



**DEBATES**

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

25 August 1998

**Tuesday, 25 August 1998**

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

### **PETITIONS**

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

By **Mr Rugendyke**, from 1,829 residents, requesting that the Assembly direct the Minister for Education to consult with the Hawker community, in accordance with the consultation protocol, about any current and future plans for the Hawker preschool and grounds.

By **Ms Carnell**, from 64 residents, requesting that the Assembly reverse the decision to cut \$1.6m to the Institute of the Arts so that it can continue to provide a worthwhile resource within Canberra.

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

### **Hawker Preschool Facilities**

*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 undersigned residents of Canberra request the Legislative Assembly of the Australian Capital Territory to guarantee the continuing operation of the Hawker Preschool as a preschool and community facility.

Your petitioners request urgent attention by the Assembly to direct the Minister for Education and Community Services to consult with the Hawker community (in accordance with the Chief Minister's Consultation Protocol) about any current and future plans for the Hawker Preschool and grounds.

## **Arts - Funding**

*The petition read as follows:*

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:

The petition of supporters of the Arts in the Australian Capital Territory, draws to the attention of the Assembly the cut of \$1.6 million to the Institute of the Arts, as part of the 1998 budget, which will impact on the delivery of services by the Canberra Schools of Music and Art to the community and will adversely affect the quality of life in Canberra.

Your petitioners therefore request the Assembly to reverse the decision, so that the Institute of Arts can continue to provide a worthwhile resource within Canberra.

Petitions received.

## **HALL/KINLYSIDE RURAL RESIDENTIAL DEVELOPMENT Ministerial Statement**

**MS CARNELL** (Chief Minister and Treasurer): Mr Speaker, I ask for leave of the Assembly to make a statement concerning the Hall/Kinlyside rural residential development.

Leave granted.

**MS CARNELL:** Mr Speaker, on 3 August 1998 I wrote to all members of the Assembly relating to the Hall/Kinlyside development. I foreshadowed my intention to seek leave on the first day of the August 1998 sittings to make a ministerial statement to the Legislative Assembly on the matter. My purpose in writing to members was to provide an explanation of statements I had made in the Assembly and at the Estimates Committee on the proposed Kinlyside development. In the course of debate I had unintentionally used the words "blocks" and "leases" in such a way as to cause confusion. The fundamental problem in this case is the way in which "block" and "lease" are used interchangeably by many Canberrans, including public servants and politicians, and the failure to identify the technical difference in this case. Members were provided with relevant documentation on 3 August 1998 to assist in clarifying the source of this confusion between "blocks" and "leases". I apologised to members and now also apologise to the Assembly on this matter. The unintentional confusion did not change the substantive matter that led to the Government entering into and later agreeing to terminate the preliminary agreement.

The Bolton family had a long association with the Kinlyside area. The Government believed that, although it was not essential, it was appropriate to recognise and acknowledge that association. This was not dependent upon the terms of the formal lease agreements now applying but related to the long history of the family's presence in the area. The Bolton family requested Mr Whitcombe to represent them. That was the basis of our decision to enter into a preliminary agreement with Hall Rural Estate Pty Ltd, a company established by Mr Whitcombe for the purpose of progressing consideration of the development.

I would like to make some comments on the nature of that preliminary agreement. The agreement was not a joint venture agreement. I stress that, Mr Speaker. The agreement was not a joint venture agreement. It set out substantial preconditions that needed to be satisfied by Hall Rural Estate prior to the Territory agreeing to proceeding with the development. It is important to reiterate those preconditions. They represented a thorough and diligent approach to ensure the Territory's interests would be protected. These included the requirement for "appropriate variations to have been made to the Territory Plan and as required the National Capital Plan". The commissioning of a preliminary assessment under the Land (Planning and Environment) Act was also a precondition. Proceeding with the development was also dependent upon assessments of its financial feasibility and architectural, engineering, town planning, land use, market and other relevant matters. One of the other relevant matters was the financial capacity of the joint venture partner to continue. If those opposite had done the same with Harcourt Hill, the Territory would not have been exposed to the extent of potentially \$20m.

These preconditions were deliberately imposed in the preliminary agreement, having regard to the special status the agreement afforded to Hall Rural Estate. The Government decided to deal directly with Mr Whitcombe on this matter without going through a competitive process. We did, however, impose unparalleled preconditions to protect the Territory. Again, if those opposite - and I think Mr Wood was the Minister at the time - had done the same with Harcourt Hill, the Territory would not have been in the position it is today.

The development would not have proceeded with Hall Rural Estate if the preconditions had not been met. The preliminary agreement provided appropriate levels of protection for the Territory, and that was borne out as the process continued. The Territory would have been able to assure itself of the community benefits of proceeding with the development prior to committing to the development itself. Again, if those opposite had done the same with Harcourt Hill, the Territory would not have lost the dollars that it has.

I would also like to address again the allegations that have been made that this was somehow a secret deal. Those opposite have changed their tack on the Kinlyside issue on many occasions over the last few months. The approach they initially took was: "Shock, horror, a secret deal". Mr Speaker, the intention of the Government to enter into an arrangement for the development of Kinlyside was advised to Hall residents by Mr Whitcombe as long ago as June 1997. The then Minister for the Environment, Land and Planning wrote to the Hall and District Progress Association in August 1997 in relation to the proposal and this was followed by a public meeting. Some secret deal, Mr Speaker!

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Most, if not all, members of the Assembly had been briefed by Mr Whitcombe on this proposal. I understand that the then leader of the Labor Party supported the proposal in principle. The Government was motivated by its desire to support an innovative development proposal. Obviously, so was Andrew Whitecross. We wished to recognise the long association of the Bolton family with this area. We set very strict preconditions and we accepted responsibility for meeting costs if the development did not proceed. These decisions were taken, having regard to the benefits of the initial work to the Territory, even if the development did not proceed. Members may recall the launch by the then Leader of the Opposition, Mr Berry, of his election policy "Working Capital". Members should now know that Mr Berry conducted media interviews on this policy launch from the Bolton farm when he was having a look at this development. Some secret deal! It is nonsense for the Opposition to claim that they were not aware of the proposal. Few matters have been debated more fully in this Assembly.

The costs incurred by the Territory have proved valuable. The information obtained from the initial work on the preliminary agreement will be used for further assessments. This includes any work as part of the Government's review of rural residential development. The Assembly has, by resolution on 28 May 1998, supported the Government's commitment to establish rural residential development in the ACT. Therefore, the money spent will go to a very good purpose, something supported by the majority of this Assembly. I believe the objective should be to implement the resolution of the Assembly that rural residential development should exist. As with the Kinlyside proposal, such developments will be subject to the highest planning and environmental standards being satisfied.

Mr Speaker, I think the approach that I and Mr Humphries have taken on this issue, in that the moment we knew that there could have been some confusion caused by our use of the words "block" and "lease" I immediately wrote to members of the Assembly and apologised, is an approach that all members of this Assembly should applaud. Unfortunately, as we know, those opposite did not take the same approach when they were in government, a very long time ago now. Their approach was: "Never apologise. Never say you are wrong. Just tough it out". That is not the approach that this side of the house takes. When we have made a mistake, we admit it and we apologise. I hope this Assembly appreciates an approach that is open, appropriate and in the best interests of an Assembly that does follow, I think, the very noble approaches that Mr Stanhope spoke about in his initial statement to this place - an Assembly not based solely on adversarial politics - an approach that the Pettit report spells out as well; an approach that would make this Assembly a better place to be. Unfortunately, Mr Stanhope did not last long in his views on non-adversarial government.

### **HALL/KINLYSIDE RURAL RESIDENTIAL DEVELOPMENT Ministerial Statement**

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): Mr Speaker, I ask for leave of the Assembly to make a ministerial statement concerning the Hall/Kinlyside rural residential development.

Leave granted.

**MR HUMPHRIES:** Following the Chief Minister's letter to members concerning her statements in this place over the proposed rural residential development at Kinlyside, I reviewed my own remarks in *Hansard* on this subject. I wrote to members on 4 August this year and indicated that I too used the word "leases" where I should have more accurately used the word "blocks" to describe what the proponent brought to the table in his negotiations with officials of the Chief Minister's Department.

As the Chief Minister has already indicated, the fundamental problem in this case is the way in which "block" and "lease" are used interchangeably by many Canberrans, including public servants and politicians, and their failure to identify the technical difference in this case. Mr Speaker, it is an important principle in this place that where a Minister or member inadvertently misleads the house he or she rises at the first opportunity to correct the record immediately after the mistake has been pointed out. Both the Chief Minister and I are doing that today, as we both wrote to members in early August to correct the record.

As the Chief Minister has said, the unintentional confusion of "leases" with "blocks" does not in any way alter the substantive material presented to this Assembly as the reason the Government agreed with Mr Whitcombe not to proceed with the development on the basis proposed but rather to subject the concept to a competitive process. That reason is that, while Mr Whitcombe brought certain parcels of land to the table, now correctly identified as blocks, it became clear to him that he did not have authority in relation to those blocks. It is fair to say, Mr Speaker, that this could have been better expressed by me in the course of my remarks in debate, but I reject entirely the assertion by the Opposition that the Chief Minister and I wilfully and deliberately misled the Assembly on this matter.

The Chief Minister has explained at some length to the Assembly today the history of the Kinlyside rural residential proposal. I wish to make clear the fact that this proposal is not proceeding as first envisaged because of the thorough process set by the Government for the developer to meet certain significant preconditions - unparalleled, as the Chief Minister described them in her statement. The Territory was protected by the preliminary agreement with the developer, unlike previous ventures entered into by the other side of this house when they were in government, where the legacy lives on and continues to cost the Territory dearly.

The decision not to proceed with this development in this form does not signify a decision by the Government not to proceed with rural residential development in the ACT - far from it. We believe now, as we did while evaluating this proposal, that rural residential developments offer a level of supply to meet an emerging demand by the people of the Canberra, demand which at the moment can be met only by the purchase of blocks across the border, thereby depriving the ACT of a valuable source of revenue.

Mr Speaker, as the Chief Minister said, few issues have been debated as extensively in this Assembly as this one. Despite grubby attempts by members of the Opposition to link Mr Whitcombe's proposal in some improper way with members of the Government, their accusations do not stand up to scrutiny. In debate on this matter on 28 May 1998,

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the Assembly supported the concept of rural residential development. We should now put this matter to rest and allow government officers to work towards the best way of implementing the Assembly's will.

