



DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

11 DECEMBER 1996

Wednesday, 11 December 1996

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The Assembly met at 10.30 am.

(Quorum formed)

MR SPEAKER (Mr Cornwell) took the chair 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 **Ms Tucker**, from 992 residents, requesting that the B1 planning zone in North Canberra be immediately abolished and that a process of local area planning with full community participation be instituted.

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

North Canberra - B1 Planning Zone

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 Assembly that the B1 Planning Zone in North Canberra is not in the best interests of the Australian Capital Territory.

Your petitioners therefore request the Assembly to:

- . call on the government to direct the ACT Planning Authority to immediately abolish the B1 Planning Zone in North Canberra; and
- . institute a process of local area planning with the full participation of the community.

Petition received.

GAMING MACHINE (AMENDMENT) BILL 1996

MS TUCKER (10.32): Mr Speaker, I present the Gaming Machine (Amendment) Bill 1996.

Title read by Clerk.

MS TUCKER: I move:

That this Bill be agreed to in principle.

Mr Speaker, my hope is that my presentation this morning of the Gaming Machine (Amendment) Bill 1996 will stimulate in and through this Assembly a comprehensive process of research, analysis, discussion and planning to produce a responsible and far-sighted gambling industry plan for the ACT. It is also my hope that members will give unanimous support to the three practical education and mitigation measures that this Bill proposes. They are based on sound research and tried regulatory measures.

Mr Speaker, last year gaming taxes from poker machines alone provided 5½ per cent of total tax revenue for the ACT. Taxes on all forms of gambling provided 10 per cent of our total revenue. Canberra's 68 licensed clubs provided about 2,000 jobs, \$1.1m in liquor licence fees, \$27m in rates and salaries and about \$2.5m to \$3m to charities. Gambling is a major and rapidly growing industry, but it has a major and rapidly growing human fallout. In 1994-95 the ACT had the highest per capita gambling expenditure, of about \$800 per person. Five years earlier we spent about half that figure per person. The usual argument runs that 99 per cent of people who gamble do it without problem, and opponents of increased regulation of the industry would contend that the responsible majority should not be inconvenienced because of the irresponsible few. But a closer look at those figures and a closer look at the social and human costs show that the simple 99 : 1 breakdown is a deception of massive proportions.

Many of the figures I am about to quote come from *Study 2: An examination of the socio economic effects of gambling on individuals, families and the community, including research into the costs of problem gambling in New South Wales*. This study reported in January 1996 and was conducted by a team of acknowledged leaders in research into problem gambling, headed by Associate Professor Mark Dickerson, who was at that time executive director of the Australian Institute for Gambling Research, which is based at the University of Western Sydney. I would like also to acknowledge at this point information contributed by a number of Canberra agencies that assist people with gambling-related problems, including Lifeline, the Salvation Army and CARE, and industry organisations, including Casinos Austria, the Australian Hotels Association and the Licensed Clubs Association. I would also like to acknowledge the work of *Canberra Times* journalist Peter Clack, who researched a series of major and important articles which appeared earlier this year.

So, let us take a closer look at the prevalence and impacts of problem gambling. Figures quoted in *Study 2* showed that tightly defined problem gambling affected 1.16 per cent of all gamblers. However, that small percentage of gamblers accounted for 26.27 per cent of all gambling expenditure. Each person with a problem will affect about five to 10 others by borrowing, using their money or stealing. The New South Wales study found that 14.5 per cent of respondents reported that a member of their family had experienced problems with excessive gambling. Other reports indicate that severe problems can also be hidden for a long time. It may be that many of us would not ever be aware that a family member is having difficulties. So, problem gambling accounts for more than 26 per cent of turnover and has impact on 14.5 per cent of families.

Looking again more closely and looking at the people involved, the study reported that the increasing risk of gambling-related problems was associated with younger single males preferring gaming machines or racing; with individuals with incomes of less than \$20,000 per year; and with the retired or unemployed. All of the help-providing agencies in Canberra are reporting large increases in the numbers of people seeking help with gambling-related problems. Lifeline told us that over 80 per cent of the clients of its gambling counselling service were having problems related to poker machines in particular and that the larger proportion were indeed low-income earners. The Salvation Army reported a big increase in the need for emergency assistance related to problem gambling. The impression from case histories was that many more single mums under major financial stress were experiencing problems related to gambling.

My last points in this overview of the impacts of problem gambling relate to broader social costs and impacts. The New South Wales study listed the following impacts and costs: Work related - loss of productivity and changes in jobs because of gambling-related problems, a cost of \$27.8m per year in New South Wales; legal and related impacts - gambling-related offences, court appearances and custodial sentences, about \$17m per year; costs of existing services for problem gamblers and their families - about \$2.3m per year. The total cost to the New South Wales community is estimated to be \$48m per year.

Mr Speaker, these are the reasons for my concern: The growth of problem gambling, which is primarily associated with poker machines in the ACT; lack of funding for education and prevention programs; and inadequate funding for counselling and community support services. The research shows that the three main factors contributing to growth in gambling problems are access to gambling places; access to cash; and lack of education and prevention programs. The legislation I am presenting today deals in part with the questions of access to cash, and education and prevention. I introduce it now because the case for its introduction is quite clear; because it would bring the ACT into line with best practice, defined in this case by the South Australian legislation; and because the measures are urgent. However, to address this problem and to address related problems, including growing government dependence on the industry, we must, as I said in my opening remarks, develop a comprehensive plan for the industry.

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At a later date I will propose in the Assembly a motion for the immediate establishment of an inquiry, involving all the stakeholders, with the task of developing an industry plan for gambling in the ACT, and a moratorium on the issuing of new licences, to remain in force until the inquiry has reported. I envisage that the inquiry would consider limits on the number of licences and the number of gaming machines; extending licences to hotels and the casino within the context of an industry plan; the creation of an authority to regulate future growth and conduct in the industry; and provision for ongoing funding, from gambling profits and/or taxes, of research, education and prevention, counselling, and community support services.

The amendment to the legislation I present now contains three education and mitigation measures. The first is labelling. Licensees will be required to put warning labels on all poker machines and warning notices near the entrance to each gambling area. The second is no cash facilities in gambling areas. Licensees may not provide or allow provision of cash from automatic teller machines, EFTPOS facilities or any other facility for gaining cash or credit within a gaming area. The third is no lending or extending of credit. Licensees and their employees will not be allowed to offer or extend money or credit to a person for the purpose of playing a gambling machine.

This legislation generally follows the existing South Australian model. We have received industry and community support for the labelling concept. The warning notices to be placed on every gambling machine would be along the lines of labels on cigarettes; that is, warnings about the risks and possible harm caused by problem gambling. The exact text of the messages will be decided by the Minister, whom we expect to consult with all the relevant stakeholders. The labels would also include a helpline phone number. So, there is an option being offered. It is not just a negative label; there is some option being clearly included in that label.

Removal of EFTPOS machines and automatic teller machines from gambling areas is in line with the South Australian legislation. I stress "gambling areas", because I did hear initially that Mr De Domenico had not understood this aspect of our legislative proposal. He said that we were proposing that there be no cash facilities within a whole club, or whatever the facility is. That is not what we are saying. We are talking about the gambling area itself. The body of case evidence from counselling indicates that problem gamblers may be assisted to control gambling sessions that are going beyond their limits if they are forced to leave the gambling area to get money. That break, many gamblers and counsellors contend, will facilitate a decision to end the session. We considered removal of these facilities from the entire premises but, in the end, bowed to doubts about the safety of older people returning to a club after withdrawing money and also recognised that other club users need these facilities.

Mr Speaker, poker machines were once the one-armed bandits. Today governments are increasingly becoming one-armed bandits - taking the profits of gambling, but returning very little in resources to deal with the problems felt so profoundly. I commend this Bill to the Assembly.

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

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

Debate resumed from 4 December 1996, on motion by **Mr Berry**:

That this Bill be agreed to in principle.

MR MOORE (10.44): Mr Speaker, last week when we debated this issue I moved the adjournment of the debate, on the ground that Mr De Domenico had indicated to me that he needed an actuarial report. I must at this point indicate an apology to Mr De Domenico's office, because I had a message from one of his officers asking whether I could phone him back last night to indicate what I was doing and the position I was at. I simply ran out of time. I apologise for that. I know that his office, when I ask the same thing, always comes back to me in one way or another. I was still trying to get back this morning, and thought I would, but was not able to.

In the meantime, Mr Speaker, an actuarial report from John Ford and Associates from 30 August 1996, which I presume the Minister is aware of, has come into my possession. It seems to me that a report from 30 August 1996 is a recent enough actuarial report for me to be able to make a decision. It was at the request of Mr Berry in the Administration and Procedure Committee that this matter came on again today. At that stage I had not indicated to him which way I would be voting, but I said that I was still interested in an actuarial report. He indicated that he still wanted it to come on. I feel that, if somebody wants it to come on, that is fine. It may well have been adjourned again, and still may be.

Mr Speaker, the report that I have indicates on page 4 the range of expenditures and the funds at the end of 1994-95, being \$33.3m, and at the end of 1995-96, being \$34.6m. When I take into account revenue and expenditure, I believe that the fund will be able to sustain the proposal that Mr Berry has put up. But I think there is something much more significant, Mr Speaker. When you look at an actuarial report it is very difficult for somebody like me to make decisions just from the figures. Let us look at points 61 and 62, the impact of a possible increase in benefits. The report reads:

61. The cost of the scheme in terms of contributions required if the fund were in balance can be thought of as about 1.2% of wages to provide the benefits and 0.5% of wages to meet expenses ... If these benefits were adopted prospectively the costs would increase to about 1.8% for the benefits and 0.5% for the expenses.

It then goes on - and this is the critical part for me:

62. With the current level of surplus naturally the impact of such an increase in accruing costs would not affect employers for a number of years.

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I think, Mr Speaker, as Mr Berry has put in his argument on this issue, when we have an opportunity to look after workers - and, in this case, in a situation where the benefits that are already in place will not be affected for a number of years - I would find it very difficult to deny the workers those opportunities. I have been lobbied very heavily, Mr Speaker, on both sides of this issue. It has taken me quite some time to come to my position. In the end, Mr Speaker, I think it is appropriate that I support this Bill in principle, and that is what I am doing.

MRS CARNELL (Chief Minister) (10.47): Mr Speaker, I find it very difficult to understand why a Bill that was adjourned last week - because we were getting an actuarial report put together, based upon current information of the industry - is somehow back on this week. There is another actuarial report, which has been commissioned to have a look at the issue - - -

Mr Berry: And is in the hands of your department.

MRS CARNELL: Certainly, it is not. As I understand it, there is a draft in the hands of the board. It is not with the Government yet. We will make that document available to the Assembly as soon as we have it. We do not have it at this stage. I suppose that what we are trying to do in this situation is come up with an approach that will ensure that the end position is fair for everybody.

Mr Speaker, the issues that are, shall we say, up in the air on this one are, obviously, fair and equitable long service leave for employees in the industry, appropriate training requirements and appropriate amounts of money available for training. As, I think, Mr De Domenico has already said, there will be legislation coming forward next year on an agreed position on a training levy, which we believe is the appropriate way to go here. As you know, Mr Speaker, in the past, what we have ended up with is a situation where the long service leave levy, or some of it, has been used for training purposes. We also know that our long service leave training levy is the highest in Australia. Is that correct, Mr De Domenico?

Mr De Domenico: Yes.

MRS CARNELL: It is the highest levy in Australia. We also know that it is significantly overfunded, Mr Speaker. We know that other States have been reducing their levy, as we did once. Those opposite did not want us to do that either, if I remember correctly; but we did reduce it once. We now have a situation where New South Wales has no levy at all. In other words, it is operating on the reserves that exist. In the ACT we are currently getting information from another actuarial report to just see how we can manage a new training levy - the long service levy, or maybe a lack of it - to ensure that we can cover the commitments that people have to long service leave for employees in the sector so that people's entitlements are protected, that training is definitely there and that money is available for training in the sector as well. Mr Speaker, that is the approach that the Government is taking.

We have a situation right at the moment where the building industry is doing it very tough, not just in Canberra but all around Australia, although the situation here is very difficult. Mr Speaker, we have some glimmers on the horizon. I understand that the Reserve Bank brought interest rates down by another half a per cent this morning, which is very good news for Canberrans and especially those who are in the market to buy a house. We know that affordability levels are at an all-time high, Mr Speaker. In Canberra we have a situation where homes are more affordable than they have been before. We see interest rates coming down. All of that is great. So, why would we, right now, turn around and increase costs in the industry, and increase costs above those in other States?

Mr Berry: It does not increase costs.

MRS CARNELL: Mr Berry, it is interesting that you say that. Certainly, our advice is that, as much as the reserves and the levy could handle the increased long service leave in the short term, in the longer term they simply could not do so.

We have to understand as well that our costs are already higher than costs in other States because our levy is higher than the levy in other States. Do we want a situation in the ACT where the costs of building both homes and commercial buildings are artificially inflated above those in other States? I would have thought - particularly at the moment, when the industry is doing it tough and also when we are trying to make it just that little bit easier for Canberrans who want to get into their own homes or, for that matter, people who want to invest and employ in the ACT - that we would be quite positive about ensuring that our costs in Canberra were at the same level as those in other States. I thought that, as an Assembly, we would be doing everything in our power to ensure that our capacity to compete with other States for investment dollars and for jobs was as good as it could be.

We also have a situation where the proposal put forward here, as I understand it, gives a long service leave entitlement significantly above that of most other States. Again, that is just another cost.

Mr Moore: But not all States.

MRS CARNELL: Most other States.

Mr De Domenico: But more than New South Wales, our main competitor.

MRS CARNELL: Significantly more than most other States, Mr Speaker, but not all other States. But, again, the levy is more than that of all other States, at its current level. The view of the Government has been that what we should be trying to do is reduce the long service leave levy in line with other States or to the level to which we can possibly reduce it while maintaining the capacity for that levy to fund the entitlements that already exist in the industry, which is basically why people paid it. An employer pays the levy to ensure that there is money in the fund to cover the entitlements that their employees have.

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I do not believe that there was any indication - in fact, I know that there was no indication - that that levy was to pay for future entitlements or changed entitlements that may happen over time. It was very much to cover the entitlements of the employees as they accrue, Mr Speaker. So, to change the entitlements with current money certainly does raise a large number of questions, Mr Speaker. It is a true statement that we will be going in exactly the opposite direction to all other States. We do that in certain circumstances in this Assembly, and we often do it in a non-partisan way, because we believe that the outcome is a significantly better outcome for the people of Canberra. But in this case, Mr Speaker, it is very hard to see that by heading in the opposite direction to other States - not in the same direction, not even doing nothing; but in the exact opposite direction to other States - the outcome will be in the interests of the vast percentage of Canberrans. It certainly might be in the interests of a very small sector; but, I think, when we go in a different direction to the rest of Australia we have to do it in the interests of Canberra as a whole. It would be very difficult to show that this in any way improved the affordability of houses or the capacity of Canberrans as a whole to live in this city.

Mr Speaker, I must admit again that I find it very difficult to understand why we would debate this legislation today, when last week we made it extremely clear that there was a new actuarial report, which is also looking, as I understand it, at the training levy and how that would affect - - -

Mr Berry: No.

MRS CARNELL: It is interesting that Mr Berry knows of the final document that we do not have.

Mr De Domenico: Mr Berry happens to have a copy, he thinks; yet the board does not have it yet.

MR SPEAKER: Order! Mr Berry, you will have the opportunity to make comments when you close the debate.

MRS CARNELL: Mr Speaker, what the Government is doing is attempting to come up with a position that both guarantees that there is sufficient money in the sector for training and ensures that people who currently have jobs continue to have jobs. Most importantly, Mr Speaker, what we do not want to have is a situation where we are giving significantly more money to existing employees, at the expense of training or employing new people. That is really what it comes down to.

If this Assembly wants to go down the path of making sure that existing employees have significantly greater benefits in their jobs and greater benefits than in the majority of other States, certainly greater benefits than in our nearest neighbour, New South Wales - remember that this is another expense for employers or one that they do not believe that they will be able to handle - and that employers have the capacity to employ new people, to ensure that the training levels for new apprentices are up to scratch, and all of those sorts of things, it is very hard to see how that balance will work under the current circumstances.

So, Mr Speaker, what I am asking the Assembly to do is, if they still have significant doubts about this Bill, to adjourn it again until the new actuarial report is on the table and assessed properly. Also, I think it would be a very sensible approach for the Assembly to have a look at the training levy Bill which we will have on the table in February or very early in the new year. We believe that that is the sensible approach for this Assembly. There is absolutely no reason for this Bill to be debated here today.

Mr Speaker, I come back to the central point here. What we believe we should not do is increase the benefits for existing employees if there is any chance that that is at the expense of the unemployed or at the expense of training. There is still a very real chance that that is the case. Also, Mr Speaker, there is a very real chance - it is not even a real chance; it is inevitable - that going down this path will mean that the costs of building in the ACT will be more than they are in New South Wales and in some other States as well. If that is the case, Mr Speaker, I believe that we have to look very long and very hard at whether this Bill is in the interests of the broad Canberra community or whether we are passing a piece of legislation that could be detrimental to the broad Canberra community, inasmuch as increasing prices at the - - -

Mr Moore: By that you mean business. The broad Canberra community is business in your mind; is that right?

MRS CARNELL: Do not be silly, Michael. Mr Speaker, we believe very strongly that things like the cost of houses and the affordability of houses are in the interests of the broad Canberra community. Mr Moore has made the comment that it is somehow only in the interests of business. The reality is that these sorts of costs are always passed on. At the end of the day, it is the customer who pays business expenses. That is the way it works, particularly in circumstances like this, where the expense is spread equally right across the whole sector. So, it is not business that pays, Mr Speaker; it is the consumer who ends up paying.

Unless members of this Assembly are absolutely confident that this legislation will not increase the costs of building, will not increase the costs of houses and will not be detrimental to training unemployed people or new employees entering the industry, I believe that they should oppose this legislation or, at the very least, adjourn it until they can be confident that that is the case.

MR DE DOMENICO (Minister for Urban Services and Minister for Business, Employment and Tourism) (11.01): I seek leave to speak again, Mr Speaker.

Leave granted.

MR DE DOMENICO: Mr Speaker, this is a very important issue, and I thank members for allowing me to speak again. First of all, I would like to comment on what Mr Moore had to say. Mr Moore, for the first time that I can recollect, quoted something without quoting the full text of it. Mr Moore said that the thing that convinced him - and he quoted - - -

Mr Moore: Paragraph 62.

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MR DE DOMENICO: You said 63. You quoted:

With the current level of surplus naturally - - -

Mr Moore: No; 62.

MR DE DOMENICO: No. You said 63, Mr Moore, with respect - unless you have an earlier copy of the actuary's report. You quoted:

With the current level of surplus naturally such an increase in accruing costs would not impact on employers for a number of years -

and that is where you stopped.

Mr Moore: That is what I read. That is the end of the paragraph.

MR DE DOMENICO: No, it is not. So, you have a different report. You are quoting from a different report. That is the problem. There are people in this house who have said, "I have a copy of the report which the Government does not have".

Mr Berry: Read on.

MR DE DOMENICO: I will read on. It says:

... provided the increase applied only to future service, however policy issues of importance would include the potential for a flow on of higher benefits to other ACT employees and the implications of a discontinuity in benefit levels across the NSW boundary.

So, what the actuary is saying is that, all things being equal, it is going to take a number of years for a cost impact; but you have to take into account the flow-on effects to other industries and you have to take into account as well the fact that New South Wales may do something different.

Mr Berry: No flow-on effects.

MR DE DOMENICO: Once again, Mr Berry interjects. Mr Berry, a day ago, professed in this place to be a queen's counsel who could offer better advice than Professor Whalan. Today, on the back of an envelope, he professes to be an actuary. I, for one, and this Government are not prepared to accept Mr Berry's actuarial qualifications, as we are not prepared to accept his legal qualifications, because we know what Mr Berry's legal and actuarial qualifications led to when he tried to tell this Assembly that he was right the last time. That is point No. 1. Mr Moore, it may not change your mind, but I think you should have quoted the full text of that paragraph.

Mr Speaker, some members might think, "The initial actuarial report says that there is a \$19m surplus. It will be \$0.6m a year if Mr Berry's Bill gets through. Divide 19 by 0.6 and it gives you about 25 years". Simplistically, and on the back of an envelope, you could see the logic of that. But there is no account taken of future increases in administrative costs, there is no account taken of the performance of the future investments, there is no account taken of the maintenance of the investments. Simplistically, if you divide 19 by 0.6, you get about 25 years. No-one is going to feel an effect for about 25 years.

Once again, as I said, I am not prepared, and the Government is certainly not prepared, to take the back of the envelope approach that Mr Berry has taken, in lieu of what we have called for from the actuary. Mrs Carnell spoke about the effects on the industry, so I am not going to be repetitive. She also spoke about the effect on house prices. Mr Berry once again interjected, saying, "It is going to have no effect on house prices". It shows you how much Mr Berry knows. He is not only a queen's counsel and an actuary; he now has a crystal ball as well. It is nice to know what qualifications Mr Berry has.

Mr Berry also suggested that it is going to have no effect on the future training levy. That is obviously nonsense. It took a while - for both governments, might I say - to convince the industry to pay a separate training levy. They have agreed to pay a separate training levy, and we are getting legislation ready for that; but we are going to see the actuarial report before we even go down the track of drafting legislation, because we do not believe that we should accept the figures done by Mr Berry on the back of an envelope.

If that happens, Mr Speaker, the industry has said, we can reduce the long service leave levy to a level that is getting close to the New South Wales level, which is zero. We will not be able to do that. We said, "Listen, Mr Actuary, based on the fact that we need to establish a training levy, based on the fact that the establishment of that training levy is dependent on the reduction of the long service leave levy, by how much can we afford to reduce the long service leave levy in order for the industry to agree to bringing in a separate training levy?". In other words, as Mrs Carnell said, we would rather employ and train unemployed and untrained young people in the industry than give existing employees some of the highest benefits in Australia and definitely higher than anybody's in New South Wales.

Keeping in mind the Government's intention of looking at Canberra on a more holistic level, in terms of a regional centre, it would be silly, I suggest, for us not to be able to compete in the building and construction industry with the industry over the border. Quite unsimplistically, Mr Speaker, what would then happen is that there would be a surge of people setting up building industries and being subcontractors in New South Wales and not in the ACT, to the detriment of our industry. As Mrs Carnell said, it also means that, if employers have higher costs, quite obviously, they are going to be passing them on to the consumer. If Mr Berry does not believe that, he is in cloud-cuckoo-land.

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There has been some conjecture and some thought about whether there has been a request for a second report. Mr Berry was waving three pieces of paper. We actually contacted the board this morning and said, "Where is this actuarial report?". I am advised that the response from the board was that they have a draft before them, which they have not considered fully. They have to consider it fully before they advise me. That is the process, as I am advised. What I am saying is that the Government has not received a report from the actuary - - -

Mr Berry: What were the questions you asked?

MR DE DOMENICO: Thank you for asking the question, Mr Berry, because there was some conjecture about where this report was. What did we ask for? What we asked for was this:

1. An analysis of an additional option, being an 0.5% employer contribution rate -

instead of the one per cent now -

This might in fact be a sub-option to option 3 in the [initial] report. The particular issues to be addressed in an analysis of this option are:

- 1.1 details of the extent of decline in the scheme surplus, and the length of time it would take to reduce surpluses to around \$4m at this employer contribution rate;
- 1.2 the extent to which: (i) a significant reduction in scheme administration costs; (ii) the abolition of the diversion of a proportion of employer contributions to the Construction Industry Training Fund -

and I heard Mr Berry saying here five minutes ago that it has nothing to do with training -

and (iii) an improvement in the net earnings rates to 3% would offset the decline in scheme surpluses at an 0.5% employer contribution rate.

And we went on, Mr Speaker, to seek:

3. An explanation from the actuary as to why at paragraphs 70 and 71 [of his initial report], several options are identified and advice given that no single option should be regarded as correct in an actuarial sense ...

Mr Berry: You missed a paragraph - paragraph 2.

MR DE DOMENICO: What Mr Berry has is the advice that I have asked for from the actuary. That is fine. Someone has leaked that to him. Well done, Mr Berry! But you said in this place that you actually have a copy of the actuarial report. The board tells me that they have a draft copy of the report, which they have not considered yet and have not advised me about; but Mr Berry happens to have, he tells us, the final version of the actuarial report, which the board has only a draft of. Well done, Mr Berry! He comes into this place and expects us to vote on this piece of legislation today, after we agreed to adjourn it last week because we had not had the actuarial report, because quite obviously he wants to give someone a big, fat Christmas present. As I said, Mr Speaker, I am not prepared, and the Government is not prepared, to accept - as we were not prepared to accept his legal advice two days ago - his actuarial advice today. Mr Berry is trying to spin the line now. He has not asked any questions that would affect this particular Bill. Once again, Mr Berry becomes an incredible actuary. Overnight, Mr Berry is now an actuary.

Finally, can I say to Mr Berry and to those members of the crossbenches: Why is it essential that we pass this legislation today? Are we prepared to take Mr Berry's actuarial recommendations, based on his reading? Right this minute he is reading some pieces of paper and he is going to give an actuarial opinion on them, on the back of an envelope. He does not even have an envelope in front of him. He is asking us to support this legislation today, based on his actuarial calculations or because he has a copy of a draft or whatever he has in front of him. This Government, as I said, Mr Speaker, is not prepared to pass this Bill until we sit down and actually analyse, professionally analyse, the actuarial advice that is before us - which is not yet before us, by the way. Be it on the heads of those members who are prepared to pass this Bill, because, let us make no bones about it, if this Bill passes, this will be the scenario: Existing workers in the building industry and Mr Berry's mates, obviously, in the CFMEU will be better off, potentially at the price of having a training levy next year agreed to by all the industry.

So, do we train young people in the industry and do we then use some money to employ more young people? Two weeks ago - Mr Speaker, I do not want to reflect on a vote of the house - Mr Berry voted against a Bill, the long service leave Bill, that would have employed 80 new people in the building industry. He actually voted against that. But today he is prepared to support a Bill - in fact, he presented the Bill in this place - that will give existing employees more entitlements. This Government, Mr Speaker, would rather spend money on training and would rather spend money on creating new jobs than give workers in the building industry benefits that are higher than those in New South Wales and higher than those in any other State, except South Australia and the Northern Territory.

We believe that any extra benefits that any worker gets in the ACT or anywhere else ought to be subject to an EBA, because that is the way it is going to happen all over Australia. But what are we attempting to do today? We are attempting to legislate for higher benefits for one particular industry because Mr Berry happens to have some mates in that industry. I am not prepared to accept Mr Berry's actuarial advice, as I was not prepared to accept his legal advice, and I suggest that nobody else should either.

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MR MOORE: Mr Speaker, pursuant to standing order 47, I seek leave to make an explanation.

MR SPEAKER: Proceed.

MR MOORE: Mr Speaker, the actuarial report I quoted from, which came with a covering letter signed by Peter Gerrard of John Ford and Associates on 28 August 1996, is my draft report. So, I accept what Mr De Domenico said. However, the words that I quoted finished as a paragraph. I note that, in his version, the next paragraph is joined on. That does not change my view; but I want to emphasise that it is not my policy to quote out of context. I am quite deliberate about not doing it. I accept that Mr De Domenico has a later version. It would probably be very helpful if he were to table that anyway, for the general benefit of members, so that we can go back through it. I must say, Mr Speaker, that what Mr De Domenico said has not changed my mind about the general perceptions of what, in my draft report, are sections 61, 62 and 63, which fit under the overall heading of "Impact of a possible increase in benefits".

MS TUCKER (11.15): Mr Speaker, nationally, it is recognised that the building and construction industry has particular features - the peaks and troughs of work. What Mr Berry is proposing is to bring the long service leave entitlements of this industry in line with not only the public sector but also South Australia. The Greens believe this is reasonable. I hear the arguments that we do not have the ability to look at benchmarking in a way that is going up instead of down. I hear "benchmarking" being used often in this place, but it is always about going down. The Greens believe that in this case, especially, it is better that we go up, because there are some basic principles in this discussion which are very broad and which are actually related to the whole government philosophy Australia-wide at the moment, with the industrial relations discussions and Federal legislation.

Mr De Domenico talks about EBAs and not always being opposed to them. However, we have said before in this place that there are real concerns about the results of the EBAs as they are moving now. The question of productivity is one that we do have to continually address. It is not always easy to work out how productivity can be analysed. Questions like the one that we are dealing with today are about lowering standards for workers. That is the fear from the current industrial relations trends in this country. That is why we have looked very carefully at Mr Berry's Bill. It is not, of course, just the construction industry; the whole nature of work in all industries in this country is changing, and conditions are being stripped away. The way that employment conditions are changing in this country, there is less security; we have contract employment. I think the particular features of the building and construction industry used to be specific to that industry, but I can see how those conditions are spreading through to a lot of other industries now with outsourcing, contracting out, small government and so on. I believe it is essential that we look at issues such as this in the broader picture as well.

The MBA have put up a number of arguments about why they have concerns. They refer to the flow-on argument. They argue that, out of 75,000 employees in the ACT, only 4,100 are in the building and construction industry; therefore, there will be pressure for these conditions to extend to all private sectors. As I said, we do not necessarily think that is such a bad thing; but we do not believe it is necessarily the case because workers are under Federal - - -

Mr De Domenico: How do we pay for it, though?

MS TUCKER: Mr De Domenico interjects, "How do we pay for it?". If you do not have a system that can be self-supporting in all its ways, then your system is failing. If the Liberal ideology is producing the situation where we actually hear the argument that no-one will be able to afford to buy a house in our community because we are supporting workers' conditions, what you are saying is that the system will work only if one particular group of players in it carries the cost unfairly. You obviously have not thought out this economic theory at all if you say that is the only way it can work; that consumers will be able to benefit only if other people in the cycle suffer.

As I was saying, there is not necessarily going to be pressure for these conditions to extend to all private sectors. There are workers in the ACT who are under Federal awards. In South Australia, workers under Federal awards outside the construction industry have not had these conditions flow on to them. Workers under Federal awards in the construction industry have had a special exemption. This reinforces the argument that the construction industry is treated as a special case.

