will not be supporting the Bill.

MR WHITECROSS (Leader of the Opposition) (11.12): The Opposition will be supporting this legislation. I have to say at the outset that what the Government proposes in relation to this matter is really extraordinary. What the Government proposes in the first place is that we vote against this legislation and then trust that the Government, who have consistently taken the position all along that town centre supermarkets should not be open, is now going to allow town centre supermarkets to open. Something that was a calamity for the business sector in times past they are suddenly going to allow, but first we have to trust them and vote against this legislation. Quite frankly, I do not think that is good enough in the circumstances. The Government has consistently argued that town centre supermarkets are bad for small business in this Territory, and now they want to turn around and say, "Trust us; we do not mind opening town centre supermarkets on occasions".

Let us look at the proposal the Government has put up. According to Mr Humphries in this morning's paper, he used the existing powers to grant exemptions which he said "were a reasonable compromise that would ensure that town centre supermarkets would not profit excessively over local shops during the upcoming festive season". The proposal, as I understand it, is that the supermarkets will be able to trade up to 10.00 pm, Monday to Friday, and they will be able to open at 7 o'clock in the morning. Mr Humphries describes it as a reasonable compromise, presumably because he thinks the supermarkets in the local centres will be able to pick up the business between 10.00 pm and 7.00 am. That is a good compromise! The town centre supermarkets can pick up the business from 7.00 am to 10.00 pm and the local supermarkets will be able to pick up the business from 10.00 pm to 7.00 am, and Mr Humphries describes that as a reasonable compromise. What a laugh! The Government has spent the last six months telling us that allowing a town centre supermarket to open will be the death of local supermarkets. Now he is trying to tell us that letting them trade at a busy time of the year when everyone is spending a lot of money will not hurt the local centres and is a reasonable compromise.

The truth is very different. The truth is that the Government is acutely embarrassed about this legislation. It has been an embarrassment from the first day Mr Humphries was railroaded into supporting this by his Chief Minister. Mr Humphries has been embarrassed from the first day, when Mrs Carnell twisted his arm to run this legislation,

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and he is still getting embarrassed. The fact is that there is one reason and one reason only why the Government is even contemplating these regulations, and that is that other shops in the town centres are going to be open and the Government is going to look like a pack of prize geese. If you go down to your town centre, you can shop at every shop in the town centre, and there is Woolworths or Coles boarded up because Mr Humphries and Mr De Domenico put through this ridiculous trading hours law. That is what this is about. It is about their embarrassment and trying to minimise it.

We know how embarrassed they are. On the weekend the Liberal Party convention was so embarrassed that they spent half the convention trying to figure out ways of extricating the Government from their embarrassment over this matter. Maybe they should set up an inquiry and try to find some facts and figures and see whether it is really working. Maybe they can find an excuse to get out of this legislation at some time before the next election, because they are really embarrassed about it. That is what the Liberal convention was saying on the weekend. That is what the president of the Liberal Party, Brian Nye, was saying on the radio the other day. Here is their lame explanation of why they are going to introduce this. It is okay to have the supermarkets closed down for nine months of the year, but over Christmas they do not think they should be closed down because that would cause the maximum embarrassment.

To illustrate how ridiculous the Government's position on this is, the Government's position is, "We are going to open the supermarkets because some other shops in the town centre want to trade". But, under their law, the other shops in the town centre can trade 24 hours a day, every single day of the year.

Mr De Domenico: Deregulated.

MR WHITECROSS: They are deregulated, as Mr De Domenico says. Why are we allowing only the supermarkets to trade for these few days? At the moment, they are the only few days that any other shops in the town centre want to trade; but, if next year they decide to start trading at other times, will the Government be back asking us for another exemption because Big W or some other stores are open and it is going to be embarrassed on another day of the year?

Mr Osborne is quite rightly highlighting with this legislation the stupidity of the Government's position, a position that goes against all the trends in supermarket trading hours regulation across Australia. We have seen their colleagues in Victoria take a different approach. We have seen their colleagues in the Northern Territory take a different approach. Everywhere in Australia, the pressure is towards deregulation of shopping hours; yet this Government has taken late-night trading of supermarkets, which the public overwhelmingly want, and has closed them down at 7 o'clock. They are completely out of line with national trends on this.

They are completely out of line with the lifestyles of the Canberra community. In fact, Mr Humphries had the temerity to add insult to injury by using the lifestyles argument to justify his exemptions, when he has consistently ignored the lifestyles argument in imposing these restrictions on shopping hours in the first place.

Mr Humphries was saying that extending supermarket trading hours over Christmas is a good idea because workers will be able to get to the shops easily. He does not care about workers getting to the shops at any other time of the year, only at Christmas. He does not care about local supermarkets having competition from the town centre supermarkets at this time of the year, but at any other time of the year he thinks it is a terrible problem.

The Government's position is riddled with inconsistencies, and it is riddled with inconsistencies because it was a poorly thought out, half-baked policy in the first place, a policy foisted on Mr Humphries by his leader, a policy that does not stand up to any scrutiny, and a policy that flies in the face of the opinions of the overwhelming majority of Canberrans. No wonder the Liberal Party convention was so keen to extricate them from this policy. Those at the Liberal Party convention talk to real people out in the community and they know how cross they are about it.

Mr Humphries, in his speech, introduced into the debate a completely new argument about why his restrictions are a good idea. He dropped off the argument about local supermarkets. Now his argument is that restricting town centre supermarket hours helps specialty shops in group centres. He is not talking about local centres anymore; he is talking about specialty shops in group centres getting an increase in passing trade. When people shop at Woolworths, Coles, Supabarn or Jewel at the group centre, some of the specialty shops in the group centre get some passing trade. The local supermarkets in the neighbourhood centres have dropped off the equation. Now it is specialty shops in group centres that Mr Humphries is trying to help, apparently. That is how consistent Mr Humphries's position is on this; that is how riddled with inconsistencies it is.

The Labor Party believes that the best thing the Liberal Party could do would be to put this issue back on ice, for the Government to do the work the National Competition Council has asked them to do to establish that this is not an anti-competitive law, that it is in the best interests of the Canberra community, that it is necessary and is the best way of assisting people in neighbourhood shopping centres. We cannot see any justification for continuing with this law. Mr Humphries's decision to grant exemptions is an admission of the flaws in his own legislation. We will be supporting Mr Osborne's Bill because we would rather see this in legislation than trusting to the whim of the Minister, with his inconsistent policy, which he chops and changes according to his reading of a whim and how to minimise embarrassment for the Government over this ridiculous trading hours law. We want to see it in legislation. We do not want to see it left up to the Minister, and for that reason we will be supporting the Bill.

MRS CARNELL (Chief Minister) (11.22): I must admit that I am amazed at the level of hypocrisy we have seen from those opposite this morning.

Mr Whitecross: From the Liberals.

MRS CARNELL: No, not at all. Mr Whitecross just made the point that they want to see this in legislation because they are simply not willing to trust the Minister. Those of us who have been here for any length of time at all know that those opposite had trading hours legislation on their agenda for four or five years. It was on their legislative program, Mr Speaker, and you would remember that. There it was:

Trading hours legislation. But did it ever get to the top? Did those opposite ever table trading hours legislation in this place? Did they ever get to a stage where they were not suggesting, in fact encouraging, shops in the ACT to break the law, because that was what was happening, as we all know? Shops were trading outside the law of the Territory, and those opposite were encouraging it. But they were not game, they did not have the guts, to legislate what they are now claiming is what they have always believed in.

Again, if anyone would like to go back and have a look at the legislative programs for the last Assembly - and perhaps even the one before; I cannot speak for that one - there it was: Trading hours legislation. So, if those opposite believe, "We want to see it in legislation", why did they not do that themselves? Talking about inconsistency, why did those opposite continue to allow shops to trade in an illegal fashion if they were so definite that they believed in this sort of approach? Not once did that legislation, which was, I think, priority 2 or priority 3, ever get up to the top of the list, and not once did they have the guts to legislate what they claim they believed to be the case.

What we on this side of the house have done is address a situation that should have been addressed a long time ago. Trading hours is not an easy situation in the ACT. We all know that. What we have to come up with is something that balances small shops, medium shops and large shops. That is what we have attempted to do, but part of that balance is making sure that consumers have access to shops when they need them. Our legislation, passed in this place, ensured that that was the case. The regulation changes we are proposing today make sure that people will have access to supermarkets when they are using town centres over Christmas. Again, it is an up-front approach, with everything on the table - legislation on the table, regulations on the table; not what those opposite did, not the inconsistency Mr Whitecross spoke about that we saw from them. True inconsistency is leaving legislation in place and then encouraging everyone to break the law, which is what was done. Every year, those opposite had to extend trading hours over Christmas, simply because they had not legislated for deregulation.

As we all know, at the moment, except for a couple of supermarkets, our shops can trade 24 hours a day, seven days a week - apart from five supermarkets. There is no need to extend trading hours for the vast percentage of shops this Christmas, for the first time ever, because we have had the guts to legislate in an area that is very difficult. It is fraught with differences of opinion, but at least we have put it on the table. We have legislated. We have attempted to reach that balance between different size shops in the interests of consumers, the interests of small business, jobs - all those sorts of things that make it a very difficult balance to reach. It is amazing that Mr Whitecross could say, "We want to see it in legislation", when for four or five years they did not have the guts to put it in legislation.

MR BERRY (11.27): Mrs Carnell, brazen as ever, tries to defend the indefensible. This is the person who has headed a government here in the ACT that has seen over 5,000 jobs lost in the last 12 months, with 2,700 more people on the unemployment list since she came to office. For the last three months, more than 50 per cent of our young people have been unemployed. And now we have a situation where they are prepared to have the guts to make more people unemployed. It takes some courage to do that in this

sort of a climate, I would have to say. But that sort of courage would have to be more akin to stupidity. You cannot stifle the employment market with these sorts of outrageous legislative activities which offend against the provision of jobs in the community.

Whenever Mrs Carnell gets up on her hind legs to talk brazenly about this, she should remember 5,600 people who have not had jobs over the last 12 months, 5,600 fewer people employed. Since she came to office, there are 2,700 more on the unemployment list, and we have the disgraceful situation of three full months where the youth unemployment rate has been over 50 per cent. How can you brazenly stand up in this place and defend this outrageous legislation, which you people dragged into this place on the pretence that you were doing something for small business? You have done nothing for anybody. In fact, what you have done is create one of the biggest blunders of all time. You are going to sink with it, and we are going to make sure that you sink with it.

The community know and understand what you have done to their freedom to shop when they like. They know and understand what you have done to limit the available jobs out in the community. They know and understand what you have done to cause some of their kids to lose their jobs, and some of their fathers and mothers to lose their jobs. Do not accuse us of anything when you have a look at your record. This is the Government that is supposed to stand under the Liberal ideology of deregulation.

Mrs Carnell: We do not run on ideology.

MR BERRY: Your party apparently does, because they are becoming very hesitant about your position in relation to these shopping hours and saying, "This is a big worry for us". They can tell that out in the electorate the community is seething over this issue, because they know it is a dumb move. I do not care how brazen you are, Mrs Carnell, and how you try to defend this position. It is indefensible. You are not making any ground. This admission of a mistake by your attempt to regulate more available shopping hours for the community is no more than that - an admission of a monstrous mistake - and you try to worm out from under it. The Greens, throwing in with you, admitting that they have made a mistake, would be refreshing news to the community as well. The community knows that you have all made a mistake, and they would love to see this admission.

What you should do is have the courage to support Mr Osborne's Bill. You should have the courage to do it, and make sure that the community gets the message loud and clear, "The Liberals and the Greens were wrong. We are sorry. Vote for Osborne's legislation, so that some sanity can come back into this issue at long last". This issue was born out of Mrs Carnell's shopkeeper mentality, small shopping centre mentality, against a campaign that was run under the Save our Shops banner. They had to do something, so they did something that was absolutely useless.

Mr De Domenico: Because you lot did nothing for five years. You did not have the guts to do anything.

MR BERRY: We did not do something as reckless as you have done. You do not rush into the legislature market and take such reckless action, which has created the climate we have now, the very climate which has existed since this Liberal Government came into office. What has that climate produced? It has produced regulation against a background where their constituents would have thought they would deregulate, and the party believes that too. Many of the Liberal Party members would be very puzzled by the approach this Government has taken. Quite aside from their inability to manage the ACT economy, many in the community would be puzzled that the Government would take such a silly stand when we have those old figures haunting us: 5,600 fewer jobs available in the ACT as a result of this Government's activities, 2,700 more unemployed, and for the last three months over 50 per cent youth unemployment.

Mr Humphries: On a point of order, Mr Speaker: The member's arguments have expired.

MR SPEAKER: Order! There is no point of order.

MR BERRY: There is no point of order, but there is still a little bit of energy. I am trying to dig out what small amounts of shame these people can show in relation to an outrageous and silly proposal. Support Mr Osborne's Bill.

Mrs Carnell: On a point of order, Mr Speaker: Mr Berry just said that there were 5,600 fewer jobs in the ACT. I would like him to justify that, on the basis that there are, I think, 900 more jobs in the ACT right now.

MR SPEAKER: There is no point of order.

MR OSBORNE (11.34), in reply: I would like to start off on one issue. Mrs Carnell came in here and spoke about hypocrisy. Mr Speaker, I find it very interesting to hear the word "hypocrisy" from the saviours of small business when we have this major Manuka development going ahead which is going to impact on Kingston, Deakin, Red Hill, Garran, Hughes, Narrabundah and any number of other small shopping centres around there. So, I think it is quite extraordinary to have the Government stand up and say that they are the only people interested in saving small business when, quite obviously, a major development at Manuka will certainly impact on these very same people.

I am a little bit sad, Mr Speaker, that it has degenerated into a political bunfight. I had not wanted to achieve that. I have to say that I am both amazed and disappointed, almost beyond words, that the Government is not going to support this Bill today. Mr Speaker, I believe that a complete lifting of the current restrictions for a brief period over Christmas is a fair compromise. But, unfortunately, it still seems that there are nine people who are going to vote against it. Anyone who speaks to the average person in the street would have worked out long ago that this draconian piece of legislation introduced by the Government is hugely unpopular, unnecessary and definitely unreasonable.

I would have thought that this was a great opportunity for Mr Humphries and his Liberal colleagues to show that they do care about families in Canberra, especially those who will find it increasingly difficult to shop during the Christmas break.

Mrs Carnell: At 10 o'clock at night?

MR OSBORNE: Mrs Carnell interjected. Obviously, your memory does not go back to when your children were young, Mrs Carnell - - -

Mrs Carnell: They still are.

MR OSBORNE: Not as young as mine.

Mrs Carnell: I am sorry; they are actually quite little.

MR OSBORNE: Not as young as mine. Often it is 9, 9.30 or 10 o'clock before we can get them all to bed and go shopping.