For my part, I unreservedly apologise to the Assembly for my unintentional misuse of the word "leases" where I should have used the word "blocks". The Chief Minister and I were both relying on verbal advice, and it is a fact that the advice given to us also confused "blocks" and "leases". Ultimately, we take the responsibility for that. But we honour the accepted practice of returning to this Assembly at the first opportunity to apologise and correct the record where advice given to us is incorrect. Not only that, but we both took the opportunity to write to all members and correct the record the moment our mistakes emerged. Any accusation by the Opposition that the mistake was a deliberate attempt to mislead the Assembly is, as I have said, entirely rejected.

**CHIEF MINISTER AND DEPUTY CHIEF MINISTER**  
**Motion of Censure**

**MR STANHOPE** (Leader of the Opposition) (10.47): Mr Speaker, I ask for leave to move a motion to censure the Chief Minister and the Deputy Chief Minister.

Leave granted.

**MR STANHOPE:** I move:

That this Assembly censures the Chief Minister and the Deputy Chief Minister for deliberately or recklessly misleading the Assembly in relation to the Hall/Kinlyside development.

Mr Speaker, I guess the apologies that we have just heard are welcome. It is, I guess, the first step down a long road that we have had to drag the Chief Minister and the Deputy Chief Minister down in our attempts to get the information that we have consistently sought in this place in relation to the Hall/Kinlyside area. I will not go into the history of it in any depth, but people in this place would recognise that consistently from 19 May we have sought advice on the background of the Hall/Kinlyside development, the reasons that the Government entered into an exclusive arrangement with Mr Whitcombe, the basis on which they made all their decisions - a whole range of questions which are very relevant in terms of the Government's responsibility to the people of Canberra, the people it seeks to represent. All the questions we asked were legitimate questions.

**Ms Carnell:** And you asked them about 400 times.

**MR STANHOPE:** We did. We asked them about 400 times, and the problem is that they were never answered. But today's debate cannot be reduced to the simplistic terms to which the Chief Minister and the Deputy Chief Minister have sought to reduce it, to a debate about whether or not when they said "block" they really meant "lease".



I understand fully how in this place we could make that sort of mistake; that we could from time to time transpose our words. I have done it myself. I have done it in relation to this particular issue. I have in this particular issue transposed “lease” with “block”. I have done it myself.

What I have not done, though, is create and develop an absolute fiction; I have not built a house on shifting sand; I have not insisted time after time that the reason that I thought there were three leases, the reason that the Government entered into the arrangement with Mr Whitcombe, was that he brought to the table something of value, namely, he brought an authority over three leases, over a property - over three blocks even. I have not insisted time and time again that the only reason that I entered, as the Government did, into an exclusive arrangement with Mr Whitcombe was that he had authority over certain pieces of land.

We asked on what basis you came to the conclusion that Mr Whitcombe had authority over these three blocks. On what basis did you, as a government, come to the conclusion that you were prepared to expend significant amounts of ratepayers’ money on a development? I notice in the papers that we have received, pursuant to the FOI request, information that the land packages were valued at \$150,000; that land and housing packages were to start at half a million dollars. I notice from the preliminary agreement that it was anticipated there would be 300 blocks. This is a very significant development we are talking about here. We are talking about a development worth potentially \$150m. It is legitimate for us to ask on what basis you, as the Government, came to the conclusion that Mr Whitcombe brought something of value to the table. You told us that you came to that conclusion on the basis that you saw the documents. On 19 May the Chief Minister said:

It came to the Government’s notice ... that these leases were not in the hands of the Boltons - even though they are physically in their hands; they still actually have the leases. They were handed back in, I think, 1991. That information came to the Government last Friday.

That would have been 15 May. The Chief Minister also said:

Mr Whitcombe believed that he brought to this agreement all three leases; he did actually have the three leases in his hand, Mr Speaker. Unfortunately, this has proven not to be the case.

Mr Humphries said the same on 28 May. He said it quite specifically. Mr Humphries said that Mr Whitcombe brought in the leases to the blocks and put them on the Chief Minister’s table. I will quote what Mr Humphries said.

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**Mr Humphries:** Which page?

**MR STANHOPE:** Page 765. He said:

The Chief Minister ... made reference to Mr Whitcombe, because they were the block numbers of the three leases he brought in to the Chief Minister's office and put on her table. That was a complete and categorical answer to that question, Mr Corbell.

**Mr Wood:** What date was that?

**MR STANHOPE:** That was on 28 May. I can quote a number of other references the same. We are talking here about the physical leases. There are references scattered throughout *Hansard*. On 19 May, in answer to a question, Mrs Carnell said, "He had the documents in his hand". On 21 May Mrs Carnell said:

Mr Speaker, as I said earlier, when Mr Whitcombe came to see the Government, he came with three leases - actually, with the physical leases.

She went on:

The block numbers were 629, 495 and, I think, 630. They were the three block numbers that Mr Whitcombe actually held the physical leases for, Mr Speaker.

There is absolutely no basis on which one can say there is any confusion in those statements by the Chief Minister about whether we are talking here about leases or whether we are talking about blocks. Mr Humphries said the same, and it goes on. We can refer to what I now regard as almost the infamous evidence at estimates - it is infamous - of Mr Lilley.

**Ms Carnell:** You cannot censure us for what Mr Lilley says.

**MR STANHOPE:** No, you were there. Mr Lilley was sitting at your right hand. Mr Lilley, the Under Treasurer, was sitting in estimates at the right hand of the Chief Minister. It probably is relevant that I do read out some of that evidence and Mrs Carnell's interjections during the evidence. I can go on and on through the transcript quoting the answers that Mrs Carnell gave but I do not have the time. I will go through just one section of the evidence at estimates. I will just give a truncated version. I asked Mrs Carnell why no officer undertook a title search to see who owned the land and Mr Morgan interjected to say:

Well, at the time the proponent did provide the physical evidence of those documents.

Mr Corbell asked what the evidence was, and the following exchange occurred:

MR LILLEY: The actual leases were brought in.

MR CORBELL: How many leases?

MR LILLEY: Three.

MR CORBELL: He provided you with three lease documents?

MR LILLEY: Yes.

MR CORBELL: He did?

MR LILLEY: Yes.

MR CORBELL: Are you sure?

MR LILLEY: Absolutely.

MR CORBELL: Are you able to provide us with copies of these documents?

MR LILLEY: No, they were the original leases and we returned them obviously.

The discussion went on and on and on, and at times Mrs Carnell interjected with comments such as: "The three leases - they certainly exist". There were interjections from Ms Ford along the same line. When we asked for the leases to be tabled, when we asked for the Government to go to the Titles Office and get their copies of the three leases, of course mayhem, absolute panic. The very next day Mrs Carnell wrote to members apologising for inadvertently misleading us as a result of her confusion over the words "block" and "lease". You can say what you like about the obvious confusion that will exist about "blocks" and "leases", but the bottom line is that the documents do not exist. If there are any journalists listening who want some proof of it, I would suggest they ring perhaps Mr Whitcombe. Mr Lilley insists that Mr Whitcombe has the documents. The Titles Office does not have them. The Titles Office did not provide them to us through estimates when requested. They did not provide them to us through FOI, because they do not exist. There is no such thing, even if you were confused about leases and blocks. You can have three sets of lease documents - that is possible - but you cannot have three sets of block documents. There is no such thing as a block document. What do we have in this case? In the documents provided to us by the Government there are three sets of documents. There is a lease with two documents attached which actually extract two blocks of land from the lease.

**Ms Carnell:** How many documents were there?

**MR STANHOPE:** There are three.

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**Ms Carnell:** That is right, three documents.

**MR STANHOPE:** Okay, let me display them. I will table the documents. Guess what they are headed, Mr Smyth, Minister for Planning? What are the second and the third documents headed? You do not know. It is called - - -

**Mr Smyth:** You tell me. You are the one telling the story.

**MR STANHOPE:** I will, Mr Smyth, in capital letters. I will, Chief Minister, in capital letters. It says "Notice of Withdrawal of Land", and attached to that is a plan with great big capital letters, Mr Smyth. It says "Plan of Withdrawal", Mr Smyth. These are the documents on which you based your decision to enter into an exclusive agreement. The fact is that you had in your possession two documents which notified you that the two blocks of land had been withdrawn.

**Ms Carnell:** No, that is not true.

**MR STANHOPE:** You just said it was. They were the three documents you just said you had. I am happy for you to admit, Chief Minister, that the three sets of documents you had were those three, two of which said "Notice of Withdrawal of Land". That is not all of course, Mr Speaker. I will pass on to other issues. When did the Government become aware there was only one lease? This was - - -

**Mr Humphries:** Take your feet off the chair, Mr Stanhope. This is government property, Mr Stanhope. Thank you.

**MR STANHOPE:** Yes, the land at Kinlyside was government property, too, Mr Humphries.

**Mr Humphries:** It still is.

**MR STANHOPE:** Luckily it still is, no thanks to you. A question that occupied the minds of the Opposition was: When did the Government become aware there was only one lease? This is relevant if the Government was aware before 22 December that there was only one lease. As the Chief Minister just says, they were not, and they told us time and time again they were not. Mr Humphries tells us the same. Mr Humphries told us on 20 May:

As it transpired - and this information became clear, at least to the Government, only very recently; that is, in the last seven days ...

Mrs Carnell, on 19 May, said:

It came to the Government's notice, I have to say, that these leases were not in the hands of the Boltens - even though they are physically in their hands; they still actually have the leases. They were handed back in ... 1991. That information came to the knowledge of the Government last Friday, Mr Speaker.

Ms Carnell repeated that claim on 21 May.

**Ms Carnell:** And again today.

**MR STANHOPE:** And she has just repeated it again today - that the Government at no stage knew that any land - - -

**Ms Carnell:** No, that I did not.

**MR STANHOPE:** You are the Government. You are the Government, Mrs Carnell. Do not start running lines with us now that you are not the Government. It is not only the Government. On 22 December the Government or senior officials were not aware.