There are also concerns from the MBA about the issue of portability. South Australia has worked out a mechanism for enabling portability which does not appear to present any particular administrative difficulties. They are also concerned that the Long Service Leave Fund cannot sustain the increase. That is basically because the Government wants to see a further reduction in the rate of employer contribution. The employer contribution is currently at one per cent. Members would remember that it was reduced from 2.5 per cent in 1994, I understand, by the then Opposition and Independents. Basically, there is a large surplus of nearly \$20m in the fund. We accept that eventually there may need to be an increase in the employer contribution.

Once again, it is a broad question; it is a question of the Government saying, "We are going to hand over responsibility to the private sector. We believe in smaller government. The private sector will look after it". But if the Government itself does not take on the responsibility - and this is the whole argument that we have had about community service obligations and competition policy, at the Estimates Committee hearings and so on - the Government's fundamental and essential responsibilities are also apparently being handed over to the private sector. We have this argument that the private sector cannot afford it. The Government subsidises the private sector. We have had discussions about that in recent times here. You are subsidising the business sector and the private sector because you have this faith that there will be all this flow-on. At the same time, you say, "Do not ask them to take responsibility for training. We will not do that very much either because we believe in small government".

The Greens do not support the argument that these are employer funds only. We were happy to see some of the money channelled into training to support workers in the industry. This is money that is paid by employers, but it is part of a worker's overall package of entitlements. It would be ridiculous to suggest that a worker's superannuation package belonged to the employer. The same principle should apply with respect to long service leave.

MR BERRY (11.22), in reply: Mr Speaker, in the 1860s, I think it was, 130 years ago, the masons in Melbourne, I think it was again - trying to recall some of my industrial relations history - and the stoneworkers were fighting for a shorter working week. They eventually won the eight-hour day. It was six days a week in those days. What do you think a leading newspaper in the town said? They said, "We will all be ruined". Here we are, 130 years later, far from ruination and a whole range of workers throughout this country are far better off as a result of changes in wages and working conditions which have accrued to workers over time.

Mrs Carnell's contribution to this debate did not help much; first of all, because it was misinformation. She said that the training was going to be affected by this. Of course, our memories are not that short. It was only a little while ago that the Assembly agreed to take the training element out of this Act. For Mrs Carnell to climb up on her feet here and say that this has some relationship to the training element is not on. Her statement was quite untrue. That part of Mrs Carnell's speech was just misinformation.

Mrs Carnell also indicated that she thought there were going to be massive imposts on the building industry. That is quite untrue. This actuarial report to which Mr De Domenico referred makes it clear that there are not going to be major imposts on the building industry for many years. If you look at the figures at page 4 of the draft report to which Mr Moore - - -

Mr De Domenico: Which figures? The draft report? Which draft report? Table it.

MR SPEAKER: Order!

Mr De Domenico: Table it.

MR SPEAKER: Order!

MR BERRY: Mr Speaker, it is very clear that the fund is in surplus and will be able to carry these costs for many years. In fact, they could not put a figure on how many years it would be before it would cost. It is also well known that, at one per cent, the levy is less than the cost of benefits now. Building employers are getting a benefit for less than it costs. Mrs Carnell's argument on the basis of the reference that Mr De Domenico made to an actuarial report is misinformation. In fact, there will be no foreseeable increase in the cost of houses. For many years, according to the actuary, there will be no additional cost. That contribution to the debate was just misinformation.

Mr De Domenico: He is not there to talk about housing prices.

MR BERRY: Mrs Carnell referred to housing prices. It will not happen. It will not happen in the foreseeable future.

Mr De Domenico: According to whom?

MR BERRY: The actuary. It will not happen for many years.

Mr De Domenico: What, housing prices will not go up?

MR BERRY: They will not go up as a result - - -

Mr De Domenico: Quote from the actuary's report that says that.

MR SPEAKER: Order!

MR BERRY: They will not go up as a result of this legislation. I turn to some of the comments that Mr De Domenico made in his speech on this matter. He said:

... 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.

They would not be the first employees in one particular geographical area in Australia that enjoyed superior benefits to those of a group of employees in another geographical area. But he puts far too much weight on that, because construction industry workers in the ACT and all the States, but not including the Northern Territory, on my information, enjoy superior benefits on long service leave to those of most other workers in the private sector because they do not have this portability arrangement. I have not seen it spreading into other parts of industry, though it would not surprise me if at some point in the future that occurred. It is something that - - -

Mr De Domenico: Would you support that?

MR BERRY: It is a part of our policy. Mr De Domenico's reference to the sunset clause undermines his leader's contribution to this debate. The sunset clause in the training levy Bill was passed through this Assembly. The training levy will be dealt with from another source in due course. If it is not dealt with from another source in due course, in accordance with the Minister's promises, then it will be returned to this source. I think that will simply be the outcome.

Mr De Domenico then asks what my motives might be in relation to the introduction of this Bill. He asked the question, "Why did he not take such a step when he was Minister, or why did not Mr Lamont when he was Minister at the time?". If Mr De Domenico had been paying attention at the last election, he would have noted that the Labor Party promised this very action - - -

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Mr De Domenico: And what did the community say? They gave you 30 per cent of the vote.

MR BERRY: We promised it, and we feel - - -

Mr De Domenico: And the community said, "We are so enamoured of this proposal that we will vote you 30 per cent".

MR SPEAKER: Order, Mr De Domenico!

MR BERRY: We have a strong commitment to our promises, unlike those opposite. It might be foreign territory for Mr De Domenico to stick to his promises, but we in fact stick to our promises. He says that to concede an improvement in general conditions of employment, such as improved long service leave benefits, in the current economic circumstances will be economically damaging to the whole Territory economy. Rubbish! Mr De Domenico's contribution to the debate makes it clear that this could not happen for many years; Mr De Domenico admits that in this place.

Mr Speaker, we have a very clear situation where this amendment to the legislation will provide additional benefits to construction workers in the Australian Capital Territory. Those benefits will come from the fund which is - - -

Mr De Domenico: Existing employees. How many jobs will it create? You are Mr Jobs. How many jobs will it create?

MR SPEAKER: Continue, Mr Berry.

MR BERRY: The contribution that Mr De Domenico makes with his interjections is worthless, but the noise is annoying.

Mr De Domenico: How many jobs?

MR SPEAKER: Order!

MR BERRY: Mr Speaker, it is very clear that extra benefits will flow to construction workers as a result of this Bill. It is very clear that it is impossible for any additional costs to flow to the construction industry for many years. That is in accordance with Mr De Domenico's contribution to the debate. He read from his actuarial report and made it clear that there would be no extra costs for many years. I just emphasise that. That is Mr De Domenico's contribution.

Mr De Domenico: How many jobs? Our Bill created 80 jobs. How many would yours create?

MR BERRY: That noise persists, Mr Speaker.

MR SPEAKER: Order!

MR BERRY: Mr Speaker, when we look across Australia we see that there are different benefits applying in some States than there are in others, but that is not unusual. I recall that, when I was in the New South Wales public system as a firefighter, we had different benefits from those which existed in the Commonwealth; in fact, they were better. It was two months' long service leave for the first 10 years, and half a month per year thereafter. That is equivalent to seven months after 20 years. I transferred to the Commonwealth; it was three months after 10 years, and one-third of a month thereafter which, of course, is six months after 20 years. That differential has been there for a long time, and I do not see any signs of that happening in the Commonwealth.

This argument about being out of step with New South Wales does not carry any weight at all, because it is commonplace for different conditions of service to exist across borders. In due course, workers on one side of the border or the other may seek to achieve the benefits which apply in another place, and that is fair enough. That is why this is fair enough, because this will bring the ACT into line with South Australia and the general benefit which applies in the Northern Territory. This is a fair increase in a benefit to a group of workers in the Australian Capital Territory who have a special arrangement for long service leave. It will come at no cost to the building industry for many years. That will be a good thing; there will be beneficiaries at no cost to the building industry. Mr Speaker, as well, according to the Minister's promise, the training levy, which has been excised from the long service leave legislation, will be dealt with in the future.

Mrs Carnell: On the basis that there will be no increase in the levy.

MR BERRY: Mrs Carnell chirps up, "On the basis that there will be no increase in the levy". Well, there will not be. In fact, if the employers renege on its promise to cooperate, and the Government reneges on their promise to provide training funds from another source, then I, for one, will be bringing legislation into this place to plonk it right back in the long service leave legislation which is before us today. This nonsense about cross-border differentials being a driving issue to prevent us from increasing benefits for workers in the ACT is just a load of nonsense; that is all it can be described as. There are thousands of examples where differentials exist in benefits across borders throughout this country.

This is, as I have said, a fair amendment to the legislation. It is something that has been, as far as our position is concerned, on the public record for a long time and is something, if achieved, I would be very proud of, because it would surprise nobody that the Labor Party is about improving the lot of working people. I am pleased that it is also the policy of a number of other speakers who have already spoken on this Bill, because that is a compassionate view of the world. That is a compassionate view of the world, where people are entitled to a fair share in the wealth of the world. The fact of the matter is that this is a very fair share, because it gives access to a fund which is many millions of dollars in surplus and the result will not impact on the building industry for many years, according to Mr De Domenico. Mr Speaker, I need say no more in relation to this amendment, other than to urge members to support it. I thank those members who have risen in this place in support of the legislation and I wish it a speedy passage through the Assembly. I give notice that, in the detail stage, I will be moving an amendment to the legislation, but I will speak to that issue later.

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Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR BERRY (11.36): Mr Speaker, I move:

Page 2, line 19, clause 6, omit “paragraphs (1)(c) and (d)”, substitute “paragraphs (1)(c) and (d) and (2)(c) and (d)”.

Mr De Domenico: What does it do?

MR BERRY: We will get to it, mate. We will get to it; never mind. Mr Speaker, this amendment arises from a Scrutiny of Bills Committee assessment of the Bill. If I may describe Professor Whalan as this, the hawk-eyed Professor Whalan found that there had been an oversight in the Bill in the application of the new formula to parts of the legislation which apply in respect of accrued benefits. That is in section 53 of the legislation. It is the entitlement to payment in lieu of leave. Mr Speaker, the amendment remedies that oversight.

Amendment agreed to.

Question put:

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

The Assembly voted -

AYES, 10

NOES, 7

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

Mrs Carnell
Mr Cornwell
Mr De Domenico
Mr Hird
Mr Humphries
Mr Kaine
Mr Stefaniak

Question so resolved in the affirmative.

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

Bill, as amended, agreed to.

STANDING ORDERS 77(a) AND 77(d)

MS TUCKER (11.41): I move:

That the resolution agreed to by the Assembly on 28 August 1996 adopting temporary orders relating to the precedence of private Members' business be amended by omitting "the last sitting day of 1996" and substituting "the last sitting day of 1997" (twice occurring).

I will not speak on this at length because we had a very recent debate in this place when it was originally passed. Including today, this is the fifth day that we have had the opportunity to have an extension of time for private members business. I believe it is quite appropriate that we extend that time. Personally, I think it has worked well. I do not think it has been used for filibustering, as some people in the Government were slightly concerned may occur. There may have been some of that, but mostly I think it has been very constructive. There is a significant amount of private members business, and it is quite appropriate that we have more time.

MR HUMPHRIES (Attorney-General) (11.43): Mr Speaker, the Government's view has not changed from the view that we expressed when this debate occurred earlier about inserting the provision that is now being amended. It is our view that these sorts of issues need to be handled on a more flexible basis than to create an entire day for private members business throughout the whole of 1997. On occasions such as today, for example, the Government has a lot of business and would be happier if the afternoon were devoted to Government business.

It is also my observation, with the greatest respect to private members in this place, that some of the private members business we have debated has been relatively unimportant and has been time filling rather than actually significant material which needs to be passed by this Assembly.

Mr Moore: And that is never the case with Government business!

MR HUMPHRIES: That may be the view of others; but the Government, as we are told often, is supposed to fill the notice paper and keep the business of the Assembly going. I do not think it is a fortunate precedent. However, let me make it clear that if the Assembly supports this motion - particularly if the Labor Party indicates that private members ought to have the right to have access to private members business all day long - that will be the position which we will accept for future Assemblies and which we will apply against the Labor Party in future Assemblies.

Mr Speaker, let me make clear what I said on the previous occasion. I believe that what is happening here is that, although they are not stating it, the Labor Party is supporting this motion with the unstated qualification that it is being done this time only because they consider the Government has not enough business of substance to warrant there being half a day on Government business on Wednesday afternoons. I have no doubt that the next time they are in a position to be in government in this place they will say, "We are sorry; we cannot possibly agree to let the whole of Wednesday go on private members business. We have far too important an agenda to run".

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If Mr Berry or someone else from the Labor Party is going to speak to this motion, they should clearly state the circumstances in which they accept this motion. Is it that they happen to believe that the circumstances presently warrant private members business running over on Wednesday afternoons, or do they believe, as a matter of course, that it should always run over on Wednesday afternoons? I would like to hear Mr Berry's response to that matter because I think that whatever the Assembly adopts on this occasion ought to be the case not just for the moment but for the indefinite future and ought not to be a matter that we chop and change about.

MR BERRY (11.46): Mr Speaker, Labor will be supporting this motion. I heard what Mr Humphries said and I picked up the threat - or was it a hint; I think it was a threat - that if ever Labor were in government we would wear this as well. Our view about the matter is that if the Government has a special pleading for extra time for its legislation and that can be negotiated with the non-Government members in this chamber in respect of a period of time on Wednesdays, then they will get their period of time. But let us not forget that Labor is not the only group in this chamber that would have to be consulted. There are other people that have to be considered in the context of this motion. If the Government wants to propose that on any Wednesday it wants to deal with its legislation rather than that which is proposed by other members, they will have to negotiate with them individually, I suspect. If you want the Labor Party to dump some of its legislation off the private members list, then you will have to negotiate with us. At the end of the day it is going to depend upon whether you can get nine votes in this place.

Our position in relation to this matter is pretty clear. There are a number of private members in this place who want the provision. We do not see this issue as being set in concrete.

Mr Humphries: I did not think so.

MR BERRY: No; if at some time in the future there is a strong argument from all of the people here, or a majority of the people here, that they want to change it, and we accept the argument, then, of course, we will change it. But that applies to all the standing orders.

Mr Humphries: If Labor has nine seats, you will never need that Wednesday afternoon?

MR BERRY: As I was reminded in the last debate - dare I reflect on it briefly - we did not get enough votes to get a majority in this place. We do not have our hands on both levers. Now and then we nearly get our hands on both of them. When we do get our hands on both levers we usually get one of them smacked.

Mr Speaker, this is something which we agree to on the basis of our expectations of private members business in this place. If the Government has a special pleading in respect of any particular Wednesday, or if at some time in the future it wants to move to strike it out, we are prepared to talk; but we would have to include everybody else as well.

Mr Humphries: This is a rule for the Labor Party in opposition only; right.

MR BERRY: No. Mr Humphries interjects about a special rule for the Labor Party when in opposition. If we were in government and private - - -

Mr Humphries: You would be doing the same thing? Do not give me that.

MR BERRY: No; if we were in government and private members moved and carried a motion such as this and we needed more time for our own business, then we would program an extra day or two. That is an option that you might have to take into consideration.

Mr Humphries: No, crossbenchers; no commitment.

MR BERRY: No. To be fair - - -

Mr Humphries: Next time they have nine seats, there goes your Wednesday afternoon.

MR SPEAKER: Order!

MR BERRY: No. To be fair, this tells the Government that for next year this is the non-Government members' expectation for Wednesday.

Mr Humphries: But just for next year.

MR BERRY: That is as far as it goes. It applies only till the end of 1997.

Mr Humphries: You can make it a permanent order, Wayne.

MR BERRY: You can, if you like. What the Government has to do is look at its legislative program. It is now on notice that these are the temporary orders that are going to apply. It ought to look at its legislative program. The Manager of Government Business, dare I suggest, should see whether or not he can fit it all in, rather than dragging us on into the middle of the night debating legislation and introducing debate on legislation at 10 o'clock at night, like on the Appropriation Bill, and expecting us to go all night to deal with these issues, at great cost to the Legislative Assembly. The Manager of Government Business ought to get his act together and make sure that he can program Government business within the normal sitting times of this Assembly, without putting us into a situation where we go well into the night. If you want to program extra days you can program extra days, and that is the approach that we would take if we were faced with this amendment. We are not frightened of it like you are, Mr Humphries. It does not bother us.

MR Kaine (11.52): Mr Speaker, I thought I had heard everything in this place in the last eight years, but this morning Mr Berry exceeded himself. I never thought I would see the day when the alternative government argued to amend standing orders to take away from government the right to bring its business before the Assembly, and that is what he is doing. We have had in place ever since this place was first established in 1989 standing orders which prescribe that on Wednesday mornings private members business may be brought on. A little while ago we suspended that on a temporary basis.

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Mr Berry then argued that the suspension of standing orders on a temporary basis was justified because the Government did not have enough business to fill up the day. Now he is saying, "If the Government wants to bring on its business it can negotiate to bring on its business". That seems to be a rather odd position for an alternative government to be arguing from - that the Government has to come to this place and argue the point to be allowed to bring on its business at a time which, ever since the day of self-government, has been recognised as a time for Government business.

The lack of logic in his argument is that the opposite of that is equally true. If we do not put this amendment through today, if on any day the Opposition or the crossbenchers believe that some of their business is so pressing that it should take precedence on a Wednesday afternoon they can negotiate that too.

MR SPEAKER: Order! There is far too much audible conversation. Mr Kaine has the floor.

MR KAINE: Thank you, Mr Speaker. It is clear they do not want to listen. But just as Mr Berry argues that the Government can negotiate to get its time back, after having given it away, it is equally true that the Opposition and the crossbenchers can debate and argue to get additional time on any day if they believe their business is sufficiently pressing to warrant it. Mr Berry's logic does not support his case, not in the slightest.

I must say I am astounded to hear Mr Berry put this specious argument, this convoluted argument, this unconvincing argument that the Government should give away time that is rightly its time under the standing orders for absolutely no reason at all. He stands over there and argues for that, and I just have to wonder if there is a change of government in the future - and I doubt that there will be - will he then argue the same case. Of course he will not, because he will maintain then that this is Government time, Government business is entitled to take precedence during this time and the Government should get its business up unless somebody can bring forward an argument to change that. The argument, to me, is most unconvincing and I am astonished that the Opposition would even consider supporting this as a long-term amendment to the standing orders which would then require them to argue their case to get their time back. I think it is ludicrous.

I think the Government has plenty of business on the agenda that needs to be dealt with. To argue that it should all be set aside in favour of private members business for one-third of the sitting time of this Assembly, one day out of every three, is beyond my understanding. I can assume only that either the Opposition has lost its wits entirely or it just wishes to be difficult. In either case, I think what they are doing is reprehensible.

MR MOORE (11.56): It is interesting that the Government is getting so good at picking losers. What they should have done was graciously accepted that this would be a sensible move. Mr Kaine is quite incorrect when he says that this fully turns over a third of time to private members business because, if that were the case, then we would not have any questions without notice, presentation of papers and Assembly business, as occurs on this day. I should not say that he is quite incorrect; he is inaccurate. It would be much more accurate to say that the effect of this proposal, as we have seen, is basically that about 4½ hours of private members business would get debated in any sitting week.

Mr Kaine: Do you want to do away with question time on Wednesdays, too? That will give you another hour.

MR MOORE: Mr Kaine, allow me to invite you in particular and other members of the Government backbench to contribute further to private members business, because I would be delighted to do what I can in the Administration and Procedure Committee to ensure that you have the opportunity to share in that private members business. I think it is an opportunity that somebody of your talent and experience would find very useful.

Mr Speaker, I foreshadow that I will be moving an amendment to Ms Tucker's motion, accepting the invitation that Mr Humphries put that, if that is the way we feel about this, then it ought to be a permanent standing order. By making it a permanent standing order, of course, the onus changes. If somebody does not like it then it is up to the Government in the next Assembly to say, "We do not like it; therefore, we will move to change it". I think that is an important onus. If people are genuine about the appropriateness of the Opposition and the crossbenchers being able to operate in an Assembly where there is a minority government, then it is also appropriate that that carry through as a permanent standing order. I think it was a good invitation. At this moment I am having the appropriate amendment drawn up. I would not be surprised if it is ready to be circulated in a few moments.

Mr Speaker, I think that what we have seen in this Assembly is a growth in the amount of work that the crossbenchers and the Opposition do in order to enhance the wellbeing of Canberra, in order to enhance the society. The Government has a series of options that they can deal with on this issue. If they feel there is not enough time for their business, then they can do, first of all, what has already been done within the last six months, within this trial period, and that is request that Executive business take precedence of private members business on a Wednesday afternoon or even on a Wednesday morning, for that matter. I think that is a quite reasonable request that sometimes will be recognised as such.

But they have a series of other options as well. Firstly, sittings can be extended into the evening. Secondly, more sitting days can be put into our calendar so that we can be sure that we have an appropriate amount of private members business. It is fair to say that private members also have an option to use the matter of public importance debate. Of course, that is also open to the Government and to Government members, but it has been largely used as a tool by private members.

Mr Humphries: Lately it has not.

MR MOORE: Indeed. Mr Humphries interjects, "Lately it has not". I was about to say that one of the reasons that I believe it has not been used as much by private members in the last little while is that it has no conclusion. A matter of public importance debate is used, I think, in a much more effective way where it is used to raise issues on which members want to sound out ideas. I think that is a very effective way to use it. What is clear to members now is that we can be very effective in implementing policy through the use of private members business in this house.

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Mr Speaker, I think that is a very good reason for us to put this into the standing orders rather than keep it as a temporary order. I have discussed this with Ms Tucker, who is quite accepting of making it a permanent standing order. I recognise that she probably felt that this was an opportunity to take the process she has been using that little step further. If my amendment gets up, then I think we will have achieved the overall goal that you would have been aiming at in the long term. This is a very effective method of ensuring that this Assembly operates as an Assembly rather than either a rubber stamp or a veto for government. I certainly think that is how we are growing as an Assembly. In the initial instance there was an approach taken where we would have tended to accept what government was doing and then work around that. We are seeing more and more initiatives coming from other members to change policy, to implement what we believe to be a healthier society.

Just as an aside, Mr Speaker, if the same approach had been taken by the Chief Minister in preparing what was intended to be a strategic plan, we would probably have a much better outcome. Therefore, I move:

Omit all words after “28 August 1996” and substitute “be amended by adopting the following new standing orders 77(a) and 77(d):

- (a) on sitting Wednesdays private Members’ business shall have precedence of Executive business; and
- (d) when there is no question before the Chair during private Members’ business and at any time during the consideration of Assembly business any Member may move that Executive business be called on and such motion shall be put forthwith without amendment or debate”.

What we have here, I think, is a very sensible approach which says quite clearly, “Yes, private members business is there; but, if there is a genuine need that the Executive can demonstrate to deal with their business, then all they have to do is convince the Assembly”. I commend to the Assembly the original motion and the amendment to the motion.

MR HUMPHRIES (Attorney-General) (12.03): Mr Speaker, all I have to say is that we do not support the principle, as I have said before; but, if there is going to be a change, it should be a change for all governments, not just for the present Government. We, therefore, support the amendment.

MR WHITECROSS (Leader of the Opposition) (12.04): Mr Speaker, the Labor Party are more than happy to accept Mr Moore’s amendment. We were happy, of course, to support the proposition put by Ms Tucker, but on the invitation of the Government we are happy to make the temporary order a permanent order. There has been something of a tradition - and, I must say, a slightly curious tradition, in my view - that, whenever we change the standing orders, we do it as a temporary order rather than as a permanent standing order. I have never quite understood why that has been the way it has been done, but I have never particularly queried it. The Government wish to make this a permanent order, and that is no problem for us.

Mr Speaker, can I just say in relation to this matter, though, that a little history does not go astray. The reason that the Greens originally proposed this and we and the Independents agreed to support this was that we were getting somewhat tired of coming into this place with wafer-thin Executive business papers from the Government. We would come in here and it would be home time at 4 o'clock because the Government had so little Executive business. Meanwhile, private members business was banking up on the notice paper, because we had only a couple of hours in the morning - effectively 1½ to two hours in the morning - to deal with it, and we were going home early in the afternoons because the Government could not fill their notice paper up. It seems to me that we made the right decision to say, "We have business that we want to do, even if the Government does not have business it wants to do. We will support the extension of private members business".

I know Mr Humphries is now a bit sensitive about this, because he is the Manager of Government Business. Unfortunately, he has been mismanaging Government business. We get to the end of the session and suddenly they are rushing all this legislation in. The legislation is so badly drafted that the day before it is due to be debated they then rush in again with five, 10 or 20 pages of amendments to their own legislation and expect us to rush these things through the parliament. I can understand that he is a bit sensitive about the amount of Executive business because he has a lot to get through; but, quite frankly, that is not our problem. It is up to the Government to manage their business in a way that ensures it can be done. We have said that we are happy to consider extra days, if extra days are necessary to deal with Government business. We would have considered an extra day to debate the budget, rather than going along with the Government's agenda of introducing the debate on the Appropriation Bill at 10 o'clock at night.

Mr Speaker, just on that point, I should say that, in the week that the Appropriation Bill was debated, the Opposition and the Greens and Independents did, in fact, agree to give over Wednesday afternoon to Executive business to assist the Government in getting through their business paper. As I said, it could be argued that it was the Government's mismanagement which led them to having so much legislation to get through in that week.

Mr Humphries: We allowed the Greens' motion to come up and take up the whole of the Tuesday. That was mismanagement, was it?

MR WHITECROSS: Yes; we allowed the Greens' motion to come up on Tuesday, Mr Humphries; and then on Wednesday we gave you the whole afternoon to discuss Executive business.

Mr Humphries: Yes, but we spent 10 hours on the Tuesday debating the Greens' motion.

MR WHITECROSS: Mr Humphries has an elastic view of time; we spent 10 hours on Tuesday debating the Greens' motion. Deary, deary me, Mr Humphries! The reason why we went all night on Thursday was that, from day one, the day they set down Executive business for Thursday at the Government business meeting the week before,

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we were never going to get through the amount of business we had to do on Thursday in a sensible amount of time. The fact is that there was always too much to do and the Government always intended us to be debating the Appropriation Bill in the middle of the night. That is when they like debating their budget, because they know what a rotten budget it is. Mr Speaker, we would have been happy to come back the next day, but they like to do things in the middle of the night, just as they like to table the financial management statements in the middle of the night.

MR SPEAKER: Relevance!

MR WHITECROSS: It is relevant in a sense, Mr Speaker. Returning to the point: We are happy to support Mr Moore's amendment. We are happy to support the Greens' motion. It is clear that Mr Humphries's main problem is that he cannot organise Government business properly. The Greens introduced this temporary order in the first place because the Government could not fill up their business paper. They are now finding that they are getting into trouble with time. That is something that they need to come and talk to us about in a frank way, not try to make out that their opposition to this proposal is somehow part of an agenda of theirs to look after the Labor Party when we win government at the next election. I support the proposals, Mr Speaker.

MR MOORE: Mr Speaker, I seek leave to modify my amendment, on the advice of the Clerk.

Leave granted.

MR MOORE: The amendment then would read:

Omit all words after "That", substitute "standing orders 77(a) and 77(d) be omitted and the following new standing orders 77(a) and 77(d) be substituted

...

MR SPEAKER: Effectively, it is the preamble that is being amended, Mr Moore.

MR MOORE: Yes, Mr Speaker. I have done that on the Clerk's advice.

MS TUCKER (12.11): I will wrap up the debate then. Thanks to everyone for contributing to this. I thought it was going to be quite short. But the way it has turned out has been quite good. I would not quite agree with Mr Whitecross that the prime motivation for this motion from the Greens was that the Government did not have enough business on the notice paper. That was the fact, but the reason that the Greens proposed this was that we do have a diverse range of opinions in this Assembly. That is because the people of Canberra voted for this diversity and a minority government. I think our proposed change to standing orders was to bring the standing orders into line with the reality of the minority government we have in the ACT. I understand Mr Whitecross's point, however. I have to share his concern at the way the business has suddenly piled up.

Mr Humphries: It always does at the end of the year. There is nothing conspiratorial about that.

MS TUCKER: Mr Humphries said, "It always does at the end of the year". I accept that from Mr Humphries, but I would take this opportunity to make the comment that I have not felt we have been given enough time to look carefully at amendments and Bills that have been given to us. There have been some obvious consequences of that recently; for example, the Firearms Bill. I do think that is a concern about the process. I do not know whether that is actually because the Government needs more staff or needs to be better organised, but it certainly means that the crossbench needs to have good staff and a preparedness to work over the weekend to deal with the amount of work that comes to us very late.

Just staying with this issue, basically, I thank members for their support. I think it does reflect the reality of the minority government that exists in the ACT. There are a lot of people in the private members group who have a lot to contribute. So I thank members for their support.

Amendment agreed to.

Motion, as amended, agreed to.

MOORE STREET HEALTH BUILDING

MR BERRY (12.14): Mr Speaker, this motion is moved against a background of actions by this Government in relation to health services and asset sales.

Mrs Carnell: To be obstructionist.

MR BERRY: I am glad Mrs Carnell interjected and said, "On the basis of being obstructionist", because I - - -

MR SPEAKER: Order! Move the motion, Mr Berry.

MR BERRY: I move:

That this Assembly requires - That:

- (1) the Government withdraw any action aimed at the sale or disposal of the Moore Street Health Building unless otherwise approved of by the Assembly in session;
- (2) the health services at the Moore Street Health Building be maintained in both type and extent of service until otherwise approved of by the Assembly in session.

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I am proud to be an obstructionist if it means stopping somebody slashing health services. I am proud to be an obstructionist if it means stopping somebody selling, for some ideological reason, a publicly-owned asset.

Mr Speaker, the Estimates Committee went to a lot of trouble during the budget process to look at asset sales. We questioned the Government closely about asset sales and, as a person who attended those meetings, I can say to you that the Estimates Committee felt that everything had been put on the table. That was my impression. Was it not a surprise when, a day or two after the public hearings of the Estimates Committee, we saw an advertisement in the *Canberra Times* which talked about the purchase and development of the Health Building and the Queen Elizabeth II site behind it. The Queen Elizabeth II site will be vacant in due course and may be something that the Government wishes to dispose of, but it strikes me as an odd time to be selling these sorts of assets when there is a hole in the ground just across the road that nobody has been prepared to build anything on for years. I do not know why the Government would choose that time to sell these sorts of assets off.