Mr Speaker, I realise that both Mr De Domenico and Mr Humphries would be very embarrassed if they supported my piece of legislation. It would be an admission that they were wrong. I said "both Mr De Domenico and Mr Humphries" because I am not quite sure whom to address on this issue. We have Mr De Domenico coming into this place, introducing Bills and adjourning debates. He is a bit like the person you go and borrow money from - the loan shark. When it is time to pay the money back, they send in the big bully, Mr Humphries, to fix it up. Mr De Domenico is in the firing line; but, once it gets too hot, Mr Humphries comes to his rescue. Mr Speaker, I am not quite sure whom to address on this issue. I am sure, though, that the people of Canberra will remember not only the Government's action on this, but also their lack of compassion over the Christmas break. I would just like to remind both the Government and the Greens that it is not too late for them to swallow their pride, do what they know is right for the people of Canberra and support this Bill.

Mr Speaker, there are a couple of reasons why I chose the path of legislation rather than regulation. I have heard people say that it does not allow much flexibility. I would argue that Christmas is one period of the year which falls on the same day and certainly is one time of the year when it is very hectic. So, I would have thought that legislating over that period was sensible. As Mr Moore said, if the Government does not like the period that I have stipulated, what stops them amending it? What stops them providing some sort of stability for the major town centres, not only for the reason I stipulated but also because I think it allows a tremendous opportunity - whether it be a three-week period or a four-week period - for school leavers to find some work after the end of exams and before they start their university studies? That is why I felt that legislation was the preferred option. It certainly does set it in concrete. Regulations can be changed from year to year or easily dropped altogether, even during the period of their operation.

Mr Speaker, on this issue, it is quite obvious that Mr Humphries and Mr De Domenico cannot be trusted. They have misled the people of Canberra on this issue. That is why I felt that it was imperative that we stick it into concrete. Mr Speaker, I am pleased to also hear at long last an admission from the Government that the trading hours restrictions

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are causing some problems for both the businesses concerned and, more importantly, the people of Canberra. I would not have thought that causing some businesses to lose up to six-figure sums a week, driving people out of work, especially the young people, and plunging many families into chaos at this time of year would be best described as a fairly fine, minor or insignificant problem. Mr Speaker, I thank the Labor Party for their support and I thank Mr Moore for his support. It is unfortunate that it has got to this stage; but, once again, I have to condemn both the Greens and the Government and I have to say that, quite frankly, Mr Humphries and Mr De Domenico have misled the Assembly and misled the people of Canberra on this issue.

Mrs Carnell: On a point of order: Mr Speaker - - -

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

Mrs Carnell: I think he should also withdraw any imputation that either Mr De Domenico or Mr Humphries cannot be trusted.

MR SPEAKER: Yes, Mr Osborne. There is an imputation there. It has been asked that it be withdrawn. Please do so.

MR OSBORNE: Mr Speaker, I am prepared to withdraw the word "misled" but I am not prepared to withdraw "mistrust", I am afraid. I cannot withdraw the fact that they cannot be trusted.

Mrs Carnell: You would need to withdraw that with any imputation that Mr Humphries or Mr De Domenico cannot be trusted.

MR OSBORNE: Mr Speaker, on this issue, I stand by that. I do not think that Mr Humphries or Mr De Domenico can be trusted on this issue. I will not withdraw it.

MR SPEAKER: Mr Osborne, you have been asked to withdraw it. I would be very reluctant to take action.

Ms McRae: On a point of order, Mr Speaker: You have not actually ruled on it. You have been given advice on that by the Government. I would suggest that you either give us a reason for the withdrawal or actually ask him to withdraw before you go ahead.

MR SPEAKER: I asked Mr Osborne whether he would withdraw. I would be very reluctant, Mr Osborne, to take action on this. This is an important issue. The suggestion that Mr Humphries and Mr De Domenico are not telling the truth is something that cannot be substantiated, really.

MR OSBORNE: Mr Speaker, I have tried to explain why I have chosen the path of legislation rather than regulation. I said that I did not feel that Mr De Domenico or Mr Humphries could be trusted on regulating over the Christmas break. That is what I stand by on this issue. I will not withdraw that. So, it is up to you.

MR HUMPHRIES (Attorney-General): Mr Speaker, can I make an explanation under standing order 46?

MR SPEAKER: Yes, certainly, if it will assist on the matter before the Chair.

MR HUMPHRIES: Mr Speaker, I do not propose to be precious about the words Mr Osborne uses; but I do think it is worth just putting on the record something about being trusted. Of course, making a regulation about trading hours is not a question of trusting anybody in the Government. Regulations must be put - - -

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

MR SPEAKER: Just a moment. I will hear that in a moment.

Mr Berry: Pursuant to the standing order, I can rise at any time to raise a point of order, Mr Speaker.

Mr De Domenico: What, during a personal explanation as well?

Mr Berry: Indeed. Mr Speaker, Mr Humphries is clearly debating the issue, and that is not permitted.

MR SPEAKER: No, he is not debating the issue. There is no point of order.

MR HUMPHRIES: Mr Speaker, it has been suggested that I cannot be trusted. I want to explain that that is not a fair imputation on me, or on Mr De Domenico for that matter.

MR SPEAKER: Mr Osborne, I have listened to Mr Humphries and Mr De Domenico - - -

MR HUMPHRIES: I have not actually finished my personal explanation, Mr Speaker. I think it is worth noting, in terms of whether we are trusted or not, that the regulations must be laid before the Assembly. If I, Mr De Domenico or anyone else makes a regulation which is not viewed as satisfactory by the Assembly, Mr Osborne or anyone else has the power to disallow it. It is not a question of trust at all; it is a question of using the processes already there in the Assembly to deal with problems that arise under regulations.

MR SPEAKER: Thank you, Mr Humphries. Mr Osborne, I think we will let time judge whether you are right or not, in view of Mr Humphries's explanation. You may continue your comments. You still have time.

Mr Wood: You should have told the Chief Minister to butt out of it; it is as simple as that.

MR SPEAKER: One section was withdrawn, Mr Wood. Proceed, Mr Osborne.

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MR OSBORNE: Thank you, Mr Speaker. I am pleased that I am allowed to mistrust both Mr De Domenico and Mr Humphries. I am pleased that I am allowed to continue to do that. Once again, in summary, I am pleased that the Labor Party has supported me. I thank Mr Moore for his support. I am very disappointed that the untrustworthy lot over here have chosen to vote against it.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 8

Mr Berry
Ms Follett
Ms McRae
Mr Moore
Mr Osborne
Ms Reilly
Mr Whitecross
Mr Wood

NOES, 9

Mrs Carnell
Mr Cornwell
Mr De Domenico
Mr Hird
Ms Horodny
Mr Humphries
Mr Kaine
Mr Stefaniak
Ms Tucker

Question so resolved in the negative.

PERSONAL EXPLANATIONS

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

MR SPEAKER: Proceed.

MR Kaine: Mr Speaker, towards the end of that last debate, Mr Osborne made a reference to "that untrustworthy lot over there", in which I presume he included me. Mr Speaker, I repeat that I presume that in that general statement he included me. I believe that that is a very important accusation to make. It is not one that can be shrugged off lightly. I deny that I have done or said anything on this matter or any other as a result of which I deserve to be labelled as untrustworthy, and that accusation is on the public record.

Mr Speaker, I submit that, if Mr Osborne wants to assert that I am untrustworthy and have that matter put on the public record, he has an obligation to produce the evidence of that, and he did nothing of the kind in connection with me. I do not believe that he did it in connection with anybody else either. But I protest most strongly, Mr Speaker, that that assertion lies on the public record, unrefuted and totally unsupported. I think it is unreasonable. I am astounded that members of this Assembly would allow that to occur.

If Mr Osborne can make that statement in my connection, he can make it in respect of any other member of this Assembly, and it stands unrefuted on the public record. I think it is unwise. It is certainly offensive to me.

Mr Osborne: On a point of order, Mr Speaker, under standing order 47: Perhaps I was misunderstood. I would like to explain that I certainly did not direct that slur to anyone other than Mr Humphries and Mr De Domenico.

MR Kaine: That is not what you said. You said “this untrustworthy lot over here”, as though you meant it to be about all of us.

Mr Osborne: I am explaining it now, Mr Kaine. I certainly withdraw the words “that untrustworthy lot over here” and I will redirect it to mistrusting Mr De Domenico and Mr Humphries.

MR SPEAKER: We have investigated this matter in relation to Mr Humphries and Mr De Domenico. Time will tell, Mr Osborne, and you may be asked at some time to apologise.

MR Kaine: In connection with Mr Osborne’s point of order, I presume, from what he said, that he withdraws any assertion that I am untrustworthy.

Mr Osborne: I certainly do, Mr Speaker.

MR SPEAKER: Thank you.

MR DE DOMENICO (Minister for Urban Services): Mr Speaker, under standing order 46, I would like also to offer a personal explanation. Mr Osborne did look across - - -

Mr Osborne: I am not withdrawing it on you, Tony.

MR DE DOMENICO: We will see what you will do. They say that you are a big man because you played rugby. We will see what you do here. Mr Speaker, Mr Osborne did suggest - and he just reiterated it - that Mr Humphries and I, in particular, are untrustworthy.

Mr Osborne: On this issue.

MR DE DOMENICO: Can I suggest on this issue, Mr Osborne, that it has been the domain of Ministers for Industrial Relations since the year dot to allow, by regulation, trading hours in every jurisdiction in this country. We will continue to do it in the same manner as every other previous Minister - Labor, Liberal or Callithumpian - in this Territory has done it. For you to suggest that Mr Humphries or I or anybody else in this Assembly is untrustworthy because of your opinion, I think you ought to withdraw that. We might think the same of you, but perhaps we are not inclined to be as unparliamentary and as uncourteous as you may wish to be.

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Mr Moore: Mr Speaker, I think Mr De Domenico is questioning your decision. If it was unparliamentary, then you would have asked him to withdraw. In fact, as I recall, Mr Speaker, you did ask Mr Osborne to withdraw it in the initial instance. I am not quite sure how it came about that you backed away from that position. But we now have Mr De Domenico challenging your ruling.

MR SPEAKER: Members, Mr Humphries explained that the question of the untrustworthiness of any Minister here will be proven or disproven subsequently because certain legislation relating to this matter has to be tabled in this Assembly. In that event, it may very well be, Mr Osborne, that you will be on your feet again, after that is done, apologising to both Ministers.

Mr Moore: On a point of order, Mr Speaker: I must say that I do not think that is the issue at all. The issue is whether or not it is parliamentary or unparliamentary for a member to say that another member is untrustworthy. That is the question. It is not whether it is proved later or not proved later. If you want to prove or disprove something, you can do that in substantive debate. That is the question here. I am very surprised that Mr Humphries has taken it in that direction, Mr Speaker. Personally, I think it is unparliamentary. I do not think Mr Osborne should be allowed to get away with it.

MR SPEAKER: Mr Humphries has taken it in that way, under standing order 46.

MR HIRD: Mr Speaker, under standing order 46, do I understand that Mr Osborne has withdrawn the words “that lot are untrustworthy”? That includes me, and there are certain imputations there.

MR SPEAKER: Mr Hird, the term, “that lot are untrustworthy”, which I think were the words Mr Kaine used, could have referred, of course, to everybody in this Assembly. The Chair is in no position to know to whom Mr Osborne was referring when he made that comment. He has now clarified it to apparently - - -

Mr Moore: Now he has clarified it. He has said “Mr De Domenico and Mr Humphries”.

MR SPEAKER: It is not “that lot” either. It apparently comes down to two people, because it certainly is not Mr Kaine. He has withdrawn on that particular issue. For all I knew, he was referring to all of you. So, if you would all like to ask Mr Osborne to withdraw, I am entirely in the Assembly’s hands on that matter.

Mr Berry: Mr Speaker, if it is okay to say that a Minister - any one of them - is untrustworthy, we will relish the opportunity to use the expression in due course; but there has to be a decision on whether it is okay or whether it is not okay, pursuant to standing order 55. I am quite happy for it to be okay, because there are appropriate occasions when it would be used with relish; but - - -

MR SPEAKER: On both sides, Mr Berry.

Mr Berry: The Speaker has an important question in front of him - whether or not it is an imputation of improper motive or whether or not it is a personal reflection.

Mr Humphries: So, what are you saying? Is it or is it not?

Mr Berry: I am saying that I just want to know what the Speaker's ruling on the issue is.

MR SPEAKER: Mr De Domenico, do you want the term withdrawn?

Mr De Domenico: Mr Speaker, I would say this to Mr Osborne: If he honestly believes that Mr Humphries and I are untrustworthy, he should table the evidence or else he should do us the courtesy of withdrawing.

Mr Whitecross: Mr Speaker, further to the point of order: This whole debate has to be put back in context. Mr Osborne, in advocating for his Bill, said that he thought members of this Assembly should vote for his Bill rather than wait to see whether the Government would, in fact, produce regulations, because he believed that we should not trust the Government to produce the regulations. I think Mr Osborne was perfectly entitled to make that argument. I think he made it very well. I do not see how an argument advocating that we support a piece of legislation, rather than wait to see whether the Government produces regulations, could possibly be unparliamentary. I think his advocacy that we not trust the Government but do it ourselves was a very sensible argument.

Mr Kaine: On a point of order, Mr Speaker: I can only assume, in view of your most recent comments on this matter, that that lot over there is untrustworthy, and that is okay with me.

MR SPEAKER: I have no knowledge of to whom Mr Osborne was originally referring.

Mr Moore: That is correct, Mr Speaker. Mr Whitecross is quite right when he says that that is how Mr Osborne made the case. I would say that, up to that point, there was perhaps an issue. We now have a situation where Mr Osborne has quite specifically named two members and has said that they are untrustworthy on this issue. I think there is a question there about whether that is parliamentary or whether that is not parliamentary. To me, it is very clear that it is not parliamentary, and I am surprised that he has not been asked to withdraw.

MR SPEAKER: Mr De Domenico has asked. I now ask Mr Humphries: Would you like Mr Osborne to withdraw his comments?

Mr Humphries: Yes, I would, Mr Speaker.

Mr Wood: It is not their decision; it is yours, Mr Speaker.

MR SPEAKER: Order! Both Ministers have been subsequently named by Mr Osborne and have now asked that the comment be withdrawn. Both Mr Humphries and Mr De Domenico find the comment offensive. Mr Osborne, I ask you to withdraw the comment that Mr Humphries and Mr De Domenico are untrustworthy.

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Mr Osborne: Mr Speaker, I said what I said because I was trying to solicit support for my piece of legislation. I said that I do not feel that either Mr Humphries or Mr De Domenico can be trusted to regulate and to allow easier access to shopping over the Christmas break, and I stand by that. I wanted support for my legislation. I wanted it set in concrete.

MR SPEAKER: Mr Osborne, you have not withdrawn the imputations against Mr De Domenico and Mr Humphries. I will have to take action against you if you do not. Standing order 202(c) requires that, if any member has used offensive words, which the member has refused to withdraw, that member may be named by the Speaker.

Mr Osborne: Mr Speaker, as I said, I had no desire for this to become a major political issue. I think I have made my point. I withdraw the imputation that these two precious little Ministers over here are untrustworthy.

Members interjected.

MR SPEAKER: Order! Standing order 202 can be used against other members as well. Thank you, Mr Osborne.

ELECTORAL (AMENDMENT) BILL (NO. 2) 1996

Debate resumed from 20 November 1996, on motion by **Mr Moore:**

That this Bill be agreed to in principle.