**Ms Carnell:** Sorry; no.

**MR STANHOPE:** That is what you said. That is what you said on 28 May.

**Ms Carnell:** That is right.

**MR STANHOPE:** You said on 28 May - - -

**Mr Humphries:** Can you quote that?

**MR STANHOPE:** Yes, page 758.

**Mr Corbell:** I raise a point of order, Mr Speaker. The Chief Minister is persistently interjecting, and I ask you to call her to order.

**MR SPEAKER:** All right.

**Mr Hird:** On that point of order, Mr Speaker: I would also ask you to ask the Leader of the Opposition to address his remarks appropriately through the Chair.

**MR SPEAKER:** I uphold Mr Corbell's point of order but I would - - -

**Mr Hird:** And what about mine?

**MR SPEAKER:** Order! Just a moment, Mr Hird. But I would also ask Mr Stanhope not to respond to the interjections. The interjections are out of order. This is a serious debate. It is a censure and I believe that the Leader of the Opposition, like the Chief Minister and the Deputy Chief Minister, deserves to be heard in silence.

**MR STANHOPE:** Thank you, Mr Speaker. On 28 May the Chief Minister said:

On 22 December the Government or senior officials were not aware that two-thirds of the Hillview property had been withdrawn from the Bolton family ...

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Earlier on, in one of those other references that I quoted, the Chief Minister said that no members of the project team involved in the negotiations on the agreement were - - -

**Ms Carnell:** That is the senior officials.

**MR STANHOPE:** That is right. What do the records reveal? This is the moment I think you have been dreading. What did the FOI request reveal? What did the papers say? The papers tell us that on 25 August 1997 a Mr Steve Wallace in the Chief Minister's Department met with a Mr Neil Morgan in the Chief Minister's Department, and what do the minutes of that meeting reveal?

The Bolton family have an historic link and long term occupation of the Hillview property. Part of the property ... is currently leased on a monthly rental basis. The steep hilltop land has been taken over by the Territory for reforestation.

Part of the land has been withdrawn. (*Extension of time granted*) The minutes continue:

It will be important that any contractual arrangements for the proposed development do not create any precedent for development rights for existing lessees or former owners. It is suggested that any remuneration flowing to the lessee should remain a private arrangement with the developer.

I believe it is Mr Morgan. It is addressed to "Neil" but I have no doubt it is Mr Morgan. The letter was marked to Mr Steve Wallace. It was written by Mr Leigh Osborne. I understand all are officers of the Chief Minister's Department. That was written on 25 August and it actually recognises - - -

**Ms Carnell:** Which year?

**MR STANHOPE:** In 1997, before 22 December 1997. It goes on and makes an interesting comment in relation to the Starr lease. Of course, the Starr lease was also relevant to Hall/Kinlyside, and I must say we in the Opposition have tended to neglect the importance of that in our questions. But that is not all, of course. Throughout this whole time it was obvious to almost everybody in PALM and it was obvious to almost everybody in Hall that the leases had been withdrawn. Minutes of a meeting between PALM and the Hall and District Progress Association are contained in a document dated 17 September and notated by Mr Tony Carmichael, whom I know to be an officer of PALM. The minutes say:

It was indicated by PALM that the Boltons have not sought an extended lease - the property is regarded as PALM property, and is on month-by-month tenure ... there could be no substantive change ...

In terms of the extent of the knowledge within PALM or within the Government, in addition to the obvious acknowledgment by Mr Osborne with Mr Steve Wallace and Mr Neil Morgan, all senior officers in OFM, that they knew that a block had been withdrawn, they of course were also part of the negotiating team for the preliminary agreement. Mr Neil Morgan was central to the negotiation. Mr Neil Morgan knew that a block had been withdrawn. He knew the hills were no longer part - - -

**Ms Carnell:** But the hills were never going to be built on.

**MR STANHOPE:** No, but they are part of the block. That is irrelevant. But the crunch, the killer, the killer blow - I have the wrong document; I beg your pardon for a moment, Mr Speaker - - -

**MR SPEAKER:** That is all right. It is your time.

**MR STANHOPE:** It was worth waiting for. It was in your department, Mr Humphries. It is a minute by two officers who are still there, two officers who are still involved in this, officers who actually appeared at estimates: Ms Helen McKeown - I hope I have got her name right - and Ms Dorte Ekelund, senior officers within PALM. It was written on 11 July 1997, two weeks after Mr Whitcombe's proposal hit the table. I will read this. What we are debating here at the moment is: Did the Government or anybody within the Government know about the status of the Bolton leases? That is what we are discussing, not all this confusion about whether they were leases or blocks but who knew what. I go back to the comments that Mr Osborne made during estimates when he closely asked Mr Gilmour, "What did you know? Why did you not do something? Why did anybody in government not take up this issue of what was the status of the lease? Had land been withdrawn? Was it one block or three blocks? Was it three leases or one lease? What did the officers in PALM know and do about this? What did they put on the public record and what did they repeat to everybody who wants to listen?". The minute reads:

Purpose

To provide you with background on Block 496 Gungahlin, currently the subject of a proposal to subdivide into rural residential blocks -

the Whitcombe proposal -

The land was compulsorily acquired in 1915 from the Bolton family. The land was part of a larger property ...

The whole property was leased back to the Boltons in two parts ... That part of the land within NSW was purchased back by the Boltons in 1935.

Block 8 Hall, with an area of 967 acres, was leased to the Boltons for a term of 50 years commencing in 1956 ...

Ashley John Bolton (the current lessee) became the registered owner in 1973 after the death of his father.

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The whole of the land was withdrawn ... 1974 ... \$34,000 compensation was paid ...

The Boltons continued to occupy the land on a weekly licence agreement until this was terminated on 31 May 1980 and a monthly lease commenced.

The current lease was granted ... 1980 ... The lease is a nil tenant rights lease (all improvements are government owned) ...

The following land withdrawals have occurred.

I am hurrying here, which is a pity. There are five of them: 3.9 hectares in 1988, 20 square metres in 1989, 126 hectares in 1991, 1.3 hectares in 1991 and 87 hectares due to extensive land degradation and a heavy infestation of serrated tussock. The minute goes on:

The withdrawn areas are now known as Blocks 494 and 495 Gungahlin with the latest withdrawal of 87 hectares still shown on the Canberra By Suburbs as part of 496 Gungahlin. From the information available to us at the moment it appears that the proposed subdivision is over the withdrawn areas as well as the area still held in lease.

The balance area still held in lease is 169.7 hectares ...

Issues

The current lease is a monthly lease with little chance of it being extended beyond 2000 at this time. This may change when the development sequence in Gungahlin is finalised ...

The blocks are within the Hills, Ridges and Buffer areas on both the National Capital and Territory Plans.

That was 11 July 1997, a formal minute. I hate to say it, but this document and the other documents in the 1,000 folios released to the Opposition - and I have got folios and folios of them here - make a liar of you, Chief Minister, and make a liar of you, Mr Humphries.

**Ms Carnell:** Mr Speaker, I ask for that to be withdrawn.

**MR SPEAKER:** Yes, please. I would have to ask that the word "liar" be withdrawn. I have read your motion of censure and that is permitted, but I cannot allow words like "liar".

**MR STANHOPE:** I truly believe it, Mr Speaker, but I will withdraw it. (*Further extension of time granted*) In a minute I will seek leave to table these documents for the information of members and everybody else. There is a third issue that I would like to address. When did Mr Whitcombe become aware there was only



one lease? We ask this of course. I should say at the outset that I do feel for Mr Whitcombe in this. The Labor Party has no issue with Mr Whitcombe. Mr Whitcombe is a local businessman; he is a local developer. He was doing what he does. He was doing business. He was legitimately proposing a development to the Government. I feel for Mr Whitcombe for the way that this Government has dealt with this issue. I would not laugh, Mr Smyth. I have not got to you yet, Mr Smyth. You are here, too. When did the Government know that Mr Whitcombe knew there was only one lease? On 28 May, at page 758 of *Hansard*, the Chief Minister tells us:

In the many discussions between PALM, OFM and Derek Whitcombe, it appears that no specific mention was made of the withdrawn leases.

We have just rebutted that.

**Ms Carnell:** No you have not at all.

**MR STANHOPE:** We have. All your officers knew about it.

**Ms Carnell:** You have not. You have not given any more information at all. All that is on the record already.

**MR STANHOPE:** I almost drop to my knees in despair. The Chief Minister said:

In the many discussions between PALM, OFM and Derek Whitcombe, it appears that no specific mention was made of the withdrawn leases.

I love this language of the Chief Minister. One thing I do love about the Chief Minister is that there is no grey. The Chief Minister then said:

We are absolutely confident that Mr Whitcombe believed totally that he was bringing three leases to the table. This came to light only in mid-May of this year.

I have just read out the minutes that existed within PALM that show that PALM had a detailed understanding of the Bolton lease. I have read out minutes that indicate that Mr Neil Morgan, who I think is the Deputy Under Treasurer, knew. Mr Morgan, the person who was negotiating the agreement, knew. He had it in a direct minute to him from one of his own officers. So we are still persisting with the fiction that the Minister knew! I do have a number of documents to rebut. I would draw your attention again to the Chief Minister's language:

We are absolutely confident that Mr Whitcombe believed totally that he was bringing three leases to the table.

That was on 28 May. On 18 May 1998 the Chief Minister received a briefing from Annabelle Pegrum, the executive director, a very senior officer, I think at the time perhaps the most senior officer in the ACT Public Service - anyway, a very senior public servant. We need to read this in the context of the Chief Minister's absolute confidence on 28 May. On 18 May Ms Annabelle Pegrum wrote to the Chief Minister:

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Mr Whitcombe's proposal was based on him bringing the whole property to the venture. In discussing this with Mr Whitcombe, he has indicated that he was not aware of the former withdrawals.

On 28 May the Chief Minister is absolutely confident.

**Ms Carnell:** That he did not know when he came to the PA.

**MR STANHOPE:** That is right.

**Ms Carnell:** Otherwise he is a liar.

**MR STANHOPE:** That is right. Otherwise he is a liar.

**Ms Carnell:** So you are saying he is a liar?

**MR STANHOPE:** No, I am not. I will just read the rest of the sentence. There is a "however" there, Chief Minister. You were not listening. This is Ms Pegrum to the Chief Minister on 18 May:

However, PALM has advised that file notes indicate that Mr Whitcombe was present at a meeting within DUS at which the tenure area was discussed.