But when I come to the Health Building, I have an entirely different view, because I know about the services which are in the Health Building. Mental health services are located there, for a good reason. It is central; people can get access to these services by public transport. It has become well known as the centre for community health services, and is a place which is part of the delivery of health services in the ACT. I must say that, at first, I was shocked to see this sale on the agenda; but, having thought about it in the context of Mrs Carnell's ideology, I do not suppose that should come as a surprise. The Aboriginal Health Clinic and Health Service is also there, for a good reason. It is accessible by public transport. It is a good place and has a nice, central location. The breast screening clinic, which now does the hospital breast screening because Mrs Carnell closed that, is there also.

The dental service is there. Because more people will be using the dental service, there will be more pressure on that service. There will be more pressure by poor people because the Commonwealth has defunded it, and Mrs Carnell has made no provision for it. Therefore, there will be more pressure on the dental service. It is most important that it be in a central area where people can get access to it by way of public transport. The reproductive healthcare service, the women's health service, the alcohol and drug service, the methadone clinic, the hearing clinic and so on are there also.

There is a long list of services which are provided from that centre and which, according to a news report, Mrs Carnell guarantees will stay in place; she categorically guarantees it. Well, I have heard Mrs Carnell's categorical guarantees before in relation to salaried medical officers and health centres. I must say, when I was standing amongst the rubble of what was left of the Melba health clinic, I thought, "That promise was not worth much, was it?". When the salaried medical officers disappeared, I thought to myself, "Mrs Carnell's stance on that was not worth much, was it?". That is why I treated her comments in the paper with similar distrust. On your record, Chief Minister, we would have to worry about what you have in your head about those services at that building in Civic.

Let us look at the asset sales side of it for the moment. The Estimates Committee made certain recommendations in relation to asset sales. I see that the Government has not complied at this point, certainly in respect of this building, with those recommendations, as I recall them. But what are these asset sales going to fund? Does it mean that we are going to have more budget blow-outs in Health, over and above the extra \$37m which appears in this year's budget in respect of Health? That would worry you a little in a system which Mrs Carnell criticised for yonks as being too expensive. The growth rate of expense in our health system since Mrs Carnell came to office has outstripped anything in my memory. It makes alarm bells ring when you see these sorts of asset sales being spoken about by the Chief Minister.

My recollection of her response just after the first advertisement appeared was that this was a just in case measure; just in case Mrs Carnell needed the cash, she was putting it out for expressions of interest so that she can call on it, I expect at short notice, to plug a hole somewhere. Well, I am not prepared to cop that. You cannot sit idly by and see somebody planning to sell off important health assets and important assets of the people just in case a hole needs to be plugged. Nobody in this Assembly would cop that sort of treatment of public assets. Already we have seen a massive asset sale in the Territory, basically to fund Mrs Carnell's popularity. I do not think Mrs Carnell was elected to sell off assets. Mrs Carnell did not go to the electorate saying that she was going to sell assets.

Mr Speaker, this is a serious issue about an important service; but it is also about the principle of asset sales, as they are important property of the people of the ACT. I urge members to support this motion. It makes sense and will force the Government to take into account the views of this Assembly before it takes any action in respect of that building. I hope that the Government takes this as a notice of intention for any other asset sales.

MR MOORE (12.22): Mr Speaker, in rising to support the motion, I would like to start by taking on board the comment that Mrs Carnell made by way of interjection, which Mr Berry did not reply to - that the sale of this building did not have to come up at the Estimates Committee because it was not for this year's estimates; it is in next year's budget. Within a couple of days we saw an advertisement for its sale. I think that does not quite paint a fair picture of what was happening at the Estimates Committee. The Estimates Committee was doing a very general verbal inquiry at that stage about exactly what we were doing with property in the ACT. We were discussing it. I was having a great deal of difficulty wrestling with the notion of sale and lease-back and whether this was a positive move or whether it was a negative move.

In the end, Mr Speaker, as it turned out, I came to the conclusion that, under the circumstances, in an on-balance decision, it has been and is a positive move. But, at that stage, we were genuinely wrestling with the problem and trying to understand what properties were for sale, what sort of property was for sale, what sort of property could be sold and what could be leased back. We were going through that process. For my friend to then say, "That one is not in this year's estimates; it is going to be in next year's" is hardly adequate, particularly when this process makes it appear that, in fact, the decision will have been made by the time it comes to next year's Estimates Committee. That is certainly how the approach appears.

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Mr Speaker, the motion is particularly interesting, considering that the Government has invited expressions of interest. I just want to make very clear my interpretation of the motion, because I think the Government has a role to play in trying to determine a series of alternatives it might propose for a site. The first part of the motion requires the Government to “withdraw any action aimed at the sale or disposal of the Moore Street Health Building”. The action of calling for expressions of interest may well be interpreted by some as being aimed at selling the building. From my understanding, it would be a fair interpretation that calling for expressions of interest is aimed at finding a series of possible options as to what to do with the building.

Most importantly, I also support the second part of the motion, which states:

the health services at the Moore Street Health Building be maintained in both type and extent of service until otherwise approved of by the Assembly in session.

I do not have a problem with that, but my interpretation would be that this does not mean you have to withdraw the expressions of interest that are currently there; you just cannot use them in any way to set up and move towards a sale of the building until approved by the Assembly.

I support the motion, but I do think it is very important that I make it clear that I am supporting it to that extent. From my perspective, it does not stop the Government from continuing with that expressions of interest process, but it does still make very clear that it ought not proceed beyond that. I think it is important that, with such an important community asset, the Chief Minister says to the Assembly, “We have these options, and this is what our proposal is”. It may well be that when those options are considered we may all look at those options and say, “Why did we not think of one of the options that have come out of the expressions of interest? We all think it is a great idea. Yes, it ought to proceed”. It may well be that we look at all the options and say, “These are terrible, and nothing else should happen”. It may well be that the options kick off an entirely different idea of what is in the best interests of the community as a whole. That is how we should make these decisions.

Mr Speaker, I will be very pleased to support Mr Berry’s motion. I think it is important to protect community assets. It is an important part of the responsibility of this Assembly. But it does have that proviso about the way I interpret the particular motion. That is the sense in which I support it.

Debate interrupted.

Sitting suspended from 12.28 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Strategic Plan

MR WHITECROSS: Mr Speaker, my question is to the Chief Minister. Chief Minister, I refer to the discussion yesterday about reports and surveys done in relation to the strategic plan. Will you table in this Assembly by the close of business today the reports of the focus group meetings, the minutes of the public meetings, the results of the survey and any other analysis, plus any other public comment gathered to develop the *Canberra: A Capital Future* document?

MRS CARNELL: Mr Speaker, I am very happy to table whatever is available.

Housing Trust Rents - Carers

MR HIRD: Mr Speaker, my question is to the Minister for Housing, Mr Stefaniak. Could the Minister please inform the parliament of what steps the Government is taking to assist people who care for members of our community who have disabilities?

MR STEFANIAK: I thank Mr Hird for the question. It is timely. The Government is fully conscious of the very substantial contribution made to the community by people who care full time for people with disabilities. Some of those people are Housing Trust tenants. In consequence, the Government has recently agreed to a significant rent concession to assist ACT Housing Trust tenants who take on the role of full-time carer for a close family member.

Where other residents occupy an ACT Housing dwelling with the tenants, the normal policy is to require an additional contribution towards the rebated rent otherwise payable. That is assessed at 10 per cent of the other residents' income where that exceeds \$100 a week - which, I might add, is considerably less than the previous Government's proposal of 25 per cent, but that is another issue. This helps to meet the significant cost of providing government housing.

In the case of public tenants who are caring for an adult child who is on a full disability pension, I have recently agreed, in consultation with the Chief Minister, to disregard that pension for the purposes of rent assessment. Where the resident is receiving rent assistance from the Department of Social Security in addition to the disability pension, only an amount equal to that rent assistance will be added to the tenant's rebated rent.

This new policy recognises that people who agree to take on the role of carer give of their time at great personal, financial and emotional cost. The policy also recognises that people who undertake the role of carer in their own home help reduce the cost to the community that would arise if institutional care were the only option. The Government felt it was appropriate and timely that that group of tenants who do take care of loved ones who are disabled should get some recognition for that fact.

Belconnen Landfill

MR BERRY: Mr Speaker, my question is to the Minister for Industrial Relations. Minister, over the last few weeks we have had repeated reports of problems with the sullage pit at the Belconnen tip. I have with me a letter from ACT Waste which says that everything is okay, if I can use that expression, at the tip. I also have a report, which I will seek to table in a moment, from MPL Environmental Services, which has had a look at the situation and says something quite to the contrary. It says that in many cases it is dangerous. I seek to table those documents, Mr Speaker.

Leave granted.

MR BERRY: Today I received an urgent telephone call informing me that a truckload of what appeared to be hospital waste was dumped in the pit. The waste included hazardous and possibly infectious material, in particular used cotton buds and syringes. When will you act to ensure that the waste dumped at the Belconnen tip does not endanger the environment, workers or the public at the tip?

MR DE DOMENICO: I thank Mr Berry for his question. First of all, let me say that the pond that Mr Berry has been alluding to has operated on this site for almost 20 years.

Mrs Carnell: It operated under them.

MR DE DOMENICO: It did. It has operated for that period without one complaint from the landfill workers or plant operators. For 20 years there has not been one complaint. The CFMEU's claim that the sullage ponds have caused rashes and vomiting to some of its members has not been substantiated. This raises the question as to whether the CFMEU is really concerned about the health and welfare of their workers or is just playing politics. Let us give them the benefit of the doubt. The Government considers the health and wellbeing of its workers to be of paramount importance. There are clear, strict occupational health and safety practices and guidelines in place to ensure that the issues of real concern are looked into and, if necessary, rectified. These guidelines include the issuing of a provisional improvement notice by the workplace OH and S representative following consultation with the employer. I understand that no such notice has been issued in relation to the sludge pit. That is point No. 1.

The day after the initial concerns were raised by the CFMEU and the media - no-one came anywhere near me; it was raised through the media, but it does not matter - air quality samples were taken and analysed by an environmental consultant. The results showed that the air quality is approximately 1,000 times better than Worksafe Australia's workplace exposure standards. There are certain standards Australia-wide. We did the test. The test result is 1,000 times better than we need to be. On top of that, samples of the sludge were analysed by Ecowise, and the results indicate that contaminant concentrations, excluding hydrocarbons, which are indicative of petroleum-based products - that is why it is there: To dump petroleum-based products - are well within environmental quality guidelines. Ecowise did the test and it was okay.

Environmental tests were done and the results were 1,000 times better than we should be. Today the saga continues. Everything is within the environmental guidelines. On the basis of the analysis undertaken, it is most unlikely that the sullage ponds at the Belconnen landfill constitute a health risk to workers on the site.

Small waste collection businesses are the main users of the sullage ponds. The ponds are a vital part of the waste management system for handling oil and grease trap waste and are managed under environmental licence for the landfill. Stopping access to the facility may lead to the improper disposal of these wastes, with significant environmental consequences - and I am sure that members would be concerned about that - or may even put small operators out of business. Neither outcome is in the interests of the community, and therefore I encourage the CFMEU to reconsider their position in relation to this matter.

Mr Speaker, it continues. The CFMEU have gone via the media. They have come nowhere near me. I have invited them to come in and show me exactly what they have. Mr Berry has tabled a report from some organisation at Spotswood in Melbourne that has come into town and done some tests. I do not know what tests they have done. We do not know whether they have compared the sludge pit with a rose garden outside Parliament House. I can tell you that the sludge pit will smell worse than the rose garden outside Parliament House, because it is a contaminated site. In terms of the contaminated sites, though, Mr Speaker, let me reiterate that, under all the tests that we can do, so far it comes up clean.

However, just to be sure, today I wrote to my colleague Mr Humphries, the Minister for the Environment, and I have asked the Pollution Control Authority to do independent tests on the pond as a matter of urgency. All I have asked the independent authority to do is to compare its tests with the tests from this mob in Spotswood somewhere in Victoria, whom no-one has ever heard of, by the way. No-one has come near the department to say, "Have a look at the tests we have done". If there is anything there that should not be there, we will have it removed. But if tests continue to show me that it fits in with all occupational health and safety standards, obviously the CFMEU will stand up publicly in the media and say, "We are sorry; we were wrong".

MR BERRY: Mr Speaker, I wonder whether the Chief Minister would bring a handkerchief into the chamber each day and wipe the froth from the Minister's mouth each time he mentions the CFMEU.

MR SPEAKER: Ask your supplementary question without preamble and without insult, Mr Berry.

MR BERRY: Do you accept that dangerous chemicals which exceed both the EPA and ANZAAS guidelines are worthy of urgent action?

MR DE DOMENICO: Could you please sit down while I answer the question. Mr Speaker, I do not have a degree in chemical engineering or environmental engineering. I am not a QC, an actuary or anything else. Once the experts go in there and independently check the tests, I will come back and report to this place; but I can say that

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everything that can be done has been done and will be done to make sure that what goes into that sullage pond, which has been there for 20 years without one complaint - not one official complaint through any of the occupational health and safety processes in which the CFMEU are represented, except what people see - - -

Mr Berry: There is an ideological froth there.

MR DE DOMENICO: No froth, Mr Berry. I have said to the CFMEU and any other union, "Come up with the evidence. Come up with the paperwork. Let us sit down around the table and we will sort it out". If you are going to play through the media, we are not in a position of playing through the media. This Government will act upon the facts. Show us the facts and we will act on them. If you do not have the facts, sit down and do not worry about it.

Clinical Waste - Disposal

MS HORODNY: My question is directed to the Minister for Health, Mrs Carnell, and relates to the disposal of clinical waste, which, as you would be aware, can contain a range of pathogenic substances that are harmful to human health. Can you tell me how clinical waste from hospitals and medical centres in the ACT is disposed of and how the Government ensures that the correct procedures are followed by these places so that clinical waste is disposed of in a safe and responsible manner?

MRS CARNELL: I certainly can. First of all, you have to make sure that the clinical waste is appropriately collected at the ward level. Clinical waste becomes an issue right from the time a syringe or a swab is used. As I am advised, in each ward we have various containers for various types of waste - for contaminated waste, for sharps, for all of the different styles of waste you can get on a ward. Those different containers are collected in different ways, depending on what sort of waste is involved, and they go to different places. If the waste is not contaminated, some of it will go to the tip; but the vast majority of it goes to the Totalcare facility, the high-temperature incinerator, where contaminated waste is burnt, as by the way is the contaminated waste from doctors' surgeries and other similar facilities around Canberra. It is taken there and burnt. Waste is handled in different ways, but the waste is supposed to be sorted at the ward level so that it can be sent in the right direction.

MS HORODNY: I ask a supplementary question, Mr Speaker. You said that it is supposed to be sorted and it is supposed to be incinerated, but you said that some of it goes to the tip. How do you explain that needles, medical tubings and other medical waste have been found at the Belconnen tip? Why is there no waste manifest for the tip?

MRS CARNELL: I understand that it is alleged that it might have come from our hospital system, but I have had no reports at all - - -

Mr Berry: You have had two today - one from me and one from her.

MRS CARNELL: Except for you two, I have not had any reports of clinical waste from our hospital system or from the public system in the ACT ending up at the tip. It is very hard to answer a question on a situation that has not been reported to me. I would be interested to know how anybody would actually know where the alleged waste came from.

Students with Disabilities - Integration Program

MR WOOD: My question is directed to the Minister for Education. Minister, in line with previous assurances, do you remain committed to the expansion of the integration program whereby students with disabilities are integrated into mainstream schools?

MR STEFANIAK: I thank the member for the question. Mr Wood, you are well aware that under this Government students with severe disabilities needing the maximum amount of assistance have increased from 27 to 31. I am pleased to say that under this Government considerable progress has been made in further assisting students with various types of disabilities to integrate into mainstream settings in the ACT. I understand that over 60 per cent of students with various disabilities are in mainstream settings. Mr Wood, you will also be well aware that in the secondary senior college sector Dickson College and Phillip College are now running very good programs for kids with disabilities.

MR WOOD: Mr Speaker, I missed the statistics Mr Stefaniak gave at the beginning of his answer. It may be that they are the answer to my supplementary question. I am referring specifically to the integration program - a program commenced by the former Labor Government - not to other programs in schools and colleges. How many extra places were made available this year, 1996, and how many extra places and the resources for them will be made available next year? You will recall that in government the Labor Party was adding about six new people to that program each year.

MR STEFANIAK: I thank Mr Wood for the question. Mr Wood, yes, you are quite right. We added four people, taking the number to 31 this year, 1996. You might also be aware, Mr Wood, that an extensive review of special education has been conducted this year by Dr Andrews. That review has gone through a number of stages. The final draft recommendations have been released so that people can have their final say on them. That review has made specific recommendations about the integration program. I do not wish to pre-empt the consultation process. I look forward to receiving community views on integrating special needs students into mainstream schools. I have had discussions with a number of people over the last couple of months in relation to it, and I look forward to seeing the final results of that consultation process.

Road Accidents - Breath Testing

MR KAINÉ: Mr Speaker, through you, I address a question to the Minister for Police, Mr Humphries. Minister, the Government recently announced new penalties to be introduced for drink-driving offences, but can you tell me what arrangements will be made to ensure that people who contribute to accidents are always breath tested by police, as a matter of course, to determine whether alcohol consumption was a factor?

MR HUMPHRIES: I thank Mr Kaine for that question. He is referring to the announcement we made a little while ago about new penalties to be introduced into the Assembly early next year to cover situations relating to drink-driving. The changes we are making include the introduction of a three-tiered penalty regime similar to that in New South Wales, with penalties varying for low-, medium- and high-range offenders and there being a more defined and rigorous application of penalties within those particular ranges. I did note when I announced those changes that Ms Follett was quoted as calling them draconian.

Ms McRae: They sure are.

MR HUMPHRIES: Ms McRae confirms that. I was a bit surprised to hear that said, because these penalties were announced last year by me as Minister and at that stage the then spokesman for the Opposition on this matter, Mr Connolly, said - and I have his words here:

... this statement is capable of broad bipartisan support ... It is built on the initiatives that we were taking in government.

... the Opposition is pleased that its approach is being carried forward by this Government.

I am pleased that there was support for these measures, and I hope that there will yet be support for these measures, because clearly they are sensible. They reflect what happens in New South Wales, a Labor State, and I am sure that the measures are going to be supportable by the broader community, who want action to be taken against those who drink and drive. From 1 December - some parts of this package are already in place - those who are involved in road accidents will be required automatically to undertake a breath test within the time required by the legislation. Members might recall that the Ombudsman was critical of the fact that people involved in accidents were not being breath tested. That is now being remedied as from the 1st of this month.

Last financial year we had some 13,199 accidents in the ACT. Of those, 669 involved injuries and 20 involved fatalities. Mr Speaker, these measures - not just that particular one, but the whole stack of measures that the Government has announced - are designed to send a message about a number of things. If you drink and drive and you have an accident, from now on you will be tested, no matter when the accident takes place, how it happens or what the circumstances are. Even if you are only just over the limit and even if the accident is not your fault, you will still be in considerable trouble. If you are in that position you may be ineligible to claim on your insurance, even if you are not at fault in the accident itself.

Mr Speaker, that message is a tough message. There is some indication that, as a result perhaps of the announcements made last year by the Government, there is some abatement in the level of drink-driving in the Territory. The number of random breath tests conducted by the police in the first four months of this year increased by 24 per cent, but the number of people charged with exceeding the limit dropped by about 43 per cent, to 274 from 484 for the same period last year. That sounds good, but in fact there was an increase over the period between 1992-93 and 1995-96 which was approximately a doubling of the number of people involved in that kind of offence. It is a matter of great concern to the community, Mr Speaker, and I hope that with these measures we can do something about those sorts of problems.

Stirling and Phillip Colleges - Amalgamation

MS McRAE: Mr Speaker, my question is to Mr Stefaniak in his capacity as Minister for Education. Minister, have you approved a new name for the amalgamated Stirling and Phillip colleges, and is the name the Canberra College? Who was consulted on the name change, and what is the view of the other Canberra colleges of this misnomer?

MR STEFANIAK: Yes, through the department I have been approached by the relevant colleges for a name change, which I have approved. They have also indicated that they wish to have some special announcement about it, so I think it really would be premature for me to make any announcement now. As a result of representations made by them, initially to the department and then to me, I have approved a new name, which as I understand it is what the college communities actually wanted.

MS McRAE: By way of supplementary question, I ask: Who exactly was consulted and what has been their reaction to it?

MR STEFANIAK: As far as I can understand it, Ms McRae, certainly the college communities concerned - that is, the two colleges - wanted that name. Obviously, they consulted with the department. I would be surprised if people have a great problem with it. It seems to me, Ms McRae, that the appropriate people have been in fact consulted, so why do we not just wait and see when the colleges actually announce the new name, which they want?

Job Placement Program

MS TUCKER: My question is to Mr De Domenico in his capacity as Minister for Business, Employment and Tourism. Mr De Domenico, recently the Government awarded a \$60,000 contract to a private business college to run a job placement program. This replaces the very successful service run by Jobline for the past 14 years. Are you quite confident that any former Jobline client has the same opportunities to gain employment with the new service that they would have had through Jobline?

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MR DE DOMENICO: That is asking for an opinion, Mr Speaker, but I can answer the question this way: It went through an exhaustive interview. We put out a tender, Ms Tucker, as you know. Jobline were invited and did in fact tender for the placement program as well. I recall that seven companies were interviewed. The people who interviewed included, I think, two people from BASAT, the chairperson of the local CES and one other person. In answer to your question, I am advised that the best applicant got the nod on that basis. The best applicant getting the nod, I am confident that the people who used to use Jobline will be very satisfied with the new service.

MS TUCKER: I ask a supplementary question, Mr Speaker. Mr De Domenico, why is it, then, that this new service is turning away former Jobline clients and telling them that they need to get training before the service can place them in employment?

MR DE DOMENICO: I do not know, Mr Speaker. If Ms Tucker would like to give me the details, I will look into it.

School Without Walls

MS FOLLETT: My question is directed to Mr Stefaniak as Minister for Education. Minister, in relation to the School Without Walls, which organisation do you as the Minister and your department recognise as fulfilling the role and functions of the P and C for SWOW? Is it the organisation called Friends of SWOW and, if not, why not?

MR STEFANIAK: My understanding, Ms Follett, is that SWOW has a school board. I really do not know the composition of the P and C of SWOW. There is a group which I understand is called Friends of SWOW. What capacity it has in terms of SWOW, though, is not immediately apparent to me. I know that that particular group, if you are trying to get something untoward or funny out of the question, has an action in the court on Friday. We will see what happens in relation to that. As to whether they are legally the P and C or not, I am sorry I cannot answer that question for you.

MS FOLLETT: Mr Speaker, I ask a supplementary question. Do the P and C and the organisation which acts as the P and C perform a vital function in the wellbeing of Canberra's government schools, and do they deserve to have a say in decisions affecting their schools?

MR STEFANIAK: P and Cs play an excellent role in government schools. Parents and friends, or whatever they are called in the non-government system, play an excellent role in that system. The school boards play an excellent role in the government school system. Those organisations - the P and Cs and the school boards - have considerable input, and always have had since they have been going in our school system, and will continue to do so, Ms Follett.

Kick Start Program

MS REILLY: My question is to Mr Stefaniak in his capacity as Minister for Housing. Minister, the Kick Start program was announced in the 1996-97 budget with statements claiming that many jobs would flow from this initiative and that 500 public housing tenants would have the opportunity to purchase their own homes. People are now raising concerns about the slow take-up rate of the Kick Start program. Minister, can you confirm that the Government is intending to extend the Kick Start program to other low-income earners not currently in public housing? Will you give a guarantee that other financial organisations besides St George and Advance, which were originally given the Kick Start deposit gap program, will be given the opportunity to participate in an open tender process for this loans program before any consideration is given to such an extension of eligibility of the Kick Start program?

MR STEFANIAK: Ms Reilly asks another question about Kick Start, which is a scheme which, as I have said on a number of occasions, as the Chief Minister has said on a number of occasions, and as other members on this side of the house have said on a number of occasions, gives the opportunity for people who would not otherwise own their home to do so. In terms of what is going to happen further in relation to the scheme, Ms Reilly, I would ask you to sit tight. I hope that the Government will be in a position very shortly to make some announcements. As you know, the scheme was to be reviewed.

You may try to pooh-pooh this scheme and say that it is some sort of dreadful thing, but what can be dreadful about giving people who are low- to medium-income earners the opportunity to own their own home?

Mr De Domenico: I cannot imagine.

MR STEFANIAK: I really cannot either. Ms Reilly, I indicated a little bit earlier the initial applications that have been received. I understand that, since that last bit of information I gave you, a number of further applications have in fact been made and some of those have been granted. Ms Reilly, it is a scheme which has already enabled a number of people who would not otherwise have a chance to own their home to do so. I think that really is the most important point. People who otherwise would be in rental accommodation all their lives now have an opportunity to own their own home. I really am amazed that you constantly and continually try to knock this scheme.

MS REILLY: I ask a supplementary question. I thought my question actually asked for information. I did not knock the scheme at all.

MR SPEAKER: Ask your supplementary question, with no preamble.

MS REILLY: I am sorry, Mr Speaker. Minister, why was all reference to the Kick Start program removed from the last ACT Housing tenants newsletter?

MR STEFANIAK: Perhaps you had better tell me what newsletter, Ms Reilly, and I will go and check that out. Which edition? I was not actually aware of that. I understand that, in fact, there has been information - - -

Mr De Domenico: Do you not personally write that?

MR STEFANIAK: No, I do not, Mr De Domenico. I do not personally write that. I will be intrigued to have a look at that for you, Ms Reilly. Perhaps you could let me know what edition you are referring to.

Electricity Rebates

MR OSBORNE: My question to Mr Stefaniak is about the provision of electricity rebates to pensioners and low-income families. Notice has been given of this question. Minister, as you will be aware, the Government sets the criteria for eligibility and provides the funds that support the rebate scheme, which is administered by ACTEW Corporation on behalf of the Children's, Youth and Family Services Bureau. At present the electricity rebate for pensioners and health care and health benefit card holders is set at a maximum of \$5.25 per month, or 50 per cent of the bill, whichever is the lesser - one can guess which is the lesser of those two - with a seasonal adjustment up to the maximum of \$18.89 per month for the winter months. The rebate for those on life support machines is a maximum of \$7.70 per month, with no seasonal adjustment. When were these rebates last reviewed and adjusted, and how much have they increased over recent years? As the Minister who deals with families in crisis, do you think the low level of these rebates accurately reflects the commitment that your Government has to low-income families in our community? Given that these rebates are so low as to be of little actual benefit to those who are eligible for them, will you agree to review and adjust these rates, so that they provide some real help to those who are struggling to make ends meet? Will you also agree at least to adjust these rebates each year in line with the CPI?

MR SPEAKER: Be careful about announcing Executive policy, Mr Stefaniak.

MR STEFANIAK: That is true, Mr Speaker. I must say I was aware of one of Mr Osborne's points, but there are a few I was not aware of. I will take those as he has spoken about them, Mr Speaker. The Government gives a number of rebates for welfare concession levels, Mr Osborne. As well as the electricity rebate, there are rebates for spectacles, rebates for water, school bus passes and rebates for vehicle registration. There is considerable assistance. I think the general level of rebates went up by well over \$1m in the last budget.

The electricity rebate and all the other rebates are reviewed in the budget context. The rebates for electricity were reviewed this year. They will be reviewed again in the context of the next budget. The Government as a whole, the budget Cabinet, looks at these rebates for electricity and indeed all the other rebates. The annual rebate for electricity, Mr Osborne, is about \$131.20, I am advised. That is not an inconsiderable amount. The total expenditure on electricity rebates is some \$2.4m. That is not an inconsequential figure. Increases in electricity costs as a result of the CPI are considered in view of allowable rebates given and are taken into account by the budget Cabinet. I understand that the previous Government would have done similar things to what we do in assessing, in the context of the budget Cabinet, those rebates along with others.

MR OSBORNE: Thank you for that answer, Mr Stefaniak. I will need to get a copy of *Hansard* to work out exactly what you said.

MR SPEAKER: This is a supplementary question. No preamble, Mr Osborne.

MR OSBORNE: I would still like to know when the rebates were last adjusted. My advice is that this figure of \$5.25 has been constant for about 10 years. During a recent debate your colleague Mr Humphries described your Government as being tight fisted and scrooge-like in relation to its approach to a certain issue. Mr Stefaniak, do you concur with your colleague's opinion that your Government is indeed tight fisted and scrooge-like, especially in its application of these rebates for the less fortunate members of our community?

MR SPEAKER: The question is out of order in asking for an expression of opinion. You may answer what is left of it, if you wish, Mr Stefaniak.

MR STEFANIAK: Mr Osborne, I thought this Government, in very difficult financial circumstances, was being as generous as is humanly possible and doing a pretty good job of it, too.

Small Retail Centres

MR MOORE: My question is to the Minister for Planning, Mr Humphries. It deals with an area where they are not tight fisted and scrooge-like. That is the area of business. Mr Humphries, one of the prime planks of your retail policy is the rebuilding of small retail centres. My understanding is that it requires a variation of the Territory Plan. Can you tell us what you have done to promote retail centres through variation of the Territory Plan? What have you done about that plank of your policy? Have you sought community opinions? Have you advertised for comment? Are you really serious about small retail centres, or is the shopping hours business just a stunt?

Mr Osborne: Here is your chance to be honest, Gary.

MR HUMPHRIES: Mr Speaker, I will ignore that interjection by Mr Osborne because it is out of order. It would be nice to throw him out, Mr Speaker, but I will not.

Mr Berry: No courage.

MR HUMPHRIES: Discretion is the better part of valour, Mr Berry. You would not know about that, but I do.

The Government some time ago announced its policy concerning revitalisation of the city's smaller shopping centres, and obviously other arms of that policy have been progressed in the meantime. Mr Moore might recall the debate we had a little while ago about shopping hours, which was part of the overall platform.

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Mr Moore: I mentioned that stunt.