MR HUMPHRIES (Attorney-General) (12.03): Mr Speaker, the Bill which Mr Moore has put before the Assembly is the second attempt that has been made, since the Assembly first came into existence, to provide for four-year terms for the parliament to operate under. It is indeed surprising that we have come to the stage of having to consider the position of four-year terms in the ACT Assembly at all. It was always a matter of some surprise to me that the ACT was granted self-government in terms that provided for only three-year terms. Members will recall that on several occasions Federal governments have attempted to provide for four-year terms for the operation of the Federal Parliament. Indeed, in the last 20 or 30 years I can recall at least two attempts by Federal governments - there probably have been more - usually with bipartisan support, to generate four-year terms by amendment to the Australian Constitution. I recall that an attempt was made in 1977. There was also a special referendum in, I think, 1985. It certainly was in a non-election year.

Mr Whitecross: They are the ones with bipartisan support that the Liberals campaigned against, are they?

MR HUMPHRIES: In 1977 the Liberal Government put the proposal forward and received support, and I believe that in 1985 there was also support from the Liberal Opposition. There were other items on the referendum which did not have support from the Opposition, but my recollection - and I stand to be corrected

if I am not right - is that at that time there was bipartisan support for that change. We will put one thing on record. On both those occasions the Labor Party, at the Federal level, supported four-year terms.

It is also, therefore, surprising that, when the legislation to provide for the establishment of the ACT Legislative Assembly was proposed in 1988 by Mr Clyde Holding, only three-year terms were provided for. It always seemed to me to be curious that a party which had argued strongly for four-year terms both at the Federal level and in State manifestations should put forward only three-year terms when it actually had almost a free hand to create a parliament in its own right. That does seem to me to be an odd situation.

Mr Whitecross: No wonder people say that you cannot be trusted, Gary.

MR HUMPHRIES: I do not know whether we are getting into a vast free-for-all, but Mr Whitecross has just suggested that the Government cannot be trusted on this. I think we have let the cat out of the bag with this one. I will not take a point of order, but I think we have let ourselves go down a rather slippery slide with this.

MR SPEAKER: I would caution members against interjections.

Ms McRae: I think deafness is in order; really I do.

MR HUMPHRIES: It is very hard to be deaf when there are quite a few interjections. There is an admission from a former Speaker, Mr Speaker, if ever I have heard one.

Ms McRae: I was very deaf, particularly to things from your side.

MR HUMPHRIES: Constructive deafness. There is an admission we should record, Mr Speaker.

Ms McRae: Yes, I commend it, Mr Speaker.

MR HUMPHRIES: She confesses. Notwithstanding the legacy of this matter in the ACT Assembly, there have been two attempts to establish four-year terms in this parliament. This is the second attempt. The first attempt was in legislation tabled by the then Chief Minister, Ms Follett, in 1993 to establish, among other things, a new electoral system for the ACT and to implement four-year terms. Four-year terms may or may not be the policy of the Labor Party. I suppose we shall soon hear whether it is or it is not.

There are arguments, I think it is true to say, both for and against the establishment of four-year terms in this particular parliament. In all cases, the cases both for and against are based very much on the particular circumstances of the parliament concerned. It is probably true to say that an argument may apply in, say, Queensland which does not apply in South Australia, and vice versa. The arguments for change are certainly significant. I think anybody who has worked in government would be quick to acknowledge that the productive period of government, the period during which

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governments produce the most worthwhile output in a sense, is constrained by the holding of elections. After an election, for new governments there is naturally a period of settling in, working out how the land lies, getting to know its Public Service and so on. It can easily take a new government a year to work through that.

I confess, Mr Speaker, that this Government spent much of its first year very carefully assessing the situation, laying the foundations for sound policy decisions to be made and, in the case of trading hours, commissioning a number of major reports to find out what the story was. We very carefully canvassed community viewpoints. We asked for three key reports to be prepared. They are the sorts of things that governments do in the first year of their term. Although I cannot comment on the next 12 months after the end of this year, I suspect that many governments will find themselves thinking very much about the forthcoming election and tailoring their actions to the expectation that they are going to have to account for them in a more immediate sense to the electorate. It is undoubtedly true that governments tend to have some constraints at the beginning and end of their term because of the proximity of elections. You might say - I do not necessarily advance this argument - that in the ACT context, therefore, four-year terms create a doubling of the productive period of a government. That is not the only period in which they do work, but it is certainly the period in which, in a sense, they are most productive and free from election constraints.

The second reason for supporting four-year terms is that having fewer elections leads to an increase in business and investment confidence in the Territory. We had demonstrated to us very clearly during the Federal election earlier this year how much business confidence can be suspended during an election campaign and how that period of uncertainty necessarily is a problem for any economy which seeks to go forward. A reduction in the number of elections would probably be welcomed by business in the community and be seen by people, particularly those outside the Territory who seek to make investments in the Territory, as a positive sign.

The third reason for supporting elections on a four-yearly basis rather than a three-yearly basis is the saving in the costs of holding elections and conducting redistributions. Very clearly, there are problems in having to hold elections frequently. They are quite expensive commodities in the ACT context - indeed, anywhere in the country. Holding elections on a four-yearly basis provides for a considerable problem in funding those elections.

The fourth reason for supporting four-year terms is that such a move today would bring the ACT into line with the majority of other jurisdictions in this country. It is a matter of record that today only three of the nine jurisdictions in Australia continue to operate on three-year terms. Those three are the ACT, the Commonwealth and Queensland. The Commonwealth at least has made a number of attempts to go for four-year terms but has been unsuccessful. Mr Speaker, there would be some value in having a cycle of elections which is in synchronisation with those of other jurisdictions. Those are the arguments in favour of four-year terms.

As with any complex issue, there are arguments against four-year terms as well. One of the most serious arguments is that the holding of elections every four years diminishes the level of accountability that the ACT engenders for members of this Assembly. I think that around election time members have a stronger sense of the responsibility they owe to the electorate. They appreciate that they are there at the pleasure of the electorate and can be removed if they make mistakes. I think that constraint weighs less heavily on the minds of members when elections are not imminent or have not just occurred.

That argument has particular relevance in the context of the ACT because - and this is the second argument, in a sense - the ACT has a system of elections, namely the Hare-Clark system, which I think we would all concede is very likely to produce minority governments. The statistical likelihood of governments winning nine seats is very low, and therefore with our system of government in the ACT we are going to face minority governments on a very regular basis, I suspect. Minority governments obviously depend to some extent on the support of members of the crossbenches. They can usually be expected to be opposed by members of the official opposition, but to some extent members of the crossbenches keep minority governments alive. That is, in a sense, the burden that the crossbenches bear in electoral systems such as ours. If there is a particularly unstable minority government in the Territory - and, of course, we have seen some of that calibre - a four-year term will prolong the period of instability that the electorate has to face. That is a particular problem for the ACT. With four-year terms we would find ourselves having to deal with an unsatisfactory state of affairs for longer periods of time.

I would strongly suggest that, had Ms Follett as Chief Minister had the power to go to a Governor, the Governor-General, an Administrator or someone in the middle of 1991, faced as she was with an Assembly of 17 members made up of seven different parties or groupings, she would have been well advised to do so. Perhaps she ought to have had the power to do so. Of course, fixed four-year terms make that impossible, or at least much more difficult. That is a very serious argument against four-year terms.

Another argument is that the proposal for four-year terms is being considered by the Assembly in the absence of a strong ground swell of community opinion about the issue. I suppose it is inevitable that people tend not to express strong support for longer terms for politicians. In fact, they do not usually express anything positive about politicians. In this case I have not been able to discern any great community viewpoint one way or the other. Certainly, no viewpoint has been expressed in favour of longer terms.

I think it is true to say that longer terms can be a disincentive to talented candidates standing for election to parliament, because it extends the period during which they are forced to sit in opposition if their particular party happens to be unsuccessful at an election. We have seen cases - I am thinking mainly of the Federal Parliament - of people you might call high-fliers from outside the parliament being elected to parliament, becoming frustrated in various ways, sometimes by the long periods in opposition, and leaving the parliament, you might say, prematurely because of that problem. That issue is exacerbated when people have to face four-year terms in opposition, rather than three-year terms.

Mr Speaker, there are fairly complex arguments both for and against this particular proposal. I am very much looking forward to seeing what the debate produces on this issue and what arguments are advanced in favour of this proposal. I certainly note Mr Moore's comments in advancing this legislation. I think that he made some very telling points, and I look forward to seeing what other members in the chamber have to advance in favour of this proposal.

MS HORODNY (12.16): Mr Speaker, there are two aspects of this Bill that need to be highlighted. One is the proposal to change the fixed date of the election to the fourth Saturday in October rather than the third Saturday in February, and the other is to change the term of the Assembly to four years. On the first point, we support changing the election day to October. We agree with Mr Moore that this is a more logical time for an election. While we note that a February election occurs at a time of year when there is ordinarily a lull in government activity, the February election day has the problem that the election campaign tends to be crammed in after the Christmas and new year break. Many Canberrans are still holidaying then and may be away during that critical period. This means that Canberrans are not necessarily as focused on the election as they could be and the candidates and their election platforms are not given the public scrutiny that they deserve.

We also note that an October election day has implications for the release of the budget in that year. The budget will need to be brought down earlier than at present so that it can be out of the way before the election campaign. We do not have a problem with this, as generally we think that the budget is better released as close as possible to, or even before, the start of the financial year. This timing may be good, as the budget will then most likely form a focus for the subsequent election campaign.

We note the argument that four-year terms could lead to less accountability of politicians, but we think that this argument is outweighed by the advantages that four-year terms could bring to the ability of governments to implement their policies in a more considered and more strategic way. Our observation of the political process under three-year terms is that the Government spends the first year getting used to the job and preparing for implementation of its election promises, spends the second year delivering on those promises or at least some of those promises, and spends the last year in a defensive mode in preparation for the next election. The Greens have always been concerned that the long-term implications of a whole range of issues and the need often to take a longer-term approach to the management of those issues have been regularly sidelined because of the Government's three-year time horizon. The move to four-year terms will provide at least some incentive for governments to address issues in a more comprehensive manner than currently occurs under three-year terms.

It could be argued that there may be slightly less democratic accountability with a four-year term than a three-year term because the public has less opportunity of voting politicians in or out; but, as Mr Humphries has already said, the Hare-Clark voting system provides a very good balance to this. Given our proportional voting system, it is highly likely that politicians from a range of political persuasions will be regularly elected and that minority governments will be commonplace in the ACT. This situation provides for

greater Assembly scrutiny of the government of the day than where the government has majority rule. Taking on board all the concerns and given the advantages of having longer terms in office, the Greens believe that government decision-making would be improved by working within a four-year timescale. Therefore, we support this Bill.

MR WHITECROSS (Leader of the Opposition) (12.21): Mr Speaker, clearly, the Government have not made up their mind whether they are supporting this Bill or not, so I move:

That the debate be adjourned.

Question put:

That the debate be adjourned.

The Assembly voted -

AYES, 5

Mr Berry
Ms Follett
Ms McRae
Mr Whitecross
Mr Wood

NOES, 10

Mr Cornwell
Mr De Domenico
Mr Hird
Ms Horodny
Mr Humphries
Mr Kaine
Mr Moore
Mr Osborne
Mr Stefaniak
Ms Tucker

Question so resolved in the negative.

Debate interrupted.

Sitting suspended from 12.25 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Financial Management Reports

MR WHITECROSS: My question without notice is to the Chief Minister and Treasurer. Treasurer, can you confirm that the quarterly financial report for September, which you tabled in the middle of the night during the debate on the Appropriation Bill a couple of weeks ago, is in fact the monthly financial statement required under section 26 of the Financial Management Act? If so, why was this report tabled seven weeks after the end of the relevant reporting period and why have we not received the monthly financial statements since 30 June, as required under the Financial Management Act?

MRS CARNELL: Mr Speaker, it is absolutely fascinating that those opposite can make comments on this sort of thing when we are, for the first time, giving full documentation. As I understand it, I am required to give quarterly reports and I am required to give them within three sitting days of my actually receiving those documents. That is exactly what was done. The reason it was tabled when it was was simply that I tried to get it onto the table as quickly as I could. It was not actually three working days, from memory; I think it was only two. If I had not tabled it then, it would have meant that members did not have it for another week or so. Yes, it was tabled, Mr Speaker. It was tabled, as I am required to table it, within three sitting days of actually receiving the document; and we will continue to do that.

We will certainly be looking at monthly statements as well - all those sorts of things that those opposite never managed to put on the table, information that the people of Canberra for the first time have access to. I think that is a pretty big step in the right direction, and I think those opposite should be saying, "Thank you, Government, for giving us this full information, information that never existed before". This is a big step in the right direction. We believe this is, shall we say, something that takes us a long way towards transparency in government.

MR WHITECROSS: I have a supplementary question, Mr Speaker. Minister, after you have read the Financial Management Act, will you come in here and apologise for misleading the house? Will you confirm that you failed to comply with the Financial Management Act by not fulfilling your requirements?

Mr Humphries: On a point of order, Mr Speaker: It is outside the terms of the standing orders to accuse people of misleading the house, and I would ask that Mr Whitecross be asked to withdraw it.

Mrs Carnell: I am happy to answer it, though.

MR SPEAKER: No. Mr Whitecross, I would like you to withdraw "misleading the house".

MR WHITECROSS: I withdraw it, but I look forward to Mrs Carnell's apology. Will you also confirm that you have failed to comply with the Financial Management Act because your quarterly statement, not your monthly statement, also fails to contain a statement of cash flows to the Territory, as required under the Act? Can you advise the Assembly whether you will be presenting future monthly statements on a quarterly basis or whether they will be monthly, in accordance with the Act?

MRS CARNELL: Mr Speaker, section 26 of the Financial Management Act 1996 does require the Treasurer to prepare whole-of-government financial statements each month in a form comparable to estimates contained in the year's budget papers. The Government's 1996-97 budget presents full accrual information, as everybody will be aware. Monthly statements will now be prepared in a comparable accrual format. Monthly statements will also include off-budget government agencies such as Territory-owned corporations - stuff that we never had before. The first whole-of-government report was based on the position at the end of September and was

presented, as I said, within three sitting days of when I received it, in line with the appropriate legislation. Mr Speaker, I still find it very difficult to accept that those opposite, who never produced this sort of information and never tabled it, can be doing anything but saying, "Thank you very much, Government, for providing information that we never provided".

Mr Whitecross: On a point of order, Mr Speaker: I understood that it was customary, when you found out you had misled the house, to apologise for misleading the house. Is Mrs Carnell going to apologise?

MR SPEAKER: There is no point of order. Resume your seat.

Manuka Car Park Development

MR KAINE: Mr Speaker, through you, I have a question to Mr Humphries, Minister for the Environment, Land and Planning. Minister, I am sure you will have read an article by planning consultant Tony Powell last Saturday which criticised the call for expressions of interest for section 41 in Manuka. Is there any substance whatever to the points made by Mr Powell in that article?

MR HUMPHRIES: I thank Mr Kaine for that question. I did see the article in the *Canberra Times* that Mr Kaine referred to and was partly dismayed and partly amused by what I read. Mr Powell makes a number of serious allegations in this. It is not the first time, I might say, that allegations like this have been made. They have often been made by various people in various ways throughout my time in Canberra. What is disturbing is that they are made by somebody who really ought to know better in this case. He says in his article:

... the Government is colluding with developers to merit urban redevelopment projects which might provide income for the Budget and profits to the developer, but which have adverse effects on the community.