**Ms Carnell:** So you are saying he is a liar?

**MR STANHOPE:** No, I am saying you are.

**MR SPEAKER:** Order, please! We can dispense with this censure debate and both of you can go outside and talk about it, the way it is going at the moment.

**MR STANHOPE:** I withdraw.

**Mr Kaine:** On a point of order, Mr Speaker: No, they cannot. This is interesting.

**MR STANHOPE:** What we are discussing here is the absolute confidence of the Chief Minister that Mr Whitcombe never knew; yet we have only a week earlier the chief official in the Chief Minister's Department telling the Chief Minister that DUS had advised them that he knew. Maybe DUS were wrong but I love the language - "absolute confidence" and "believed totally" - despite the fact that Ms Pegrum, chief executive in the department, was telling the Chief Minister, "Chief Minister, be warned. DUS have a file record of discussions with Mr Whitcombe in which they told Mr Whitcombe that he did not have authority over the three blocks". Make of it what you will. Why did the Government enter into an exclusive deal with Mr Whitcombe? We have discussed this. We now know, through extensive file notes, that Mr Whitcombe did not bring to the table what he thought he had.

**Ms Carnell:** Sorry, now you are saying he did think he had.

**MR STANHOPE:** I have no doubt that Mr Whitcombe did, but - - -

**Ms Carnell:** Sorry, you just said that Mr Whitcombe was briefed by Planning. You cannot have it both ways.

**MR STANHOPE:** I will draw my comments to a conclusion. I know my colleagues have a lot they wish to say. There are a couple of other things that I would like to mention in passing. I will draw my comments to a conclusion. I do have a lot more to say. I will say it later when I conclude the debate. There are a couple of interesting things. Why did the Government enter into the exclusive deal? It has always been suggested in here that because of the exclusivity there is a relationship with the Boltons, something that we have quite effectively debunked. It is interesting to go back to the original folios. I will table the documents. I think that is the best thing I can do, and I will draw members' attention to the letters from Mr Whitcombe. In his initial letter to the Government of 27 June he explains his proposal and refers to the fact that he has this exciting proposal for the development at Hall; he has this authority over an expired rural lease. That is how he describes his proposals. He has an expired rural lease. He does not seek to cut it up into blocks but he was acknowledging what it was - an expired rural lease. That is the point of the first question. It is an expired rural lease, so what does he bring of value to the table? Nothing. I believe my colleagues will talk further about that.

I draw to members' attention quickly that Mr Whitcombe's formal proposal was sent to Mr Prattley on 27 June. On 26 June the Chief Minister was writing to Mr Humphries. I ask people to read the Chief Minister's letter and Mr Humphries's letter. Mr Humphries's letter of 30 June is acknowledgment back to Mr Whitcombe that the Government was enthusiastically supporting this and that it would be progressed. Mr Humphries also wrote a letter to Mr Smith, the Federal Minister, looking for the Federal Government's enthusiastic support for the project. I also draw members' attention to Mr Humphries's file note on PALM's submission to him about why they felt that Mr Humphries's proposal should be put on hold and why it should not be proceeded with, and I would ask them to note PALM's strong recommendation to the Minister that the matter go to a public tender process and to the basis on which Mr Humphries dismissed that recommendation. (*Further extension of time granted*)

Another comment I wish to make is on the fact that when PALM sought to brief the Chief Minister in September 1997, an informative brief setting out the issues, setting out the concerns of the Hall community, raising some of the issues, the minute - I just think this is interesting - got through Mr Gilmour, it got up to Mr Humphries, the then Minister, and the next signatory in the block was the Chief Minister. There is just a wonderful and, I think in retrospect, a lovely notation from a Mr Steve Forshaw which says something to the effect: "The Chief Minister is well aware of this proposal and the issues it raises. There is no need for her to receive this brief". He sent it back to PALM. So PALM could not get through. In retrospect, is it not just so ironic? I have much more to say, Mr Speaker, but thank you for your indulgence.

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**MR SPEAKER:** Mr Stanhope, do you want to table papers?

**MR STANHOPE:** I do.

Leave granted.

**MS CARNELL** (Chief Minister and Treasurer) (11.21): Mr Speaker, in all of that, four extensions and whatever, Mr Stanhope could not quote one brief to government, to Mr Humphries or to me, or to anybody else prior to the preliminary agreement being entered into, and I thought that was what this was all about.

I will start from the beginning. Mr Stanhope started by saying that anybody can confuse “block” and “lease”. “I have done it”, he said. So, that is not the issue. We will rule a line through that because Mr Stanhope himself has agreed that anybody can do that. So he agrees that substituting “block” and “lease” is not a heinous crime. In fact, it is something that he personally has done. So we will rule that out to start with.

Mr Stanhope then used documents that the Government gave him, not ones that have been leaked or that he got in any other wonderful way. It was absolutely open, absolutely honest.

**Mr Stanhope:** We got them under the FOI Act. You had to give them.

**MS CARNELL:** Obviously, FOI. Anyway. He used documents that the Government gave him and then proceeded to quote them, somewhat out of order, certainly selectively. I have to say you would have to be fairly clever to work out what he was even talking about, Mr Speaker. If Mr Stanhope is suggesting that the Government did know prior to the preliminary agreement being signed in December that Mr Whitcombe was not bringing the whole of the Bolton farm or Hillview to the table, why did the map that was attached to the preliminary agreement show the whole of the Hillview area, and the whole of Kinlyside, I have to say? Why would that be the case? If Mr Whitcombe, as they say opposite, is not a liar - and I do not believe he is; I still have absolute faith in Mr Whitcombe - why would Mr Whitcombe bring to a preliminary agreement a map of the whole of the Bolton farm?

Mr Speaker, I think one of the documents that Mr Stanhope quoted from was from the Hall/Kinlyside Rural Estate Project Control Group, the minutes of meeting No. 2 on 18 May. Unfortunately he did not quote them appropriately and he spoke about Ms Pegrum. I will quote from agenda item No. 4, New Business, and I will quote it in total. It says:

Discussions centred on the leases held over the Bolton property.  
The preliminary agreement was based upon Derek Whitcombe bringing the whole of the Hillview property to the venture.

Mr Speaker, I will quote that again because that is what this is about. This was on 18 May. The project control group minutes say this:

Discussions centred on the leases held over the Bolton property. The preliminary agreement was based upon Derek Whitcombe bringing the whole of the Hillview property to the venture.

Annabelle Pegrum advised that two of the three leases had, in fact, been withdrawn in 1991-92, which left only one-third of the property, block 630, held on lease by the Bolton family. Now, I would like everyone to listen again. John Harris, who I understand is Derek Whitcombe's lawyer who was working with Derek on this, indicated that they were unaware that the leases had been withdrawn. I will quote again:

John Harris indicated that they -

meaning Derek and he -

were unaware the leases had been withdrawn. Annabelle Pegrum indicated that the agreement to joint venture could no longer be justified on the basis it was first brought to the Government. She believed that there was no benefit to the Territory and the Government to continue to deal solely with Hall Rural Estate Limited. The key principle for sole dealing was based upon Hall Rural Estate Limited bringing the whole property (three leases) to the venture.

For "leases", read "blocks", Mr Speaker. Again, a senior public servant was making the same mistake. This is quoting in full from that meeting. I quote:

Derek Whitcombe believed that he had the intellectual property rights to the proposal. Annabelle Pegrum indicated that no drawings had been brought to the table and concepts did not represent intellectual property.

Mr Speaker, this goes on. Derek Whitcombe's plan was based upon developing what he wanted at that stage, all of Kinlyside and the Bolton property. Mr Speaker, it is very interesting to note that those are the actual quotes, not bits of quotes but the whole quotes. What did Mr Whitcombe believe he was bringing to the table? Quite clearly, all of Hillview, all of the initial Bolton farm. Mr Speaker, not one brief to government was quoted by Mr Stanhope, so there is no way that Mr Stanhope can know that any of the information quoted actually came to government at all.

What we have to go back to here is the preliminary agreement entered into in December. On what basis was that entered into? Quite clearly that Mr Whitcombe was bringing the whole of the Bolton property, as the map attached to that makes clear, and as Ms Pegrum, somebody who was quoted by those opposite, has also made clear. If there is any sort of thought that somehow the Government knew that he was not bringing the whole property to the table, why then would the Government enter into a preliminary agreement that was reliant on him doing that? It meant that the PA was going to fall over before it even started. If we were wedded to the proposal, Mr Speaker, why would we have entered into a preliminary agreement that required Mr Whitcombe to be bringing the whole of Hillview? It just does not stack up. It is not logical.

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I have been through a lot of this whole proposal before. It is true that I wrote to the Minister for Planning on 26 June last year on this matter. For those members who accuse me of not following proper process - I assume that is what those opposite are saying - I emphasise that in that letter to Mr Humphries, again a letter that Mr Stanhope has alluded to, I said this:

I believe it is important that the government move quickly -

This is the bit that Mr Stanhope seems not to have spoken about -

within current planning guidelines, to determine the viability and suitability of such a development.

Mr Speaker, I stand by that. I think rural residential is great for the ACT. I am very enthusiastic about rural residential. By the way, Mr Speaker, so is the majority of this Assembly. The approach I put to Mr Humphries, and I think Mr Humphries followed up on, is, yes, we should go down this path quickly, within current planning guidelines, to determine the viability and suitability of such a development. I also asked that the matter be assessed and potentially progressed - I now quote again something that Mr Stanhope did not - "if it is approved". At no time did the Government seek to short-circuit the proper planning process or to pre-empt the outcomes of those processes.

The decision to request that the matter be assessed was made to provide an opportunity for the community to have a rural residential lifestyle in the Territory, if this could be achieved within statutory planning guidelines, without having to go across the border to achieve this. In agreeing that that proposal be assessed, the Government gave high priority to ensuring that it put in place adequate measures to protect the Territory's interests while the proposal was being further developed. I think this is something that those opposite should take note of because it is something that they did not do when in government. The arrangements also ensured that the Bolton's long association with the district was recognised and acknowledged even though, Mr Speaker, as I think I have made clear lots of times, we were very aware that the blocks, leases, whatever we are calling them today, were held on a monthly tenancy.