MR HUMPHRIES: Indeed, Mr Moore did mention that enlightened piece of policy-making by the Government. Mr Speaker, the fact is that the Government has been doing a great deal of work over the last little while in directly communicating with shopping centre owners and operators in the city to explain the way in which we have been disseminating our new policy to them in a whole range of ways. The helpShop program is part of that process. It is part of getting out to the shopping centres and telling people about the ways in which their businesses might benefit from - - -

Mr Moore: You have been very positive about that. Now let us get to the variation to the Territory Plan.

MR HUMPHRIES: Yes, indeed. I am advised that in the last little while information, including information about the variation to the betterment policy, has been available in the O'Connor, Deakin, Hughes, Garran and Narrabundah shopping centres. Mr Speaker, the information that comes through all of that is obviously very important in ensuring that people have a capacity to take advantage of those arrangements. I have already had discussions with a number of people who are involved in local centres in a number of ways, to see whether we can in fact provide for information to flow to them on how they can benefit from the processes the Government has put in place. Mr Speaker, I would be surprised if there is any small business operator in this town who owns a small shopping centre or a shop in a small shopping centre and who is not fully aware of the changes the Government has made announcements about.

Mrs Carnell: There is the competition.

MR HUMPHRIES: Mr Speaker, the Chief Minister reminds me about the competition held recently. It was sponsored by a number of Canberra businesses and provided for ways of revitalising the Canberra small shopping centre scene. Many of those proposals put forward, which were ultimately exhibited up here on the first floor of the Assembly, entailed variations to the design and building of the centres.

Mr Moore: Mr Speaker, I hate to do this, but I take a point of order. I have given Mr Humphries a couple of gentle interjections. What about answering the question I have asked? Standing order 118(a) says that answers "shall be concise and confined to the subject matter of the question". The question was about variation to the Territory Plan.

MR HUMPHRIES: Mr Speaker, Mr Moore is very impatient - - -

MR SPEAKER: Mr Moore knows that the Minister can answer a question as he sees fit.

Mr Moore: On the point of order, Mr Speaker: It is quite clear. It is not a question of the Minister being able - - -

MR SPEAKER: The answer "shall be concise and confined to the subject matter of the question".

Mr Moore: Exactly. That does not allow him to answer the question as he likes. He still must be within that standing order.

MR SPEAKER: Mr Humphries is answering the question as he sees fit. It might be a little long winded. Nevertheless, he is getting back to the point that Mr Moore raised. I am quite sure of that.

Mr Berry: I raise a further point of order, Mr Speaker. I am glad you have acknowledged that it is becoming a little bit long winded.

MR SPEAKER: Thank you. Sit down, then.

Mr Berry: Does that suggest, Mr Speaker, that in accordance with the standing orders he has had sufficient opportunity to answer the question?

MR SPEAKER: No. Resume your seat.

MR HUMPHRIES: Mr Speaker, I am sure that when the interjections and the points of order are taken out this answer will be seen as very concise and directly to the point of the question. Mr Speaker, the fact of the matter is - - -

Mr Moore: Mr Speaker, if I can raise a point of clarification - - -

MR HUMPHRIES: If I can be allowed to answer the question, Mr Speaker - - -

Mr Moore: Mr Speaker, can I have clarification of your comment? You said that Mr Humphries has been a little long winded. Does "long winded" fit within your definition of the word "concise"?

MR SPEAKER: Mr Moore, you know that Ministers can answer as they see fit. Continue, Mr Humphries. There is no point of order.

MR HUMPHRIES: I can see, Mr Speaker, that members are not really interested in getting this information. They would rather avoid it if they could. The information that we have made available to shopkeepers is very important in putting in place a strategy to revitalise those centres which other members in this place have had completely nothing to do with in the last few years.

The variation that Mr Moore referred to was released as a draft for public comment in June of this year. That was not very long after the Government initially announced its plans for a whole range of retail policies that I have just referred to and that he was so upset hearing about. Seven written submissions were received in response to the draft variation. Issues raised in the submissions have been considered by the Planning and Land Management Group, and a consultation report is being prepared. It has been suggested that the variation be amended to allow for uses such as electrical and lawn-mower repair services at local centres. I do not have a great problem with that in theory. These uses are generally considered to be included under the service trades

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definition in any case, but if there needs to be some clarification of that I am quite open to that. I am told that a recommended variation is currently being considered and should be capable of being submitted to the Planning and Environment Committee of the Assembly very shortly. For a matter as significant as this, I think that is a quite appropriate and reasonable timeframe to work under.

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

PERSONAL EXPLANATION

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

MR SPEAKER: Yes, proceed with your personal explanation, Ms Follett.

MS FOLLETT: In the course of question time, in answer to a fairly blatant dorothy dix question from Mr Kaine, Mr Humphries may have made some statements in relation to my approach on his new drink-driving laws which I do not think truly reflect the situation or my attitude on them. Mr Speaker, Mr Humphries asserted that Mr Connolly, a former Labor member, endorsed his view. I want to make it clear that Mr Connolly at the time, Mr Speaker - - -

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

MR SPEAKER: Thank you, Mr Humphries. This is not a personal explanation. I think that is what you are going to say, is it not?

Mr Humphries: Unless Ms Follett claims to embody the spirit of Mr Connolly, she cannot rise to make a standing order 46 personal explanation on his behalf.

MR SPEAKER: I uphold the point of order.

MS FOLLETT: May I comment on the point of order?

MR SPEAKER: You may explain matters of a personal nature. You are now talking about Mr Connolly - - -

MS FOLLETT: Mr Speaker, do I have the right to speak on that point of order or not?

MR SPEAKER: Unless you can tell me how it is a personal - - -

MS FOLLETT: Thank you. I am about to, if I have that opportunity.

MR SPEAKER: Proceed.

MS FOLLETT: Mr Speaker, Mr Humphries's assertion is that Mr Connolly and I have a different view on his approach to drink-driving laws. I am about to set the record straight.

Mr Kaine: Mr Connolly's view is not a matter for your personal explanation.

MR SPEAKER: No, but if you restrict yourself to a personal explanation, Ms Follett, you will be within the standing orders. We cannot let you drift into what Mr Connolly may or may not be thinking.

MS FOLLETT: Mr Speaker, I can understand Mr Humphries being a bit embarrassed about this. Mr Humphries, on 12 December 1995, made a statement to this Assembly about liquor enforcement issues, a statement which took some 45 minutes. That statement canvassed just about every possible issue to do with law enforcement and liquor. It went into some detail about the community safety aspects and about Operation RAID. It discussed, very briefly, a three-tier offence structure. It talked about the Government's broken election commitment in scrapping the Nightrider bus service. It talked about the *Manuka by Night* report. It talked about - - -

MR SPEAKER: Explain matters of a personal nature, Ms Follett.

MS FOLLETT: I am. Mr Speaker, that statement went on to announce the addition of six police to the beat squad in Civic and Manuka. It discussed the responsible serving of alcohol - - -

MR SPEAKER: Order! Ms Follett, I grant indulgence in relation to personal explanations, and I am about to withdraw it if you do not come to the point.

MS FOLLETT: I am, Mr Speaker. My point, Mr Speaker, is that - - -

Mr Kaine: I raise a point of order, Mr Speaker. Would you ask the lady to sit down. Talk about lack of courtesy and censorship! The manners in this place are sometimes appalling, Mr Speaker.

Ms Follett: On that point of order - - -

MR SPEAKER: Sit down, Ms Follett.

Ms Follett: If Mr Kaine is accusing me of appalling manners - - -

MR SPEAKER: I will not entertain your point of order.

Mr Kaine: Mr Speaker, there was a question before about whether in seeking to make a personal explanation the member could quote Mr Connolly, and I think you ruled against that. Ms Follett has now spent some minutes outlining what Mr Humphries said. I cannot see how on earth that can possibly have anything to do with a personal explanation from the member. She is totally out of order.

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Ms Follett: Mr Speaker, in that case I seek leave to make a statement to continue my explanation.

Mr Kaine: I would like a ruling from the Speaker first.

MR SPEAKER: I uphold your point of order, Mr Kaine. I also remind members that a personal explanation relies upon the indulgence of the Chair, and that indulgence can be withdrawn, as set out in *House of Representatives Practice* at page 471. If you want to make a statement - - -

Ms Follett: I seek leave to make a statement.

Leave not granted.

LIQUOR ENFORCEMENT MEASURES **Statement by Member**

Motion (by **Mr Berry**) agreed to, with the concurrence of an absolute majority:

That so much of the standing and temporary orders be suspended as would prevent Ms Follett from making a statement.

MS FOLLETT: I thank members, Mr Speaker - or some of them, anyway. On a point of order, Mr Speaker: If Mr Kaine has accused me of appallingly bad manners, I regard that as unparliamentary and I ask that he withdraw it.

MR SPEAKER: Are you making a statement?

MS FOLLETT: No; I am making a point of order first. I ask that he withdraw that.

MR SPEAKER: Mr Kaine, you have been asked to withdraw.

Mr Kaine: Withdraw what, Mr Speaker?

MR SPEAKER: A suggestion that Ms Follett was behaving with bad manners.

Mr Kaine: I did not refer to Ms Follett when I talked about people with bad manners. If she chooses to interpret it that way, it is on her shoulders.

MR SPEAKER: I do not uphold the point of order, Ms Follett. Proceed with your statement.

MS FOLLETT: I find that ruling extraordinary, Mr Speaker. I find that - - -

MR SPEAKER: I do not uphold the point of order.

Mr Whitecross: On your ruling, Mr Speaker: Mr Osborne last week made a general assertion against members of the Government that they were untrustworthy. Mr Kaine took exception to that, and you made Mr Osborne withdraw any offence that he had caused to Mr Kaine. Now Mr Kaine is refusing the same courtesy to Ms Follett. I think you should employ some consistency in your rulings and ask Mr Kaine to withdraw his assertion.

MR SPEAKER: Order! I am about to rule on this point of order. Mr Kaine did not suggest that Ms Follett - - -

Mr Kaine: Mr Speaker, notwithstanding that, if Ms Follett is so precious, I withdraw it in connection with Ms Follett.

MR SPEAKER: Thank you, Mr Kaine. Now, can we get on with your explanation, Ms Follett?

MS FOLLETT: I will indeed continue with my statement, Mr Speaker. Mr Humphries went on in his 45-minute address to the Assembly to discuss the development of the Civic Business Watch. He discussed the process to implement the recommendations of the Community Safety Committee's reports on Civic and Manuka. He announced the reappointment of Mr Ken Begg as the chair of the Community Safety Committee. He went on at the most incredible length. He went on to talk about the laws in relation to selling alcohol to an intoxicated person. He described the increase in the powers of the Liquor Licensing Board. He talked about the structure of the Liquor Licensing Board. He talked about the use of occupancy loadings as a safety measure in licensed premises. Mr Speaker, I can assure the house that this is one of the most extensive statements on any subject ever made by a Minister in this Assembly.

I would like to read out what it was that Mr Connolly said at the end of that statement. This is what he said:

We are pleased that many of our initiatives are being built on. I am very pleased that Ken Begg and David Biles are being reappointed to their respective positions as chair and deputy chair of the Community Safety Committee, because they have done a fine job for the people of Canberra. I am pleased that Mr Humphries has abandoned the traditional knee-jerk 3.00 am or 4.00 am closing time on which endless amounts of radio and print time were expended in the lead-up to last year's election, when Mr Humphries was going to do that.

Mr Connolly would have been disappointed since then. He went on:

I am pleased that, now in government, he is being more responsible.

That was a short-lived hope. Mr Connolly went on:

Now, in the pre-Christmas period, is the time when traditionally the ACT Government reminds the community of its responsibilities.

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We are leading into summer festivities. We are leading into events like Summernats where large crowds of people will gather, and the Opposition is pleased that its approach is being carried forward by this Government.

Nowhere in his comments did Mr Connolly mention the three-tier offence structure for liquor offences, although he did mention other initiatives that were being carried forward.

Mr Humphries: He did not mention anything specific, but he endorsed the package.

MS FOLLETT: He did not endorse the package. Secondly, Mr Speaker, I would like to say that on a matter like this it may surprise members to know that there is no reason in the world why Mr Connolly and I would not have had different views. This is not a matter that forms part of the Labor Party's policy. This is not a matter which Labor in opposition has decided amongst ourselves to pre-endorse - - -

Mr Humphries: That was the point I was making.

MS FOLLETT: Mr Connolly could well have had some different views, but on the evidence that Mr Connolly has put into the record and that Mr Humphries has quoted that is anything but clear.

PUBLIC SECTOR MANAGEMENT ACT - CONTRACTS Papers and Ministerial Statement

MRS CARNELL (Chief Minister): Mr Speaker, for the information of members and pursuant to sections 31A and 79 of the Public Sector Management Act 1994, I present copies of the contracts made with Warren Dickson, David Marshall, Edward Rayment, Len Sorbello - which is a temporary contract - Timothy Spencer and Trevor Wheeler, which is a Schedule D. I seek leave to make a short statement.

Leave granted.

MRS CARNELL: Mr Speaker, I present the next set of executive contracts. The contracts are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which requires the tabling of all long-term and short-term executive contracts. You will recall that I previously tabled contracts on 21 November 1996.

Today I present five contracts and one Schedule D. Four contracts relate to long-term executive officers and include one from each of the following agencies: The Department of Business, the Arts, Sport and Tourism; the Chief Minister's Department; the Canberra Institute of Technology; and the Department of Health and Community Care. One contract relates to a short-term executive agreement for the office of the director of policy in the Attorney-General's Department pending permanent filling of that position.

The Schedule D is for the director of the Budget and Facilities Branch, Department of Education and Training, and is an addition to the original contract which was tabled on 29 August without a Schedule D. This schedule simply preserves certain terms and conditions for transitional staff and mirrors one previously included in some Department of Urban Services contracts.

Finally, I would like to alert members to the issue of privacy of personal information that may be contained in the contracts and performance agreements. I ask members to deal sensitively with the information and respect the privacy of individual executives.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 2 of 1996 -
Government Response

MRS CARNELL (Chief Minister and Treasurer) (3.24): Mr Speaker, for the information of members, I present the Government's response to Report No. 18 of the Standing Committee on Public Accounts, which was entitled "Review of Auditor-General's Report No. 2, 1996 - Taxi Plates Auction" and presented to the Assembly on 28 August 1996. I move:

That the Assembly takes note of the paper.

Mr Speaker, as members will recall, earlier this year at my request the Auditor-General investigated and reported on the issue of taxi plate auctions in the ACT and the attendant issue of a code of conduct for members of the Legislative Assembly. This report was referred, as is practice, to the Standing Committee on Public Accounts for consideration. The committee reported on 28 August 1996. I am now in a position to provide the Government's response to that report both to the Public Accounts Committee and to the Assembly. I would like to thank both the Auditor-General and the Standing Committee on Public Accounts for their work on this issue. As there is an Assembly committee that is also looking at the issue of a code of conduct, I am sure that there will be more work done on this issue.

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

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 8 of 1995 -
Government Response

MRS CARNELL (Chief Minister and Treasurer) (3.26): Mr Speaker, for the information of members, I present the Government's response to Report No. 19 of the Standing Committee on Public Accounts, which was entitled "Review of the Auditor-General's Report No. 8, 1995 - Financial Audits with Years Ending to 30 June 1995" and presented to the Assembly on 28 August 1996. I move:

That the Assembly takes note of the paper.

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Mr Speaker, in the interests of time, I seek leave to incorporate my speech in *Hansard*.

Leave granted.

Document incorporated at Appendix 1.

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

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 4 of 1996 -
Government Response

MR DE DOMENICO (Minister for Urban Services) (3.27): For the information of members, I present the Government's response to Report No. 17 of the Standing Committee on Public Accounts, entitled "Review of Auditor-General's Report No. 4, 1996 - Land Joint Ventures", which was presented to the Assembly on 28 August 1996. I move:

That the Assembly takes note of the paper.

Mr Speaker, I seek leave of the Assembly to incorporate my tabling speech in *Hansard*.

Leave granted.

Speech incorporated at Appendix 2.

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

PLANNING AND ENVIRONMENT - STANDING COMMITTEE
Report on Nudurr Drive Construction - Government Response

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (3.27): For the information of members, I present the Government's response to Report No. 19 of the Standing Committee on Planning and Environment, entitled "Inquiry into the Proposed Construction of Nudurr Drive, Palmerston", which was presented to the Assembly on 19 November 1996. I move:

That the Assembly takes note of the paper.

I seek leave to have my tabling speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 3.

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

PAPERS

MR HUMPHRIES (Attorney-General): For the information of members, I present two reports by the National Road Safety Strategy Implementation Task Force, entitled "National Road Safety Action Plan 1996" and "Australia's Rural Road Safety Action Plan - 'Focus for the Future' 1996"; two reports by the ACT Community Safety Committee, entitled "The Crime and Safety Concerns of Older Persons in the ACT" and "Inquiry into Late Night Transport"; and the Calvary Public Hospital and the Canberra Hospital information bulletins relating to patient activity data for October 1996.

PUBLIC ACCOUNTS - STANDING COMMITTEE **Report on Review of Auditor-General's Report No. 4 of 1995 -** **Government Response**

MR STEFANIAK (Minister for Education and Training) (3.29): For the information of members, I present the Government's response to Report No. 20 of the Standing Committee on Public Accounts, entitled "Review of Auditor-General's Report No. 4, 1995 - Government Secondary Colleges", which was presented to the Assembly on 26 September 1996. I move:

That the Assembly takes note of the paper.

Mr Speaker, I seek leave to incorporate my tabling speech in *Hansard*.

Leave granted.

Speech incorporated at Appendix 4.

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

PLANNING AND ENVIRONMENT - STANDING COMMITTEE **Report on Review of Auditor-General's Report No. 5 of 1996**

MR MOORE (3.30): Mr Speaker, I present Report No. 24 of the Standing Committee on Planning and Environment, entitled "Review of Auditor-General's Report No. 5 of 1996 - Management of Former Sheep Dip Sites", together with the extracts of the minutes of proceedings. I move:

That the report be noted.

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Mr Speaker, members may remember that the Assembly authorised the Planning and Environment Committee to examine the Auditor-General's report on this issue. Auditor-General's reports are normally referred to the Standing Committee on Public Accounts. Indeed, we have just had a series of responses from the Government to reports of the Public Accounts Committee on Auditor-General's reports. But in the case of Auditor-General's Report No. 5, at the request of the Assembly, the Standing Committee on Planning and Environment took on the role, in a way, of the Public Accounts Committee. This action by the Assembly reflected the fact that the Planning and Environment Committee had already brought down a lengthy report on contaminated sites. Two of the members of the Planning and Environment Committee actually serve on the Public Accounts Committee, and Mr Wood made it very clear that he felt that it would be more appropriate for us to deal with it than for him to be involved, since he had been involved with the particular issue as a Minister.

Mr Speaker, the committee comments on the Auditor-General's report and makes a number of recommendations. I think the most important sense of the recommendations that comes through is that the Government deal with this issue as a matter of urgency. We recommended that the Government urgently finalise its remediation strategies for land affected by possible contamination by arsenic from former sheep dip sites; that the Government promptly publicise the strategies, especially to the residents of affected areas; and that the Government make arrangements for a public meeting in Watson in February 1997, at which it should outline the whole situation affecting possible contamination in that suburb.

Mr Speaker, the committee, in its original report, urged the Government to be quick in terms of such matters. We believe that it is an appropriate opportunity to continue to urge the Government in the same way. The committee recognised that both the former Government and the present Government had tried to manage extremely sensitive issues of possible contamination of residential properties and that, by and large, the officials are handling these issues in an improved manner.

Mr Speaker, we are also conscious of the Auditor-General's finding that a figure of around \$400,000 was committed but was unnecessary. It seems to me, Mr Speaker - and I am now going beyond the recommendations of the committee - that there are more issues to consider than just the issue of the straight costs in a dry economic sense, which is the role of the Auditor-General, and that there are personal and other costs to take into consideration. As far as I am concerned, Mr Speaker, I approve of the extra spending, in the context of when it was done. I think the warning through the Auditor-General is: Let us check the context and make sure that in the future, in dealing with such issues as contamination and asbestos - which was the previous example - we have all of the relevant facts before us to make a more effective decision, so that there is not unnecessary expenditure incurred on behalf of the people of the ACT. I think that that is indeed an important finding.

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

MOORE STREET HEALTH BUILDING

Debate resumed.

MRS CARNELL (Chief Minister and Minister for Health and Community Care) (3.35): Mr Speaker, I must admit that I find this motion quite amazing. I would have thought that every member of this Assembly would be wanting the Government to be out there, seeking expressions of interest on sites of such importance as this particular site. As we know, there are actually two parts to this site. Anybody who had actually bothered to read the expressions of interest document - obviously, nobody who has spoken in this debate so far has - would have seen the way the expressions of interest document has been put together. No. 1, as is made very clear right on the front page:

The Territory reserves the right not to proceed with any Expression of Interest.

The Territory also reserves the right to change any of the procedures, terms or conditions of this Invitation for Expressions of Interest to purchase Block 1 and/or Block 3 Section 31 City without notice. All correspondence, invitations to participate in the process, discussions to finalise details or anything of a written or oral nature that passes between the parties shall be part of the negotiation process only.

I think this is really important, Mr Speaker:

No contract or other legal obligation shall arise until a lease has been offered accepted and executed by the Territory.

Mr Speaker, the reality is that in no way was the Government jumping into some sale approach on a particular building. In fact, quite the opposite was the case. We make it very clear in this document, in black and white, Mr Speaker - again, for anybody who had actually bothered to read the document - that, No. 1, we are looking at one of three different approaches, or maybe more than one of three different approaches. The proposal is for an integrated development of both sites, and/or the redevelopment of the QEII site, and/or the redevelopment or continued use of the Health Building, as appropriate.

So, what we are doing is looking at a fairly large, fairly central site in Canberra and determining whether, by just putting the QEII site out on its own, we would get the best deal for Canberra or whether, by adding to that the Health Building site, we would get a better bottom line for Canberra. A bottom line is not just about money. We actually make that comment, again in black and white, in this document as well. On page 9, in item 4(iii), it says quite definitely:

the highest amount offered for the lease(s) is not the only relevant consideration and will not necessarily determine the successful applicant.

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Mr Speaker, what we are looking for here is something innovative, something smart, something that will mean that Canberra and the Civic-university area will gain in the whole process.

Mr Berry, this morning, commented that somehow this was about the Government throwing out health services. Again I quote from page 8, Sale Conditions, in the expressions of interest document. It says, again, in black and white:

In preparing proposals for the Health Building, applicants are advised that the clinical services now located on the ground, first and second floors are to remain operational until alternative facilities are provided elsewhere -

if they have to be -

For the purpose of this Expression of Interest, applicants should assume a minimum of 18 months [will be required] to vacate the ground, first and second floors.

Mr Berry, obviously, being such an expert, will know that all of our health services - all of the ones that he was speaking about earlier - that are in this building are on the ground, first or second floors. This document makes it very clear that this is not about getting rid of health services. In fact, it states quite categorically that that cannot happen, based upon this decision.

Mr Speaker, it is also really important to realise - I go to page 10 of the document, under section 5, Criteria - the sorts of criteria that will be used by the assessment panel in evaluating the proposals. No. (i) is "the range of uses proposed and their contribution to the revitalisation of the area" - for the sorts of things we might be able to do and how they might add to the whole area of Civic and to the university link that that area has. No. (ii) is "benefits of the proposal to the community and impact on the local economy". So, they are two things that the assessment panel must look at. No. (iii) is "architectural and urban design quality of proposed development and how it relates to adjoining buildings and infrastructure". So, they are the sorts of things that you would hope an assessment panel would look at. They are not my words, Mr Speaker, but the words of the document that, obviously, Mr Berry had not quite got around to reading.

In fact, one thing that is really interesting is that it goes on at page 13 to make this point in terms of redevelopment proposals:

The attention of applicants is drawn to Section 2.2 of Part B2A of the Territory Plan which requires a Mandatory Preliminary Assessment of proposals involving a depletion of community facilities within B2A Civic Centre.

Mr Speaker, if there was any sort of depletion of community facilities whatsoever, we would immediately have to go to a mandatory preliminary assessment of the proposals as set out under the Territory Plan. In fact, we go to the extent of giving people who are interested in putting forward a proposal that part of the Territory Plan at Attachment D.

Mr Speaker, I think what is really important here is that the approach we have to take when we look at areas such as the QEII site - and I do not think anybody is doubting that we do need to go ahead and not leave what will be empty, very ageing buildings there - is to look at what would be best for the community. There is no money whatsoever in this year's budget for sales of either of those two areas; nor should there be. The reason why there is not, Mr Speaker, is, No. 1, that the QEII site will not be vacated until May-June of next year; so, it simply cannot come inside this year's budget. Most importantly, we have not made any decision whatsoever to sell, lease back, lease, or whatever, the Health Building. The reason why we did add it, though, to the expressions of interest was to see what came up. The reason why it is important to do that is - Mr Berry probably does not remember - that probably when he was Health Minister, and certainly when Mr Connolly was, it became obvious that the Health Building was going to require very significant refurbishment. I think the Estimates Committee - not the last Estimates Committee but the one before - was looking at the proposal that was put forward for a \$9m refit of the Health Building. That is the sort of money that we will need to ensure that that building is brought up to scratch.

Mr Speaker, I think it is very appropriate for us to look at various ways that may exist - or may not exist - to ensure that that refurbishment is achieved or that that site is used in the best possible way. None of that has anything to do with health services in Civic. The fact is that it says quite categorically, in black and white, that, regardless of what may or may not happen with that building, those health services must stay where they are - and they might stay where they are forever, because whoever may or may not buy the building might decide that that is the way to go - or, alternatively, if they need to be relocated they must remain operational. Again, to quote the document, they must "remain operational until alternative facilities are provided elsewhere".

Mr Speaker, we have made it very clear that you cannot have a Civic Health Centre if it is not in Civic. It is just one of those basic things about a health centre. Those services do need to be in Central Canberra; there is no doubt about that. They may need to stay in the Health Building if there is no appropriate different approach. But, I think, taking into account the fact that the people of Canberra are facing a bill of some \$9m for a building that has never worked very well - - -

Mr Berry: It has worked well.

MRS CARNELL: Mr Berry is saying that it does work. That is not what the unions that work there say. The unions that work there say that the building does not work very well; that, because of the actual design of the building and that central core open space, the air-conditioning and other things really do not work terribly well. I think Mr Humphries would remember, when he was Health Minister, the ongoing problems with the people who worked in that building, who were saying, "It is really just not as good as it should be. It does need significant work done on the building".

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That work was not done under the previous Government. It was put off and put off. And I can understand why, Mr Speaker - because it is a lot of money. We may determine that it is best to go down the path of spending that money, if no suitable other approach is put forward; but to not look for ideas out in the community, especially when we were going to go for expressions of interest in the QEII site anyway, would seem not to be a good approach for any government to take.

Mr Speaker, what we have to do, as a government - and, I would have thought, as an Assembly as well - is ensure that what community assets we have are appropriately used. Right at the moment, we know that the Health Building is not operating as well as it could. It does need significant money spent on it. If somebody can come forward with a smart way of doing that, which is not at a cost to taxpayers, then we should look at it. We should not necessarily accept it, but we should look at it. If somebody comes up with a really smart redevelopment for the QEII site and the Health Building site - again, a building that has never worked all that well - we should look at it.

Mr Berry: That is not true.

MRS CARNELL: I think that Mr Berry should go and talk to the unions involved in that building, because the reality is that they have continued to say that there are a number of problems with the building - the way it operates, the air-conditioning and other problems - which is the reason why the \$9m price tag for redevelopment is there. It is not a new situation but one that has occurred for a long time.

Mr Speaker, there is no way that this Government is going to go ahead with a quick sale of this building. It simply cannot happen. QEII does not move until May-June next year. Equally, what we must not do is wait until the death knell, until we have an empty site in the middle of Civic, before we say, "Heavens! What are we going to do with it?". Then, of course, everybody in this place will say, "But you have not given us time for input". Everybody will say, "There has not been time for community consultation". I agree. What we are trying to do now is bring our processes forward, as Mr Moore's committee and others have spoken about in the past, so that there is a significant lead time to these situations; so that there is plenty of time to get expressions of interest, to have different ideas on the table, and for us all to be able to have an input into those ideas. So, Mr Moore's approach to this motion suits me fine. *(Extension of time granted)*

Mr Speaker, I sought a short extension to indicate that I will be moving an amendment that is very much in line with the point that Mr Moore made before. I move:

Paragraph (1), omit "withdraw any action aimed at the sale or disposal", substitute "not make a commitment to sell or dispose".

Mr Speaker, that amendment is very much in line with the comments that Mr Moore made earlier. There is no way that the Government is planning to sell or dispose of the health centre site or, for that matter, the QEII site without an appropriate approach. *(Quorum formed)* Mr Speaker, what this amendment does is basically put into words the comments that Mr Moore made earlier. Mr Moore said, and I think appropriately,

that he did not want to stop the Government going out and seeking expressions of interest, looking for smart and innovative ideas for a very important site; that what he did not want the Government to do - which, by the way, the Government would never have done - was make a commitment to sell or dispose of the particular building or, for that matter, the QEII site either, without coming back to the Assembly. In fact, we would certainly be wanting input on the QEII site particularly and any major redevelopment of the Health Building site. We would want input from as many people as is appropriate, Mr Speaker.

So really, with that change of words, the motion is very much in line with the approach that the Government has taken. The Government is not in the business here of getting rid of services. We have made that very clear in the expressions of interest document. But what the Government will continue to do is look for innovative ways by which we can go down the path of redevelopment or development in Canberra in the future.

I cannot remember whether it was Mr Moore or Mr Berry who made the point that there is a site very close to that one which has been a hole in the ground for a while. That is true, Mr Speaker. So, it might turn out that the level of interest is not all that high. But, until we have asked, we will never know. Interestingly, we have had a number of people who have come to see us about this particular site with some very smart ideas which, if they come to fruition, I think this Assembly would be very pleased about. We see the site as linking the university campus area with Civic. We see it as potentially a very interesting site for different styles of accommodation. Those are some ideas. So, again, an expression of interest approach enables people to, I suppose, put their brains into gear and come up with things that are in the interests of the people of Canberra. It is the approach that I hope the Assembly will support.