By collusion I mean secret agreements in order to deceive the unsuspecting public as to what is intended by developers until it is too late for affected residents or businesses to do much about it.

That is a very serious allegation, Mr Speaker. He goes on:

The relationships which have developed since the advent of self-government in 1989, between the ACT Government, the bureaucracy, developers and the building industry in relation to the operation of the planning system, cannot be regarded as being in the public interest.

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Quite apart from the allegations made there about governments, not just this Government, there is a very serious slur on the professionalism of ACT public servants - the bureaucracy to which he refers. If Mr Powell has allegations of collusion between government members, public servants and developers, he owes it to the debate he has initiated to put that evidence on the table and let us all see what it is. I have not seen, in my time as Minister for Planning - and I dare say I speak for some of my predecessors - any evidence of that kind of corruption or collusion as referred to.

Ms McRae: And Stein did not find it either.

MR HUMPHRIES: Indeed, as Ms McRae points out, the Stein inquiry, which was called partly to investigate those things, did not find any evidence of that either.

I might say, however, that I was amused by the comments also because of the irony of the comments made by Mr Powell. Members may have seen the book *Reluctant Democrats* which was launched only last week - a book by Philip Grundy, Bill Oakes, Lynne Reeder and Roger Wettenhall about self-government. It makes some fascinating reading in terms of some of the things that are said, particularly about Mr Powell. Members might like to read page 171, where the authors say:

This issue -

that is, the issue of the increase in the number of office buildings in the city, which is still a familiar issue -

came to a head under Scholes, whose ignorance of Canberra's planning principles combined with Powell's belligerence as Commissioner of the NCDC to provoke widespread hostility.

Listen to this, Mr Speaker:

It was easy to cast the commission and the minister as the villains in the play, suspected of being in league with interstate developers, and their opponents did not hesitate to do so.

How the worm has turned, Mr Speaker. Another quote from the same page reads:

The all-powerful NCDC was seen to have feet of clay; people who had hitherto been indifferent began to take an interest in planning matters and to protest. And many became infuriated by their sense of powerlessness.

Powell responded with actions calculated to reinforce that sense. When his opponents complained vociferously about the shortage of parking in Civic created by the increase in office accommodation, he had the grassy slopes of City Hill torn up and replaced, almost overnight, by vast areas of bitumen car park, half of which remain largely vacant to this day. Such actions were perceived as arrogant and contemptuous of public opinion.

Mr Speaker, those sorts of things, I think, have been - I would say very substantially; some might argue about the extent - remedied by self-government. I find it, therefore, highly ironic to hear people like Mr Powell make comments of this kind in respect of these sorts of actions by the ACT Government. He draws attention to the process whereby section 41 in Manuka is to be released for construction of a development on that site. He says that the Government has:

failed to observe its requirements for public consultation and prior consideration of social and economic impacts.

I need to draw to his attention that, in fact, there are two processes at work here which more than adequately address that question of public consultation and deal with other issues concerning that development. First of all, of course, there is the mandatory preliminary assessment under the Land Act which requires the successful tenderer to have a full public consultation process. There is also a second process we have put in place in this matter, and that is to take the tenders that are going to be handed in, or have been handed in, on this process and put them there for public gaze - put them on the table for people to comment on over the next six weeks or so.

Mr Speaker, I wonder about the kind of person who would overlook all of that in making these sorts of claims. I cannot go into all the details of what Mr Powell says.

Mr De Domenico: Where does he live?

MR HUMPHRIES: That is a very good question, Mr De Domenico. He makes all sorts of wild accusations about the car park. He says it is not designated for a purpose other than a car park. Well, the Territory Plan allows for this development, Mr Speaker, and that matter is on the record. He makes false claims about the size of the increase in the gross floor area at Manuka. I will not go into that.

I will make one further comment, though, Mr Speaker, and that is that I was attending a public meeting the other day at Manuka where someone in the audience asked Mr Powell whether he had a retainer from the Lend Lease Corporation. Mr Powell did not deny that. I understand he had earlier in the day conceded that, in fact, he had at least done work for Lend Lease outside the ACT. It is a matter of record that Lend Lease, of course, will be significantly affected potentially by a major supermarket development in South Canberra. The people of South Canberra presumably shop in places such as Woden, where Lend Lease has a property, or other places around the city. Mr Powell has been very quick to accuse the ACT Government of collusion with developers and demand appropriate disclosure of interests. I hope Mr Powell will clear up the question that I have raised in respect of this relationship with Lend Lease, to make it quite clear that his are clean hands. I suspect, however, that we see before us a black kettle.

Small Business

MR BERRY: My question is to the Minister for making small business smaller, Mr De Domenico.

MR SPEAKER: Ministers are to be addressed by their ministerial title, not flippancies, Mr Berry.

MR BERRY: I was not flippant, Mr Speaker.

MR SPEAKER: You might not be, but I think you are. You will refer to Mr De Domenico by his correct title.

MR BERRY: Mr De Domenico, the Minister for Business, et cetera.

MR SPEAKER: Thank you.

Mr Moore: You have shortened the title, Wayne.

MR BERRY: “Et cetera” usually covers it; anything you can dream about.

MR SPEAKER: Order, Mr Moore!

MR BERRY: The Minister was quick to claim that small business was on the improve because of the Government’s measures. I refer the Minister to this claim in an article in the *Canberra Times* of 2 December:

... many small business proprietors say any improvement has little to do with the Government.

How do you reconcile your earlier claim with that response? There is this further claim in the article:

ACT Chamber of Commerce and Industry vice-president Peter Dalton said ... many small businesses were still undergoing extreme hardship and were still recovering from upheavals in the public and private sectors?

How do you reconcile your claim with that? The article continues:

He said many small businesses dealing with specific products were disappointed in the lack of encouragement provided by the ACT Government.

How do you reconcile your claim with that statement? Do you think your claim and the facts are reconcilable? In the *Canberra Times* of 30 November there is an ad from firms called Personally Yours and Canberra Uniform Centre. It reads:

to the concerned businessperson:

Let's send Kate a message.

My turnover figures for July-October are up ... down -

by a percentage figure -

If you can still afford a stamp, send this ad to Box 3337 Manuka ACT 2603

It then mentions the names of the companies. How do you reconcile your claims with that ad? How do you reconcile your claims, Mr Minister, with the responses from ACT businesses, as I have described?

MR DE DOMENICO: I thank Mr Berry for his question. Mr Berry, of course, does not mention the fact that there is, for example, a 5.3 per cent increase in retail sales in the ACT which, I am told, is higher than the national average. That tells me that at 5.3 per cent we are higher than the national average.

Mr Whitecross: Is that what small business is telling you?

Mrs Carnell: It is what the Bureau of Stats is telling us.

MR DE DOMENICO: Some small businesses in Canberra are doing quite well, and that is what the Bureau of Stats is telling me. Unlike Mr Berry, who all of a sudden has become, supposedly, Mr Business, I go around and speak to plenty of small businesses, one to one.

Mr Whitecross: And they all say that they are doing well?

MR DE DOMENICO: Many of them say that they are doing okay, Mr Whitecross. They all say that they have had hardship. I agree with Mr Dalton that there are many small businesses out there still doing it real tough. If Mr Berry had listened closely to what Mr Dalton said on radio and if he had spoken to Mr Dalton, as I have, by the way, Mr Berry, he would have also realised that 60 per cent of those people surveyed by the *Yellow Pages* that Mr Dalton was talking about were, in fact, happy with the performance of the ACT Government. The fact that 40 per cent were not happy and 60 per cent were happy tells me that a significant number of small businesses in the ACT were happy. The ones that are not happy we talked to as well, Mr Berry. This Government is not perfect yet. We are very close to it, I might say.

In fact, I am glad that Mr Berry asked me that question, because the Assembly has discussed at length many of these initiatives that the Government has put in place for small business. These include an increased capital works program, the business incentive scheme, the Business Development Fund and the efforts of Cantrade. We have not fallen into the trap of allowing either ourselves or the ACT economy to be disheartened by those opposite, including Mr Berry, who stand up and predict doom and gloom all the time; nor have we rested on our laurels. Only last week, for example, for the edification

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of Mr Berry, I announced the establishment of a business link service designed to directly assist business in the Territory to grow and build for the future. Whom did I do that with? With the Chamber of Commerce and Industry. They are very happy to work very closely with the Government. They actually talk to us.

Mr Berry picks up a little article that he read in the *Canberra Times* and says, "Just because it says so in the *Canberra Times*" - I do not know who wrote it; it quoted a little bit of what Mr Dalton said - "therefore, let us try to play political football".

Mrs Carnell: It shows they have nothing else to say.

MR DE DOMENICO: They have nothing else to say. It is also in line with our commitment to provide resources at the sharp end of the Public Service. He mentioned the Public Service as well. Mr Whitecross and Mr Berry will throw their arms up in the air and cry, "Business advice is a service that should be provided by the Government". What we are doing is making sure that any small business in the ACT that is in trouble now has a mentoring service where they can actually ask questions of businesses which are not in trouble and which have been successful, so that they can survive. Yes, we all know that some small businesses in the ACT are doing it hard and will probably continue to do it hard. But at least we are not sitting on our hands or resting on our laurels; we are working very closely with the business community to help, and we will succeed.

MR BERRY: When will this Minister concede that most small businesses are hoping that it will not get any worse under this Government?

MR SPEAKER: That is a rhetorical question. I do not know how the Minister can answer that.

Very Fast Train

MR HIRD: My question is to the Chief Minister. Can the Chief Minister inform the house whether there has been any progress in recent times in discussions between the ACT, New South Wales and Federal governments regarding the very high speed train between Canberra and Sydney?

MRS CARNELL: Thank you very much, Mr Hird. Again, all those opposite do is laugh. Today, interestingly, is Mr Whitecross's nine-month anniversary in the job and he still has to come up with an idea. That is just one of those things. Mr Speaker, I would like to thank those opposite for giving me a pair this morning because I was having a meeting with the Prime Minister. The Prime Minister, I am delighted to say, today announced that the Commonwealth will be supporting a tendering process for the development of the very high speed train between Canberra and Sydney. The Prime Minister, Bob Carr and I have agreed that expressions of interest should be called from the private sector for this really important project. That takes the project from the feasibility stage to the implementation phase. I am fascinated, Mr Speaker, that those opposite are laughing and still knocking a project that Ms Follett supported.

MR SPEAKER: Order! The Chief Minister has the floor. This is an important answer on an important issue that concerns all of us.

Mr Berry: Mr Speaker, on a point of order: I do not think it is within your purview to comment on the importance or otherwise of an answer. It is within your purview to uphold the standing orders.

MR SPEAKER: There is no point of order.

MRS CARNELL: I believe that this announcement today is probably the most significant announcement in the long history of this concept - a concept that certainly Ms Follett supported, much to her credit. I believe that it is very important, Mr Speaker. By the way, so does Bob Carr. It appears that the only people who do not think it is important are those opposite.

In effect, all three governments, by putting this project out to expressions of interest now, are basically saying to the private sector, "Put in your bids". The project will proceed if what the private sector has told us is true, and that is that they can do it at no net cost to government. We will get the very fast train. The agreement between the three governments is that a project group comprising officials from all three governments will oversight the next part of the project, which will take six months. At the end of that time we will be able to select a preferred consortium for the project. In short, we are saying to the private sector that it is time, I suppose, to put up or shut up with regard to this very important project. The private sector consortiums which are interested in developing this project can now proceed with confidence, knowing that all governments involved - the ACT, New South Wales and Federal governments - are right behind and support this project. If it is now possible, as the private sector has told us all the way through, for this project to be able to be put together at no net cost to government, then it will go ahead.

Mr Speaker, this is one of the most important days for the ACT. The very fast train concept is not a concept anymore. It is now, as I said earlier, going into the implementation phase. This is one of the most important projects for this city and this region. It is absolutely atrocious that those opposite laugh and snigger and put a project of this sort of import down. Mr Whitecross, who for nine months has come up with not one idea, said, "There is a better way; we are just not quite sure what it is". I believe that virtually everybody in the ACT, except maybe those opposite, supports this proposal. I believe that we should be very pleased that finally all three governments have come together and will be working together to get this project one step further.

Civic Swimming Pool

MS REILLY: I have a question for the Minister for Sport. When the management of ACT pools was put to tender, did you tell all the prospective tenderers that they would be permitted to leave the bubble over Civic pool? Why was not the Royal Life Saving Society invited to tender?

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MR STEFANIAK: I think you might find, if you ring up the Royal Life Saving Society, they did put in a tender. They put in a tender for Dickson, I think you might find. I do not think Mr McGibbon would mind my saying that. Mr Hird, who is involved with them, will also say that.

The bubble is a contentious issue, of course, and is something that some of us old Canberrans, I suppose, have a bit of trouble coming to grips with because it is only a relatively new thing. However, the current managers of the Civic pool, where the bubble is, are keen to trial the bubble over summer. That was their wish.

Ms McRae: That is not the question. Why don't you answer the question?

MR SPEAKER: Order! The Minister will answer the question as he sees fit.

MR STEFANIAK: That was mentioned, I understand, to the Government tender panel when they put in their expression of interest for that pool. Once they were successful, they indicated that they did wish to trial it. It is something that I have taken an interest in. I have spoken to a lot of people about it - people for it, people against it. People for it include people such as the Cancer Society of Australia and certain swimmers. There are certain swimmers, obviously, who are very much against it as well. It is something I have also bounced off all the members of this Government, to get their views on the proposed trial over summer. Accordingly, we are having a trial over summer. It will be monitored very closely. I will be monitoring the monthly figures from all the pools, Ms Reilly. If it is not a successful trial, the current managers will have no problem in not proceeding with it next year. I do think it is something which they should at least be given a chance to trial.

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

MS REILLY: Thank you, Mr Speaker. Minister, can you table a list of who was invited to tender and who actually tendered, and a copy of the tender documents that were given to each of the invitees?

MR STEFANIAK: I can do the latter, I think, Mr Speaker. I do not think there is any problem with that. The other bits of information you require are probably commercial-in-confidence, Ms Reilly, but I have absolutely no problems with tabling the tender documents.

Mr Humphries: Tenders often are.

MR STEFANIAK: Tenders often are. I have no drama, Ms Reilly, with asking all the people who tendered whether they mind having their names published. Certainly, the tender document can be tabled and will be.

Canberra - Growth

MR MOORE: My question is to the Chief Minister and refers to an article in the *Australian* this morning. I do not know whether the Chief Minister is aware of it. It was written by a prominent Liberal member, former Prime Minister Malcolm Fraser. I need to take a little bit of time to give you the sense of the article. He said, amongst other things:

I have been appalled at the steady and continuing growth of Canberra.

Later he said:

... it is a spoilt community ... it is isolated and unaware of much of what is happening throughout Australia. There is a great substance to that criticism.

...

There are three or four main communities in Canberra and the mingling between them is not all that great.

He identifies these communities as the military, politicians, public servants and journalists and goes on:

We now have second and third-generation public servants in Canberra ... what else is there for the son or daughter of public servants to do?