The Territory did not enter into a joint venture. The preliminary agreement set out obligations on the Territory and Mr Whitcombe prior to negotiating a joint venture. Mr Speaker, I have proven categorically, I believe, that Mr Whitcombe did believe, and certainly has said he believed, and certainly attached that to the preliminary agreement, that he was bringing all of Hillview to the table. But this Government did not jump into a joint venture as those opposite did with Harcourt Hill. The agreement spelt out all preconditions to be satisfied before the Territory would consider such a venture or be committed in any other way. It is worth restating these preconditions, for the information of members. We required obtaining all planning clearances. This included potential changes to the Territory Plan and the National Capital Plan if needed. It also covered geotechnical, social planning, landscaping, archaeological and heritage issues, traffic and site engineering. Economic and financial assessments were also preconditions. The work done on the preliminary assessment, as people in this Assembly know, cost \$107,888. That has been put to full use, unlike the position that those opposite took.

In the lead-up to the preliminary assessment, what happened? Public meetings were held. The then Minister, Mr Humphries, wrote to the Hill Residents Association. Members of this Assembly were informed and briefed. In fact, members of this Assembly were driven around the Hillview property and it was indicated to them, I understand, by Mr Whitcombe, that he believed, as I still believe he believed, that he was bringing the Hillview property to the table. Members of this house know that because they were out there on the property. Mr Berry was out there on the property. Mr Whitecross was out there on the property. This was all before the preliminary agreement was even signed. But, even with all that, even with public meetings, even with members of this Assembly being briefed and taken out to the property, and even after Mr Humphries, as Minister, wrote to the Hill Progress Association, did we jump into a joint venture? No, we did not. We went to a preliminary agreement that required, I expect, all hoops to be jumped through, all i's to be dotted and all t's to be crossed prior to going ahead. Mr Speaker, I have to say that that was not the case with those opposite when it came to Harcourt Hill.

I think, Mr Speaker, it is important to put on the record now for those on the crossbenches a comparison between the approach that those opposite took in government and the approach that we took and are supposedly being censured for taking. We are being censured for taking an approach that protected the Territory's interests. We are being censured by those opposite who, when it came to Harcourt Hill, went down a very different path. Mr Speaker, let us get some facts about Harcourt Hill onto the table for the benefit of everybody here because everybody should know about what, no matter how you look at it, was a scandal. We need to go back a few years, firstly. Remember that those opposite are asking questions about why we chose to go ahead with Mr Whitcombe individually. We have made it clear. I think I have shown documentary evidence, including a rundown of the proposal, which I can table for members in a minute, but I will do that later, that Mr Whitcombe put on the table. We went ahead to a preliminary agreement based upon the fact that Mr Whitcombe was bringing the Hillview Station to the table.

The selection process for Harcourt Hill was somewhat different, Mr Speaker. The selection process that was used initially to determine the Territory's joint venture partner was simply not adequate. I think it is important that those on the crossbenches understand this. Terry O'Donoghue Promotions was selected in 1991 to proceed to the second stage, notwithstanding the fact that its first submission was assessed as meeting - (*Extension of time granted*)

**Mr Moore:** How many extensions do you think you would like altogether?

**MS CARNELL:** I think I could go for about as long as he did.

**Mr Humphries:** Hopefully more concisely.

**MS CARNELL:** Definitely more concisely. Mr Speaker, Terry O'Donoghue Promotions was selected in 1991 to proceed to the second stage of the process for Harcourt Hill. I think it is important that we compare these two things, Mr Speaker. The first submission was assessed as meeting - wait for this, Mr Speaker - none of the selection criteria. So the entity goes ahead but meets none of the selection criteria.

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Yet Terry O'Donoghue Promotions was subsequently selected as the preferred joint venture partner on the stated basis that it was the only consortia to have finance in place through a financier merchant banker. This was incorrect as there was no record of any offer of financial backing being made. Terry O'Donoghue Promotions made it clear in correspondence that it was not a principal, and in its first submission it claimed it was representing a company called GGS of Japan. No information on the parties on whose behalf it was acting was recorded, and GGS of Japan was not referred to after the first stage. Terry O'Donoghue Promotions was not a registered company and was not a registered business name in the ACT. This was the company that those opposite chose as a joint venture partner. The name had previously been registered as a business name for the purpose of promoting golf tournaments. Its registration had actually lapsed prior to the time of assessment.

Cygnet Corporation was formed after Cabinet had approved a preliminary agreement with Terry O'Donoghue Promotions, yet the preliminary agreement was entered into by Cygnet Corporation. So, Mr Speaker, Cabinet decided to go ahead with a preliminary agreement with Terry O'Donoghue Promotions, an entity that was not a company, did not have a registered business name, met none of the criteria and had no financial backing.

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

**MS CARNELL:** I would get up too.

**Mr Berry:** Mr Speaker, relevance.

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

**MS CARNELL:** Mr Speaker, this is very relevant because we are comparing here two approaches to a proposed joint venture. Mr Stanhope spoke at length about that.

**Mr Berry:** Mr Speaker, this is about a motion of censure of the Chief Minister for misleading the house. It is not about a comparison between two joint ventures. The Chief Minister is perfectly entitled to argue the case that she did not mislead us, but she either has to do that or sit down. This is not a motion calling on a comparison between the two joint ventures.

**MR SPEAKER:** I do not uphold - - -

**Mr Moore:** It is a censure motion. She can respond how she likes.

**Mr Berry:** We know where you are coming from, Michael.

**Mr Humphries:** Mr Speaker, the issue that the Chief Minister is raising is the standard that the house is setting in passing a motion like this. She is making the point that if the house were to pass a motion like this, given the relatively innocuous matters that have occurred, we would argue from the government side in this matter that the standard being set is very different from the one which the Opposition applies to itself in moving this motion.



**Mr Rugendyke:** On the point of order, Mr Speaker: I think it is important to hear the entirety of this debate. It is a serious issue. I would like to hear whatever the Chief Minister has in defence of what Mr Stanhope is saying happened.

**MR SPEAKER:** Thank you.

**Mr Berry:** Mr Speaker, Mr Rugendyke should consult the standing orders before he speaks. The fact of the matter is that one is required to be relevant in these debates. The relevance has to be to the point of whether the Chief Minister misled us or did not. She attempts to wander off into some other area which has nothing at all to do with the misleading.

**Mr Kaine:** Mr Speaker, I would like to speak to this point of order. I am happy to hear what the Chief Minister has to say in connection with something that a former Labor government did some years ago if she can establish the link and establish that it justifies the way the Government is acting today. Unless she can establish that link I think it is irrelevant.

**Mr Osborne:** Mr Speaker, I wish to speak to this point of order as well. I, like Mr Rugendyke, am happy to hear whatever the Chief Minister has to say, but the issue for me is whether or not the Chief Minister and the Deputy Chief Minister deliberately misled. That is the issue, Mr Speaker. I am not particularly interested in the development or the proposal, or even Harcourt Hill. What I am interested in is what they said and whether it was deliberate or reckless.

**MR SPEAKER:** Mr Kaine's point of order is that the Chief Minister must show some sort of link between Harcourt Hill and Kinlyside in order to discuss or to defend the Government's position on this censure motion. I do not uphold Mr Berry's point of order on this matter, but I ask you to bring the link together. Otherwise I must uphold the views of the crossbenchers that - - -

**Mr Kaine:** You mean the other crossbenchers, Mr Speaker.

**MR SPEAKER:** The other crossbenchers, Mr Kaine, thank you. Yes. So would you be guided, please, Chief Minister.

**MS CARNELL:** Absolutely, Mr Speaker. Mr Stanhope spent quite a considerable time talking about the process that the Government went through to get to a stage of a preliminary agreement. I was comparing the process that we went through with a process used by those opposite, which I think is very relevant in this particular circumstance, Mr Speaker. What we have shown here is the process that we went through to get to a preliminary agreement. We set in place a number of very high hurdles for Mr Whitcombe and Hall Rural Estate to get through if we were to enter into a joint venture agreement, which, of course, did not happen. What I am showing here, Mr Speaker, is that those opposite did not set the same hurdles at all. In fact, in September 1992, Fearons Brennan, a firm of chartered accountants, was engaged by the then Department of the Environment, Land and Planning - I think Mr Bill Wood was the Minister - to assess the proposed financial arrangements put forward by Cygnet.

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Fearons Brennan's report stated that the finance was dependent on a joint and several guarantee by the ACT Government, which was unacceptable, Mr Speaker. But, even with that, those opposite went ahead.

**Ms Tucker:** I raise a point of order, Mr Speaker. I have not been convinced that this is even vaguely relevant to whether or not Mrs Carnell and Mr Humphries misled the house in relation to Kinlyside and Hall.

**MR SPEAKER:** No. I have explained - - -

**MS CARNELL:** Mr Speaker, may I speak to that?

**MR SPEAKER:** Yes.

**MS CARNELL:** Mr Speaker, we are setting a standard of performance here and those opposite are suggesting that the approach we took leading up to the preliminary agreement was somehow inappropriate.

**Mr Corbell:** I take a point of order, Mr Speaker. That is not what the Opposition is suggesting at all. The Opposition is suggesting that the Chief Minister recklessly or deliberately misled the Assembly. Those are the terms of the motion before this Assembly, and the Chief Minister must speak to that.

**MR SPEAKER:** I do not uphold Ms Tucker's point of order. I do agree that there is a process here that is trying to be linked by the Chief Minister. I have no objection to that. This is a serious charge, this censure motion. I believe that the Chief Minister has the right to develop the arguments as she sees fit, and, as far as there is a link, I am happy to go along with it.

**MS CARNELL:** Mr Speaker, if we are debating solely whether Mr Humphries and I deliberately - (*Further extension of time granted*) If we are debating whether Mr Humphries and I deliberately misled this Assembly we can stop the debate now because Mr Stanhope did not show or quote from one document that indicated that any of the information he spoke about ever got to Mr Humphries or to me. If that is all we are debating, there is not a debate at all, Mr Speaker. What I have shown - - -

**Mr Stanhope:** Who is the Government?

**MS CARNELL:** Sorry; you actually have to be able to prove that the Ministers themselves knew; not that officials knew but that the Government, the Ministers themselves, knew.