Expressions of interest, I think, are a good way to go in the future. It is just a great pity, Mr Speaker, that Mr Berry did not get a copy of the expressions of interest documentation and look at the documentation upon which his motion was actually based, which would have told him immediately that the health services were safe, which would have told him immediately that there was no commitment from the Government to sell or do anything else to the Health Building, and which would have told him absolutely that there would need to be mandatory preliminary assessments in most circumstances for these public situations. Mr Speaker, if he had done that, we could have saved lots of taxpayers' money and we would not have had to have this debate at all. But, as usual, Mr Berry decided to take what is a straight political approach to an issue that could simply and easily have been sorted out by his reading the document.

MR MOORE (3.53): Mr Speaker, when I rose to speak on the motion moved by Mr Berry, I made it clear that I believed that the wording of the amendment would not prevent the Government from continuing with its expressions of interest, but that is where it ended. Mrs Carnell, through her office, was kind enough to send a copy of the amendment to me at lunchtime. Therefore, I had time to think about the ramifications. I believe that the amendment actually will take it further than what I was saying. As far as I am concerned - I am very comfortable about saying this, and I am very comfortable that this is the ground upon which I support the motion - it does not stop Mrs Carnell getting those expressions of interest in and distributing them as an ideas system. Therefore, from my perspective, the amendment is redundant. Under those circumstances, it would be

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interesting to hear what is the perspective of other members. If, indeed, a majority of members feel that I am not correct in my interpretation, then I would have to support Mrs Carnell's amendment. But I believe that it is redundant and I believe that it is unnecessary. I am happy to knock it off, provided that I feel that the other members of the Assembly accept my interpretation that she can complete that expressions of interest exercise. It just cannot go any further than that.

MS TUCKER (3.55): I agree with Mr Moore that we do not need to have this amendment at all. I have accepted the meaning that Mr Moore has put on the original words. So, we will not be supporting this amendment.

MR HUMPHRIES (Attorney-General) (3.56): As I understand the words that Mr Moore imports into the motion, it is possible to complete the expressions of interest process but not to actually take any decision that would have the effect of selling or disposing of the buildings. The Assembly can impute any words it wishes to the document, and I suppose that what the Assembly expresses around this room in this debate is more important than the words that are actually passed. But I would have thought that the words to be actually passed are that "the Government withdraw any action aimed at the sale or disposal of the Moore Street Health Building", implying that something has happened up until now which needs to be withdrawn from.

Mr Moore: We do not know what the action is or is not, but we know that the action is aimed - - -

MR HUMPHRIES: But the Chief Minister, in her speech, has told people what the action is.

Mr Berry: Trust me!

MR HUMPHRIES: No. She has told people what the action is. She has told them what has been done so far, in her speech, most of which, with respect, neither Mr Moore nor Ms Tucker actually heard.

Ms Tucker: She said that she was looking for smart ideas.

MR HUMPHRIES: She said lots of things, Ms Tucker, which you were not here to hear.

Mr Moore: Excuse me. I was the one that called the quorum when you were not here.

MR HUMPHRIES: I know, but that was because you came in and nobody - I was here at the time.

Ms Tucker: I was just sitting there. I was listening.

MR HUMPHRIES: You were not listening. You were talking to the Clerk. You were talking to lots of people.

Mr Moore: The record will show that this is a case of the pot calling the kettle black.

MR HUMPHRIES: I was sitting here all the time.

Mr Moore: The record will show that you were not in here, and I called a quorum to bring you in here.

MR HUMPHRIES: I was here. Mr Speaker, the record will show that I was here. I was sitting beside Mrs Carnell when the - - -

Mr Wood: The record does not go to that detail.

Mr Berry: I think the record will not show who was here.

MR HUMPHRIES: The record will now show that I was here, because I have said that I was here.

MR SPEAKER: The record will show only that there was not a quorum present; that is all.

MR HUMPHRIES: Is that a ruling, Mr Speaker?

MR SPEAKER: It is just a fact. It will be in the *Hansard*.

MR HUMPHRIES: Mr Speaker, I do not mind; if that is what Mr Moore says these words mean, that is fine. I do not think that is what they mean; but I gratefully accept his interpretation of what the words mean.

MR BERRY (3.58): Mr Speaker, the Opposition will not be supporting this amendment moved by Mrs Carnell.

Mr Humphries: That is not the question. The question is: What do the words mean?

MR BERRY: The words in the motion which were proposed by us are quite clear in their intent. It is clear that we cannot turn back the clock by this motion which is moved today and withdraw the call for expressions of interest; but move one inch beyond that and you are dead. That is the message. Our understanding is quite clear in relation to the matter. Mrs Carnell tries to take it a bit further, and we will not be supporting the amendment. Mr Speaker, I will confine my comments to the amendment. I know that there is another amendment to be moved, and I wish later to comment on Mrs Carnell's contribution to the debate as well. I just do not want to have to do it twice.

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Question put:

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

The Assembly voted -

AYES, 7

Mrs Carnell
Mr Cornwell
Mr De Domenico
Mr Hird
Mr Humphries
Mr Kaine
Mr Stefaniak

NOES, 10

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

Question so resolved in the negative.

MR SPEAKER: Ms Tucker, before you speak, let me say that I have had a look at your proposed amendment and I believe that it is out of order, in conformity with the lakes ruling that was made some time ago. I would remind members that in that particular case Ms McRae, I think it was, wished to expand a motion which related to the lakes and foreshores - - -

Mr Wood: It would be good if we could go back a few years.

MR SPEAKER: No. In fact, it went back to 25 September this year, Mr Wood.

Mr Wood: But it has changed from rulings earlier. That is what I meant.

MR SPEAKER: This rule is also set down in standing order 140, which stipulates:

Every amendment must be relevant to the question which it is proposed to amend.

Clearly, an amendment can be proposed to alter details of a motion, another amendment, clause or Bill; but it cannot propose to alter the subject matter of the question under consideration. Now, you are expanding the matter of the Moore Street Health Building to incorporate the sale of any other major marketable fixed assets that we may think of. That is not in conformity with the ruling I made in relation to the lakes matter, which was Mr Moore's motion and an attempt by Ms McRae to amend it. Therefore, I must rule this amendment of yours, Ms Tucker, out of order for the same reasons.

Ms Tucker: Can I argue that, or do I just have to accept it? I would like to argue that there is actually relevance.

MR SPEAKER: The only way you can do it is by moving dissent from my ruling; but you will need leave to do so, Ms Tucker.

Ms Tucker: I understand the Speaker's point; but I do not agree with it.

Mr Moore: You can speak to that while you are speaking to the motion.

Ms Tucker: I will seek to amend my amendment.

MR SPEAKER: Yes; or, indeed, this particular amendment that you have attempted to move can always be moved as a substantive motion at some other time, and then the Assembly would debate it out.

Ms McRae: Mr Speaker, on a point of order: Perhaps you could give Ms Tucker guidance as to what would be permitted. If she has no idea of what is not permitted, perhaps you could give her guidance.

MR SPEAKER: I am not too sure what - - -

Ms McRae: How can you rule it out of order if you are not too sure, Mr Speaker? You must know either what is in order or what is out of order. I think a bit of guidance to Ms Tucker might be helpful.

MR SPEAKER: I am not sure what Ms Tucker is now seeking to propose to amend her amendment. That is the problem I have. What you have here is out of order. If you wish to move an amendment, we would have to entertain it. The Clerk informs me that you have not moved your amendment - that is perfectly true - and you are at liberty to move another amendment. But I am not sure what exactly you propose.

Ms Tucker: I will have to quickly write it out so that it can be circulated.

MR SPEAKER: All right; that is fine. In the meantime, the question is: That the motion be agreed to.

Mr Berry: I would be closing the debate, would I not?

MR SPEAKER: You would be, Mr Berry. So, if anybody else would like to contribute to the debate, feel free.

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Mr Berry: I think you are doing the best job so far, Mr Speaker. Keep going.

MR SPEAKER: Thank you. I will just elaborate a little on the ruling that I gave on 25 September.

Mr Berry: You are the only one in a position to fill in gaps without closing off the debate.

MR SPEAKER: Ms McRae's amendment, as originally worded and foreshadowed - and this applies to Ms Tucker's amendment in this case - proposed to require the Government to undertake appropriate consultation regarding significant public works developments in the Territory as a whole. This was ruled out of order, as it expanded the question beyond the initial proposal, which dealt with only new uses, not necessarily capital works, of the lakes and their foreshores, not the whole Territory.

Mr Moore: If her colleague cannot filibuster for her, it is too bad. She misses out.

MR SPEAKER: I think we now have an amendment from Ms Tucker.

MS TUCKER (4.09): Mr Speaker, I will speak to the motion while my amendment is being circulated. The Greens will be supporting this motion. There are two issues that we are debating here today. The first issue is about - - -

MR SPEAKER: Order! Ms Tucker, are you speaking to Mr Berry's motion now?

MS TUCKER: Yes.

MR SPEAKER: Just seek leave to speak again and it will be granted.

MS TUCKER: I have not spoken on it.

MR SPEAKER: I am sorry; I am advised that you spoke to the amendment.

MS TUCKER: No.

MR SPEAKER: Proceed.

MS TUCKER: There are two issues that we are debating here today. The first issue is health services and the need to ensure these services, particularly primary and preventive health services. The second issue raised by this motion is in relation to government ownership of assets and the need for an asset management strategy before we make decisions to sell any more major government assets.

The health centre has a number of health services, ranging from an alcohol and drug service to community nursing and breast screening. These are services that are accessed by many people in the community. Elderly people, in particular, have expressed their fears about the downgrading, closure or relocation of services such as these.

Mrs Carnell has claimed that she has no intention to close or relocate any of these services, and I accept this assurance. However, I would like to see exactly what services are presently in the building and whether they are all classified as services of the Civic Health Centre. So, I do not feel that I have all the information I would like; but I accept Mrs Carnell's assurance that these services will stay within the city area, within Civic.

In debating the issue of asset sales, members should bear in mind the Estimates Committee recommendations about asset sales. The committee recommended that the Standing Committee on Public Accounts examine and report on the financial management arrangements for government-owned property and assets that are being proposed by the Government, including lease-back. The committee also recommended that a draft statement of policy on asset management be presented to the Assembly at an early date, with a view to the Standing Committee on Public Accounts reviewing that statement in time for its report to be taken up in the context of the next budget. The Government agreed in principle to the first part of the recommendation and agreed wholly to the second part of the recommendation. They agreed to prepare a draft framework and guidelines to strategic asset management for consideration by the Public Accounts Committee. It is entirely appropriate, therefore, for the Government not to proceed with any action aimed at the sale or disposal of the Moore Street Health Building until we see the framework and guidelines to strategic asset management. Not only has this proposal not been mentioned in the Assembly or any Assembly committee, but if any sale were to go ahead it would also be pre-emptive of the Government's own planning work in relation to asset management and the process that has been agreed to by the Assembly through the Estimates Committee and subsequently agreed to by the Government.

I ask members to support the amendment that is now being circulated, because what we are basically asking is that we do have this information from the Government before we, as an Assembly, are asked to look at any further concrete proposals for a sale of assets. There has been a lot of talk about strategic planning over the life of this Assembly. One of the issues that have been raised is that there is no point in going on with the charade of a policy if you essentially create a policy by actions before the plan or policy is finalised.

Mr Speaker, we need to delink the issue of asset management from the Government scrambling for ways to balance their budget. I think it is very important that the ACT does have an asset management policy in place and that members have the opportunity to actually look at it, analyse it and make decisions themselves about what they think about this policy; but, as it is, it seems very ad hoc. Not only should that policy be based on financial considerations; it should consider the social aspects of the Government owning assets, including access to community facilities. We also have to think in a strategic way about what the private sector might do with any assets that are sold and developed. These decisions should not be made on an ad hoc basis, particularly if this Government is so keen on strategic planning. I hope that my amendment will
be supported by members.

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Mr Speaker, I move:

Add the following paragraph:

“(3) the Government, in accordance with recommendation 9(ii) of the Select Committee on Estimates 1996-97, not pursue any action aimed at the sale of Moore Street Health Building until the Framework and Guidelines to Strategic Asset Management has been considered by the Standing Committee on Public Accounts.”

MR SPEAKER: The second amendment has been circulated. It is in order.

MR BERRY (4.14): If I were to speak now, I would close off the debate on the motion. Can I speak to the amendment?

MR SPEAKER: If you address your remarks just to the amendment, Mr Berry, that will be all right. Does anybody else wish to speak?

MR BERRY: Indications are not; so I will go for it, I think. The Opposition will agree with the amendment circulated by Ms Tucker. It raises an issue that I referred to in my speech in relation to the Estimates Committee assessment of the sale of assets, in the context of the sale of the Moore Street building and against the background of the requirement that the services cannot be disposed of until otherwise approved of by the Assembly in session, as well as being considered by the Standing Committee on Public Accounts.

I turn to a few comments the Chief Minister made in relation to this matter. Listening to the Chief Minister's speech, I wonder why the expressions of interest were - - -

Mr Humphries: Mr Speaker, on a point of order: I thought you ruled that Mr Berry could speak only on the amendment.

MR SPEAKER: He is, in fact, closing the debate because nobody else rose, Mr Humphries. So, effectively, he is speaking to both.

Mr Humphries: You asked whether anyone wanted to speak on the amendment rather than on the motion itself.

MR BERRY: I am happy to sit down, if you want to speak. I would want to close the debate anyway, Gary; so if you want to speak, with leave of the Assembly, I am happy to sit down.

Leave granted.

MR HUMPHRIES (Attorney-General) (4.16): Mr Speaker, I think the motion that is being moved today is unfortunate. The Government's attempts here have been not to conclude any particular decision or policy with respect to the Moore Street Health Building but, rather, to explore ways of managing that asset better or to provide for some better realisation of its value to the community. It was never the Government's belief that any resolution of that process could be undertaken - especially if it involved, for example, the sale or leasing or whatever of that building - without some involvement by the Assembly, knowing its extreme sensitivity on issues of this kind. We had that demonstrated to us very clearly by the motion that was passed last year, I think, on health centres. The Government is not stupid. It knows what the consequences are of taking on a course of action that involves closing or moving or selling the property in the health centre.

I say again that I think the Assembly is being a little oversensitive on this subject, and I again plead with members of the Assembly to appreciate that there is a need for the Government to be able to constantly explore better ways of providing for the management of both general policy issues in the Territory and particularly major assets. I certainly recall from my time as Minister for Health considerable concern by workers in that building about the way in which the building operated. For a building which is relatively new - less than 20 years old; it was not much more than 10 years old when I was Minister for Health - it had considerable problems with its operation. I was shown parts of the building which were effectively crumbling or falling down at the time. I would be surprised if anybody, particularly a former Minister for Health, would not be aware of the very significant problems with that building. It is fairly typical, unfortunately, of our Opposition today that they charge at every potential red rag they see, making it nearly impossible to make important decisions about a matter.

I can just see the press releases towards the next election: "Government inactive on major refurbishment of Government buildings" and "Government ignores needs of workers to be able to address health and safety problems".

Mr Berry: Just write that one down: "Government inactive". It is not a bad one.

MR HUMPHRIES: You do not need me to tell you what they are, Mr Berry. You can work them out very well yourself. You have a very good talent at that kind of process.

Mr Berry: I do not mind borrowing an idea or two, especially if they are good ones.

MR HUMPHRIES: I am sure you do not, Mr Berry. I note on the notice paper, Mr Speaker, that there are a series of motions of this kind. There is the one about the Moore Street building. There is the next motion we are going to deal with, about stopping the expressions of interest on the Manuka section 41 car park. We have already had a motion about not proceeding with changes to the School Without Walls. There is a motion about not making any changes in betterment arrangements, standing in Mr Wood's name. I am not sure where that stands. There is one about the Government not undertaking any expansion of the Canberra Airport, and so on.

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Mrs Carnell: Except that in this document the Greens supported yesterday it says that we should have a 24-hour airport.

MR HUMPHRIES: Indeed, that is the somewhat curious contradiction we find constantly in this place. The other day we had a similar motion about the Government's moves towards public consultation on Ainslie.

Ms Tucker: On a point of order Mr Speaker: Could we address the issue we are supposed to be debating?

MR SPEAKER: Relevance, Mr Humphries.

MR HUMPHRIES: You have never taken a point of order like that before, Ms Tucker. That is a first for you. She is taking lessons, Mr Speaker.

MR SPEAKER: She is learning. Not only that; I uphold the point of order, Mr Humphries.

MR HUMPHRIES: I can see that the numbers are stacked against me, Mr Speaker, so I had better stick to the issue. The issue is the unnecessary sensitivity of the Assembly about these sorts of matters and the desire the Government has expressed very clearly throughout this debate and at other times to be able to get on with the task of collecting information and exploring ideas with the community. It seems to me an extraordinary contradiction that, on the one hand, we are pilloried in this place continually for not consulting enough on issues, not having information available to give the Assembly about particular issues on which members demand answers almost instantly; and, on the other hand, when we attempt to explore ways we can better use a particularly important Government asset, we are shot down for asking people to put forward essentially what amounts to commercial consultation about what could happen with that building. I ask members to consider what massive contradiction there is in the brief they are handing to the Government in those circumstances.

MR BERRY (4.19): I have referred to the amendment moved by Ms Tucker, and I wish to speak on a few comments that were made by Mr Humphries. On the refurbishment issue, every building requires refurbishment from time to time; standards change in relation to air-conditioning, lifts, and so on. When refurbishment occurs, it can quite often be expensive when you have to deal with those sorts of refits, and it depends on what you want to do with a particular building. The most expensive refurbishment plan I have heard of in respect of that building was when somebody wanted to build a new floor in the void in the building - a floor or more - which would have been extremely expensive. I have heard in the past figures of \$7m, but for publicity purposes I think \$9m has been adopted. Buildings as they age require refurbishment; but nobody would deny that that building was built to old Commonwealth standards, which were way above standards that would be accepted for construction work now, and it is a building very worthy of refurbishment because of its expected life.

All of this nonsense about the refurbishment costs is merely a diversion from the real issue. The Government has made up its mind to sell the asset; there is no question about that. Listening to Mrs Carnell's speech, anybody from outside would have wondered why she even issued the call for expressions of interest. It sounded as if she had absolutely no interest at all in selling the building or doing anything with that site and that we were all being a bit silly with our reservations, if you like, about these expressions of interest.

I have heard Mrs Carnell say "Trust me" before when it comes to health services, and I do not. I have seen the wreckage of a health centre and I have seen bulk-billing doctors and private doctors leave health centres because of the instability that has been created in those areas. I have decided that the best way to deal with these things is to get a motion on the floor here, test it before the Assembly, test the Assembly's attitude. Bear in mind that many of the Assembly members have seen what has happened in the past. They have heard the honeyed words but they have seen actions that do not mirror those honeyed words. Understandably, people are a little concerned about the difference between what was said in the past and what happened. Many of us take with a grain of salt the honeyed words we hear from time to time on many issues.

Nothing has changed in relation to Mrs Carnell's attitude to this building. As I said a little while ago, a passer-by hearing Mrs Carnell speak would wonder why she had even called for expressions of interest because it would appear that she was never going to do anything to the building. I am not prepared to sit back without a strong motion making it very clear to the Government that the members of the Assembly are, at best, very reserved about her position. Many of us strongly oppose it because we think it is part of a Liberal ideology that has nothing to do with the provision of services to the community. In fact, the community do not even count. They think we live in an economy, not a society. Mr Speaker, this is worthy of endorsement by all members of this Assembly.

Amendment agreed to.

Motion, as amended, agreed to.

**SCRUTINY OF BILLS AND SUBORDINATE LEGISLATION -
STANDING COMMITTEE
Membership**

MR BERRY (4.26): Mr Speaker, I move, pursuant to standing order 223:

That Mr Hird and Mr Osborne be discharged from the Standing Committee on Scrutiny of Bills and Subordinate Legislation for the Committee's consideration of the Land Acquisition (Northbourne Oval) Bill 1996 and that Mr Moore and Mr Kaine be appointed in their place.

Question resolved in the affirmative.

MANUKA CAR PARK REDEVELOPMENT

MS HORODNY (4.27): Mr Speaker, I move:

That this Assembly calls on the Government to:

- (1) immediately withdraw its call for expressions of interest for the development of block 4 section 41 Griffith (the Manuka carpark);
- (2) undertake a study, with full public consultation, of options for the future of the Manuka carpark that best meets the needs and concerns of Manuka traders, the users of Manuka shops, local residents, and traders in surrounding shopping centres, and taking into account the evaluation checklist for major retail development applications included in the Government's Retail Policy; and
- (3) if redevelopment of the site is identified as the preferred option, seek Assembly approval of the preferred option through a variation to the Territory Plan regarding the carpark site, before any sale of the site is contemplated.

The Greens have put forward this motion because we feel quite betrayed by this Government's approach to the retail market in Canberra. As members are well aware, the decline in Canberra's local shopping centres has been a major topic for debate in this Assembly. The Government released its retail policy for Canberra in May of this year and quite courageously legislated to restrict the trading hours of supermarkets in the town centres as a way of giving some opportunity for local shops to recover lost business, as well as introducing other initiatives such as the helpShop program and a local shop ideas competition. Unlike some members in this Assembly, the Greens have consistently supported small business in Canberra. We thought that the Government deserved the opportunity of implementing its retail policy as a way of helping small retailers and keeping local shops alive, even though we had a number of concerns that the policy did not go far enough.

All this changed in October when Mr Humphries announced his call for expressions of interest in the development of the Manuka car park into a 12,500-square-metre shopping mall containing a 4,000-square-metre supermarket and a car park for 500 to 600 cars. In one stroke the Government had announced its intention to destroy the unique character of one of the most pleasant shopping centres in Canberra and to destroy the future of other local shopping centres in South Canberra. And for what reason?

The Minister says that the existing supermarket in Manuka is too small for its customer base and that this development would provide the opportunity to expand Manuka's car parking facilities and to do up Palmerston Lane. It is quite clear to us, however, that the key beneficiary of this proposal is Woolworths and that there are many small retailers and local residents who stand to lose considerably from this proposal. The Minister confirmed in this Assembly in June and in the budget Estimates Committee hearings that the Government had received a request from Woolworths at Manuka to be able to locate their supermarket across the road and to expand its size. I hope Mr Humphries is paying close attention.

Mr Humphries: Absolutely.

MS HORODNY: He stated, however, that the usual procedure is to:

... put the matter out to an expression of interest so that we can see what other interest there is in the marketplace ... Obviously nobody has a right to an expansion by themselves.

It is pretty clear from the call for expressions of interest document that it would be hard for any other retailer to compete equally with Woolworths for the site. The key point in the prospectus is that there must be a supermarket in the development and that it must be a minimum of 3,500 square metres. The prospectus is quite flexible about what other uses the site could be put to and quite sensibly sets upper limits on the floor area of these uses, because obviously there must be restrictions on the overall size of the development relative to the size of the block. Why, however, is there a minimum size specified for the supermarket? Surely a Liberal government would want to leave decisions on whether a supermarket is the best use of the site, and the size of that supermarket, to the market itself to determine.

By requiring a supermarket in the development and setting this minimum floor size, which would make this supermarket one of the largest in Canberra, the Government has restricted smaller locally-based retailers and other potential land users from competing for this site. However, even other large supermarket chains would not be confident about bidding for this site. If a supermarket other than Woolworths were established on this site and the existing Woolworths store remained, Manuka would have a total supermarket area of over 5,000 square metres, which is way over what could be supported by the population in that area. Woolworths, being the smaller and older supermarket, most likely would be forced to close, which is absolutely the opposite of what it wanted to achieve in the first place, which was a bigger supermarket. I am sure that Woolworths would not allow this to happen. I note that, while there have been five expressions of interest in the site, Woolworths has put in three different options within its expression of interest, so they are certainly covering their bets. Only one other expression of interest has identified a particular supermarket, which was Coles. The other three expressions of interest do not specify which company would take up the supermarket space, so presumably they either have someone lined up privately or would have to negotiate with a large retailer like Woolworths if they got the site. Either way, Woolworths has a very high probability of being chosen, and then the question arises of what happens to the existing Woolworths site.

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It is quite interesting to consider that the proposed spin-off of the development of the car park will be the enhancement of Palmerston Lane into a major pedestrian thoroughfare. The existing Woolworths site forms the entry point and major boundary to Palmerston Lane and its value will obviously be increased by the enhancements to Palmerston Lane. Does this mean, then, that yet another shopping mall will be proposed for this site, to take advantage of its location? The character of Manuka would certainly be further degraded by this possibility.

Apart from the direct impacts on Manuka, there could be many other shops in the surrounding local centres that could be forced to close by this proposal. A supermarket of this size, able to trade up to 24 hours, must surely draw trade away from local centres in Deakin, Griffith, Hughes, Kingston, Narrabundah, Red Hill, Yarralumla and the Fyshwick markets. The Ibecon study showed quite clearly that there is an oversupply of retail space in Central Canberra which, by its definition, included South Canberra. An additional shopping mall in Manuka can only make the situation worse for the local shops in the area and worse for existing shops in Manuka.

The Government is being very hypocritical in promoting this expanded supermarket in Manuka, because it is setting up a retail battle in South Canberra that is merely repeating the retail battle between the town centres and the local shops that the Government claimed to have resolved through its retail trading hours legislation. It is quite clear to me that the Government has not considered all the implications of this proposal. The Government's own retail policy contains an evaluation check list for major retail development applications which is meant to be used as a guide in the assessment of major proposals. The list of criteria is quite comprehensive, but I have seen no evidence that the Government has used its own check list to evaluate this proposal.

Until now it has been a very closed process with no formal opportunity for public input. The decision has already been taken by the Government to proceed with this development, and once the preferred developer is chosen there is virtually nothing that can be done by the public to stop this process. Only belatedly has the Government said that it will make the bids open for public inspection and hold one workshop to gather community opinion on the plans. This is not the same as allowing the public to comment on and formally object to the whole notion of this development as well as giving the public the opportunity also to come up with possible solutions or options for car parking and dealing with Palmerston Lane.

If the winning bid conforms to the Territory Plan there will be no appeal rights available to the public. The Minister says that there will be a mandatory preliminary assessment of the proposal that is chosen by the Minister and that the public will have a chance to comment on this. But, surely, this will be too late. The decision on what will go on the site will already have been made by the Minister. If the Government really wants to follow the intent of the environmental assessment part of the Land Act it should undertake its own preliminary assessment of its decision to sell off the car park for other uses and evaluate alternative uses of the site as part of this preliminary assessment.

The decision to sell off the car park and allow the site to be redeveloped is really the key decision that must be assessed. I hope that Mr Humphries is listening to this and will address this particular issue of concern. The Government cannot really expect the public to believe that a preliminary assessment of a development proposal already selected by the Government and for which the developer has already paid a deposit on the site will make any difference to the final result.

Either way, it is very questionable whether this proposal conforms to the Territory Plan. The Manuka car park is currently zoned, appropriately, as car parking. (*Quorum formed*) I will start that again. The Manuka car park is currently zoned as car parking. The Territory Plan - - -

Mr Humphries: It is not zoned as a car park. That is not true.

MS HORODNY: Yes, it is. Here it is. It is zoned as car parking.

Mr Humphries: It is designated as a car park. That is different from it being labelled in the Territory Plan as car parking.

MS HORODNY: Yes, that is true. We will get to that, Mr Humphries. The Territory Plan states that shops are permitted in this zone only where associated with a car parking structure. I think the Government has made a very liberal interpretation of this clause by assuming that just because the site will still contain car parking areas it conforms to the Territory Plan. The car parking that will be provided may well be a shortfall on what is required with the additional shops. In other words, the whole supposed solution to car parking problems in Manuka may well create more problems than it solves. (*Extension of time granted*) (*Quorum formed*) I believe that this interpretation of car parking is false when you compare this proposal with similar car parking zones in other parts of Canberra. The structured car park at the other end of Manuka has some offices at the front of it; but they are, obviously, ancillary to the main purpose of the structure, which is an enclosed car park. Similarly, the structured car park opposite the Canberra Centre in Civic has shops on the ground level, but there are four levels of car parking above them and the building is obviously designed as a structured car park.

This Manuka proposal, on the other hand, quite clearly will be a shopping mall, not a structured car park. The expressions of interest submitted most certainly all look like shopping malls. Most of the car parking on the site is being provided only to support the new shops. The shopping mall, as proposed by the Government, will require at least 325 cars by itself, under the Planning and Land Management Group's parking guidelines. There may be even more car parking spaces required, depending on what other uses are proposed for the site. This is in addition to the requirement to provide 200 car parking spaces to replace the existing car park, and I note that one of the expressions of interest provided 600 car parking spaces.

Through this motion we are calling on the Government to rethink this whole proposal. The Government needs to begin an open and consultative process to determine the future of the car park site. We are not saying that there should never be any development on this site. We also acknowledge that there are parking problems in Manuka and that

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perhaps there are grounds for upgrading Palmerston Lane. What we want, however, is for these issues to be addressed directly by this Government, and not for the Government to impose this grand proposal for a new shopping mall in Manuka that will create more problems than it solves.

The Greens are not alone in this call. There are many people in the community who do object to this proposal. The Canberra Small Business Council, the Commercial and Retail Tenants Association, the Canberra Property Owners Association and even the ACT Chamber of Commerce have come out against this proposal.

Mrs Carnell: That is not true.

MS HORODNY: They have. I have heard them.

Mrs Carnell: No, they have not. You ring them up and find out.

MS HORODNY: They said on the radio that they opposed it. The majority of people participating in the Manuka Precinct Committee have also expressed strong concerns, and the Manuka traders are split, seemingly about two against to one for, on this issue. The Government needs to take heed now, before it goes too far in committing itself to this ill-considered development proposal.

MR HUMPHRIES (Attorney-General and Minister for the Environment, Land and Planning) (4.50): Mr Temporary Deputy Speaker, there really are so many inaccuracies in what Ms Horodny has said that it is very hard to know where to begin. It really is quite extraordinary that, on a matter where there are really quite clear rules and guidelines in place, we should be facing so many misrepresentations about where this process goes and so many misunderstandings about it. Ms Horodny originated this motion three weeks ago, or she wanted to move it three weeks ago. I think it is quite reprehensible that she comes back now with relatively little homework done on what the situation is in this respect.