He concludes by saying:

With a much lesser Canberra, we could be much better governed.

Chief Minister, is Malcolm Fraser just voicing a widespread view of Liberals around Australia which is best summarised by his own famous words "life was not meant to be easy"? Perhaps it is different in rural Warrnambool. More importantly, Chief Minister, what are you going to do about this article that appeared in the *Australian*?

MR SPEAKER: You can answer the second part of that question. The first part is hypothetical.

MRS CARNELL: It was hypothetical; but I would love to answer it, Mr Speaker, because I was horrified when I read it, as I am sure everybody in this place was horrified. It showed that Malcolm Fraser does an awful lot of what a lot of politicians do, and that is get in a cab or a big white car at the airport and go to the hill. They would not have a clue what happens in this city. Quite honestly, there is no excuse for that sort of behaviour. I actually raised it this morning with the Prime Minister, and he also expressed his concern at those sorts of statements. Mr Speaker, there is no excuse for somebody in Malcolm Fraser's position to make those comments.

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Mr Whitecross: He should leave the Canberra bashing to the current Prime Minister.

MR SPEAKER: Order! The Chief Minister is answering the question, not you.

MRS CARNELL: Mr Speaker, I understood that Mr Moore asked me what I was doing about it. One of the things I was doing about it was raising it with the current Prime Minister because I believe that is something really important. It was in the context of speaking to the current Prime Minister about, obviously, the very fast train project but also about the attitude of some to Canberra. I used this as an example of stupidity and unacceptable behaviour on the part of people who should know better. Making those comments about public servants and others in Canberra shows that he knows nothing about Canberra.

We will certainly be writing to the *Australian* along those lines. I believe everybody in this house should, and I think Canberrans should as well. It is about time that uninformed or ill-informed Australians said, "No; it is not good enough anymore to bag the national capital". This is not our national capital; it is a national capital that belongs to all Australians, Malcolm Fraser included. It was fascinating to me, Mr Speaker, for Malcolm Fraser to make comments about how Canberra had grown far too much. A lot of that growth happened when he was Prime Minister.

MR MOORE: I have a supplementary question, Mr Speaker, on the Chief Minister's meeting with the current Prime Minister. Is not Malcolm Fraser simply voicing, though, what the current Prime Minister is actually doing?

MRS CARNELL: That is a hypothetical question, Mr Speaker.

MR SPEAKER: I uphold that.

Mr Moore: There is nothing hypothetical about what he is doing.

MR SPEAKER: How would you know?

MRS CARNELL: I did put to the current Prime Minister real concerns about the attitudes that seem to be emanating from the hill at this stage and again raised the issue of where the current Prime Minister lives. I believe he should live here in Canberra.

Mr Whitecross: That was the first time.

MRS CARNELL: It was not the first time, I can promise you. I also made a number of points with regard to the attitudes that appear to be coming from the hill. I hope that we will see a change, Mr Speaker.

School Canteens - Provision of Firefighting Equipment

MS McRAE: My question is to the Minister for Education. Minister, it has come to our attention that in one new school in the ACT parents working in a canteen are cooking things like hamburgers and have neither a fire extinguisher nor a fire blanket to use. We have been informed that, according to the Building Code, they do need a fire extinguisher or a fire blanket if they are cooking things in oil, such as chips. However, I do want to inform you that they are actually cooking hot food on stoves. Can you explain why the department will not supply either a fire blanket or a fire extinguisher to the school?

MR STEFANIAK: I thank the member for the question. If she will provide me with details of the school, I will follow that up and see what the situation is.

MS McRAE: I have a supplementary question, Mr Speaker. Would you also find out what departmental policy is on the provision of these things, because the school has been firmly told that it is policy not to provide them.

MR STEFANIAK: I will also take that on notice and follow that up, Mr Speaker.

Children's Services Legislation

MS TUCKER: My question is to Mr Stefaniak. Can the Minister explain in detail the process that is taking place for the preparation of a draft Children's Services (Amendment) Bill; the consultation that has taken place until now, including a list of the stakeholders that have been involved in reviewing the legislation; and the consultation that it plans for the future in the preparation of a draft Bill?

MR STEFANIAK: I thank the member for the question. I am naturally uncertain about all those people, but it is very important, Ms Tucker, that the Children's Services Act 1986 actually be reviewed. It is an Act that is in need of an overhaul. There are a number of problems with it. There are a number of sections that need to be added to it. It is now 10 years old. It does need revision to reflect modern child welfare practice. Since we have been in government I have had a number of talks with a number of people in the sector and other members who are key stakeholders, I suppose, in the sector, ranging from the Chief Magistrate, Ron Cahill, downwards and outwards. There are a lot of people who have a real interest in relation to this matter.

The recruitment of a project officer for six months is currently being finalised, and that project officer of the department will work with all interested groups to draft a document that will form the basis of consultation with the community. It is envisaged that that document will be circulated in the first half of next year, with the intention of drafting a new Bill for presentation to the Assembly in early 1998. We have looked pretty closely, within the bureau and also within government, at how quickly we can get this process done and give it proper weight, proper consultation and proper thoroughness.

That seems to be about the best timeframe to enable everyone who has input to have that input. You are quite right, Ms Tucker, in highlighting it as a very important area that is in need of an overhaul. We want to make sure that is as proper and as thorough as possible.

MS TUCKER: I have a supplementary question, Mr Speaker. I understand that you are saying that you have appointed a project officer. I would like to know whether that person is from within a government department or is a consultant. I am also still not clear on the answer to my question, which was: What have you done in reviewing the present legislation? What stakeholders have been involved in that aspect of looking at this Act? I hear that you are going to draft something else now, but I want to know what you have done until now. Who has been involved in the review of the existing legislation?

MR STEFANIAK: When you are looking at amendments to the legislation, you are talking about a review and a review to fully amend it. There have been a number of piecemeal things occurring - not so much knee-jerk reactions, I suppose, but absolutely essential things which needed to be passed, like the latest amendments we passed in November, which all members supported, making the interests of the child paramount. Those amendments were to section 5 and section 82 or 83 of the Act. They were small but important amendments as a result of a court case when the problems really came to light. There have been those sorts of urgent amendments required along the way. All the people who work regularly in the area stress this need for a thorough revision, and that means a thorough overhaul of the existing Act. It is being reviewed; sections of it will be amended; and perhaps new sections will be added. That is why we are going into this process now, which is something all the stakeholders in the area are very keen to see happen.

Ms Tucker: But who has been involved up to the draft point? Who has been involved so far?

MR STEFANIAK: This draft is a thorough revision of the Act, Ms Tucker, and that involves redrafting and drafting a lot of new sections so that we can have a complete overhaul of the Act. What will come before this Assembly will be, as a result of that consultation, very detailed legislation to bring this Act up to date, which it clearly needs at present. It needs a major overhaul. I think most people in the area will tell you that, and that is what we are embarking upon.

Administrative Appeals Tribunal - Orders on Costs

MS FOLLETT: I direct a question without notice to the Attorney-General, Mr Humphries. Minister, I refer you to a recent decision of the Administrative Appeals Tribunal concerning an application under the Nature Conservation Act for the import of a grand eclectus parrot in which the department was found to be at fault. In his reasons for his decision, the president of the AAT said - and I will quote him but not use the name of my constituent:

Mr ... has been largely vindicated by the decision of the Tribunal ... If the Tribunal had the power to order costs, this is plainly a case in which it would have been proper to order the respondent Agency to pay the greater part of the applicant's costs of the appeal.

He went on later:

In the circumstances, I think it appropriate that I should recommend to the Attorney-General that the Government consider paying part of Mr ... costs in respect of these proceedings.

Minister, given that this is a most unusual recommendation for the Administrative Appeals Tribunal to make, my question is: Will the Government meet the costs of the appellant in this case? If so, what will be the sum involved?

MR HUMPHRIES: I thank Ms Follett for that question. I have seen some advice from my department about that matter. I believe that there was some advice about ongoing action in respect of that matter. My impression from the advice, which I saw some months ago, is that there are further issues still before courts in respect of that same matter. However, I do not have with me a brief on the issues Ms Follett has raised. I am very happy to take it on notice and give her a reply as soon as possible.

Sportsfields - Watering

MR OSBORNE: My question is to the Minister for Sport, Mr Stefaniak. Minister, I refer to my question a couple of weeks ago as to the Government's intention to reduce the level of watering applied to sportsgrounds and ovals to achieve a possible annual saving of about \$260,000. Can you confirm, Minister, that you have met with Mr Keith McIntyre, an internationally recognised expert in turf management, who, you indicated when I spoke to you, may have a few good ideas? As a result of that meeting, have you agreed to abandon this cost saving proposal to reduce the current levels of watering and reinstate full watering as of last week?

MR STEFANIAK: Mr Osborne, I am pleased to note that we did have a very productive meeting with not only Keith McIntyre, who, certainly, is most experienced in the area, but also officers from the bureau and Geoff Ellis, the 2IC of OFM. As a result of that meeting, we have sorted out the current problem of watering. I stressed to you last time that the reduction was only in terms of, "We would do it if it was not going to hurt ovals; and if we needed to increase the watering, we would". In fact, we have been pretty lucky to date, too, in having had a fairly wet season, but we are coming into a much drier patch. Watering is, certainly, back at full strength, Mr Osborne; and that is important. As you said, there were some very good ideas there - you are probably well aware of some of them - and there are some excellent ideas about how we can better manage our sportsgrounds quite efficiently, which involve sensible cost savings and more efficient management of the sportsgrounds generally.

The perennial problem with watering, Mr Osborne, you will be pleased to know, is currently being worked out as a long-term project in terms of the long-term watering usages and how we budget for that between the Bureau of Sport, Recreation and Racing and OFM. It was a very productive meeting. There were some excellent ideas from not only Mr McIntyre but also, might I say, Mr Ellis. I think a lot of good for the Territory in relation to watering of sportsgrounds will come out of that in the very long term. You will be pleased to know the immediate problem, as far as you were concerned, is certainly solved. I think there are going to be a lot of long-term benefits for the Territory as a result of that meeting.

MR OSBORNE: I have a supplementary question, Mr Speaker. Are you able to provide the Assembly with some of the details of the ideas that came out of that meeting - now or at some stage?

MR STEFANIAK: Probably, at some stage, yes. There are certainly a few areas being worked out between OFM and Sport and Recreation. I think they need to develop those programs further. There are about four or five points which Mr McIntyre made in relation to more efficient management of sportsgrounds which we are investigating. I am sorry I cannot think of all of them off the top of my head, but I am happy to dig out my notes and get back to you in the next few days in relation to that, if you want that to occur.

ACTION - Christmas-New Year Services

MS HORODNY: My question is to the Minister for Urban Services. I note that ACTION intends to reduce its daily bus services for three weeks over the Christmas-New Year break to the Saturday timetable which, for most routes, means that there will be a one-hour wait between buses. When this was tried last Christmas, it was described in the media at the time as a public relations disaster for the ACTION bus service, with long delays between buses, overcrowding on some services and poor connections at interchanges. Could the Minister tell us how those people who regularly use buses to get to work, in particular, and who are not taking time off over Christmas are expected to get to work during those three weeks?

MR DE DOMENICO: I thank Ms Horodny for the question. Can I say that the decision by ACTION to have a holiday timetable at that time of the year is something that ACTION has been doing for quite a number of years. I am assured by ACTION that, this time, should there be a situation where people need extra buses in the high-peak times in the morning and at night, to go to and from work, those buses will be provided.

Works and Commercial Services - Corporatisation

MR WOOD: My question to Mr De Domenico relates to the transfer of Works and Commercial Services personnel to Totalcare. Minister, I refer to your response to my questions in the recent Estimates Committee hearings when you said, most clearly, that all existing staff numbers would be maintained and that there would be no involuntary redundancies. Further, you said that workers would have the same conditions as they had in DUS. Minister, are workers now being pressured to accept lesser conditions, such as lack of permanency, and are you endeavouring to reduce the number of employees?

MR DE DOMENICO: I thank Mr Wood for his question. Mr Speaker, the Government did make a commitment that all workers would be transferred under the same EBA as now. The Government stands by that commitment.

MR WOOD: I have a supplementary question, Mr Speaker. Could the Minister ensure that those carrying out the negotiations with the Government are fully aware of this statement so that they may see that it is implemented?

MR DE DOMENICO: I will; and I also ask Mr Wood, if he has any examples where that is not happening, to come and see me, and we will make sure that the Government's commitment stands.

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

PERSONAL EXPLANATION

MR BERRY: Mr Speaker, I seek leave to make a personal statement pursuant to standing order 46.

MR SPEAKER: Proceed.

MR BERRY: Mr Speaker, in question time today I mentioned an advertisement in the *Canberra Times*. I seek leave to table a copy of that part of the *Canberra Times* which contains that advertisement.

Leave granted.

MR BERRY: Furthermore, Mr Speaker, this morning Mrs Carnell mentioned, in what was an attempted point of order, that there was some doubt about the issue of jobs which I had mentioned in the course of a speech this morning. There were some mutterings about misleading, which I suppose were directed at me. I wish to make it clear to the Assembly that I am not misleading - - -

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Mr Humphries: Mr Speaker, on a point of order: No-one said anything about misleading at that time, as I recall. Mr Berry's comments were disputed, but no-one made a statement about misleading. Mr Berry, no doubt, mentions the word "misleading" because that gives him a leg-up under standing order 46. In fact, that was not said. I think the record will show that it was not said. Mr Berry should use the adjournment debate to make his points, rather than now.

MR SPEAKER: Do you wish to table that?

MR BERRY: For the record, I wish to table the labour force status figures, item 19, which shows, Mr Speaker - - -

Mr Humphries: Mr Speaker, I rise again on the same point of order.

MR BERRY: No; wait a minute. I want to table the figures, for heaven's sake.

Mr Humphries: Mr Speaker, I rise on the same point of order. There is no basis on which to table them. I could table my laundry list, but it has no relevance to anything to do with the issues before the Assembly.

MR BERRY: I was accused, Mr Speaker - - -

Mr De Domenico: By whom?

MR BERRY: By the Chief Minister, this morning; I was accused of attempting to mislead this chamber. I want to put the record straight, and I feel I am entitled to do that.

MR SPEAKER: I was not aware that you were accused of misleading. If you wish to table that document, I will put your request for leave to the Assembly.

Leave granted.

MR BERRY: Thank you. I will now go to the issues in the document, Mr Speaker, which were disputed this morning.

MR SPEAKER: As your personal explanation.

MR BERRY: Indeed. I said that there were 5,600 fewer jobs in the last 12 months. This document makes that very clear, because in October last year there were 159,700 people totally employed; there are now 154,100 - that is 5,600 fewer. In October last year there was a 7 per cent unemployment rate; there is now an 8.5 per cent unemployment rate. The total number of people unemployed has grown since October last year from 12,000 to 14,300 - - -

Mr De Domenico: On a point of order, Mr Speaker: Can Mr Berry be asked to tell us exactly what is his personal explanation?

MR SPEAKER: His personal explanation is, I believe, Mr De Domenico, coming to a conclusion now because he has just read information from the document that he has been given leave to table.

MR BERRY: And if you check the records back to when you first started government you will find that there are 2,600 more on the unemployment list.