**Mr Kaine:** That is a pretty shaky argument.

**MS CARNELL:** It is actually the approach. Mr Speaker, I think it is appropriate, taking into account Mr Stanhope's - - -

**Mr Corbell:** What about responsible government?

**MR SPEAKER:** Order!

**MS CARNELL:** Thank you. Mr Speaker, what Mr Stanhope did was work up the situation that occurred up to a preliminary agreement being entered into to set some sort of standards here. Those opposite entered into a joint venture agreement when the accountants said it was a bad idea. They entered into an agreement with a joint venture partner that they had not checked out financially and that had a structure that exposed the Territory significantly. They entered into a joint venture agreement with a company that ended up choosing a project manager without going through a formal tender process. The principal of the project management company was also a director of Cygnet. It is hard to believe they would do this, Mr Speaker. Those opposite, in terms of the standards they set for joint ventures, went down a path of no tendering and they are arguing here, shock, horror, that the Government entered into a preliminary agreement without a tender. Mr Speaker, those opposite did not go down the path of a tender for the project manager.

**Mr Berry:** So what? We did not mislead anybody either. We did not mislead you, though.

**MS CARNELL:** You actually did. Those opposite generally, with the Harcourt Hill approach, did everything wrong. Mr Speaker, in terms of how we approached the Kinlyside deal, there was community consultation, public meetings, and members of the Assembly from both sides, including the Opposition, were driven around the whole property. There were questions on radio. I think the Greens, Lucy Horodny, asked me a question in September in this place on the Kinlyside deal. It was not exactly secret. It was very much out there in the open. Through this whole approach Mr Whitcombe made it clear to everybody that he was bringing the whole of the Hillview property. We all believed that. You all believed that. So did we. We believed it. As we can see from the notes that I have quoted already - I quoted in full rather than in part, as Mr Stanhope did - Annabelle Pegrum made it clear that Mr Whitcombe believed he was bringing the whole of the Hillview station. John Harris, Mr Whitcombe's solicitor, made it clear that he was unaware that any of the leases had been withdrawn. This is all in writing. What we are talking about here is what we believed. If we all believed that Mr Whitcombe was bringing the whole of the Hillview property, and the preliminary agreement that was signed had a map including the whole of the Hillview property - - -

**Mr Stanhope:** It means you were reckless.

**MS CARNELL:** I will get to recklessness in a minute because that brings us back to Harcourt Hill.

**Mr Stanhope:** It means you were reckless.

**MR SPEAKER:** Order! Interjections from either side of the house are out of order.

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**MS CARNELL:** We have now established that everyone in this place who was involved in it at that time thought Mr Whitcombe was bringing the whole of the Hillview property. Everyone on this side and everyone over there believed that to be the case, and Mr Whitcombe believed it was the case. The preliminary agreement, Mr Speaker, was based upon the fact that he brought the whole of Hillview. Even with those things in place, this Government did not jump into a joint venture as those opposite did with Harcourt Hill. We entered into a preliminary agreement which required all of the issues, including the financial capacity of Mr Whitcombe and Mr Whitcombe's company, planning issues, environment issues and, of course, the lease tenure, to be checked prior to a joint venture being entered into. When that process started, probably at the first meeting or the second meeting of the group put together to address the preliminary agreement, it became obvious that that was not the case; that Mr Whitcombe was not bringing all of the Hillview property. I have quoted the comments from Mr Whitcombe's lawyers saying that they were unaware that there had been any withdrawals.

**Mr Stanhope:** Ms Pegrum told you that was not true.

**MS CARNELL:** No, that is actually not the case. Annabelle Pegrum advised that the agreement to joint venture could no longer be justified on the basis that it was first brought to the Government. She believed that there was no benefit to the Territory and to the Government to continue to deal solely with Hall Rural Estate Pty Ltd. The key principle for sole dealing was based upon Hall Rural Estate Pty Ltd bringing the whole property, three leases, to the venture. That makes quite clear what the basis of us entering into the PA was. The moment that basis fell over, as Ms Pegrum says, the reason for the Government being in there, and for that matter Mr Whitcombe believing - (*Further extension of time granted*) The reason for Mr Whitcombe staying in the preliminary agreement fell over. Mr Whitcombe withdrew. The Government accepted that situation. A deed of termination was drawn up. It was an absolutely appropriate approach the whole way through.

If those opposite have admitted that the interchange of "lease" and "blocks" is something, to quote Mr Stanhope, that "everybody does, including me", that is not an issue. Mr Stanhope has not shown that there was any knowledge in the Government, meaning the Ministers who are being censured. Public servants do not get censured in this place; Ministers get censured. Mr Stanhope has not shown that either Minister involved had any knowledge. In fact, the documents that I have read from indicate clearly that Mr Whitcombe did not know.

I finish on a very important issue. Why would the Government have entered into a preliminary agreement based upon the whole of the Hillview property if the Government had known that he did not have it? Obviously we would not because all that would have happened is that the whole thing would have fallen over immediately. It is just bottom-line logic.

Mr Stanhope has shown nothing to indicate that there was any misleading or recklessness. In fact, what I have shown in my speech, Mr Speaker, is that the approach the Government took protected the Territory every inch of the way. The information that we have as a result of the \$107,000 is still useful. In fact, the only chronic waste of public money has been the enormous amount of time and effort that these debates in the

Assembly and the Estimates Committee have taken. Those opposite have whinged about the legal costs of \$12,000 to put the PA together and the deed of termination, and the work that was done in between. Mr Speaker, I have to tell you that \$12,000 is a drop in the ocean in comparison to what those opposite have cost the taxpayer as a result of a lot of useless questions that have proven nothing.

**MR QUINLAN (11.56):** I am a bit long in the tooth to have been elected into this Assembly and naively expect that everything I heard would be the truth, the whole truth and nothing but the truth. However, I did not expect to be deliberately and persistently misled on an important matter. I am in no doubt that, along with other members, I have been served misleading information in this place. I did not honestly expect to be so blatantly misled as I have been - as you have been - on the Kinlyside development at Hall. The rest of my remarks in this debate I direct to the crossbenchers as they will be the ones that decide as to whether we censure the Chief Minister and her deputy.

Mr Stanhope laid out considerable evidence of misinformation given time and again. If this was based on the Chief Minister's or the Deputy Chief Minister's lack of knowledge when, out of the Chief Minister's own mouth, they have admitted to having been reckless not only in what they said in this place but also in terms of the stridency and the deliberateness with which they delivered it, I have to say that I am underwhelmed by the Chief Minister's dissertation regarding due process, all of which seems to have occurred commencing around May this year when the jig was up. And I am underwhelmed to hear her taking credit for a lot of public consultation which was not initiated by the Government.

Mr Speaker, I genuinely doubt that there is anybody in this chamber who does not believe that misleading information was laid before this Assembly on several occasions in relation to the Kinlyside fiasco. Mr Stanhope's analysis demonstrates that this must have been quite deliberate or, at absolute minimum, reckless. The core misinformation here, the core deception, is not how many pieces of paper someone had, or controlled, or handled, or saw. The core of misleading this Assembly is in the explanation for the genesis of the Kinlyside project and the later reasons for its cancellation. The Ministers involved circumvented due process to the advantage of a single individual, an individual who was to bring very little of a capital nature to the project and would, in all probability, have made a considerable amount of money from it.

Let me be clear in restating that we do not in any way blame the developer for accepting an opportunity offered him. Business and enterprise are about seizing one's chances when they arise. We are, however, aware that a number of other developers were somewhat disgruntled, to say the least, at not being permitted to compete for this project. The exclusivity of this deal and the claimed developer's ultimate withdrawal were explained by the existence of three leases and the changing knowledge as to control over those leases. There were never three leases, even though we heard repeated claims to their existence. In fact, there was only one lease and it was revokable at a month's notice. That puts the lie to the original reasons for exclusive dealing with the developer and that puts the lie given for the reasons for the project's cancellation.

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Without the actual existence of three distinct leases - setting aside claimed confusion as to descriptions of tracts of land as to whether they were “leases” or “blocks” - answers to the questions delivered in this house must be untrue, untrue deliberately or untrue through reckless mishandling of them. With all the focus and intense questioning that went on for a long period, particularly by Mr Corbell, it beggars belief that the distinction between “block” and “lease” at important times, and the trouble that the Chief Minister and the Deputy Chief Minister seemed to have in using them in the correct context, was not picked up by the army of senior executives, public servants, personal staff and advisers supporting Ministers every question time.

We all see regularly the superstructure that supports a Chief Minister and the rest of the Executive. We are all conscious of the high calibre of those individuals, like Mr Mick Lilley, who hover during question time and the more important debates. One of the fascinations in sitting in this place during question time is to watch the ritualistic process of audience participation, the padding out of questions while the spins are contrived and the notes are delivered. During the more boring answers I sometimes attempt to estimate the hourly cost to the taxpayer of this level of support and suggest that one day we might implement a salary cap in the place.

I cannot and will never accept that at no stage did anyone in this structure inform the Chief Minister or her deputy of the mistakes they were continually making on a daily basis for weeks and weeks in this chamber and in public statements. To my mind, it is simply not possible. We are also being asked to believe that the Chief Minister and the Deputy Chief Minister not only suffered a little confusion using the terms “lease” and “block”, but also they did it the same way - an outstandingly extraordinary coincidence. They did it more than once in the same way. For their public statements to hold up, you have to believe that two seasoned politicians, one a former Planning Minister and the other the current Planning Minister in everything but name, made the same error on several occasions. That is simply not believable. But there is more.

The Under Treasurer, who seems to moonlight development deals for the Government, suffered the same confusion in the same way before the Select Committee on Estimates. Do you sense a pattern of deception? Of course you do. Further, we were later served the ultimate insult to our intelligence. The Chief Minister informed us that, even though the developer was withdrawing from the project, the Government would accept all the expenses because every item of the material received was reusable. What utter rot. It means that most of the lawyers in this world would be out of business because all contracts are reusable. What sheer arrogance. My understanding of the Westminster system of government includes the principle that misleading the parliament is the most serious of offences.

On Capital Hill, in the current term, we have seen a procession of cheats and liars exposed. Most of those cheats and liars acted not for personal gain but out of sheer arrogance - something we may have witnessed in this place. Most of them, usually after some resistance, have been put to the sword, and so it should be. This Assembly must show that it will not countenance deliberate or reckless misleading answers given to legitimate questions regarding the processes of government. This Assembly had inauspicious beginnings, with the troop of idiots that stood for election along with

the genuine aspirants, and it suffered because some of those idiots were actually elected and participated in government. It has struggled to establish credibility in the eyes of the ACT public. It must set itself the highest of standards and it must achieve and maintain those standards.