There is a litany of things I want to comment on, but only very briefly. First of all, the claim is that the Government decided only lately, or latterly, to release the expressions of interest process for public scrutiny. The decision was taken at the same time as or before the expressions of interest were called for to make those expressions of interest available to people. The decision was made by me in my office with my officers present. I said, "Everybody who expresses a desire to put forward an expression in respect of Manuka should be told that there will have to be public disclosure of their information and that they should therefore adjust what they might want to say in that, lest they put on the table anything which could be commercial-in-confidence". All five of the tenderers or expressers of interest - I am not sure what to call them - have agreed to put their proposals on the table. As Ms Horodny mentioned, they are now available at Manuka for everyone to look at.

Mr Temporary Deputy Speaker, it really is quite dishonest, frankly, to say that the Government was placed under pressure to produce that concession late in the stage. It was the case before the first document hit the media. I told Ms Horodny in a public meeting the other day that that was the case. She obviously chooses to believe those who have no knowledge of the circumstances of that decision over my assurance.

Ms Horodny: There was no public process.

MR HUMPHRIES: The fact that it is not referred to in the document that was printed and published does not mean that it is the case that that document was not going to be placed on the public record, Ms Horodny.

Ms Horodny: What has been the process to date that allows the public to be involved?

MR HUMPHRIES: Mr Temporary Deputy Speaker, I have explained exhaustively to Ms Horodny already what the process to date has been. She knows what the process has been. She was at the public meeting the other night. She was here the other day when the Assembly had some debate about this matter. She has heard me say this before. She does not need to have the time of the Assembly wasted with yet another explanation for her benefit.

We have had another claim which has been transmogrified slightly in recent days - the claim that the supermarket would be the largest supermarket in Canberra. Since that claim was made by Mr Powell, we have - - -

Ms Horodny: No; I said "one of the largest".

MR HUMPHRIES: No. Hang on. The claim originally was that it was going to be the largest supermarket in Canberra. It was, Ms Horodny. That was the claim. We have since drawn the attention of the Assembly to three supermarkets, at least, in the Territory which are larger - including one in Tuggeranong, by approximately 50 per cent, even if the maximum supermarket size at Manuka is taken up. Ms Horodny, when she spoke today, decided to modify those previously erroneous claims of people like Mr Powell and referred to it as one of the largest supermarkets in Canberra. The fact is that that has been one of the most severely misrepresented elements of this whole proposal up until now.

Ms Horodny: It does not matter, Gary. Get to the point. The point is that we do not need any more supermarkets.

MR HUMPHRIES: The point is that most of what has been said on this subject by people - - -

Mrs Carnell: There goes Gungahlin.

Ms Horodny: Except for Gungahlin.

MR HUMPHRIES: We do not need any more supermarkets? Where do you live, Ms Horodny?

Ms Horodny: What is the point, Mr Humphries?

MR HUMPHRIES: There is a stony silence from Ms Horodny on that subject. Perhaps you live in an area of Canberra which is well serviced with large supermarkets. There are no supermarkets of any significant size - by current standards, I mean - in South Canberra. There are none of those in South Canberra. I dare say that the supermarket at Manuka now, Woolworths, is the largest supermarket in South Canberra. A supermarket of a major chain consisting of about 1,800 square metres is tiny. What is more, when you visit the supermarket you realise that it is tiny. It does not service its market very well. The people who try to shop there - - -

Ms Horodny: So you have made that decision, based on what?

MR HUMPHRIES: No, it is not just my assessment. You speak to any trader at Manuka and you ask them. I am not proposing to have a dialogue with Ms Horodny. Ms Horodny, with great respect, has not spoken to the people who have been directly affected by this process. Ask any trader at Manuka what they think about the operation of the Woolworths supermarket there and they will concede, I am sure, that it simply is not a very effective supermarket. That is bad for the people who operate it, Woolworths; but it is also bad for the customers of that supermarket. The suggestion that there should be a capacity to have a supermarket of a size more capable of serving the needs of the people of South Canberra is a reasonable suggestion which this Government is prepared to take up.

Mr Temporary Deputy Speaker, it was not, however, just to meet the needs of supermarket proprietors and their customers that the Government took the decision to facilitate a process of, once again, expressions of interest in respect of section 41 at Manuka. It was also because of the very real need for infrastructure upgrade at Manuka. Ms Horodny might not care about the customers of Woolworths or other supermarkets in Central Canberra, but she does not need to walk around very much in Manuka to realise that there are some severe design problems at Manuka as well, particularly Palmerston Lane. Beyond the problems with Palmerston Lane and Flinders Way and the general configuration of the areas around Manuka, there is also an overpoweringly significant problem with car parking.

I would suggest to Ms Horodny that when she rises to close the debate in this matter she make some attempt to explain to the Assembly how she would solve the problem of car parking at Manuka. The fact is that Ms Horodny can criticise from her very comfortable chair over there on the crossbenches, but at the end of the day it is the government that has to face up to the problem that there is not enough car parking at Manuka. We have the responsibility, as the government of the day, to try to find a solution to that problem. The solution we have elected to explore is that we should call for expressions of interest in the use of a number of development rights on section 41, such as to permit someone to be able to establish more car parking spaces along with other more profitable development rights that would provide for the capital cost of establishing that car park.

No-one is going to come and build for the Government, even on a site like Manuka, I suspect, and even if they were given the site on a very concessional basis, a car park for the sake of providing more car parking spaces at Manuka. In places like Woden and Civic that concept works because there is such intensive use by a large number of shoppers. You can profitably build a supermarket and gain enough fees from the use of the car park to justify the cost of building it in the first place. But that is not going to work, for the most part, at Manuka, and it also does not solve a number of other problems at Manuka - for example, generating the capital works revenue necessary to replace things like Palmerston Lane or to upgrade Palmerston Lane. Mr Temporary Deputy Speaker, that is also a myth that the Government wants to debunk today.

Another is that supermarkets will not want to compete with the Woolworths supermarket across the road, on the other side of Flinders Way. I would have thought it is obvious to anybody that, if there is a brand-new supermarket across the way on section 41, which is, for argument's sake, twice the size of the Woolworths supermarket, which has car parking underneath it or on top of it, or certainly juxtaposed to it, and it is possible to get in and out quickly because there is access, say, off Captain Cook Crescent, and there is parcel pick-up and so on within the car park structure, whoever has the car park across the road from Woolworths is going to have a much more satisfactory outlook and a much greater opportunity to foresee their survival than the people who are running the Woolworths supermarket. So it is quite ridiculous to say, as Ms Horodny suggested, that no-one other than Woolworths will want to bid for that site because they will be stymied by the existence of Woolworths across the way. That is nonsense.

Debate interrupted.

ADJOURNMENT

MR TEMPORARY DEPUTY SPEAKER (Mr Wood): Order! It being 5.00 pm, I propose the question:

That the Assembly do now adjourn.

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

Question resolved in the negative.

MANUKA CAR PARK REDEVELOPMENT

Debate resumed.

MR HUMPHRIES: Mr Temporary Deputy Speaker, the other myth created by Ms Horodny in this debate is that Woolworths, I think she said, has a very high probability of being chosen to be the operator. I understand, although I have not seen them, that of the five expressions of interest that have been put in only one puts forward Woolworths as the operator. Three keep their options open. It seems to me that those people have at least a realistic likelihood; they want to see who will bid to operate the supermarket in their building if they get the right to go ahead and build it.

It also seems to me very logical that other people could be just as capable of outbidding Woolworths in that exercise and that Woolworths is not going to be a lay down misere to get that site. Consider the position, Ms Horodny. You have just won the right to build on the site. You know that Woolworths is across the road. You know that its competitors would very much like a central site like Manuka, servicing in effect the whole of a very affluent part of Canberra, namely, South Canberra. Would they not bid a lot of money for the right to operate a supermarket on that site? Would they care that there was a very small, inadequate Woolworths across the road, knowing that they would outperform that Woolworths three to one, four to one, or five to one in no time flat? So, Mr Temporary Deputy Speaker, I think the suggestion that Woolworths has a very high probability of being chosen is quite misleading.

I make this comment without in any sense having looked at the expressions of interest so far, but I am told that Coles has put forward a very attractive expression of interest in respect of that site. I think that Ms Horodny is suggesting that somehow Woolworths has this sewn up. The suggestion here very clearly is that the Government has done a deal with Woolworths, that the Government is going to make sure that Woolworths gets the site, or that the circumstances conspire to make sure that Woolworths gets the site. That is either a most unfortunate choice of description or simply very naive. I do not believe that Woolworths has that site sewn up, and I do not believe that the process will be resolved except by a very spirited and competitive process, should the Assembly allow this process to proceed.

Ms Horodny also suggested, quite inaccurately, that there was no evaluation done by the Government up until now. Mr Temporary Deputy Speaker, the Government has called for expressions of interest. There has been nothing to evaluate up until now. Only seven days ago did we get the documentation allowing us to start to evaluate. You had a promise from me that we would take no further steps in respect of that matter until we had had the debate today. So how was I supposed to evaluate it, except by having this issue resolved today?

There is a very extensive process that proceeds from here, and it is a more extensive process than the one usually engaged in on these matters. Not only is there the preliminary assessment process to follow on from here, not only is that yet to happen in this process involving extensive public consultation, but there is also an additional round of informal community consultation about the concepts that have been put forward.

That is leading to a workshop this coming Saturday at Manuka. People have had the advantage of having seen those expressions of interest, those concepts, in the window at Manuka Court, and they now have a chance to come along and comment on them.

What will happen there is that there will be an independent facilitator. That person will invite all and sundry to come to the meeting. The five organisations or persons who have put their expressions of interest forward will be invited to tell the meeting why their proposal is so good for Manuka, and then people will be able to ask them questions and grill them on their proposals. That is not usually a process that is employed in these arrangements, Ms Horodny, and for you to get up here and suggest that the Government has no processes of evaluation in place, that the Government is not interested in consulting with the public, is just absolute nonsense. I think it would be too much to expect you to withdraw the suggestions of those things being the case. It would not be too much to suggest it; it would be too much to expect it to happen. (*Extension of time granted*)

I will try to be quick. The suggestion, Mr Temporary Deputy Speaker, that the processes being used for section 41 at Manuka are in breach of the Territory Plan is simply not true. I am about to table two advices from the Australian Capital Territory Government Solicitor which indicate fairly clearly that, although it is not possible to be categorical at this point, because the exact proposals on which the decision might be made have not yet been determined, it is very clear that the general proposals that can be put forward pursuant to the expressions of interest are quite capable of operating within the Territory Plan as it now stands. I will quote from one of them. This is an opinion from the Chief Solicitor, Mr Michael Peedom, dated 25 November, in which he talks about the question of car parking spaces and how they fit with the Territory Plan. It concludes by saying:

Provided, however, any assessment when made is based upon accurate data and well recognised planning principles there does not appear to be any basis for concluding that the invitation -

that is, the invitation for expressions of interest -

will result in a development which is inconsistent with the Territory Plan.

There is a second advice, dated 26 November, which basically confirms that indication. I table those two advices.

Mr Temporary Deputy Speaker, it is not true to say that the plan precludes this kind of purpose. My advice is that, unless there is some proposal which goes beyond what is envisaged at this stage, it is entirely likely, indeed almost certain, that there will be no requirement for a variation to the Territory Plan. Even Mr Powell, I think, is backtracking on that issue at the moment, so I would not take advice from that quarter if I were you, Ms Horodny. Overall, the misrepresentations that have been made in respect of this process, which Ms Horodny has swallowed hook, line and sinker, really demand that the Assembly not accept the motion that has been put forward by Ms Horodny, at least in this form.

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MR TEMPORARY DEPUTY SPEAKER: Mr Humphries, were you proposing to move an amendment?

MR HUMPHRIES: Yes, Mr Temporary Deputy Speaker, I was. I move:

That paragraph (3) be omitted.

Very briefly, that paragraph assumes that there must be a variation to the Territory Plan. As I have explained and as I have indicated through the legal advice I have tabled, it is not certain that there would be a need for that requirement. I therefore suggest that paragraph (3) be removed.

MS McRAE (5.08): I would like to begin by accepting three things. I accept that the supermarket has every right to seek extra space, and I accept the right of the supermarket people to say that extra space would assist their business and that they should be open about that and let it be known to everybody. I accept that Palmerston Lane needs alteration and that there are urban infrastructure changes to be carried out at Manuka. I also want to put on the record that I am not about to get overexcited about keeping a car park anywhere. I do not personally care very much about car parks. If proposals are put in place that do different things to car parks, I am not going to get excited about those.

As a consequence, I think the process of calling for expressions of interest to deal with those potential changes is a very open and logical process to use when a proposal for change is to happen. It is not a process that simply says to any business, "Yes, that is a good idea. We will do whatever you say". It is a process that says, "Perhaps there is this change needed. Let us test it and see who is interested in leading this change. Let us see what ideas they have. Let us assess those ideas against what is possible, both on the Territory Plan and against other tests".

I am no expert on supermarket sizes. I am no expert on total retail space. I am no expert on predicting the future - what is going to close or open and how one affects the other. I have had no compelling evidence put to me that the mere expansion of one supermarket at Manuka will necessarily have an effect on any other in the area. I have read a lot about people's concerns about that, but I have no particular reason to think that people who have shopped at Red Hill, or Yarralumla, or Forrest, or in any other area are suddenly going to change their shopping patterns because a very crowded supermarket at Manuka that is already thoroughly used happens to get a bit more space. I have no reason to believe that that is going to happen. Nor have I any reason to know that it is not going to happen. I do not think that that is really what is being debated at the moment.

What is being debated at the moment is whether the process that is being used for potential change at Manuka is a good one. If not, does it need to be changed in some way to ensure that it is a good one? Clearly, there are people in the community, and Di Jay, writing to the *Canberra Times* yesterday, is one of them, who do not believe that the process has been a good one. The Minister must take some responsibility for that. I now move the amendments that have been circulated in my name - - -

MR TEMPORARY DEPUTY SPEAKER: Order! We have one amendment before us. We are considering Mr Humphries's amendment. Perhaps you can seek leave at a later stage to move your amendments.

MS McRAE: All right. I foreshadow that I will be moving the amendments circulated in my name, specifically to enable the process to go on and also to address the very concerns that have been raised publicly, and to put on the public agenda the type of consultation that clearly people do want to ensure happens. I had no concern that this public consultation was not happening. I do understand preliminary assessments. They require a mandatory public consultation process. In the process of this lease being granted, a preliminary assessment was to be had.

The motion before us today requires more than perhaps a preliminary assessment would have required in terms of public consultation. I have no problem in putting forward for public test, for my edification as well as for all the people who are concerned, how the options that are being considered do deal with the Manuka car park, and do deal best with the needs of the Manuka traders, the users of Manuka shops, the local residents and the traders in the surrounding shopping areas, and take account of the evaluation check sheet for major retail development applications. I have no problem with that being tested. I think it is probably a very good idea. But I do not see that because that needs to be done we need to put a stop to the expressions of interest.

As a consequence, I think we should incorporate those concerns into what would have been the public consultation process anyway through the preliminary assessment; to have some sort of public statement of how the proposal meets the tests, or how the options that are proposed meet the tests, that are being set by the Assembly, if the Assembly so agrees. I do not think it will do anything much to disadvantage or to advantage the current process. It will just add to the pool of information before us that guides the Minister when he is making his decision. In most cases most of the issues raised by Ms Horodny's motion were going to be part of the type of assessment that the Minister would have had to have made before he granted the lease to the successful bidder.

Again, if the redevelopment is to go ahead, Ms Horodny was suggesting that it needs a variation to the Territory Plan. I take the Minister's advice that it does not. Even if a variation is not needed, the Assembly may as well have a look at these options. In a sense, that is what the Minister did with the McKellar site. He brought back the preliminary environment report. He offered it to the Assembly members to make comment on and he is now going away, presumably, to make his decision about the lease. As I see it, this is a parallel process. All we are actively seeking to do, as I see it, with my proposed amendments, Ms Horodny's motion as it stands and Mr Humphries's amendment, is to ensure that all the information that the public seems to want is there; that it is available for scrutiny; that it offers the type of analysis that is clearly being asked for; that it starts to reassure members that, if it is going to have a massive and adverse effect on the rest of Canberra, at least someone has had some process of evaluating it. I do not think that, but I am happy to have evidence put before me to at least make me concerned about it.

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I personally think that Manuka will be enhanced by this development. I believe that that was the intent of the original proposal. The idea was to put it out for public scrutiny through the expressions of interest process. That does allow for full public airing of the possibilities. This could have been done quite differently, quite quickly, as things are within the purview of the Territory Plan. I think we have been offered a way to look at these things before they happen and now, with the proposed amendments, perhaps when they actually do happen, and in doing so offer the general public the type of analysis and research that does go on before these decisions are made. It is not always necessarily made public. That will reassure people that neither Mr Humphries, nor I, nor anyone else in this Assembly, is intent on willy-nilly destroying one shopping centre in the ACT.

Amendment agreed to.

Debate (on motion by **Mrs Carnell**) adjourned.

EXECUTIVE BUSINESS - PRECEDENCE

MR HUMPHRIES (Attorney-General) (5.17): Pursuant to temporary order 77(d), I move:

That Executive business be called on.

(Quorum formed)

Question resolved in the affirmative.

REMAND CENTRES (AMENDMENT) BILL (NO. 2) 1996 **Detail Stage**

Clause 4

Debate resumed from 10 December 1996.

Ms Follett: Mr Speaker, I seek leave to withdraw my amendment No. 1.

Leave granted.

Ms Follett: Mr Speaker, I withdraw my amendment No. 1.

Clause agreed to.

Clause 5

MS FOLLETT (5.20): Mr Speaker, I move my amendment No. 2 in the following terms:

Page 2, lines 16 to 18, proposed paragraph 7A(1)(b), omit the proposed paragraph, substitute the following paragraph:

“(b) arranging for such a person to be transferred from a remand centre or other institution within the Territory to another remand centre or institution within the Territory.”.

I remind members briefly that the purpose of my second amendment is to retain with the administrator the decision-making on whether or not a detainee might be transferred interstate. Mr Humphries's Bill, as presented to the Assembly, actually allowed for the delegation of that decision from the administrator to the superintendent. It is my view that, at least while we assess the operation of this new legislation, it is appropriate for the administrator to retain the decision-making capacity. I also think that, given the sensitivity and the difficulty of many decisions relating to detainees, it is appropriate that the person who takes the decision be at one remove from the operation of the Belconnen Remand Centre. Mr Speaker, for that reason I move this amendment and I commend it to the Assembly.

MR HUMPHRIES (Attorney-General) (5.22): Mr Speaker, the Government supports this amendment. Clearly, we have a need to make sure that the power to transfer a prisoner interstate is exercised sparingly and at the highest level that allows for an understanding of the problems associated with a particular need within the Remand Centre and at a level which is high enough above those problems not to be drawn into what could sometimes be called the internal politics of a place like the Remand Centre. I think that idea of providing for some distance between the centre's operation and the person who makes the decisions is appropriate. Providing for the administrator to conduct that role is a reasonable way of facilitating that. I think it would generally be at that level that we would expect the decision to be made, rather than bringing it down to those operating at a lower level within the Remand Centre.

Amendment agreed to.

Clause, as amended, agreed to.

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

MR HUMPHRIES (Attorney-General) (5.23): Mr Speaker, pursuant to standing order 187, I move:

That clause 2 be reconsidered.

Question resolved in the affirmative.

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Clause 2

MR HUMPHRIES (5.23): Mr Speaker, I move:

Page 1, lines 6 to 8, omit the clause, substitute the following clause:

“Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

(3) If the provisions referred to in subsection (2) have not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, those provisions, by force of this subsection, commence on the first day after the end of that period.”.

I present the explanatory memorandum for the amendment. The amendment allows for some differentiation between the date on which the operative sections of the Act - sections 1, 2 and 3 - commence and the date on which the other provisions commence. This allows the Government to prepare, if necessary, some regulations to deal with issues discussed by members before today's resumption of debate on this Bill. Mr Speaker, the Government takes the view that it is appropriate for members of the Assembly to have a more formalised watching brief on the operations of the Remand Centre, and in particular to have a capacity to overview the activities of the Remand Centre with respect to the transfer of prisoners.

It is the intention of the Government that the Legal Affairs Committee of the Assembly should formally be in a position to receive a report, which will be presented to me following the exercise of the power that has been created by this legislation, on the circumstances accompanying a decision to transfer a prisoner out of the ACT. That power, when exercised, would generate a means of accountability to the Standing Committee on Legal Affairs, and hence to the Assembly, which I believe would overcome some of the concerns members had, as exhibited by the amendments tabled when this Bill was last debated, concerning a right to review or consider the wisdom of the exercise of the particular power that is being referred to here.

I believe that it is an important process to ensure that, if this power is being exercised in occasional circumstances which are difficult or which involve some controversy, there be a capacity to review the circumstances of that power being exercised and that the Assembly have some overseeing role in that process. I was surprised to learn last night from Ms Follett that in the previous advisory House of Assembly there was indeed a formally appointed official visitor from among the members of the House of Assembly. Indeed, Ms Follett was that official visitor or prison visitor. Although that is not a notion I am suggesting at this stage, I do think some - - -

Mrs Carnell: There are a few we could send.

MR HUMPHRIES: There are a few we could send to prison, for various reasons. I think there is a role for an Assembly committee, namely, the Legal Affairs Committee, in overseeing the operations of the Remand Centre and, for that matter, other correctional facilities in the ACT but also in examining the way in which the power in this Bill is being exercised. This particular amendment facilitates that, and I commend the amendment to the house.

MS FOLLETT (5.27): Mr Speaker, I certainly support the amendment that has been put forward by Mr Humphries. I also commend the discussion and negotiation process that took place last night, which led to what I believe is now an agreed outcome. There is no substitute for getting people around a table, discussing issues and coming up with an outcome which suits everybody, particularly on an issue like this where it seems to me that there is no particular political mileage to be made either way. I think that the Government understands full well that other parties in this Assembly are not totally sanguine about this step which we are taking today. We have some concerns about the circumstances, the number of times and so on, in which an ACT detainee might be sent into New South Wales, and we wish to keep that matter under very close scrutiny. I understand also the Government's point of view and I accept that the amendment which I moved and the amendment which Ms Tucker circulated would, in fact, create difficulties for the decision-makers in sending people interstate. Those difficulties, it seemed to me, were worth while addressing. If we are going to have the legislation, I cannot see why we would simply create a bonanza for the lawyers, who would then have any number of opportunities to reduce or alter the impact of the legislation on their particular clients.

We have adopted an agreed course of action. The Legal Affairs Committee will keep the matter under scrutiny. This is in no way to say that the Legal Affairs Committee will be making decisions for the Government. It will not. The decision-making will be entirely by the Government and in particular by the administrator. We will be looking to the administrator to report to the Government and the Government to report to the Legal Affairs Committee in sufficient detail and with sufficient sensitivity that the impact of the legislation can be thoroughly monitored and assessed. Obviously, we do not want to breach anybody's privacy or prejudice any legal arrangements; but, given the concern that has been expressed in the Assembly, it is important that that thorough assessment of the impact of the legislation continue.

MS TUCKER (5.30): Mr Speaker, I am also pleased with the outcome of the meeting last night. We had some amendments that we did not move. They showed a concern that we had about this proposal. As I said initially, it is a short-term solution to a longer-term problem, but under what we have come up with now the person who makes the decisions will be aware that an accountability mechanism exists through the Legal Affairs Committee and that we in this place can see clearly if things are going in a way that they should not be. I hope - and I expressed this concern at the meeting last night - that it will be widely communicated to people who advocate for people who are remanded that this accountability mechanism is in place. That would obviously be people like Legal Aid, Prisoners Aid and other groups who find themselves advocating for people who are brought into contact with the law in any way. We look forward to seeing how this is reported, and hopefully there will not be reason for concern.

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MR MOORE (5.32): Mr Speaker, as a participant in the round table discussion, I think the outcome shows that that is a very effective way of working. None of us going into that discussion had any idea that that would be the outcome. It was a quite lateral solution that came out of goodwill. I think that, where possible, we should operate as a 17-member Assembly.

Amendment agreed to.

Clause, as amended, agreed to.

Bill, as amended, agreed to.

MAGISTRATES COURT (AMENDMENT) BILL (NO. 2) 1996

Debate resumed from 10 December 1996, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR HUMPHRIES (Attorney-General) (5.33): Mr Speaker, I move:

Page 1, lines 6 to 8, clause 2, omit the clause, substitute the following clause:

“Commencement

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on the day on which section 4 of the *Remand Centres (Amendment) Act (No. 2) 1996* commences.”.

I also present the explanatory memorandum for the amendment. Very briefly, the amendment simply aligns the commencement procedures with the Remand Centres (Amendment) Bill (No. 2), which we have just passed.

Amendment agreed to.

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

Bill, as amended, agreed to.

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 4) 1996

Debate resumed from 21 November 1996, on motion by **Mr De Domenico**:

That this Bill be agreed to in principle.

MR WHITECROSS (Leader of the Opposition) (5.35): The Opposition will be supporting this legislation. It is the result of a long and tortuous process by the Minister to address the conflicting needs of residents seeking to protect their amenity and individuals who own and operate trucks for a living, who have followed the practice of parking those trucks in residential areas. The Minister managed to get a lot of people around a table and to come to some agreement on rules that will regulate the way trucks can be parked in residential areas and restrict, to a certain degree, the kinds of trucks that can park in residential areas. The information I was given, and I am not in a position to assess this, was that the effect of this legislation could be that up to one-third of heavy vehicles currently parked in suburban residential areas will not be able to do so in the future, either because they are in one of the prescribed categories of vehicles or, more often, because the vehicles simply cannot comply with the requirements of the revised legislation because they cannot be parked behind the vehicle line or because of other related concerns.

It seems to me that this legislation makes some genuine progress towards addressing this issue. I think it will also have some indirect benefits in raising consciousness among the operators of vehicles about the importance of ensuring that they operate their vehicles in an appropriate manner and that they understand that if they are parking a heavy vehicle in a residential area they have responsibilities as citizens as well as rights.

The Opposition has always had one big concern about the approach the Government has taken in relation to this issue, and that has been its reluctance to address the question of alternative parking for drivers affected by these changes to the rules for parking heavy vehicles. It has been the Labor Party's contention, both in Mr Lamont's original discussion paper and since, that, if you are going to ask someone who has followed the practice of parking their vehicle in a suburb not to do it anymore, the community has a responsibility to tell them where they are going to park it. For some people, the decision to park vehicles at home is a matter of convenience, and there are commercial premises at which they could legitimately be expected to park those vehicles. But that is by no means always the case. It seems to me that it is appropriate that alternative parking facilities be made available to address the needs of those drivers who have nowhere else to park their vehicles.

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That is important for two reasons. It is important because, if you are to get compliance with the law, you have to provide people with alternatives; otherwise the law will be honoured in the breach, and that is obviously not in anybody's interests. You will end up with situations where there will be a bit of an inclination to turn a blind eye to the law. It will be difficult to enforce the law rigorously because you cannot point to an alternative for people who are in breach of the law. You will also run the risk that people will find alternatives, equally unsatisfactory to the amenity of the city, which we will then have to come back and legislate in relation to at a future time.

The Labor Party has always taken the view that some sort of alternative truck parking was an important component of any solution to this problem. I am pleased, therefore, to see that the Minister has now taken steps to seek expressions of interest for alternative parking facilities and that he has finally moved on this matter. As a result, we can anticipate a time when those alternative facilities will be available. My understanding is that the Minister has given a commitment that the law will not be gazetted until such time as those alternative truck parking arrangements are in place, and it is on that basis that the Labor Party will be supporting the passage of this legislation today. I think that is a reasonable compromise. I had at one stage been a bit inclined to adjourn the matter until we had seen that truck parking; but I am willing to take the Minister's word that he will make that available, and I look forward to seeing the Minister deliver on that undertaking.

The Opposition will not be supporting the Greens' amendments, which seek to apply a much more onerous standard in relation to what vehicles can park in suburbs. We have also resisted suggestions from other quarters that we should water down the legislation, for instance, by abandoning the proposition that vehicles should have to park behind the building line. I think this is a reasonable compromise; it is a reasonable start. I am pleased that the Government has finally decided to address the issue of alternative truck parking, and I think we can be confident that this issue is not going to go away. We are going to have to continue to monitor the situation. In the end, as with many other things, this will be resolved by some maturity and goodwill on the part of all the people involved to recognise that citizens of this city have responsibilities as well as rights and that consideration and accommodation is required on all sides.

I think it is appropriate to toughen the standards. It is unfortunate that the standards had fallen and lease administration had been lax to the point where the situation was out of control, and I think this law seeks to redress that position. I reiterate that the Opposition will be supporting the legislation.

MS HORODNY (5.43): The Greens' view would be well known to members in this place. We spoke on this issue in May. The Greens believe that it is not acceptable for Canberra residents to have to live next to the extremely large trucks that we have in our suburbs at the moment. They block up the streets, they rip up the footpaths, they endanger children playing in those areas, and they disturb the sleep of neighbours. For residents to have to put up with insensitive and sometimes intimidating truck drivers who believe they have a right to park their trucks wherever and whenever they like is unacceptable. I am glad we finally have the opportunity to formalise these rules into legislation. Hopefully, with a number of amendments, we can ensure that the rules will be more effective, and I will talk about those amendments later.

As the Bill now stands, we believe the rules on truck parking represent little change from the status quo and could, in fact, lead to even greater uncertainty and disharmony among the truck industry and residents. Firstly, there are absolute bans on only a very limited range of trucks, that is, the stock trucks and the semitrailer pantechnicons, and these are not often found in residential areas anyway. It seems that that would cover about 50 trucks altogether, which is only a fraction of the 1,500 or so heavy trucks in Canberra that we are concerned about.

Under the Bill, many of the rules affecting those trucks that are not banned absolutely are not actually set in legislation but will be incorporated into a code of practice. The Government's new rules on such issues as hours of truck operation and where the truck can be parked on the block will be contained in the code. These rules do not appear to us to be particularly onerous, but they may affect some trucks and could be better than nothing. However, existing operators can seek exemptions from this code, and this is where the uncertainty begins. Truck operators will have to apply for an existing operator's certificate and then apply to the Registrar of Motor Vehicles for an exemption from the code. Under the Bill, this application will be sent to the neighbours of the truck operator, who will have the opportunity to object to the exemption.