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

MR SPEAKER: Resume your seat, Mr Berry. There is another point of order.

Mr Kaine: A personal explanation can be only to set the record straight. What Mr Berry did was nothing of the kind. He simply reiterated what had occurred this morning. It was not a matter of personal explanation at all. It was just another opportunity to debate the point.

MR SPEAKER: As far as I am concerned, Mr Berry was making a personal explanation, using those figures, and he has concluded.

FINANCIAL MANAGEMENT REPORTS

MR WHITECROSS (Leader of the Opposition): Mr Speaker, I seek leave to table an extract of section 26 of the Financial Management Act so that the Treasurer can familiarise herself with her obligations under the Act.

Leave granted.

MRS CARNELL (Chief Minister and Treasurer): Mr Speaker, I think I made it clear in question time that we planned to release monthly statements from now on.

MR SPEAKER: You did.

STANDING ORDER 37

Mr Moore: I have a point of order under standing order 37, which charges you, Mr Speaker, with maintaining order. Standing order 37 states:

Order shall be maintained in the Assembly by the Speaker.

Mr Speaker, at the end of many question times we have Mr Berry standing up to make some false use of standing order 46 or standing order 47. He will now also seek to interrupt, Mr Speaker, while I am making a point.

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Mr Berry: I can - - -

MR SPEAKER: Order!

Mr Moore: He will continue to - - -

Mr Berry: On a point of order, Mr Speaker: I can - - -

MR SPEAKER: Resume your seat, Mr Berry. Mr Moore is taking a point of order.

Mr Moore: The point I am making is aptly illustrated there, Mr Speaker. You were required to instruct him twice. He wilfully disobeys and is now wilfully disobeying the Speaker. He constantly wilfully disobeys the Speaker, which is contrary - - -

Mr Berry: Mr Speaker, on a point of order - - -

MR SPEAKER: Resume your seat for the moment, Mr Berry. Mr Moore is taking a point of order.

Ms McRae: No; Mr Berry has a point of order. He is entitled - - -

MR SPEAKER: Order!

Mr Berry: Under standing order 61, Mr Speaker, I am entitled to rise at any time.

MR SPEAKER: Indeed; but I am asking you not to interrupt another member. Mr Moore has the floor. Resume your seat and I will listen to you later.

Ms McRae: Mr Speaker, on a point of order: Standing order 61 allows members to interrupt to take a point of order. Mr Speaker, I urge you to read that standing order.

Mr Moore: He certainly cannot, Mr Speaker. That is a ridiculous interpretation. Indeed, Ms McRae's interruption is also entirely out of order. It is a very strange interpretation that somebody should be able to interrupt a point of order of somebody else by trying to make a point of order themselves.

MR SPEAKER: Standing order 37, Mr Moore.

Mr Moore: The point that I am making now, most significantly, Mr Speaker, refers to standing order 202, which was aptly demonstrated there. Mr Berry simply is not following your instructions to keep order. If he does it again, Mr Speaker, you ought to name him. I would certainly be happy to support booting him out.

MR SPEAKER: I thank you for drawing my attention to standing order 37, Mr Moore. Do you have a point of order, Mr Berry?

Mr Berry: Pursuant to standing order 61, Mr Speaker.

Mr Moore: On a point of order, Mr Speaker: I also ask you to clarify standing order 61. Can somebody take a point of order on somebody who is already in the middle of taking a point of order?

Mr Berry: Mr Speaker, let me read to you standing order 61. Mr Moore obviously has not taken the time to look at it. He is not very good on standing orders. It reads:

A Member may not interrupt another Member whilst speaking unless: -

that is a very important word -

(a) to call attention to a point of order - - -

MR SPEAKER: Order!

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

MR SPEAKER: Order!

Mr Moore: Thank you, Mr Speaker. Just to illustrate how ridiculous Mr Berry's notion is, I took a point of order.

MR SPEAKER: Thank you. I would draw everybody's attention to that comment.

PERSONAL EXPLANATION

MS FOLLETT: Mr Speaker, I seek leave to make a statement under standing order 46.

MR SPEAKER: Proceed.

MS FOLLETT: Thank you, Mr Speaker. During question time, in response to the first question to Mrs Carnell as Treasurer, I consider that the Treasurer gave the impression that previous governments had not produced financial reports. I want to make it very clear that, in government, Labor did produce quarterly financial statements. They were made available to all members. That was through a requirement of the law at the time. Mr Kaine did the same thing when he was Treasurer; so I will make the statement on his behalf as well. I will go further, Mr Speaker, and say that the quarterly reports that were produced by both me as Treasurer and Mr Kaine as Treasurer are, in fact, no more and certainly no less than what the current Treasurer has done so far.

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AUDITOR-GENERAL - REPORT NO. 9 OF 1996
ACT Cultural Development Funding Program

MR SPEAKER: I present, for the information of members, Auditor-General's Report No. 9 of 1996, entitled "ACT Cultural Development Funding Program".

MR HUMPHRIES (Attorney-General) (3.24): Mr Speaker, I seek leave to move a motion authorising the publication of the Auditor-General's report.

Leave granted.

MR HUMPHRIES: I thank members. I move:

That the Assembly authorises the publication of Auditor-General's Report No. 9 of 1996.

Question resolved in the affirmative.

PAPERS

MR DE DOMENICO (Minister for Urban Services): For the information of members, and pursuant to the Territory Owned Corporations Act 1990, I present the Memorandum and Articles of Association for ACTEW Energy Ltd and the Memorandum and Articles of Association for ACTEW Investments Pty Ltd.

CORRECTIONAL FACILITY
Discussion Paper

MR HUMPHRIES (Attorney-General) (3.25): Mr Speaker, for the information of members, I present a discussion paper entitled "The possible establishment of a correctional facility in the Australian Capital Territory". I move:

That the Assembly takes note of the paper.

I have presented a discussion paper on the possible establishment of a correctional facility in the ACT. This long-awaited paper is for the information of members and, more importantly perhaps, for the wider community, in order to have a full debate about this important proposal. The paper is the most significant options study we have had on the establishment of a full correctional facility in the ACT. It is not final Government policy and it should not be read as a management plan. It should, however, be read as it was intended - a paper designed to generate public discussion and informed debate on the options and issues surrounding the establishment of a correctional facility.

The paper makes several recommendations. The first recommendation is to close the Belconnen Remand Centre by the year 2000. Frankly, I think this is a necessary decision. The Belconnen Remand Centre is outdated. It is significantly stretched and it is not a desirable place to manage the future needs of detainees and staff. If a new facility is to be established, the paper recommends that it feature a combined remand and sentenced prisoner option. There are obvious merits in this course of action - efficiencies in services, being able to run a facility cost-effectively, and containing the facilities within the one complex. This system seems to work reasonably well in some facilities in other States and I think it is worth consideration.

The paper, which has been prepared by the assistant director of Correctional Services, Ian Fitzgerald, is a carefully considered analysis of the arguments used to deal with the issues which will be raised in the way we manage our prisoner population in the future. Importantly, the paper analyses the future need for a facility. Some analysis is undertaken of the rates of imprisonment imposed by ACT courts. ACT rates are the lowest in the country, at 49 per 100,000 head of population. If our figures were anything like the national average, of 118 per 100,000 head of population, we obviously would expect a substantially higher number of prisoners requiring accommodation. We currently have between 110 and 120 people imprisoned or remanded in custody. If our rate of imprisonment were equal to the national average, that figure would be more like 260 people. The reality is that, in the future, our prison population will rise. Even in the last 12 months the prison and remand population has risen.

At some stage it is appropriate for the ACT to have an informed community debate about the future needs of correctional policy. Mr Speaker, I submit that the time is now. Do we continue to spend nearly \$5m on sending sentenced prisoners to New South Wales? That gives us a place to put our prisoners, but no say in the directions and policies used for rehabilitation and program management. Or do we give serious consideration to spending ACT taxpayers' money rehabilitating ACT prisoners in a facility designed to deal with ACT prisoners? That cost may be more than \$5m, but the extra benefits, I think, may be worth that money. That is the question we must all ask ourselves. At some stage we have to accept the responsibility of dealing with our own prisoners.

The paper also suggests that the public sector should be encouraged to bid against the private sector for the construction and management of the new facility. I think this is a very good idea. While I have been a supporter of the private sector being involved in this project, this has been on the basis that the private sector has historically, at least in the sense that it has had an historical involvement with corrections in this country, been more cost effective in managing custodial facilities. In fact, Mr Speaker, the private sector's arrival in the sector has also operated to lift standards in the public sector and produce, I think in some cases, more cost-effective outcomes. In Queensland, recently, I had the opportunity to visit the new Woodford Correctional Centre north of Brisbane. I was not visiting anywhere quite as exotic as Great Keppel Island, Mr Speaker, but the Woodford Correctional Centre was certainly worth a visit. This is a facility being constructed and run by the public sector, but, interestingly, the Queensland Corrective Services Commission won a bid against private competitors to construct and run the centre.

I have an overriding concern for a cost-effective and efficient administration of the correctional centre. Frankly, whether that be a public sector operation or a private sector operation is not a decision which is at the forefront of my thinking. There is no need for a ideological debate on this question, in my view. There is absolutely no doubt, as this report says, that the public sector has become more efficient in correctional centre management in recent years. Part of that is a natural evolutionary process, but part is due to the introduction of competition. If competition creates a public sector willing to price its services accordingly, then the ACT Government would be silly not to consider this source.

A key area we can focus on in the development of this question is the area of inmate management. I say in my foreword to the report that prison philosophy in many ways has not changed much since this nation was one big prison for our then colonial masters. My view is that we have an immense opportunity here. The twenty-first century will bring about a more modern focus on correctional management. We want to focus on rehabilitating inmates, educating them and preventing them from reoffending. Regrettably, all too often people come out of prison even more hardened than when they went in. The problem with prisons is that they change so slowly. The "them and us" culture has become so entrenched in prison management that it will be difficult to witness a substantial cultural change in our lifetime. But, as I said, we do have here an opportunity to hasten that level and that degree of cultural change. We have no baseline in a sense here in the ACT which we need to deal with. We are starting in one sense from scratch. If we develop a modern custodial facility and implement management and work practices which are modern and forward thinking, there is no need for us to encounter the same problems as have been occurring in other prisons for years. This paper, Mr Speaker, raises substantial issues which the community needs to consider in an informed context. I think this discussion paper is an excellent start, and I hope that the Assembly and the wider community can have a genuine debate on this issue.

I should not conclude my remarks without referring to the comments of Ms Follett on ABC radio this morning. I want to welcome what I think is fairly described as a shift in Labor Party policy on this issue in recent times. My recollection is that for a number of years Ms Follett and Mr Connolly, her predecessor, rejected or at least put arguments against the establishment of an ACT correctional institution. There is no shame in changing policy. We have done so ourselves in the last few days on another significant issue. I hope that all parties in the Assembly will be prepared to consider change where that is appropriate. We have seen a shift in that policy on the part of the Labor Party and I hope that we can have a contribution to the debate which allows us as an Assembly to debate not just the question of whether but also a question of how and when we effect what I think is an important facility to enhance and further social justice in the Territory. It is my hope that we can bring this paper back for a considered debate in the first half of next year after perhaps some measure of public debate on the issue. I commend the paper to the Assembly for that purpose.

MS FOLLETT (3.33): Mr Speaker, I welcome Mr Humphries's production of this discussion paper and I congratulate the officers who have been involved in preparing it, particularly Mr Fitzgerald. I think it is a valuable contribution to what must be a very necessary and very timely debate in the ACT on the future of our corrections system.

Mr Speaker, I want to make a few comments on the matter whilst it is still current. The first thing I want to say is that I do not believe that there has been so much a change in the Labor Party's policy but rather perhaps a shift in emphasis. Previously, up until, say, earlier this year, the party's written policy was that an ACT Labor government would not construct a prison within its first five years of government. We have had five years of Labor government and we did not construct a prison. I consider that that policy has been fully satisfied and it is time to adopt another one. The matter has been under considerable debate and discussion within a policy committee of the ACT branch of the party. It is a fact that that policy committee has now adopted a position that does envisage the establishment of an ACT prison, and it is that policy committee's intention to recommend that to the party's policy-making forum at conference. So there has been a development of our policy. It is not exactly a reversal, but rather a development.

Mr Speaker, I think that a discussion about a prison is particularly timely as well from another point of view, and that is that in the course of government since 1989 there have been a number of steps taken on the capital works side in our corrections facilities in the ACT. We have, for instance, established the Winchester Centre, the new police headquarters in the ACT, at some considerable cost. We have also built a new Magistrates Court, again at a cost of many millions of dollars. It is perhaps unfortunate that we have come last of all to the very people who are at the sharp end of our judicial and corrections system, namely, the detainees. I think it is time we got around to them, Mr Speaker, and I completely support Mr Humphries's comments about the need to replace the Belconnen Remand Centre. That centre has been studied and inspected and reviewed for at least a decade, if not more, and it has been found to be totally inadequate. It is high time that that noted and accepted inadequacy was translated into a capital works program that actually did something about it. We have been applying bandaid solutions for some years now. We mentioned during the course of the debate on this year's budget that yet another bandaid was to be applied, at a cost of some half a million dollars or so, and that would not solve the problem. Mr Humphries knows that. I know that. The problem will be solved when we replace the facility.

There are a couple of other matters that I want to address whilst we are talking about prisons. The first of those is that a corrections service is far more than bricks and mortar. I believe that it is our obsession with bricks and mortar in the form of prisons and remand centres that has very much constrained the whole debate on how best we can manage the care and rehabilitation of offenders. We have been as obsessed with bricks and mortar in the corrections area as we have been in the hospitals area, the health area, the education system, and so on. This is wrong.

Mr Speaker, rather, in my opinion, we should regard our prison population as a community of people, perhaps a microcosm of our society; a microcosm that consists not just of the offenders themselves but also of their families and their friends, and, equally importantly, of the managers, the administrators, the supervisors and the staff who look after those offenders. That is a very important community of people.

In fact, when you look at it in that way, you will see that our corrections system reaches out into many other aspects of our community, if not all aspects. It is important when we are looking at the issue of offenders and how we deal with them that we look first and foremost at the human element, not at the bricks and mortar, not at the razor wire, not at the height of walls and the electronic surveillance and so on. Look at the people and what their needs are and how they can best benefit.

When you do look at our prison populations it is a frightening sight, in my view. It is frightening to recognise how young these people are. The vast majority of them are under 25 years. It is frightening to realise that the vast majority of them are boys and young men. What is happening to those people? What puts them down this path of offending? We see many young people, especially young men, exhibiting some fairly antisocial behaviour during their late adolescence and early adulthood. We see drunkenness. We see a tendency to aggression and so on. We see some very careless driving. We see some suicidal and murderous driving. In the case of a small number of our young men we see criminal activity. I think we have to bear in mind that these are young members of our society who, perhaps, in many cases, are more in need of care than they are of punishment.