The whole Kinlyside affair is a grubby episode. It confers little credit on anybody, but it still must be faced squarely. It is a type of affair that I did not envisage having to address in this place, but I have no choice and neither does this Assembly. It cannot be ignored. The perception held by the public is all-important. Not only are we duty-bound to maintain standards of a civilised parliament but also we must ensure that people know and see exactly what we are doing. When I ultimately go from this place, I hope and trust there will be a little less distrust and less cynicism out there in the electorate. I believe one of the threats to good government in Australia right now is the rise of cynicism and disenchantment. If you look around, you can observe the consequences across Australia. I do not think I have to labour that point at this moment.

The censure motion is not merely a slap on the wrist, as some members may choose to describe it. (*Extension of time granted*) This censure motion is a pronouncement of the fact that this parliament, as should every other, will not tolerate Ministers who mislead it, whether consciously or recklessly, and a reaffirmation of the fundamental principle of truth, honesty and accountability in government.

We in opposition were derided somewhat for continuing to question the Government on its dealings in Kinlyside. We were told it was a dead issue, we should move on. But my colleagues Mr Stanhope, and Mr Corbell particularly, were scoffed at for the one specific issue relating to development because the Chief Minister was getting a bit sick and tired of it. I am glad we persisted because through our persistence we have both Ms Carnell and Mr Humphries making ministerial statements saying they misled, albeit inadvertently. That is their cop-out.

**Mr Humphries:** It is true. It happens to be true.

**MR QUINLAN:** Rubbish! I am also glad we persisted because I do not believe that the people deserve less, because there is an extremely important point to be made here. Kinlyside may not be important in itself to the people of Canberra but probity, due process, truthfulness, accountability and the integrity of government are very important, and that is what is vital in this debate.

So, members of the crossbenches, I seek your support for this motion. The evidence already put, and that to come, clearly demonstrates that the Assembly was misled on the origins of the Kinlyside project and on its cancellation. You surely cannot accept the extraordinary coincidences that are the Government's only defence. You must know that you have been misled by the Chief Minister and the Deputy Chief Minister on how this fiasco started and why it was dropped like a hot brick. Sure, we can make mistakes mixing "block" and "lease", but when we all do it together and it just happens to be a convenient response to questions asked in this place it is, at minimum, reckless. I seek your support and I challenge any of the crossbenchers who may be disposed to supporting the Government to stand in this Assembly and refute the case that has been made.

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**MR CORBELL** (12.10): Mr Speaker, the terms of the motion before the Assembly this morning are quite clear. The motion moved by the Leader of the Opposition proposes that the Chief Minister and the Deputy Chief Minister deliberately or recklessly misled this Assembly in relation to the Hall/Kinlyside development. That is the matter on which every member in this place must vote. You have to decide whether or not the misleading activity of the Chief Minister and Deputy Chief Minister was either deliberate or reckless because that is the proposition that has been put to you by the Leader of the Opposition and by other members on this side of the chamber.

I come now to one of the most substantive and most important questions in this debate. That is the question as to whether or not the reason the Government gave for entering into the Kinlyside land deal was correct. We know that it was not. That was what the outcry was about. That was what the concern was about in the community. That was what the concern was about in this place. The question that this Assembly must ask is: Was the reason the Government gave for entering into the Kinlyside land deal true? Mr Speaker, we know it was not. When you go through and look at all the documents associated with this deal, you see very clearly that at no stage until this matter became public was the issue of leases even contingent on the Government entering into the deal. At no stage was it contingent. At no stage in the documents that we have seen released through FOI was it clear that leases had anything to do with it.

**Ms Carnell:** It had a map of the whole of Hillview attached to the PA.

**MR CORBELL:** Mr Speaker, I ask you to call the Chief Minister to order.

**MR SPEAKER:** Order! Please continue, Mr Corbell.

**MR CORBELL:** Labor's criticism has always been that there was no reason to enter into an exclusive agreement. At no stage did the Government present a clear reason until they were questioned about it.

Mr Speaker, I come to a few interesting points. I will outline this morning how the Government misled this place. They claim that they do not understand the difference between leases and blocks and they claim that they had no knowledge of the status of those leases when they entered into the agreement. That is the claim they have put to us today. I draw the attention of the Assembly to a document written by Mr Gary Humphries when he was the Minister for Land and Planning to Mr Bill Kearney, the president of the Hall and District Progress Association. I quote from the document:

I understand the Boltons' lease is over the area now known as Block 630 (as shown on the attached plan) and is leased on a month to month basis.

You would think, would you not, that this document showed that the Government understood very clearly what the status of the land was. In fact, Mr Humphries says, "I understand the Bolton lease is over the area now known as block 630". In this letter Mr Humphries shows he understands very clearly what land is covered by the Bolton lease and what blocks are covered by the Bolton lease. When did he write this letter?



He wrote it on 14 August last year. He knew what the status of that land was before the preliminary agreement was even signed because there it is under his signature. The Government cannot stand up in this place and suggest that they did not understand the difference between blocks and leases. They cannot stand up in this place and suggest that they entered into a deal not knowing what the status of the land at Kinlyside was because it is under Gary Humphries's signature on this letter. If it has not been tabled already I seek leave to table that document.

Mr Speaker, we know that when the Government entered into this deal they had no reason for justifying exclusive access, exclusive rights, to Mr Whitcombe. The exclusive rights came afterwards when the deal was exposed under public scrutiny. That is when they had to justify it. That is when they had to explain their actions. They hoped that it would never become public. They hoped that they would just be able to announce the joint venture and everything would be hunky-dory.

Mr Speaker, the bizarreness of this deal is incredible to behold. The bizarreness of it is that they think that because someone holds a lease with nil tenant rights that gives them some sort of exclusive right to negotiate. We questioned this back in the Urban Services Committee hearing. We asked: What rights does someone have to a development on their land if they hold a lease with nil tenant rights which has already expired and is being renewed on a month-to-month basis? The Government, very kindly, went to the Government Solicitor and gave us some advice on that. The Government Solicitor said that rights granted under this Act are not significant. I quote:

However, the mere fact that the lessee has occupied at least part of the land since 1980, this does not give the lessee any greater rights than those set out above.

It is fairly clear that that shows that the lessee had no rights - he had nil tenant rights - to develop the land. That is what a leasehold system is about, as I am sure Mr Moore knows. I hope Mr Moore does not stand up in this place and sanction an activity which has basically undermined the whole principle of how leasehold works and has undermined the whole principle that you do not have presumptive rights in a leasehold system. I am sure Mr Moore knows what I mean when I say that.

Mr Speaker, the Kinlyside land deal was entered into for no reason at all. The excuse the Government gave was not an excuse. The leases never existed. Standing up here and saying "blocks" and "leases" and "we confused them" is just not credible, Mr Speaker. It is not a credible argument in any sense because they had no reason for entering into this land deal. The fact that they gave us that as the reason is the mislead. To mislead us into the reason for entering into the deal and then leaving the deal is the mislead, Mr Speaker. The Government should be held accountable for that because they clearly had knowledge of the status of the land. They clearly had knowledge of the status of the land before they entered into the deal. But that was not the reason for entering into the deal. It only became a reason when they got caught out.

The final point I want to make, Mr Speaker, is this: The Government apologised on this matter only when they were caught out. The Government apologised on this matter only when they could no longer sustain the argument they had made. They apologised on this matter only when they were caught out in questioning in estimates. For three months, in 21 questions and one notice of motion in this place, they maintained the line until they were caught out and they had to apologise. That is not acceptable. The fact that they were caught out is reason for them to be censured in this place. They did not come clean until they were forced to do so, but for three months they wilfully, persistently and either deliberately or recklessly misled this place. They deserve to be censured for that.

**MR STEFANIAK** (Minister for Education) (12.20): I have listened fairly intently to the last few speakers in this debate and I really think people need to have a good understanding of the serious nature of the motion and the meaning of the words “deliberately or recklessly misleading the Assembly”. Those are very powerful words, Mr Speaker. From everything that I have heard today there is nothing which indicates to me that either of my two colleagues on this side of the house has done anything remotely like that. To deliberately mislead or deliberately do any act, Mr Speaker, is to have a conscious knowledge of what you are doing and intend the consequences of your act. “Reckless” is very similar, I think, in terms of how it is phrased here, to the criminal use of the word. “Reckless” is different. For example, I give a couple of examples which Mr Rugendyke and Mr Osborne might well appreciate, both being former policemen. I remember a case where I prosecuted a person for deliberately driving at another person, causing that person malicious injury. He was charged, I think, with attempted murder and malicious injury as the back-up charge. That was a deliberate act. It was quite plain from the evidence in that case - and there was substantial evidence - that he had deliberately tried to hit and seriously injure, at the very least, that person. An example of a reckless act, Mr Speaker, might well be a person charged, again, with murder, for reckless indifference to human life, who deliberately drove into a crowd of people at 60 kilometres an hour. That is a good example, I think, Mr Speaker, of a reckless act. What have we here that remotely indicates anything that either the Chief Minister or the Deputy Chief Minister has done to deliberately or recklessly mislead the Assembly on any of these issues? These issues have been done to death by the Opposition month after month since the establishment of this Government.

Mr Corbell made what I regard as a rather amazing allegation that quite clearly my two colleagues knew the status of the land before entering into the deal. How on earth can he say that? We have gone through all this process, all this debate, all the documentation, all the angst that has been caused by this matter and all the questions and comments made by the Opposition over many months. Why go through all of this process if they knew about that at the start? It defies logic. Nothing the Opposition has put up today has indicated one iota of proof to substantiate the very serious nature of the charges it is bringing against the Chief Minister and the Deputy Chief Minister - absolutely nothing at all. That is something the crossbenchers need to look at very carefully. There is absolutely nothing to indicate that there is any proof whatsoever behind the particular charges brought by the Opposition.