From the truck operator's point of view, there will be uncertainty over whether they can get an exemption. If they can, they will be lucky, as they can continue to impose on their neighbours. If they cannot, they will have to find alternative parking arrangements. They will then be competing for business with other truck operators who have been able to squeeze around the rules or get an exemption. The trucking industry will therefore be split between those who can park their trucks at home and those who have to park elsewhere.

From the neighbours' point of view, if they want to get rid of the truck next-door, they will have to be prepared for a long personal and legal battle. They will have to lodge an objection with the registrar, if the neighbouring truck driver wants an exemption from the rules, and then take it through the AAT if they want to appeal, although the Bill is unclear as to whether residents have a right of appeal. If their appeal fails and the truck driver gets the exemption, it will be up to the neighbours to complain if the truck driver is not conforming with the exemption or other aspects of the rules.

The whole process puts residents in a confrontational situation with neighbouring truck operators, and for a lot of people this would be very stressful. We know already that many people are putting up with the nuisance caused by neighbouring trucks because of the fear of causing a scene and being faced with reprisals. We are therefore concerned that the Bill, as currently structured, does not make it easy for residents to come forward with their complaints. The Bill puts the onus on residents to object, when really the onus should be on truck operators to justify why they should be allowed to park in residential areas in the first place. Why should trucks have such a high priority over residents in a city that is supposed to be carefully planned to maintain a high standard of urban amenity?

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It is commonly accepted that residents have a right to live in peace and quiet within their homes; yet the current situation favours truck operators, to the detriment of the neighbourhood. We believe that it is better for trucks in residential areas to be controlled totally by legislative means rather than relying on neighbours to lodge complaints. The key point in our approach to the trucks, which sets us apart from the Government's approach, is that we want the large trucks and semitrailers stopped from parking overnight in our suburbs as soon as is practicable.

It is always hard to set thresholds for dealing with particular issues; but from the previous work that has been done, including that by the former Minister, David Lamont, who put up a courageous proposal, it seems that trucks of over 12 tonnes gross weight cause the most disruption to neighbourhoods. We believe that these trucks should be banned altogether from parking in the suburbs through the establishment of truck parking facilities in the industrial areas of Canberra.

The initial criticism that was levelled at our proposal for truck parking was that it is too costly and inconvenient to park the trucks elsewhere. Let me repeat what I have said previously about the costs, because there is a real question of equity here that the Government needs to take note of. At present, the neighbours of truck operators are bearing the cost of trucks being parked in residential areas. The Government is also bearing a financial cost in terms of the damage these large trucks cause to pavements and footpaths of residential streets that were not designed for regular use by heavy vehicles. The simple fact is that truck operators are getting free parking and free security for their vehicles, when other people have to pay to park their vehicles at work, and many businesses pay for the provision of parking for their employees and for their company vehicles. This is inequitable.

The establishment of a commercially run truck park is quite feasible. We know of more than one business now that is prepared to establish truck parking facilities in Canberra. Under this proposal, for an estimated daily cost of between \$40 and \$45, which is not much more than people pay to park their cars in Civic at present and which is tax deductible, truck operators will get a fully secure truck park with associated service facilities in Mitchell or Hume. The businesses we have spoken to are prepared to pay for the land on which the truck parks would be built, so there is no need at all for a government subsidy.

We are pleased to see that the Government has called for expressions of interest in the establishment of truck parks, but we do not believe that these will be viable unless this Bill is improved. At present, the Bill gives no certainty as to how many trucks will need parking in these areas. It is also to be expected that, if there is a chance under the new rules for truck operators to be able to keep their trucks at home, they will do all they can to avoid paying the cost of truck parking elsewhere. Any business would be crazy to invest potentially millions of dollars in truck parks when there is so much uncertainty as to how many trucks will use them.

To make this Bill work for the trucking industry, for residents, and for future truck parking businesses, there must be one rule for all trucks and the rule must be that all large trucks are banned from the suburbs. We accept that there will be extra costs for truck drivers; but, if all truck operators are paying the same amount, at least there will still be fair competition between truck operators. At present, it is the neighbours of truck operators who are bearing the cost, and this situation is clearly unacceptable. The trucking industry needs to recognise this and adjust its operations accordingly.

The Greens will be voting for Mr De Domenico's Bill in principle, even though we know that it has many flaws. However, if it succeeds in getting some trucks out of the suburbs and gets other truck operators, hopefully, to be more considerate to their neighbours, it will at least be a partial success. I will be moving a series of amendments to tighten up the Bill, and I look forward to members' support for these amendments.

MR MOORE (5.53): I am sure you will be moving them; the question is how much support you will get, Ms Horodny. Mr Speaker, I rise to support the Bill in principle, and I indicate that I will be one of the people - perhaps the only one - supporting most of the amendments Ms Horodny is putting up. The difficulty I have with this legislation, Mr Speaker, is that it just does not go far enough. I think that is the issue Ms Horodny raises. It introduces a much less rigorous ban regime than it could have done; but the difficulty is that if the Bill is now adjourned, or if it is defeated and does not come into force, there will be no movement at all on this. So I think it is preferable to accept what I consider to be a very weak Bill rather than have nothing.

The Bill is largely focused on protecting residents, but we also have to keep in mind the alternatives for truck drivers. In fairness to the truck drivers, the community's removal of trucks by this legislation and, hopefully, a stronger piece of legislation in the future, should be accompanied by arrangements to provide for truck parks, and these should not be funded by the community. Land use arrangements, I think, and fast-tracking of Government facilitation of such developments is certainly appropriate, so I think they are important moves. The Minister has indicated that he has been doing some work on this, and I will be interested to hear his reply as to where that is up to.

It seems to me that, at best, the Government has struggled to get even these arrangements in order. I think it is a fairly half-hearted and disorganised approach. I realise that a great deal of work went into background committee consultation, and I am not criticising that part of it. I am now being critical of getting this together. I believe that it has almost been a case where the Minister saw the writing on the wall when other members of the Assembly indicated that they would have to force the Government to guarantee the creation of a truck park. That is a difficult thing for other members of the Assembly to do, but I think the picture was clear. The Minister saw the writing on the wall, and that is when we saw some action.

Provisions for regulating truck parks have to be put in place so that operators cannot exploit truck owners, who would wind up being a captive market. We need to ensure that the operation of truck parks does not become a monopoly but, rather, encourages competition. If that is not possible, they would need to have price regulation. My method of encouraging the Minister is to ensure that there is competition. I think it is appropriate to ensure that those facilities begin as soon as possible.

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I will speak to the amendments of the Greens later, but I think they achieve a series of things. First of all, they increase the range of trucks banned. Let me say that, in my interpretation of the Territory Plan, I believe the Territory Plan already bans many more trucks than this Bill will. I understand that the reason we have this legislation is that either that has not been policed or people consider it unpoliceable the way it is set out. I believe that that is the case. The amendments add a limit to the number of acceptable trucks allowed. The current position in relation to trucks parked partly on non-residential land adjacent to residential land being regarded as not parked on residential land, I think, is a very strange approach.

I should also indicate that I will be opposing proposed new subsection 150L(3), and I will give more detail about that later. I warn members at this point that proposed new subsection 150L(3) goes well beyond what should appear in a piece of legislation like this. It takes the planning legislation, it takes the Territory Plan, it takes the current lease agreement, and dismisses them, overrides them, on the grounds of a much lower level of legislation of a code of practice. I think we should look very carefully at that. If members look at it carefully, they will realise that deleting it does not undermine the rest of the legislation. It is one of a series of methods of ensuring that things can be achieved, but it seems to me that this is a quite inappropriate way to deal with a controlled activity. I speak specifically about proposed subsection 150L(3). It is an entirely inappropriate subsection and is not necessary in this legislation. I will speak to it in more detail at the detail stage.

MR DE DOMENICO (Minister for Urban Services) (5.58), in reply: I thank members for their contributions. Can I say that this has not been an easy issue to deal with; there is no doubt about that. I make no apologies for it taking so long. This Government does not want to be accused of not consulting properly with the community.

Mr Osborne: Of being cowardly.

MR DE DOMENICO: Mr Osborne, that is perhaps your opinion. It would have been nice to have had your contribution to this debate over the 18 months it has been going on. However, that is another case of people who are busy in other areas. I appreciate Mr Whitecross's comments, as I do Ms Horodny's and Mr Moore's. It is not gilding the lily to say that it has not been easy. Very quickly, this has gone through a massive community consultation process. We managed to get together all interested parties and we nearly managed to get unanimous agreement on what you see before you now. We had a couple of areas where people disagreed, and when people disagreed in those areas we decided to adopt the compromise approach. The compromise approach was lauded in relation to the previous Bill, and I think it should be lauded here as well.

The Bill proposes that vehicles over 7.5 metres in length and having a gross vehicle mass of over 4.5 tonnes will be permitted to park on-street and on land adjoining a residential lease for only one hour. On-street, for the purposes of this amendment, is considered to be from property boundary to property boundary and includes nature strips, footpaths

and laneways. The Bill proposes to prohibit semitrailer pantechnicons, stock trucks and vehicles over 3.6 metres in height from parking on residential leases. Also prohibited on leases which have multiunit dwellings are vehicles over 2.6 metres in height, over six metres in length or with a gross vehicle mass of greater than 3.75 tonnes.

A code of practice for parking heavy vehicles on residential leases was developed from a set of rules that were agreed to by a working party last year. This working party consisted of resident, industry and Government representatives. Operators of heavy vehicles will be able to park on their residential lease as long as they comply with the code of practice. There will be two classes of operators. Existing operators are those who have parked a heavy vehicle in a residential area not less than 24 times in two years preceding the day the legislation is passed. A new operator is one who wishes to commence parking a heavy vehicle in a residential area after the legislation is passed. The Registrar of Motor Vehicles is to keep a register of existing operators, with these operators having 12 months from the day the legislation is passed to apply. Existing operators will have some latitude, in that they may apply to the Registrar of Motor Vehicles for exemptions from the code of practice. The registrar will consult with neighbours prior to granting any exemptions. New operators must strictly comply with the code of practice.

There were some concerns expressed by a lot of people. Some of these related to the issue of existing operators certificates; others related to the level of fees, nature strips, and the appeals mechanism. I note that Ms Horodny wondered whether neighbours will have the right to go to the AAT. Of course; that is why the AAT is there. Everybody has a right to appeal against an administrative decision through the AAT. Some matters about the code of practice were raised. One of the good suggestions from the TWU was that a plain English brochure should be produced and mailed to all registered truck owners in the ACT. This is a useful suggestion, and the offer of TWU assistance in distribution will be taken up. I was delighted with the way the union movement sat around the table and came up with what we have before us today.

Concerns were also expressed about vehicle height and vehicle parking facilities. Mr Whitecross, Ms Horodny and Mr Moore commented on that, and I was gratified that Mr Whitecross did acknowledge the fact, as did Mr Moore and Ms Horodny, that the Government had called for expressions of interest. Ms Horodny, can I suggest that the only people who will put in expressions of interest are the ones who know whether it is feasible or not. I agree with Mr Moore that it should not be something that is provided by the Government; it should be provided by the private sector. We will be interested to see the results of that. Can I say that that is not going to be a long drawn-out process. I think expressions of interest will close by the middle of January, with a view to the Government making a decision shortly after that.

The Greens have notified us about their amendments. They have indicated that they support a total ban on heavy vehicles in residential areas, and they have said that for a long time. A private members Bill proposed by Ms Horodny seeks to amend the Noise Control Act to prohibit vehicles over 12 tonnes entering, leaving or running engines on a residential lease before 7.00 am and after 10.00 pm. This Bill is likely to be debated very shortly. I was told it would be today, but obviously we did not have time to debate it today. The Government, the Opposition and others believe that the

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Motor Traffic (Amendment) Bill (No. 4) is a more comprehensive and appropriate approach to dealing with this issue. Ms Horodny also proposed a list of amendments to the Bill as it currently stands. I will leave my comments on those to the detail stage; but I will say that, like the Opposition, the Government will not be supporting Ms Horodny's amendments. There are minor changes, and I will talk about them in the detail stage.

I was gratified to hear what Mr Whitecross in particular said. He talked about the safety issues. He talked about the alternative parking issue, and we have come to an agreement there. He used words like "reasonable compromise" and "a reasonable start". Whilst this has taken a long time, it was my view that it ought to be done away from an election campaign. We all saw what happened when certain promises were made by both sides during the course of an election campaign, and I do not think that is a fair time for us to consider such an important issue. So, in a way, I am glad that it has taken such a long time. There will be a lot of people who will say, "De Domenico has been sitting on his hands and has been doing nothing. It was about time he did it, and it was done only because he was brought to it kicking and screaming". I will let the wordsmiths spin the words the way they want to. I am delighted with the way the process has taken place. Mr Whitecross also said that using maturity and goodwill was the way to solve these sorts of issues. I agree with that, and one hopes that maturity and goodwill will apply on both sides, from both the residents and the truck drivers.

Mr Whitecross also suggested that there were rights and responsibilities on both sides; residents have rights, as they have responsibilities, and so do truck drivers. On the other hand, Ms Horodny, without being too colourful, used words such as "intimidating", "insensitive", "little change from the status quo", "reprisals" and "fear". I am aware that sometimes some people who drive trucks do not fit the stereotype of being pleasant people. However, stereotypes are not what they seem. Once again, this is a compromise. In other words, not everybody is going to be 100 per cent happy. The Government realises that. But decisions need to be made, and we hope, with the support of this Assembly, that the decision this Government has made is the right one.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1 agreed to.

Clause 2

MR DE DOMENICO (Minister for Urban Services) (6.07): Mr Speaker, I move:

Page 2, line 4, subclause (3), omit "6", substitute "12".

I present the supplementary explanatory memorandum to the Bill. Subclause 2(1) of the Motor Traffic (Amendment) Bill (No. 4) states:

Sections 1, 2 and 3 [of the Bill] commence on the day on which this Act is notified in the *Gazette*.

That means that we have 12 months to get the truck parking facilities up and running. In other words, it gives us time to provide the facilities within 12 months of gazettal. The amendment changes six months in the current Bill to 12 months.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 3 to 9, by leave, taken together, and agreed to.

Clause 10

MS HORODNY (6.08), by leave: I move:

Page 3, lines 26 and 27, proposed subsection 150F(1) (definition of “heavy vehicle”, paragraph (a)), omit “7.5 metres in length and which has a GVM exceeding 4.5”, substitute “6 metres in length or which has a GVM exceeding 3.75”.

Page 3, line 32, proposed subsection 150F(1) (definition of “stock truck”, paragraph (a)), omit “4.5”, substitute “3.75”.

These amendments, and a few of the other amendments I will be moving later, address what we believe is a problem in the definition of “heavy vehicle” and thus affect which vehicles will be subject to the new rules. The new rules Mr De Domenico released in May did not clearly define what is a heavy vehicle. However, the rules define what is a small commercial vehicle, and that is a vehicle less than six metres long, less than 2.6 metres high, and having a gross vehicle mass of less than 3.75 tonnes. The rules provide special concessions for these types of vehicles. It would, therefore, be reasonable to assume that all vehicles bigger than this would be subject to the rules. However, in the Bill we find that there is a gap between small commercial vehicles and what it defines as a heavy vehicle, which it states is more than 7.5 metres long, with a gross vehicle mass of more than 4.5 tonnes. We want some consistency in the legislation, so that all trucks, other than small commercial vehicles, will be covered. We have thus proposed the first amendment, which in effect matches the definition of a commercial vehicle in the new section 150J.

It is important to note that in our definition of a heavy vehicle we have deliberately used “or” rather than “and”. By using “and”, the Government has said that a truck would have to exceed all the specified dimensions to be classed as a heavy vehicle. For example, if a truck were less than 7.5 metres long but over 4.5 tonnes, it would not be regarded as a heavy vehicle. We believe that it is better to use the word “or”. If a truck exceeds any of the dimensions that are specified it will then be classed as a heavy vehicle.

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Each dimension has an impact on residential areas. Its length and height affect its manoeuvrability, its visual impact, and where it can be parked on a block. Its weight also affects its manoeuvrability and the damage it can cause to road and ground surfaces. This becomes a very significant point when we come to the proposed new section 150G, which totally bans certain types of trucks from residential areas. We note that the explanatory memorandum uses “or” when it refers to truck dimensions, but the Bill uses “and”; so something has clearly gone wrong in the drafting of this clause of the Bill.

The second amendment relates to the previous amendment and is designed to get consistency in the definition of a heavy vehicle across the whole Bill.

MR MOORE (6.12): Mr Speaker, I rise to support these very sensible amendments, which provide consistency. As I indicated earlier, I would probably have gone even further than this, although not much further. I think these are very sensible amendments, and I urge members to support them.

MR DE DOMENICO (Minister for Urban Services) (6.12): Mr Speaker, the Government will not be supporting the amendments. Quite simply, they contradict and go against the 18-month consultation process on which we have come to a compromise.

Question put:

That the amendments (**Ms Horodny’s**) be agreed to.

The Assembly voted -

AYES, 4

NOES, 13

Ms Horodny
Mr Moore
Mr Osborne
Ms Tucker

Mr Berry
Mrs Carnell
Mr Cornwell
Mr De Domenico
Ms Follett
Mr Hird
Mr Humphries

Mr Kaine
Ms McRae
Ms Reilly
Mr Stefaniak
Mr Whitecross
Mr Wood

Question so resolved in the negative.

MS HORODNY (6.17): I move:

Page 4, line 7, proposed subsection 150F(3), omit “not”.

As it stands, the proposed subsection says that if a vehicle is parked partly on residential land and partly on other land, such as a bit of open space next to the residential block or a nature strip, the vehicle is not regarded as being parked on residential land. We believe that this could be used by truck operators as a loophole to get around the rules on parking on residential blocks. We note that the proposed new section 150H attempts to close this loophole by stopping heavy vehicles from parking for more than one hour on land adjoining a residential block, but this will always be difficult to police. We therefore believe that our amendment will be more effective in forcing truck operators to comply with the rules regarding parking on residential land.

MR MOORE (6.18): This is an interesting amendment that has been put up by the Greens. It identifies a quite significant anomaly in the notion that a truck that is only a little bit on residential land will be considered not to be on the land. It is a quite extraordinary notion, and I think this amendment rectifies that problem. One can easily see how this could be used to get around it. Instead of parking your truck on your own lease, you let the bumper bar hang over the footpath and then it cannot be touched. Every truck owner is going to do that. It is an anomaly that I am sure was not intended - I can understand the good intention that was behind it - but it is an anomaly that does need to be corrected, and I think it is a very sensible amendment.

MR DE DOMENICO (Minister for Urban Services) (6.19): I think Ms Horodny answered her own question when she said that proposed section 150H attempts to do this, but she thought it would be better done in her way. The Government disagrees with Ms Horodny, and we will not be supporting her amendment.

MR WHITECROSS (Leader of the Opposition) (6.19): The Opposition will be supporting the Government on this occasion.

Question put:

That the amendment (**Ms Horodny's**) be agreed to.

The Assembly voted -

AYES, 4

Ms Horodny
Mr Moore
Mr Osborne
Ms Tucker

NOES, 13

Mr Berry
Mrs Carnell
Mr Cornwell
Mr De Domenico
Ms Follett
Mr Hird
Mr Humphries
Mr Kaine
Ms McRae
Ms Reilly
Mr Stefaniak
Mr Whitecross
Mr Wood

Question so resolved in the negative.

MS HORODNY (6.22), by leave: I move:

Page 4, lines 12 to 17, proposed paragraphs 150G(1)(b) and (c), omit the paragraphs, substitute the following paragraphs:

- “(a) a semi-trailer; or
- (b) a vehicle or combination of vehicles that -
 - (i) exceeds 3.6 metres in height, 13 metres in length or which has a GVM exceeding 12 tonnes; and
 - (ii) is used for commercial purposes.”.

Proposed section 150G is the most significant part of the Bill, as it defines which trucks will be totally banned from parking on residential land. Our view has always been that the Government’s definition of which trucks should be totally banned is inadequate. We also note that the Government has even backed down on its own rules, released in May, in that this proposed section does not include refrigeration trucks, which the Government said it would ban. It will not even exclude all semitrailers, as paragraph (1)(b) excludes only enclosed semitrailers and not tipper trailers, car trailers, flat-bed trailers, and the like. We believe that all trucks of over 12 tonnes gross vehicle mass should be banned from parking on residential land, and our amendment reflects this.

Question put:

That the amendment (**Ms Horodny’s**) be agreed to.

The Assembly voted -

AYES, 4

Ms Horodny
Mr Moore
Mr Osborne
Ms Tucker

NOES, 13

Mr Berry
Mrs Carnell
Mr Cornwell
Mr De Domenico
Ms Follett
Mr Hird
Mr Humphries
Mr Kaine
Ms McRae
Ms Reilly
Mr Stefaniak
Mr Whitecross
Mr Wood

Question so resolved in the negative.

MS HORODNY (6.25), by leave: I move:

Page 4, line 27, after proposed section 150G insert the following section:

“Parking of heavy vehicles - restriction on numbers to be parked and times at which parked

‘150GA. (1) A person shall not park on residential land more than 1 heavy vehicle.

‘(2) Subsection (1) does not apply to a vehicle of the kind referred to in that subsection if -

- (a) the parking of the vehicle on the land was such as was reasonably necessary to avoid a contravention of this Act or of another law in force in the Territory; or
- (b) the parking of the vehicle was for the purposes of the delivery or collection of persons or goods or in the course of the provision of services;

and the vehicle was not permitted to stand on the land for a period longer than was reasonable in all the circumstances.

‘(3) A person shall not, except in an emergency, park or operate a heavy vehicle on residential land before 6 am, or after 10 pm, on any day.’”.

There is no new intent in this revised amendment No. 5; it just improves the wording by adding “before 6 am, or after 10 pm,”. This amendment reflects our concern that too much detail regarding the rules on truck parking is being left to the code of practice, thus enabling existing truck operators to seek exemptions from the rules. We believe that the rules regarding the number of vehicles to be parked on a block should be fixed in legislation. We note also that the Government’s rules state that the limit on the number of trucks that can be parked would apply to both new and existing operators, so we see no need for it to be in the code of practice.

We have also included a subsection on the times at which trucks can enter or leave residential land. This is one of the most contentious issues in the truck debate, and we believe that it is important to make it absolutely clear in the legislation what the rules are. In our amendment, we have used the operating hours proposed by the Government for new operators. We believe that all truck operators should be required to operate at reasonable hours and that existing operators should not get exemptions from this rule.

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Let me point out that we would have preferred the time at which trucks can start up in the morning to be 7.00 am, to match the Noise Control Act. However, we included 6.00 am on the basis that, if proposed new section 150G is amended to ban a wider range of the bigger trucks, then a 6.00 am starting time for the remaining trucks will not have such a major adverse impact on neighbours. The proposed 5.30 am start and 12 midnight finish for existing operators is definitely not acceptable.

MR MOORE (6.27): Mr Speaker, I think this is a very sensible amendment. I can understand the anger people feel when somebody is starting up a truck at 5.30 in the morning next to their bedroom window, and I wonder how many members here would think that was okay. Of course it is not okay. We have already clearly put in our environment Act that excess noise is appropriate only from 7.00 am. Many people believe that a diesel truck needs a significant warm-up. There is some debate as to whether that is true or not; nevertheless, a number of drivers believe that it is.

Mr Berry: What about a diesel car, or a 350 Chev with a supercharger?

MR MOORE: Mr Berry indicates that a big car, a big Chev or something with a 350-cubic-inch motor, will make the same noise. They do not. They do make a lot of noise. I suppose there are those that have straight-through systems, but it is very unusual for such vehicles to start up at 5.30 in the morning, whereas it is quite common for truck operators to start at that time. This legislation is supposedly about ensuring protection of residential amenity and protection of environment, but it is getting so weak as to have no effect at all. Ms Horodny has moved a couple of amendments to put a bit of spine into it. We would be able to put a bit of spine into the legislation if it were not for the two political parties, who are showing none of the same in their own backs.

MR DE DOMENICO (Minister for Urban Services) (6.29): It seems that the only person in this place who has political spine happens to be Mr Moore - or people who agree with him. The Government disagrees with that, Mr Speaker. Mr Whitecross used the word "reasonable". It depends on what your definition of "reasonable" is, but once again - - -

Mr Moore: At 5.30 in the morning a truck next-door is not reasonable.

MR DE DOMENICO: Mr Moore, there are a lot of people in this Territory who do have trucks that start up at 5.30 in the morning and who do not consider it unreasonable. It is all about compromise, as we said before. If we were going to wait to please everybody, we would never be doing anything.

Can I make a short point on a comment Ms Horodny made. Placing restrictions in the code of practice currently proposed by the Government enables these requirements to be more clearly specified and to be adapted to specific circumstances. Placing some restrictions in the Act and others in the code of practice is liable to give rise to confusion and enforcement difficulties, which Ms Horodny was alluding to. The code of practice, as a disallowable instrument, will also be able to be changed in the light of experience, without the delays involved in the drafting and passage of legislative amendments, and that is why we think the Government's way of doing it is the best way.

MR WHITECROSS (Leader of the Opposition) (6.31): Mr Moore chooses to suggest that the desire to compromise and to approach this issue in the light of historic events suggests some lack of backbone. I really have to put this situation in some perspective from that point of view. The situation we are in is one where, perhaps even before Mr Moore was a member of this place - in fact, I am certain, before Mr Moore was a member of this place - for years and years, there has been an administration of residential leases which in many respects has left a lot to be desired and which has allowed some practices to grow up and to become part of the fabric of this community which, if we all had a blank sheet of paper and all our wishes could come true, we would not have. Unfortunately, what we are dealing with is an attempt to redress an unsatisfactory situation that has grown up. In redressing that situation, we have to balance the rights of people who have legitimate concerns about their amenity against the interests of people who have legitimate concerns about their business undertakings or their employment undertakings which involve them driving trucks.

I understand that Mr Moore would like to wave the magic wand and have no more trucks in residential areas. Quite frankly, if I were sitting down with a blank piece of paper to design Canberra from scratch, I would probably do the same thing, Mr Moore. Unfortunately, that is not the situation we are in. We are in a situation where the realities of life in the transport industry are increasingly moving towards owner-drivers who have a very large investment in a vehicle, who are very interested in the security of their investment, and who in the past have been allowed by the Department of Territories - - -

Mr Berry: The Department of the Interior, even.

MR WHITECROSS: The Department of the Interior probably as well, and other past regulators - to establish themselves in the industry on a particular basis. We obviously have to come to some compromises here. I have on a number of occasions lived in areas where there were truck drivers operating in the street in which I lived. Some of those truck drivers I was very unhappy about, and I was very unhappy that the police seemed to take so little interest in the hazard caused by truck drivers parking on the street in a way which I thought severely obstructed traffic. That is an issue which, hopefully, will be addressed by the national road rules in due course.

I have also encountered operators parking in residential areas who caused no disruption to anyone in the street; I knew lots of people in the street and nobody complained.

Ms Horodny: People are too scared to complain.

MR WHITECROSS: In redressing the balance, there is no point in going into a situation where we inconvenience lots of people when there is no real reason for them to be inconvenienced. It is simply not good enough for Ms Horodny or Mr Moore to make a blanket statement that any resident who says that they have no complaints about a truck operator somewhere in their street is lying, which is what they want to say. They want to say, "They are lying. They are upset; it is just that they do not want to say". I do not think that is satisfactory.

The changes in this legislation will make a very significant difference. A lot of truck operators simply will not be able to park a vehicle in a residential area. A lot of other people will have to change their domestic arrangements, the way they have their lease organised, if they are to continue to park a vehicle on their lease. For some people, it will not be worth doing that. Each operator will have to make his own decision, depending on the circumstances of his own lease. Let us not get into a situation where we simply say that there are no rights on the part of truck operators, who for years and years have been allowed to park their trucks in residential areas. Let there be no more gratuitous insults directed to those members of this Assembly who seek to balance those rights rather than seeking to side with one side and ignore the legitimate concerns of the other side.

MR MOORE (6.37): I presume the gratuitous insult has to do with the comment about being spineless and not being prepared to stand up and take action when it is entirely appropriate to protect the amenity of people against excessive noise at 5.30 in the morning, when we already recognise in our environment Act that 7 o'clock is a reasonable time. If that is a gratuitous comment, then let it stand, because I consider it a spineless act on the part of the two parties, who are moving into the usual combination for this sort of thing. We are quite used to the theatre of it, when Labor can pretend to be very different from the Liberal Party at budget time. You can vote against the budget because you say it is terrible, knowing very well that the budget is going to go through and also knowing very well that it is just as likely that you would have put up a very similar budget yourself anyway.

As to the comment by Mr Whitecross about lying, it is not a question of lying; it is a question of simply not making any statement. When a person is very unhappy with the way their neighbour operates a truck in the redevelopment of their property or perhaps because of the amount of noise that comes from a family, the propensity is for people to say, "No, we want to be as good a neighbour as possible. We do not want to interfere, so we say nothing". I cannot imagine anybody not having been in that situation at some stage or other. Sometimes it is better just to say nothing because you do not want to ruin the general neighbourhood sense and create tensions that will carry through to your family, to the children. Certainly, in some neighbourhoods we have seen those sorts of tensions arise. All members have seen them at some stage or other, with different people on different issues. It is a situation where the vast majority of people extend their tolerance to its very limit. Some people go beyond that tolerance, and that is what we are talking about. It is not a question of lying.

We are talking about a question of balancing rights. We are talking about those people who have a right to the general amenity around their home compared to people who need to have an alternative. If that alternative is that truck parking spaces need to be created and this legislation will be held off until they are created, this is an appropriate balance of rights. Mr Whitecross is absolutely correct in terms of his concept of balance. Many of the things we do in this Assembly are about balance. I am suggesting, and I think what Ms Horodny through her amendment is suggesting, is that the balance is not right; it is still unfairly in the favour of the truck drivers.