Mr Speaker, it is also frightening to realise that, if you were to take out of our prisons everybody with an intellectual disability, everybody with a mental illness of some kind, and everybody with a drug habit, you would have precious few people left. You would have Anita Cobby's killers, you would have Ivan Milat, you would have Martin Bryant, and you would have a few others of that ilk; but not many of the thousands and thousands of people who are in prison would you keep. I think that is a bit of an indictment of our corrections system. I think it is certainly indicative that we have not dealt well with people who are not coping in our community, and I think it overwhelmingly calls for a change in attitude. It calls for a community to take care of its own offenders and to recognise that this is not a black-and-white issue of "Someone broke the law, so they go to gaol". This is a very multifaceted issue of people, often with multiple disadvantages, ending up on the wrong side of the law. I believe that we have to accept responsibility for those issues as a community, and we have to accept responsibility also for the rehabilitation and the reintegration of those people back into our community.

Mr Speaker, as we send people to the prisons in the New South Wales system at the moment, we expose them to even further disadvantage. In the first place, they are removed from their families and friends - the very people who could set them on the straight and narrow path, perhaps, the very people who could help them through a difficult time. They are hundreds of miles from them. The impact is also on those families and friends. They are deprived of a member they probably love. They want to see them. They want to help them. They cannot get to see them. They have no daily contact with them. The funds that go to the Prisoners Aid Society, who do a wonderful job, are simply not adequate to ensure that the contact between family members or between peers is what we would require. Often a good friend is the very person who can turn your mind around when you are 18 or 22 - not your mother.

We also expose our prisoners in New South Wales to further disadvantage because of the rehabilitation opportunities that they simply miss out on by virtue of the fact of not being in their own community. Work release, for instance, is not of much use to people if they are in Long Bay Gaol and they happen to have their home and perhaps their career prospects in Canberra. It does not work. I believe, as I said, that we have to put that emphasis on reintegrating people, on reducing their risk of recidivism and encouraging their rehabilitation back as fully achieving members of our society.

Mr Speaker, it is also a very sad fact that in the New South Wales prison system, as I understand it, condoms and syringes are not released to prisoners. In my view, that is an extremely short-sighted and foolhardy policy. It means that every sentence has the potential to be a life sentence.

Mr Moore: Or a death sentence.

Mr Humphries: Or a death sentence.

MS FOLLETT: Or a death sentence, as members say, because of the risks that are taken there with the health of prisoners - the risks of diseases that we know are killers. We could change that if we had control of our own prisons.

Mr Speaker, for all of those reasons, I think this debate is timely. I think it is one that we need to have, as a mature community. I hope that in looking at the issues there will be a concentration on the human elements, not the bricks and mortar, because that is where change can be made - with the people involved. I look forward to further study of the report, and I look forward to taking part in that debate.

MR MOORE (3.44): Mr Speaker, I feel a sense of pride in rising to speak on this issue today. Having listened to Mr Humphries's speech, having had an opportunity to have a very quick glance through the executive summary of the report, and having heard Ms Follett's wonderful speech on the same issue, I feel that this Assembly can hold its head high on such issues. There are many times when we give each other a hard time, there are many times when we are very critical of how members perform; but when I look at speeches made in other parliaments on issues like this I simply believe they are not dealt with as thoughtfully as is often the case in this Assembly. The very thoughtful approach taken in this case by both the Government and the Opposition so far enhances that view.

The debate on the Remand Centres (Amendment) Bill (No. 2) will come before this Assembly next week, I think. We will have to deal with some of these issues then. I had a discussion with Ms Follett on this very matter. How do we deal with the situation? On the one hand, the Government is saying that we should be prepared to send some of our detainees to Goulburn prison when they are on remand. That is the argument on the one hand. On the other hand, what are we going to do, because we have the situation that people are in such overcrowded conditions that they are not being detained in a reasonable and sensible way? We have a major problem here.

Why have we such a significant increase in the number of people on remand in the Australian Capital Territory? Has there been an extraordinary increase in crime? I notice that in this report there is a reference to some AFP figures indicating an increase of 18 per cent, but I think they are taken somewhat out of context. I do not mean that the report takes them out of context; it is where they were taken from, the *Canberra Times*. There has been some statistical evidence that there has been a decrease in crime in the Australian Capital Territory in the last little while. What is very clear is that there has not been a major increase in the level of crime; yet I think double the number of people detained in the previous year were detained, or very close to it.

We really have to ask ourselves a fundamental question. What is going on in terms of our system? Is this assisting us to get a healthier society? Are we trying to achieve the sorts of things that Ms Follett so aptly described when she said that people, by preference, ought not be held in bricks and mortar, as she put it? She named a number of people we would expect to be detained in that way, but there are many other ways of punishing people who deserve to be punished in some more appropriate way that we should continue to explore.

We have to be particularly careful as we discuss this issue of prisons. If we create a prison, are we going to find that the easy solution is to slap people in prison and feel good about it, when in fact the long-term outcome of that will be the creation of many more problems than we solve? We know that when we put people in prison it becomes a very good learning place. In fact, prison is often referred to as “the college” because people learn so much. They learn not about how to live in a better society, not about how to become less violent, not about how to respect other people’s property, not about how to respect other people’s welfare, not about how to respect other people’s bodies and their being; rather, they learn a great deal more about codes of criminal conduct and methods of criminal conduct, and that has just the opposite effect to what we want.

One of the great jokes that were going around when Tasmania passed its legislation on homosexuality was, “Put them in gaol to teach them not to be gay”. The irony is not to be missed. You can extend that same joke and say we put people in prisons to teach them not to be bad. It is the very opposite of what we want to achieve. We have to be very careful that this discussion about our methods of dealing with people who come before the law is very broad. Similarly, I think it is important for us as members to be conscious of alternatives when we are drafting legislation. We say, “What should the penalty be? Yes, 50 penalty points or two years’ gaol. That seems to be the norm”. We have attempted to make the penalty consistent. In fact, it is time for us to look at alternatives. So far we have two alternatives in most of our legislation, namely, imprisonment or a fine, or both. I guess in one sense that is three.

Perhaps we need to put into our legislation community service orders and other more appropriate mechanisms. I noticed Mr De Domenico walking around with an anti-graffiti can or something earlier today. In such a case perhaps the penalty ought to be so many hours of cleaning graffiti, or a penalty along those lines.

Ms Horodny: Or pulling weeds.

MR MOORE: Or, as Ms Horodny interjects, pulling weeds. There are plenty of weeds in the ACT to pull. Mind you, when some people get stuck into blackberries or hawthorns or African boxthorns, it may be a significant penalty. Indeed, it may be a cruel and unnatural penalty. I think, Mr Speaker, there are issues that it is appropriate for us to discuss in a mature way, which, in many ways, ironically, this Assembly is very capable of doing. I think our focus has to be on the long-term goal of reintegration, if possible; of not taking somebody out of society when they need to be reintegrated.

There is one side issue that I would like to raise at this point, Mr Speaker. Mr Humphries has tabled this discussion paper, but only a few weeks ago the Chief Minister was talking about the possibility of negotiating to use Cooma Gaol. There seems to be a little conflict. I accept that this is a discussion paper and I accept that the Chief Minister did not make a commitment to Cooma.

Ms McRae: Not much.

MR MOORE: Well, that is my understanding; that there is no commitment. However, it should be part of the discussion as well. Whilst I think we have a great deal in common with Cooma, from the way I see things I think we would still create the problem of access for people. Ms Follett raised this really important issue about closeness to family and closeness to friends. For people in the unfortunate circumstances of being incarcerated, these issues are absolutely fundamental. They are critical. That is one of the things that we are doing very badly now. The sooner we can get through this important discussion and into action the better.

MS TUCKER (3.52): Mr Speaker, I also would like to congratulate members for the level of the discussion that we have had on this topic today. I particularly support what Ms Follett said in her speech. I think it was extremely well expressed.

I would like to mention something that members have not focused on, and I think it is equally important. My sister worked in Long Bay Gaol for some time as a physiotherapist and learnt the life stories of some of the people there. Having done so, she wondered how they could have ended up anywhere other than in gaol. She made it quite clear that the life stories of these people were such that they had very little choice but to end up being on the wrong side of the law. You have raised certain reasons for that. They may have an intellectual disability and they have not been properly supported. People who have been the victims of sexual abuse and other forms of abuse are very highly represented in our prisons as well.

I want to remind members that when the Social Policy Committee reported on the prevention of violence in schools we made these points about early intervention. We have to continually link that work. When we are looking at young children and then we look at the prisons, we have to continue to link this. What is clear from the evidence is that we have to get in early and support these kids. They are usually the victims of unfortunate circumstances. It is pretty clear very early on in their lives at school that they are kids at risk. If we as a society put in the effort to support these people when they are young, we will have less need for prisons in the long run.

Mandatory reporting is another really important issue. We should mandate that abuse be reported if it is suspected by professional people. If we do not have accompanying that mandatory reporting very solid resources to support those people and the young people concerned, we are not going to end up with any huge improvement. In fact, sometimes it can be even worse, as has been the experience in other States. So I would just like to stress that fact. We have an opportunity as a community to see, often very early, people at risk of ending up in our prisons. We should support them at that stage so that we will not have to have these sorts of discussions in the long run, hopefully, about whether we need to build another prison. I do support the view that we need such a facility in the ACT, for all the reasons outlined by other members.

MR HUMPHRIES (Attorney-General) (3.55), in reply: Mr Speaker, I welcome the contributions of members. I was particularly impressed by the comments of Ms Follett. She indicated in a very sensible way the kinds of policies which ought to drive any correctional system, not just in this Territory but anywhere else, and which ought to be the basis of a bipartisan policy to bring this initiative forward. It obviously will not be easy to persuade some people that the ACT ought to have facilities which are more elaborate than they are now. Clearly, some people will be concerned about issues such as the location of such a facility, the cost, and so on. Those are real issues which are going to be difficult in some ways to chart our way through. I hope, as a result of this debate and perhaps the debate to be held in the community, that there are opportunities now to explain to the people of the ACT that building a correctional facility is not just about having something nice on the capital works program for a short period; it also is about significantly readjusting the parameters of the Territory to pick up a number of individuals who, frankly, have been overlooked and sent away in the past, whose needs have not been properly addressed.

I completely agree with the suggestion that the human element is the most important factor in this process. In my view, to establish a facility in the ACT which saves us money but merely duplicates the problems of the New South Wales gaol system here in the ACT would be a tremendous opportunity lost. We must focus on a system which ultimately has the effect of reducing recidivism. That is the objective of any decent correctional system, and it ought to be the objective of our system. We have, in a sense, a blank canvas on which to work, and perhaps we can achieve that.

Just to pick up a couple of other short points, the Cooma Gaol option is certainly an option that the Government is prepared to consider. I think the debate today has probably indicated that there are serious problems with the Cooma option, particularly, to do with issues like access by relatives to people who are incarcerated. Nonetheless, it is an option that will be looked at in the course of debate about where we go from here. Mr Moore raised the question of why there were such large increases in the rates of incarceration in the Remand Centre. The answer appears to be that there has been a very significant increase in clear-up rates in the ACT. That is having some effect on the population of our Remand Centre. It is not necessarily that there has been an increase in crime, but the number of people apprehended in some categories has doubled or been more than was the case before. That accounts for a large number of people being put in the Remand Centre, and ultimately in the New South Wales gaol system.

Question resolved in the affirmative.

**URBAN DESIGN - CRIME PREVENTION AND COMMUNITY SAFETY
Implementation Report**

MR HUMPHRIES (Attorney-General) (3.59): For the information of members, I present the Implementation Report on the Role of Urban Design in Crime Prevention and Community Safety which was presented to the Assembly on 14 December 1995. I move:

That the Assembly takes note of the paper.

In light of the time, I do not propose to read my presentation speech, but I seek leave to have it incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 1.

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

PAPER

MR HUMPHRIES (Attorney-General) (3.59): For the information of members, I present the 1995-96 Report of the National Road Transport Commission. Canberra has not been left off the front page on this occasion.

ELECTORAL (AMENDMENT) BILL (NO. 2) 1996

Debate resumed.

MR WHITECROSS (Leader of the Opposition) (4.00): Before lunch we had the most extraordinary, the most pathetic, the most equivocating, the most vacillating - "vacillating" is another good word - speech by a Government Minister that I have heard in this place in a long time. Mr Humphries, the Attorney-General, could not make up his mind whether he wants to support this Bill or not.

Mr Humphries: What is your view?

Mr De Domenico: What are you going to do?

MR WHITECROSS: These are the people who claim to be wanting to run this Territory. They claim to be interested. They claim to have the answers for this Territory, Mr Speaker. Mr Humphries cannot even decide whether he agrees with Mr Moore's Bill or not. Mr Humphries's speech on this matter is all the more extraordinary when you consider that there are only two ideas in the Bill. It is not a complicated Bill. It deals with a movement of the election date, on the one hand, and a four-year term, on the other hand. It is not particularly complicated.

Mr Humphries: So what would you do, Andrew? What is your plan?

Mr De Domenico: How will you vote?

MR WHITECROSS: They are not very complicated propositions. Can the Attorney-General make up his mind as to whether he is in favour? Can the brains trust sitting around the table over there make up their minds? Even with the assistance of Mr Kaine, Mr Hird and your good self, Mr Speaker, the Government was not able to come to a decision on whether or not they support this legislation. What a hoot! Mr Humphries scuttled across the chamber to me and said, "How are you going to vote? We cannot make up our minds, so we will do what you want to do".

Mr Speaker, it seems to me that it behoves the Government, and it behoves a Minister in a government, to be able to show leadership on an issue like this. They should be able to come into this place and say, "This is where we stand on this matter. This is what we believe. This is how we are going to vote". Instead, Mr Speaker, Mr Humphries comes in and says, "This is a very interesting issue. On the one hand, you could vote for it. Here are a couple of reasons why you could vote for it. There is this one and this one and this one. On the other hand, there are some reasons why you could vote against it".

Mr Berry: It is his legal training.

MR WHITECROSS: Yes. Mr Berry says that it is his legal training. Mr Speaker, can you imagine how you would feel if you were a prisoner in the dock and Mr Humphries came in to represent you and said, "Well, Your Honour, on the one hand, you could let him off, and here are some reasons why. On the other hand, you might like to convict him."? Would you not be pleased? That is what Mr Humphries gave us this morning.

Mr Speaker, I do not think that Mr Humphries's lack of leadership on this issue should go unnoticed, but I am ever happy to help out. I thought I might give Mr Humphries a clue on how he might reflect on this in coming to his decision on which way to vote. When this matter was last debated, in April 1994, Mr Humphries had this to say:

I do not know what our party will do, -

that has not changed -

but I think we need to have the courage of our convictions before we take any steps of this kind in this place.

That has clarified the Liberal Party's position on the matter! He did go on to say that he did not believe that the Government, the Liberal Party or other parties in the place had actually sought the views of the people on it. He said:

I must indicate that at this stage we ought to accept that four-year terms are a matter for which this Assembly has no mandate.

He proposed that before we debate this issue we should go to the electors, put it before them and say, "If we are re-elected we will vote for four-year terms". Mr Speaker, I have pored over the Liberal Party's policy and I am afraid to say that I cannot find a reference in their election policy to a four-year term. I wonder whether that might provide the solution for Mr Humphries. Seeing that he did not go to the last election seeking a mandate for a four-year term, perhaps, following the principle he set down for himself in 1994, he might not want to vote for a four-year term.