On that point, Mr Whitecross refers back to the historical situation. A very old resident of Canberra told me of a general barney that used to go on in some of the most salubrious areas around Forrest, where there was a constant argument about the same thing. There were letters to the editor and so forth, either just post-war, or it might have been just pre-war, over somebody who had a truck. So you are quite right in saying that this is not a new problem; but it is not enough to say that, because it has always been here, we cannot do anything about it. Mr Wood was very effective in doing something about putting restrictions on dogs and the way we handle dogs in this city, and rightly so.

Mr Whitecross: It did not work on the dog next-door to me.

MR MOORE: That is probably because you want to be tolerant and not phone the dog control people. You want to be a good neighbour and you will put up with it. But there has been a considerable change, since the legislation was put into place, in the general way dogs are controlled and looked after in this city. We see far fewer reports of dog attacks and so forth. You can change things. Just because it was the case before does not mean that you cannot bring about modifications. What we are debating at the moment is how quickly we should accelerate this process. I think it would be appropriate for the Government and the so-called Opposition to reconsider their position on this amendment particularly.

Question put:

That the amendment (**Ms Horodny's**) be agreed to.

The Assembly voted -

AYES, 4

NOES, 13

Ms Horodny
Mr Moore
Mr Osborne
Ms Tucker

Mr Berry
Mrs Carnell
Mr Cornwell
Mr De Domenico
Ms Follett
Mr Hird
Mr Humphries
Mr Kaine
Ms McRae
Ms Reilly
Mr Stefaniak
Mr Whitecross
Mr Wood

Question so resolved in the negative.

MR MOORE (6.45): I move:

Page 6, lines 15 to 18, proposed subsection 150L(3), omit the proposed subsection.

Ms Horodny: I raise a point of order, Mr Speaker. You have failed to call for my amendment No. 9.

MR SPEAKER: Your amendments up to amendment No. 9 were contingent upon the passage of some defeated amendments.

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MR MOORE: I draw members' attention to this provision because it seems very dangerous. Proposed subsection 150L(3) says:

A person who, in accordance with the Code of Practice or an exemption, parks a heavy vehicle on residential land in respect of which a lease has been granted, shall not be taken to be using the lease for a purpose other than a purpose authorised by the lease.

That is not easy to understand on the surface, so I think the explanatory memorandum might be a useful device here. It states:

New subsection 150L(3) provides that people who park heavy vehicles on residential land in accordance with the Code of Practice shall not as a result be considered to be using land for a purpose other than a purpose authorised by the lease granted in respect to the land.

In other words, this holds that any truck parking that is acceptable under the code of practice is deemed not to be a breach of the lease use or purpose clause. I think it is outrageous that this should be the case. This provision basically overrides the Land Act.

Mr De Domenico: We agree, Michael.

MR MOORE: You are going to accept it?

Mr De Domenico: Yes.

MR MOORE: I will not keep going, then.

MR WHITECROSS (Leader of the Opposition) (6.48): Mr Speaker, the Opposition will be supporting Mr Moore's amendment. It goes to show how important the parliamentary process is.

Mr Berry: It is an outrageous collaboration between the 17 members in this Assembly!

MR WHITECROSS: Which should not go unreported, Mr Speaker. Complying with this code of practice ought not to override the lease purpose clause. The lease purpose clause explicitly says that you cannot park a heavy vehicle on the lease. It seems to me that this is a very reasonable proposition that Mr Moore puts, and we are happy to support it.

MR DE DOMENICO (Minister for Urban Services) (6.48): The Government also will be supporting Mr Moore's very sensible amendment, Mr Speaker.

MR MOORE (6.48): I will just conclude my remarks by saying that I am delighted that the Assembly has some spine.

Amendment agreed to.

MS HORODNY (6.49): I ask for leave to move amendment No. 9.

Leave granted.

MS HORODNY: I move:

Page 7, line 21, omit “12”, substitute “6”.

Proposed section 150Q allows existing operators 12 months from when the Bill comes into effect to apply for an existing operator’s certificate. This means that existing operators effectively have another 12 months to operate their trucks as they are now, before they need to get an existing operator’s certificate and thus go through the process of getting exemptions from the code of practice. I believe that truck operators do not need 12 months in which to put in a form. A six-month phase-in period should be enough for truck drivers to work out how they need to adjust their operations to match the legislation and for new truck parks to be established.

Question put:

That the amendment (**Ms Horodny’s**) be agreed to.

The Assembly voted -

AYES, 4

NOES, 13

Ms Horodny
Mr Moore
Mr Osborne
Ms Tucker

Mr Berry
Mrs Carnell
Mr Cornwell
Mr De Domenico
Ms Follett
Mr Hird
Mr Humphries

Mr Kaine
Ms McRae
Ms Reilly
Mr Stefaniak
Mr Whitecross
Mr Wood

Question so resolved in the negative.

MR WHITECROSS (Leader of the Opposition) (6.53): Mr Speaker, I seek leave to move amendment No. 1 circulated in my name.

Leave granted.

MR WHITECROSS: I move:

Page 8, lines 7 to 10, proposed section 150S, omit the section.

This amendment is to take out the provisions which relate to renewal of existing operators certificates. The existing operators certificates relate to agreements made by the working party which would have allowed more relaxed rules to apply to the existing operators.

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This provision provides that existing operators will have to go through a process of renewing those certificates every two years. I fail to see any particular reason why an existing operator, having satisfied the registrar that they were an operator prior to the commencement of the legislation, should have to go through the process of satisfying the registrar every two years. I think there are other ways for the registrar to keep track of heavy vehicles. I suggest that it would take some of the bureaucracy out of the legislation if we did away with the need to renew the certificates every two years.

MR DE DOMENICO (Minister for Urban Services) (6.54): The Government will be supporting the amendment, Mr Speaker. It is a very reasonable one and we are happy to support it.

Amendment agreed to.

MS HORODNY (6.54): I ask for leave to move amendment No. 10 circulated in my name.

Leave granted.

MS HORODNY: I move:

Page 9, line 36, after proposed subsection 150U(7) add the following subsection:

“(8) The Registrar shall not grant an exemption from those provisions of the Code of Practice that relate specifically to existing operators.”.

Under the Bill, the code of practice will contain separate rules for existing operators; but existing operators can seek exemptions even from these already watered-down rules, under the new section 150T. This amendment ensures that the rules for existing operators in the code of practice will clearly set the bottom line for truck operators that cannot be slipped around. However, what these rules should be will no doubt be a matter of further debate once the code of practice is tabled in the Assembly.

MR BERRY (6.55): Mr Speaker, I thought I would express a bit of indignation about some of the extreme positions that have been taken. There is a sea change going on in relation to operators of trucks in the ACT which will change the lives of many of them, for some of them permanently. Some of them will be forced out of the industry and into other forms of work. Those are the facts of life. There are people out there whose businesses are on a knife edge. People who have had parking available to them in their place of residence at no cost will now be forced to pay for it somewhere else, or to park their trucks elsewhere, buy extra vehicles, and so on. Mr Whitecross said that if you were going to start out with a blank sheet of paper you would do it differently. We all would.

Things have certainly changed from the day when somebody had an old petrol-driven Bedford truck out the side of their house to these days, when to be competitive petrol-driven Bedfords are not good enough anymore. You have to have something with more horsepower to pull greater loads. That sort of thing has grown in the suburbs and has been a source of problems for neighbours. There is no question about that. To take the self-righteous position that we can clean this up quickly by pushing these people around is a bit extreme. Many of these people have been living under these arrangements for decades.

Mr Moore: They have been thoughtless for decades.

MR BERRY: I hear Mr Moore say that they have been thoughtless for decades. I think that is generally not true. There might have been some examples where the truck drivers' etiquette has not been satisfactory for some people. I used to drive a truck a long time ago, in the days of petrol-driven Bedfords and not too many fire-breathing Macks. Things have changed since then, but the rules in this city have not. I ask people to have a wee bit of tolerance for this custom and practice which has developed over the life of motorised transport.

That is not to say that I think nothing should be done. It has become a problem and it has to be dealt with, but I think we have to try to do this in a way which does not marginalise people. I would be the first to try to take a point or two off this Government over this issue. It is all very well for middle-class people or wealthy people to sit around and pontificate about people who have been making a living, and sometimes not a very good living, out of driving a truck in a small business arrangement. I know somebody who lives in a suburb near me who has an old International petrol-driven truck that would not make much more noise than - - -

Mr Moore: It is not covered by this legislation at all or even by Ms Horodny's amendment.

MR BERRY: It is a fairly big truck. It is a lot quieter than some of the fire-breathing diesels that are around. Society has developed around the road transport industry. Members of that society, including truck drivers and owners, live out there in our suburbs. I do not hear enough compassion for some of the changes that these people are going to have to go through. If this sort of change were asked of many other business people and this lack of compassion were shown to other small business groups or other groups within the community, there would be a hell of an outcry.

The Government says that it has it all stitched up through the consultation. There will be a sea change for a lot of people who drive trucks and operate small businesses from home. I hope the Government has got it right. If they have not got it right, it is going to blow up in their faces, and we will be pointing the finger at them for not getting it right.

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Mr Moore: You take the responsibility. You voted for it. We will be the ones pointing the finger.

MR BERRY: You are not taking a reasonable position in all of this, Michael. You should have compassion for a lot of people and the families of the people who are going to have to go through a major change in their lives as a result of these changes.

MR MOORE (7.02): What nonsense about a lack of compassion! Compassion goes two ways - to the residents as well as to the drivers. On almost all the issues I have dealt with during the last eight years in the Assembly there have been very rare occasions when I have been conscious of a lack of compassion on the part of any member. Mr Berry talked about a petrol engine International. It is very unusual to have a petrol-driven truck over 4.5 tonnes. The vast majority in that category are diesels. I am not saying that they do not exist, but they are very unusual.

Mr Hird: Do you drive a truck, Michael? Do you have a licence to drive a truck?

MR MOORE: Indeed, I have driven many trucks, including semitrailers. I still have a licence for them. I will take you for a drive one day, Mr Hird, if you are lucky. I have spent quite a time driving trucks in the city doing deliveries. I am very conscious of just what this is about. It was 20 years ago, but I have certainly done it. Mr Berry described one of the trucks that I used to drive.

This is not an issue about just compassion or non-compassion. It is about ensuring increasingly strong protection of the environment and protection of the amenity in our city. I gave the example of Mr Wood's dog laws. The whole idea is to protect people and to improve standards in society.

In response to Mr Berry's comments, I would have a great lack of compassion if I were woken up at 5.30 in the morning with a diesel engine running for five minutes outside my bedroom window. I might be able to put up with it for the first few nights, maybe even for a week or two; but my compassion and sympathy would go rapidly downhill. I imagine that the same would be true of pretty well all members of this Assembly.

Mr Speaker, the reason I supported this Bill in principle was that I accept that it is a first step. The only people it is really going to affect, as I see it, are those who have a truck with a stock crate on it or a big panttechnicon. I hope it does go further than that.

Mr Berry: One day it might.

MR MOORE: It certainly includes those. It does go a bit further than that, although I do not think it goes much further than that. I hear Mr Berry interject, "One day it might". The reason I will continue to support the Bill as a whole is that, at the very least, it is a first step; but that is all it is.

MR WHITECROSS (Leader of the Opposition) (7.06): Mr Moore suggested that the only trucks that are going to be affected by this are stock trucks and a couple of others. My understanding is that it is substantially more than that. The only way it could ever be anything like no trucks except stock trucks is if the registrar went absolutely berserk in granting exemptions, completely disregarding the consultation with adjoining leaseholders required under this provision. Let me put it on the record. If the registrar does go berserk and grants exemptions to everybody under the sun, then I will be coming back into this place, Mr Moore, presumably with your cooperation, to jump up and down about the way the Government is administering this. That will not be acceptable. The hypothetical situation that Mr Moore has raised - that this affects nobody else - can happen only if the registrar grants everyone an exemption. If that happens, I will be complaining too. My information is that about a third of trucks are affected by this. That is not no trucks. That is not insignificant. That is a lot of people inconvenienced.

Question put:

That the amendment (**Ms Horodny's**) be agreed to.

The Assembly voted -

AYES, 4

NOES, 13

Ms Horodny
Mr Moore
Mr Osborne
Ms Tucker

Mr Berry
Mrs Carnell
Mr Cornwell
Mr De Domenico
Ms Follett
Mr Hird
Mr Humphries

Mr Kaine
Ms McRae
Ms Reilly
Mr Stefaniak
Mr Whitecross
Mr Wood

Question so resolved in the negative.

MR WHITECROSS (Leader of the Opposition) (7.09): Mr Speaker, I seek leave to move amendment No. 2 circulated in my name.

Leave granted.

MR WHITECROSS: Mr Speaker, I move:

Page 11, lines 1 to 7, proposed section 150ZA, omit the section.

This amendment is consequential on the amendment already carried by the Assembly, and I commend it to the house.

Amendment agreed to.

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MS HORODNY (7.10): I seek leave to move my amendment No. 11.

Leave granted.

MS HORODNY: I move:

Page 11, line 22, after proposed section 150ZB insert the following section:

“Cessation of existing operator’s certificate on change of address

‘150ZBA. If the holder of an existing operator’s certificate ceases to reside at the address specified in the certificate under subparagraph 150X(b)(v), the certificate ceases to have effect.’”.

Under the Bill, once an existing operator gets a certificate, they will be regarded as an existing operator indefinitely, and so will continue to be able to get exemptions from the code of practice even after they move house to another location. This defeats the whole purpose of the Bill, because existing operators, who are the ones causing the problems now, will be hardly affected by the new rules, and the number of existing operators is likely to change only very slowly over time as existing operators leave Canberra, retire or get other jobs. We believe that an existing operator must be regarded as a new operator if they change address.

From a resident’s point of view, an existing truck operator and their truck moving in next-door is certainly a new situation that has no relationship to where the operator previously lived. Truck operators who move house must realise that, wherever they move to, they will be affecting a whole new set of neighbours who had no expectation that they would have to put up with a truck in the neighbourhood. Operators therefore need to adjust their truck operations accordingly and not expect further exemptions. This is a very sensible amendment, and I would urge members to support this one, if no other.

MR DE DOMENICO (Minister for Urban Services) (7.11): The Government will not be supporting this amendment. At present the Bill - - -

Ms Horodny: Tut, tut! Shame!

MR DE DOMENICO: You can tut-tut as much as you like, but at present the Bill is structured on the basis that obtaining existing operator status is not linked to where the vehicle is actually parked. To move from this basis would require significant redrafting of the whole legislation, Ms Horodny. It is unreasonable, in my view, for an operator to lose existing operator status merely by moving address.

Ms Horodny: It is a new circumstance.

MR DE DOMENICO: Listen. However, as an exemption is applicable only to a specified residential lease, he or she would need to seek a new exemption at the new address. Just read it carefully.

MR WHITECROSS (Leader of the Opposition) (7.12): Mr Speaker, the Opposition will not be supporting this amendment. Mr Berry was talking about compassion before. This is a most extraordinary display of lack of compassion. What we are talking about is the situation where someone who has been operating on a given set of rules, whether de facto or de jure, in this city for some time prior to this legislation coming in, being granted an existing operator's certificate and allowed to continue to operate under a slightly more relaxed set of rules, is now going to be told that effectively he cannot move house because if he moves house he is going to lose all his rights under the legislation. The truck driver had better hope that his wife is not pregnant. If he needs to move from a three-bedroom house to a four-bedroom house, he could be in trouble.

As Mr De Domenico said, and completely appropriately, at a new address you have to reapply for exemptions if any exemptions apply. Of course, you have to consult the new neighbours, and the new neighbours might have different opinions from the old neighbours and it would be a new set of circumstances. It is perfectly reasonable that rights which accrue to existing operators under this legislation go with the operator, the operator's lifestyle, the operator's employment, the operator's circumstances, et cetera. That is why the relaxed set of rules was granted to existing operators in the first place.

I do not think it is fair to arbitrarily say that existing operators are forced to live in the same residence from now until death do them part because Ms Horodny will not give them an existing operator's certificate if they move. I just think that that is a nonsense. It demonstrates the lack of compassion and the lack of acknowledgment of the inconveniences imposed on operators by these new rules which has been displayed by the Greens all the way through this debate.

Amendment negatived.

Clause, as amended, agreed to.

Clauses 11 to 16, by leave, taken together and agreed to.

Proposed new clauses 16A and 16B

MS HORODNY (7.15): I move:

That the following new clauses be inserted in the Bill:

“Notice of decision

16A. Section 217C of the Principal Act is amended -

(a) by inserting in paragraph (1)(b) ‘subject to subsection (1A),’ before ‘the Registrar’;

(b) by inserting after subsection (1) the following subsection;

‘(1A) Where the Registrar makes a decision under section 150U, 150V or 150Y, the Registrar shall, if the land adjoining the land to which an application relates -

(a) is occupied - give notice in writing of the Registrar’s decision to the occupier and lessee of the adjoining land at the address of the adjoining land; or

(b) is unoccupied - give notice in writing of the Registrar’s decision to the lessee of the adjoining land at the address of the lessee last known to the Registrar; and

(c) by inserting in subsection (2) ‘or (1A)’ after ‘(1)’.

Review by Administrative Appeals Tribunal

16B. Section 217D of the Principal Act is amended by inserting ‘or (1A)’ after ‘(1)’.

In the truck parking rules released in May, the Government stated that neighbours would have a right of appeal against an exemption from the code of practice given to an existing operator by the Registrar of Motor Vehicles. However, in the Bill there is no clear provision for neighbours to have this right of appeal. Under the new section 150U, neighbours will be advised of an application for an exemption and have the opportunity to comment on this application. While the existing operator will have the opportunity to appeal to the AAT against a decision of the registrar regarding an exemption, neighbours have been denied that opportunity. This amendment makes it absolutely clear that neighbours will be advised of a decision of the registrar regarding an exemption for an existing operator and will be able to appeal to the AAT against that decision.

MR DE DOMENICO (Minister for Urban Services) (7.16): Mr Speaker, once again, Ms Horodny was right when she said that neighbours will be able to appeal to the AAT. They have the same right as any other person in the ACT. There is nothing in this Bill that prevents them from appealing to the AAT.

Question put:

That the proposed new clauses (**Ms Horodny's** amendment) be inserted.

The Assembly voted -

AYES, 4

NOES, 13

Ms Horodny
Mr Moore
Mr Osborne
Ms Tucker

Mr Berry
Mrs Carnell
Mr Cornwell
Mr De Domenico
Ms Follett
Mr Hird
Mr Humphries

Mr Kaine
Ms McRae
Ms Reilly
Mr Stefaniak
Mr Whitecross
Mr Wood

Question so resolved in the negative.

Remainder of Bill, by leave, taken as a whole

MR DE DOMENICO (Minister for Urban Services) (7.18): I move:

Page 17, line 13 to page 18, line 9, clause 18, omit the clause, substitute the following clause:

“Application for order

18. Section 256 of the *Land (Planning and Environment) Act 1991* is amended -

- (a) by omitting subsection (3) and substituting the following subsection:

‘(3) On receiving an application under subsection (1), the Minister shall give notice in writing of the application -

- (a) to each person against whom an order is sought;
and

- (b) in the case of an application relating to the parking of heavy vehicles on residential land pursuant to Division 4 of Part X of the *Motor Traffic Act 1936* - to the Minister administering that Act.’;
- (b) by omitting subsection (4A) and substituting the following subsection:
 - ‘(4A) Before deciding whether to make an order the Minister shall consider any submissions made -
 - (a) by a person against whom the order is sought; and
 - (b) in the case of an application for an order relating to the parking of heavy vehicles on residential land pursuant to Division 4 of Part X of the *Motor Traffic Act 1936* - by the Minister administering that Act.’; and
- (c) by inserting after subsection (4B) the following subsection:
 - ‘(4C) Where the Minister makes an order under subsection (4B) that relates to the parking of a heavy vehicle on residential land pursuant to Division 4 of Part X of the *Motor Traffic Act 1936*, the Minister shall, as soon as practicable after the order is made, cause a copy of the order to be given to the Minister administering that Act.’”.

This is a technical amendment. It is necessary as a result of the passage on 3 December of the Land (Planning and Environment) (Amendment) Bill (No. 3). The Scrutiny of Bills Committee, in fact, foreshadowed the possible need for this amendment in its Report No. 17. The amendment has no financial implications.

Amendment agreed to.

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

Bill, as amended, agreed to.

ADJOURNMENT

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

That the Assembly do now adjourn.

Strategic Plan

MRS CARNELL (Chief Minister) (7.19): Mr Speaker, I table some documents that I was asked for in question time today. They relate to the consultation process.

Human Rights

MR WOOD (7.19): Mr Speaker, yesterday, 10 December, was Human Rights Day. To celebrate, Amnesty International Australia held a forum at the National Press Club on "A vision of human rights for the year 2000". The goals of the forum were threefold: First, to promote awareness of, and adherence to, the Universal Declaration of Human Rights and other internationally recognised human rights instruments, including the Convention on the Rights of the Child; secondly, to provide a public forum where members of the Australian Government and non-government organisations such as Amnesty International and the United Nations Association of Australia could cooperate in making a firm commitment to human rights for all Australians; and, thirdly, to celebrate Human Rights Day.

Over the last few years the Federal Government has contributed to the development of various treaties and their ratification. Successive Foreign Ministers, in conjunction with the Department of Foreign Affairs and Trade, have set broad agendas and goals. To meet these goals, in line with modern business practice, Amnesty has proposed the setting of performance outcomes in order to achieve challenging and realistic human rights performance outcomes for the year 2000. The forum yesterday was intended to be the first step in a commitment to domestic human rights. Amnesty intends to use each 10 December from now until 2000 as a chance to evaluate progress in achieving these outcomes. Five outcomes have been set. The first four concentrate on aspects of the Convention on the Rights of the Child and the Universal Declaration of Human Rights, and they culminate in outcome five - that "human rights and Olympic ideals will leave an enduring legacy for the world".

During the year 2000 the world will be focused on Australia in the approach to the Sydney Olympics. Through an Australian, Dr Evatt, who was President of the General Assembly which drafted the declaration, Australia has been involved in developments since its beginnings. Australia is also party to 192 other international treaties covering many areas such as trade and transport. The benefits of most of these international treaties are obvious. There is also strong evidence that economic and social rights are universal and indivisible. Economic development cannot occur without social development.

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Amnesty has more than 600 members in the ACT, all of whom contribute to the observance throughout the world of the UN declaration. Most members work individually from home, sending letters, faxes and e-mails directly to governmental authorities on behalf of prisoners of conscience and the victims of torture and execution. The year 2000 is approaching fast. Now is a chance for Australia to have a considerable influence by hosting the last extravaganza of the twentieth century.

School Without Walls Inquiry

MS REILLY (7.23): I want to make a short statement which I would have made under standing order 46, but we moved to the adjournment debate too quickly. It is in response to statements made by Mr Hird and Mr Stefaniak following the release of the report on the inquiry of the Standing Committee on Social Policy into the School Without Walls. Statements were made in the media yesterday. In response to the statements, I want to put on record that I refute any claim of conflict of interest. One of the reasons I have been slow in making any statement on this is that there is a child involved. There is a young person concerned in the allegations made by Mr Stefaniak and Mr Hird. Since these statements have been made, there has been an amount of misinformation floating in the system. Therefore, I wish to make a statement in relation to this matter. The child in question, who has been referred to as my stepdaughter, is the child of my partner. She is not a child of mine. This child has never lived with me and I have no say in any way at all in any decision about her education, where she may attend school and what subjects she may attend.

New Schools Policy

MS McRAE (7.24): Although I risk really stretching people's endurance, I am afraid I feel I have to speak. I will be brief. This afternoon we on this side chose to allow Executive business to come on, on the understanding that I could make a very brief statement in regard to a motion that we had on the notice paper. I would simply like to put on record that the motion that we put on the notice paper was in regard to the effect that the removal of the Federal Government's policy on new schools would have on schools in the ACT.

It is my understanding that the Government was supportive of the motion because it was asking it to examine the possibility of creating a policy in the ACT to protect ACT schools. The importance of this is not so much the type of nonsense that we have heard emerge from the Federal debate about the expansion of new and marginal schools. It is, in fact, the danger that presents to the ACT from quite big non-government schools offering to set up. With the removal of the new schools policy, quite large private schools would have every right to attempt to set up. The previous policy allowed a test of viability for existing government and non-government schools and provided for integrated planning in the ACT.

Members will recall the debate around the establishment of Radford and the great concern that there was then about the viability of existing Belconnen schools. Eventually, the decision was made to allow Radford to go ahead, but the test was put as to what effect it would have on surrounding Belconnen schools and the future of education within Belconnen. Of course, over time we have seen a bit of pressure on St Francis Xavier and Charnwood, both of which, it could be argued, suffered from the establishment of Radford. I am not suggesting that that was a wrong decision. It was made appropriately, but it was made against the test of the new schools policy.

I think it is very important not to lose sight of the impact of the Federal Government's changes. As far as I have understood things, the Government has in fact acknowledged that concern and will be seeking to act on it without the need of a motion being passed in the Assembly. I would hope as a consequence that next year the Minister will make a statement to that effect and guide us as to what his department is thinking in regard to new schools policy and how the changes that have been put in place by the Federal Government will be taken on board in the ACT.

New Schools Policy : School Without Walls Inquiry

MR STEFANIAK (Minister for Education and Training) (7.26): As I indicated to Ms McRae earlier today, had that motion come on we would have supported it. We have in place already a number of guidelines, but certainly that particular point is being reviewed by the department.

I thank Ms Reilly for her comments, too. In my comments I merely drew attention to the fact that comments were made by the three members of that committee on a conflict of interest situation. In that context I also made mention of the fact that in this Assembly most of the reports had, in fact, been unanimous. This one was marked by the fact that it had a substantial dissenting report by a member of the committee, which is somewhat rare. I simply put that on record.

Comments by Magistrate

MR OSBORNE (7.27): I want to speak briefly on a very serious matter. I would like to read briefly from a letter from the Australian Federal Police Association addressed to the Chief Magistrate. I think that it warrants my bringing it up in this place. It reads:

Dear Sir

I would like to draw your attention to recent comments made in a hearing by Magistrate Warren Nichol [last month].

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I will briefly go through the letter. It is about traffic charges brought against a certain person. The letter goes on:

The only two persons to give evidence in the hearing were the police informant and -

I will not identify the person. It continues:

In his summing up of the matter, Magistrate Nichol made the following comments:

“There ... really is a major difference between ... the two witnesses ... There was a time when I think that police officers felt that the courts ought to be acceptable to, be able to accept their evidence and to find a case proved, if the Constable or the police officer had given evidence, that if true, covered the ingredients of the offences, and but if a court were to proceed on the basis that in the absence of some reason to have some doubts about the veracity of a police officer, the case should be found proved ...”

He went on to say later:

It's sad to say of course that in very much recent times the royal commission into police conduct in NSW has even involved some members of the AFP, have shown that there are occasions when there are police officers unfortunately don't tell the truth.

The magistrate dismissed the charges. Mr Speaker, I do not particularly want to speak about the circumstances of the case; rather I want to speak about the inference drawn by Magistrate Nicholl. The association, in their letter, go on to say:

The Association, on behalf of its members around Australia, is astounded by these comments -

as I am. They go on:

Such an obscure comparison between a traffic matter in the ACT and historical corruption in the joint drugs task force in NSW in the early 1980's, is as ridiculous as us drawing a conclusion about ACT magistrates based on the proven corruption of former NSW Chief Magistrate Farquar, and the dismissal of three NSW magistrates for incompetence during the same period.

Apart from what appears to us to be inherent bias against police in the comments of Magistrate Nichol, the position he has adopted places AFP members and the government in a costly and potentially untenable situation. The practice of one-member patrols is surely redundant if police are to prove an offence before Magistrate Nichol, unless high technology surveillance and recording equipment is placed into every AFP vehicle in the ACT Region.

I have to say that, after reading that letter and learning of Mr Nicholl's comments, I was quite outraged - not so much about that issue but rather, as I said, about the inference that he has drawn. Very recently there have been questions raised in the Wood royal commission about a judge and paedophile activity. No sensible person would say that, therefore, no judge could be trusted with children. The same logic should apply to members of the AFP here in Canberra. Mr Speaker, what is the point of employing police officers if it seems there are members of the judiciary who feel that they do not tell the truth? I think that Magistrate Nicholl should seriously consider his chosen career path if that is the attitude that he wishes to pursue.

MR SPEAKER: Order! Under standing order 54, a member may not use offensive words against the Assembly or any member thereof or against any member of the judiciary. I would caution you, Mr Osborne.

MR OSBORNE: Thank you, Mr Speaker. I am very aware of that standing order. I do not think I have offended, and I do not intend to. What I would like to hear from Magistrate Nicholl is some clarification or, at the very least, an apology to the vast majority of AFP officers, who I feel have been tainted by this slur against them. I draw this to the Assembly's attention not because of this individual case but rather because of what I think is an unfair slur on the part of Magistrate Nicholl. My opinion of magistrates was not tainted because of a couple of rotten eggs back in the 1980s. What is the point of police going to court and giving evidence if some magistrates will not believe them? I would like to think that Mr Humphries will write to Mr Cahill and perhaps express some concern about this issue. I am very aware of the doctrine of the separation of powers, Mr Speaker; but I feel, on behalf of all the honest, hardworking police here in Canberra and also their families, that this issue cannot go unanswered.

Futsal Stadium

MR BERRY (7.33): I would like to draw attention to a letter that I have received from a constituent in Florey. The constituent has corresponded with the Chief Minister and draws attention to how general urban services like street cleaning have deteriorated under this Government. He draws attention to the risk of road accidents as a result of poor maintenance, draws attention to the damaged condition of roadside signs and describes many policies as irresponsible. He goes on to describe the lack of balance in the Government's allocation of finances. He says:

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I appreciate the financial situation of the ACT Government. However, when financial restraint is required then it is the luxuries that should be chopped and not basic services. For example, I would much prefer to have clean streets in Florey than that ugly futsal stadium in the city. I believe that the money that I pay in rates should at the very least provide a reliable garbage collection service, a clean and functional environment in which to live ...

and so on. Mr Speaker, this is an attitude which is developing in the community because of the Government's failure to consult properly on the futsal stadium which was built in the city. The Government should take note that an attitude has permeated the community because of the arrogance and refusal to consult on such issues.

Question resolved in the affirmative.

Assembly adjourned at 7.35 pm