Mr Humphries: Mr Speaker, I rise to take a point of order. We have had a 10-minute speech from Mr Whitecross so far - - -

MR WHITECROSS: Five minutes. Be fair.

Mr Humphries: It seems like about 10 hours, actually. Mr Speaker, so far he has regaled the Assembly with my views or my non-views, according to him, about this issue, but he has not actually - - -

MR WHITECROSS: This is not a point of order.

MR SPEAKER: It is a question of relevance.

Mr Humphries: He is yet to address the Assembly on the question before this Assembly, which is the Electoral (Amendment) Bill (No. 2). We would like him to address his remarks to that Bill.

Mr Berry: Mr Speaker, that is not a point of order. The Leader of the Opposition is responding to a Minister of the Government's contribution to the debate. Heavens above, he should be entitled to do that.

Mr Humphries: He should respond to the Bill, not to me.

Mr Berry: It cannot be ruled as a point of order, otherwise we would never be able to respond to something the Government said.

MR SPEAKER: There is no point of order, but I would ask you to try to remain relevant, Mr Whitecross.

MR WHITECROSS: Mr Speaker, I believe I am being highly relevant to the Bill. I am very concerned that the Government cannot make up its mind what its position on it is. I was trying to assist the Government in arriving at a position. Mr Speaker, the election date was an issue that was canvassed in the report of the Electoral Commission on the 1995 Legislative Assembly election, the one where Mr Humphries did not seek a mandate for four-year terms. In that report, Mr Speaker, the Electoral Commission indicates - - -

Mr Humphries: Nor did you. When did you seek a mandate for four years?

Mr Hird: That does not matter. Why muddy the water with the facts?

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MR WHITECROSS: Mr Speaker, do you remember Mr Moore's exhortation to you to keep order?

MR SPEAKER: I am aware of standing order 37. Keep going. Proceed.

Mr Humphries: Say something.

MR WHITECROSS: I am saying a lot, if you will just listen.

Mr Humphries: Make a point.

MR WHITECROSS: I have made lots of points, Mr Humphries, and you did not like them.

Mr Humphries: Not about the Bill you have not.

MR WHITECROSS: You did not like them. Mr Speaker, the Electoral Commission, in its report, proposed that there was the possibility that you could have an alternative date of the last Saturday in October as an election date, rather than the current date in February. In my judgment, the arguments of the Electoral Commission for the October date were distinctly thin. The argument for the change of date was that 10.5 per cent of people on the roll did not vote in the election, and that contrasted with only 3.3 per cent at the Commonwealth election held the following year. The commission's argument seems to be that perhaps more electors on the roll would have voted if the election had been held at a different time. It went on to say that the reason why 2,700 of those electors did not vote was that they did not live in the ACT. I do not think that when the election is held makes much difference on whether people who do not live in the ACT vote or not. The commission said that 3,600 letters to non-voters were returned marked "Not known at this address". Mr Speaker, if they are not known at the address it is not likely that they are going to vote, whether the election is in February or October. That does not, of itself, seem to make much difference on the question of the date of the election. Also, 3,700 claimed to have a valid and sufficient reason for not voting. A lot of them stated that they were interstate or overseas, and in many cases were unaware that the election was being held.

The Electoral Commission went on to give a very good reason why people who were interstate or overseas might not realise there was an ACT election on. Mr Speaker, I know that this will be shocking to most members of this Assembly, but elections for the ACT Legislative Assembly do not command much copy in the *New York Times*, the *Washington Post* or the *London Times*. Indeed, they do not command much copy in the *Sydney Morning Herald* or the *Melbourne Age*. Someone who was interstate for a period, Mr Speaker, might well find themselves in the situation of not realising that there was an ACT election on. By contrast, Mr Speaker, Federal elections are quite big deals. Even if you were in Melbourne rather than Canberra, the chances are that you would realise that there was a Federal election on and therefore register a vote. So, Mr Speaker, it seems to me that the substance of the Electoral Commission's argument, which is that a number of voters did not vote, does not stand up too well in terms of an alternative date providing a better chance of electors voting.

One other hypothesis not canvassed in the report but which may explain some of the difference in voting is that, as we know, the ACT government is not as interesting to all the electors of Canberra as the Federal government. Perhaps a few more people are inclined to vote in a Federal election and a few more people chose, against the law albeit, to stay at home rather than register a vote. On the figures provided by the Electoral Commission there could have been 10,000 of those people who were not interstate, who were not "address unknown", who had not moved permanently interstate, but who, for some reason or other, chose not to vote and presumably were issued with an infringement notice. It seems to me that the case is not made out for a change in the election date.

Mr Speaker, there seem to me to be some very good reasons why we should be cautious about changing the election date. Not the least is the Financial Management Act which we passed. This requires the Government to bring down a budget by 30 September. On this election date we would be having an election in the ACT less than a month after the date by which under the Financial Management Act a budget is required to be brought down. I think it is totally unacceptable to be in a situation where a budget might be brought down less than a month before the election date and not be subject to any of the normal scrutiny of the Assembly.

One solution which I think has been canvassed is to force the Government to bring down its budget in the first half of the year, but we have not had that debate yet. There are some very good reasons for not bringing down budgets in the first half of the year, not least of which is that, given the level of openness of this Government, we would have no idea how the Government had gone in delivering on its previous budget at the time we were expected to vote on its next budget. Mr Speaker, these are quite serious problems, and they are problems which I think we ought to be considering before rushing into a decision to change the election date to October. Every time we have had an election in the ACT we have had it under a different electoral arrangement. In 1994 the Labor Party proposed for debate in this place the idea of four-year terms. At that stage it was rejected on the basis that there was not a mandate among the Assembly members to vote for four-year terms and that it was therefore inappropriate to do so. Mr Speaker, I believe that we have had this debate. I believe it is time that we stopped tinkering with the electoral system - whether it is election dates, electoral methodology, or terms of parliament - and got on with the business of governing. We cannot keep playing with these things. We have to let the system settle down and we have to get on with the job of governing in the best interests of the ACT.

Mr Speaker, the Labor Party sought to adjourn this debate until people like the Government had time to make up their minds what they wanted to do. The Assembly did not want to adjourn it. Given that the Government are so confused about their own position, given the lack of debate about some of the significant consequential issues arising from this, if there is an in-principle vote at this stage, given those unresolved issues, the Labor Party will have to vote against this Bill. Mr Speaker, we believe that there is a better way of handling this issue than the way it has been handled. I would urge the Government, if they are as undecided as they appear to be at the moment, to admit that they do not know what they are doing and to adjourn the debate.

Debate (on motion by **Mr De Domenico**) adjourned.

**LONG SERVICE LEAVE (BUILDING AND CONSTRUCTION INDUSTRY)
(AMENDMENT) BILL 1996**

Debate resumed from 26 June 1996, on motion by **Mr Berry**:

That this Bill be agreed to in principle.

MR DE DOMENICO (Minister for Urban Services and Minister for Business, Employment and Tourism) (4.16): Mr Speaker, the Government opposes this Bill. The Government is opposed to the central objective of the Bill because it is inconsistent with the Government's business development strategy for the construction industry. Furthermore, it would mean that construction employees in the ACT would enjoy benefits that, with the exception of South Australia, are available to no other construction industry employees throughout Australia. Mr Speaker, the Government also opposes the Bill because the timing of its introduction is completely at loggerheads with timing and consideration of the actuarial report on the Construction Industry Long Service Leave Board, which is the principal report which analyses the liabilities of the scheme and provides guidance on the employer contribution rate, the standing of the scheme reserves and the long-term trends in the scheme's assets. Unlike the Government's Bill which contained a sunset clause which passed through this Assembly at the last sitting, this Bill, if passed, will establish in perpetuity a heavy demand on the Long Service Leave Board's accumulated reserves and will seriously erode the capital base of the scheme, to the long-term detriment of the industry.

Mr Speaker, it is the strategy of this Government to improve the capital base of the scheme to the point where scheme reserves can sustain future employee liabilities at the lowest possible cost to employers. This strategy aims to ensure that the scheme can remain a significant investor in the ACT economy. As you are probably aware, Mr Speaker, it already owns properties such as Manning Clark House in Tuggeranong, which houses the headquarters of the Department of Education and Training. It aims also to reduce the labour cost burden on employers, thereby increasing productivity and investment by construction firms, and it aims to ensure that employees are guaranteed their future long service leave payment.

This Bill, if passed, would result in employee benefits which exceed the national standard for long service leave for construction industry employees. At present the ACT entitlement, as prescribed by the legislation, is identical to that in those States which surround the Territory, namely, New South Wales and Victoria. In addition, all the other States, with the exception of South Australia and the Northern Territory, have a similar entitlement, though expressed slightly differently. Mr Speaker, no other State has an intention at this point in time to review their long service leave benefits for construction industry employees. Clearly, the ACT will be out of step with virtually the whole Australian construction industry if this Bill is passed. Of critical importance, Mr Speaker, is that the ACT will be out of step with New South Wales, which, even with a Labor government, is not proposing to increase employee benefits as proposed by Mr Berry's Bill. In fact, Mr Speaker, it might be asked what motives Mr Berry has in introducing this Bill at this time. Why did he not take such a step when he was the Minister, or why did not Mr Lamont when he was Minister?

Mr Speaker, the Bill, if passed, would also result in the benefits to construction industry employees surpassing those available to private sector employees generally in the ACT. At present, construction industry employees and the rest of the private sector enjoy almost identical benefits. Certainly, the primary benefit of two months' leave after 10 years' service is identical. If the construction industry were to gain improved benefits as a result of this Bill, it is only reasonable to expect that the rest of the private sector would also want improved benefits. This could simply not be conceded by any responsible government.

First, it would be economically damaging to the whole Territory economy to concede an improvement in general conditions of employment such as improved long service leave benefits in the current economic circumstances. Such a move could undo the sustained effort that this Government and others are making to provide the optimum business environment to encourage business confidence and, therefore, business investment and jobs growth. Secondly, Mr Speaker, it would put the Territory on a collision path with the other States, particularly New South Wales, in terms of general conditions of employment. No government in the ACT, which is dependent on its interactions with the region for its prosperity, can be a pacesetter when it comes to actions which bear on labour costs. This would be economic madness, in my view.

Thirdly, the industrial environment is just going through a significant transformation which further reinforces the primacy of the relationship between employers and employees at the workplace level. I refer to the passage of the Workplace Relations Act 1996. Mr Speaker, this Act provides a framework for a system of awards which provide a safety net of minimum conditions of employment in some 20 allowable matters. Long service leave is one of those allowable matters. Under the new arrangements, conditions of service above the minimum are to be negotiated between employers and employees. It is entirely inappropriate, in our view, that a statutory entitlement is an allowable matter to be improved across the board to a new standard well above the national standard when the Federal statutory framework intends that improvements above the standard be negotiated at the enterprise level through enterprise agreements.

Finally, if the Government were to be persuaded that the current surpluses in the scheme should be divested, it is our view that they should be divested to the benefit of those who have paid the excess contributions over the years, that is, the employers. I mentioned earlier, Mr Speaker, the actuarial report. I have received a copy of the actuary's report covering the period 1993-1996. I have requested additional information from the actuary to assist the Government to consider all the options outlined in the report. I hope to have this material available in about a month's time, and I would be willing to then table that report in the Assembly, quite obviously. In the meantime, I believe it would be premature for members of this Assembly to make a decision which would, as Mr Berry said only two weeks ago in debate on the Government's amendment Bill, be irreversible. The difference is that the Government's Bill contained a sunset clause. This Bill, if passed, Mr Speaker, would place a major and continuing new liability onto the scheme. The Assembly simply does not have the actuarial information, I submit, at this time, to know the consequences of voting for this Bill. In my view, Mr Speaker, there is just no justification or rationale at this stage for this Bill.

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It comes down to this one fact, Mr Speaker. If we pass this Bill what we are saying is that we would rather that the construction industry employees in the ACT be given more benefits in lieu of spending where we ought to be spending. This Government will bring legislation forward very early in the new year to make sure that new employees are attracted to the industry. I suggest, Mr Speaker, quite strongly, that what we ought to - - -

Mr Berry: What are you up to?

MR DE DOMENICO: No. We are trying to have a rational debate and Mr Berry says things like, "What are you up to?". I will answer that interjection, Mr Speaker. What we are up to is this: If we are going to be spending money from the long service leave fund that may or may not be excess to their needs, if we are going to be spending it anywhere, we believe that we ought to be spending it to make sure that we involve new employees in the industry, more jobs for young people who currently do not have jobs, not give pay rises or more benefits to workers, mainly - knowing Mr Berry's ideology - members of the CFMEU. If we pass this Bill we are saying, "Let us give members of the CFMEU more benefits than any other building and construction industry in the region enjoys, rather than spend money to employ unemployed young people in the industry".

Mr Berry: That is rubbish.

MR DE DOMENICO: Mr Berry says, "That is rubbish". It is not rubbish, Mr Speaker. I suggest that we are voting for either giving existing employees greater benefits or spending some money to employ young people who are out of work. I also respectfully suggest - - -

Mr Berry: Tell us how you are going to spend the money, then.

MR DE DOMENICO: I respectfully suggest to Mr Berry that he should realise that in the Industrial Relations Commission, as we speak, all governments in the country, including the Northern Territory and South Australia, Mr Berry, but I think excluding New South Wales, at this stage, have agreed to an increase of \$24 across the board over a three-year period to all those employees below the national wage. We are already, through the Federal Industrial Relations Commission, increasing wages and salaries to make sure that there is a minimum level for all employees. At the same time, Mr Speaker, we are progressing to the stage of saying that things like long service leave and other leave entitlements, all sorts of entitlements, ought to be negotiated at the enterprise level between employers and employees.

I think it is very dangerous for us to start legislating on an issue that ought to be discussed at the enterprise level between employers and employees. All the rest of the nation is doing it that way, Mr Speaker. Mr Berry's Bill is asking us to be the one out and to be out of kilter with construction employees in New South Wales. As I said, we have to have a regional approach to these issues. If we do not want to vote one way or the other, perhaps someone ought to move to adjourn the debate on this Bill until we get the actuary's report and see the result of what is occurring in the Industrial Relations Commission.

MR MOORE (4.25): Indeed, Mr Speaker, the actuary's report is what we will wait for, and for that reason I move:

That the debate be adjourned.

Question put:

That the debate be adjourned.

The Assembly voted -

AYES, 11

NOES, 6

Mrs Carnell
Mr Cornwell
Mr De Domenico
Mr Hird
Ms Horodny
Mr Humphries
Mr Kaine
Mr Moore
Mr Osborne
Mr Stefaniak
Ms Tucker

Mr Berry
Ms Follett
Ms McRae
Ms Reilly
Mr Whitecross
Mr Wood

Question so resolved in the affirmative.

ANIMAL WELFARE (AMENDMENT) BILL 1996

[COGNATE BILL:

FOOD (AMENDMENT) BILL 1996]

Debate resumed from 26 June 1996, on motion by **Ms Horodny**:

That this Bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Food (Amendment) Bill 1996? There being no objection, that course will be followed. I remind members that in debating order of the day No. 5 they may also address their remarks to order of the day No. 6.

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

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ADJOURNMENT

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

That the Assembly do now adjourn.

Assembly adjourned at 4.31 pm