Mr Speaker, the Chief Minister in her speech has completely rejected the Opposition's assertions that the unintentional confusion between the use of the words "blocks" and "leases" was indicative of any fundamental breakdown of proper process. I note that the couple of speakers for the Opposition so far are still using that as an indication of impropriety by the Chief Minister and the Deputy Chief Minister. Mr Stanhope himself - and I will say it again; it has been said a few times - indicated that he has confused "lease" and "block". Mr Stanhope, of course - as are the Deputy Chief Minister and I - is a lawyer. One would expect that he would know better, but he has confused it. He admits that. I cannot see the point there. As soon as that confusion was obvious to my two colleagues, they apologised. They wrote to members of the Assembly and indicated that, as is right and proper.

The Chief Minister in her speech has indicated that few commercial arrangements have met the due diligence requirements embedded into the preliminary agreement between the Territory and Hall Real Estate. She has challenged the Opposition to produce comparable documents that they used when in government. We have already heard some discussion today about the Harcourt Hill development, a development in which, if people look at the latest budget, we had to put in, I think, an extra \$3.3m as a result of stuff-ups made by the then Labor Government in terms of that less than perfect joint development.

**Ms Carnell:** And how much money have we put into Kinlyside now?

**MR STEFANIAK:** Nothing in this budget. The figure I have seen in terms of any cost is a little over \$100,000. That is very different from \$3.3m. That is very different from the potential loss of about \$20m that could occur in relation to that joint development which, again, was less than perfect. I seem to recall that was not necessarily the only occasion that the Opposition launched into joint ventures. They entered into exclusive joint venture arrangements, with no effective process to protect the Territory's interest. Nothing done in the past by the previous Government could match the protection and due process that my colleagues the Chief Minister and the then Planning Minister insisted on. What they agreed was that the concept had merit and should be pursued further.

I would suggest that, whatever the innate problems or otherwise with this particular concept, or whatever has transpired in terms of who actually owned leases, blocks or whatever, the concept was put up and it was decided it had merit and should be pursued further. When one looks at the Assembly debate at the end of May this year, when the majority of members of the Assembly actually accepted that rural residential was a good idea, one finds that the Assembly tended to back the fact that an idea of this kind indeed had merit. It is quite plain, from all that has occurred, that my colleagues recognised the important environmental planning and heritage issues that must be addressed and established a process, in fact, to ensure that they were addressed. I understand that a letter to the Planning Minister on 26 June last year emphasising the Chief Minister's approach to the matter has been tabled in the Assembly. I quote from the letter:

I believe it is important that the government move quickly, within current planning guidelines, to determine the viability and suitability of such a development.

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I stress “within current planning guidelines”, Mr Speaker. I understand also that the Chief Minister asked that the matter be assessed and potentially progressed, if it were approved. At no time did the Government seek to short-circuit the proper planning processes or pre-empt the outcome of those particular processes. The decision to request that the matter be assessed was made to provide an opportunity for the community to have a rural residential lifestyle in the Territory, if this could be achieved within statutory planning guidelines, without having to go across the border to achieve this. A number of steps were taken, including a number of meetings called by various groups, and a lot of debate was had at an early stage in relation to this.

In agreeing that the proposal be assessed, my colleagues gave a very high priority to ensuring that it put in place adequate measures to protect the Territory’s interests while the proposal was being further developed. The arrangements also ensured that the Boltons’ long association with the district was recognised and acknowledged. Mr Speaker, looking at everything that has occurred to date, I do not think there is any inkling of any proof that the Chief Minister or her deputy, Mr Humphries, has done anything that could be remotely construed as deliberately or recklessly misleading the Assembly. Indeed, when there were any matters discovered which were not quite as they might have seemed initially, including who owned the actual land in question, the Chief Minister was very forthcoming in admitting that at the earliest available opportunity. When both my colleagues felt that they might have misconstrued the words “block” and “lease”, they wrote to each and every one in this Assembly making that point well and truly known; and today they have made statements, as they indicated they would, to rectify the matter. Quite clearly, Mr Speaker, these charges - in fact, they are somewhat outrageous charges - by the Opposition have not been made out.

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

That the debate on this motion be adjourned and the resumption of the debate be made an order of the day for a later hour this day and have precedence of other notices and orders of the day.

**Sitting suspended from 12.29 to 2.30 pm**

## **QUESTIONS WITHOUT NOTICE**

### **Hepatitis C**

**MR STANHOPE:** Mr Speaker, my question is to the Chief Minister. The Chief Minister will recall announcing on 15 August 1997, when she was Minister for Health, a public information forum on the prevention and management of hepatitis C. Given that she was undoubtedly well briefed by her department on the issue, does the Chief Minister stand by reports in the *Canberra Times* of 19 and 20 August that she was never informed of the use for transfusions, between 1985 and 1990, of blood contaminated by the virus?

**MS CARNELL:** Yes.

**MR STANHOPE:** Thank you, Chief Minister. I have a supplementary question, Mr Speaker. I refer to the Chief Minister's media release of 24 September 1996 when, as Minister for Health, she announced that the 1996-97 budget would provide \$250,000 to develop a comprehensive hepatitis C prevention and management program. Will the Chief Minister reaffirm that, in the development and implementation of that program, officials did not brief her about the contaminated blood issue?

**MS CARNELL:** No, they did not.

### **ACT Prison**

**MR HIRD:** My question is to the Minister for Justice and Community Safety, Mr Humphries. I was interested to read in the *Valley View* comments made by Mr John Hargreaves, a member of a committee which I am on - that is, the Standing Committee on Justice and Community Safety - that the new ACT prison will not be located in Tuggeranong. Mr Hargreaves made this statement because three of the four committee members represent the seat of Brindabella and therefore would not allow the prison to be sited within their electorate. Can you inform the parliament, sir, whether or not this is the case?

**MR HUMPHRIES:** Yes, Mr Speaker, I can.

**Mr Kaine:** Obviously the answer is no.

**MR HUMPHRIES:** The answer may well be no, Mr Speaker. The comments made by Mr Hargreaves have much veracity, but I will come back to that in a moment. I also read the article in the *Valley View*. I will read it to members so that they know what it said:

A further indication that a prison would not be constructed in Tuggeranong came, Mr Hargreaves said, because three of the four members on the committee considering possible sites were Brindabella MLAs, including himself, chairperson Paul Osborne and Trevor Kaine who were all likely to oppose a prison in Tuggeranong.

So, Mr Speaker, I do not know. I would have thought, given what the people of Cooma have been saying lately about losing their gaol, that people in any electorate in the ACT would be quite happy to have a prison offering employment within their region, but that is another matter.

Mr Speaker, the article is incorrect. The Government has not made any decisions about the final site for a prison and we are not ruling any location out. I must say I was appalled by the lack of judgment shown by Mr Hargreaves in the comments he made to the *Valley View* and his subsequent public statements on this issue. To assert that members

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representing one particular area of Canberra, in this case Brindabella, would automatically discriminate against Canberrans living in other electorates is something that should be offensive to all members in this place. At the very least, both Mr Osborne and Mr Kaine should be concerned about being impugned in this way. I am sure that they are. Statements such as this do nothing for the integrity of Assembly processes and for all of us as members.

Instead of apologising, Mr Speaker, this issue has been compounded by Mr Hargreaves's approach in this matter. Instead of apologising for having made these comments, he compounded the problem by making a somewhat astounding public statement. In a letter to me from the chair of the committee, Mr Osborne stated that Mr Hargreaves's version of events was that he, Mr Hargreaves, and I quote, "was informed of the likely choice of sites by the *Valley View*'s reporter who advised he was given this information by a spokesman from Mr Humphries's office, Mr Keenan". Mr Speaker, I have here a statutory declaration from Mr Keenan.

**Mr Berry:** Ha, ha, ha! He is miffed, is he?

**MR HUMPHRIES:** I have more about this. I would not laugh if I were you, Mr Berry. In this statutory declaration Mr Keenan asserts that he did not disclose to a reporter from the *Valley View* or anybody else possible sites for the prison which were discussed by the Justice and Community Safety Committee, and in any case could not have done so because he was not aware of potential sites and had never seen any ministerial briefing provided to me on this subject. I table that statutory declaration for members' interest.

Mr Speaker, one might be forgiven for thinking that this is a case of Mr Hargreaves's word against Mr Keenan's. However, I also have with me a letter from Mr Joe Murtagh addressed to Mr Keenan in my office. Mr Murtagh is the senior journalist who wrote the story in which Mr Hargreaves made his original remarks. There is silence on the other side, suddenly. I quote:

... this is to confirm that you -

that is, Mr Keenan -

did not, at any time, provide me with a list of possible sites being considered by the ACT Government for the location of a prison in Canberra.

Mr Murtagh goes on to state:

I did not, as Mr Hargreaves claims, tell him that you -

that is, Mr Keenan -

provided me with a list of sites.

He further adds that, although he cannot be 100 per cent certain, he strongly suspects that it was Mr Hargreaves who named the possible sites for the prison.

Mr Speaker, I think the Assembly, and particularly the Justice and Community Safety Committee, demands or deserves an explanation for this. Unless both Mr Keenan and Mr Murtagh are lying - I have to say that I find that prospect to be unlikely - Mr Hargreaves should explain to the Assembly why he has made those statements which contradict the statements made both in the media and to the JACS Committee, the information that I have here that I have placed before this place.

Mr Speaker, we are considering at the moment a motion of censure of Ministers for misleading. I ask members on that side of the chamber to ask themselves what sort of standard they are setting for themselves, and whether it is the same as the standard being set for members on this side of the chamber.

**Mr Berry:** Mr Speaker, I take a point of order. The Minister is anticipating debate.

**MR SPEAKER:** There is no point of order.

### **ACTTAB**

**MR QUINLAN:** My question is to the Chief Minister in her role as Treasurer and it relates to the PKF consulting scoping study on ACTTAB. There was a range of values mentioned in that report. The values ranged from \$14m through to about \$42m. Will you concede that at \$42m there would be a return on capital of something like 4 per cent, all other things being equal, and therefore that is not a realistic number at all? Could you let us know whether there is any indicative reserve price on the enterprise? Is there any reason yet to reach the light of public gaze that would encourage any entrepreneur or enterprise to pay anything more than \$14m for ACTTAB?

**MS CARNELL:** Thank you, Mr Quinlan, for the question because it again shows an absolute lack of understanding of what the Government is doing in this case. As everybody, apart obviously from those opposite, is aware, TABs right around Australia have either been sold, are on the market, or governments are looking at putting them on the market any minute. Why would this be so, Mr Speaker? Why would the New South Wales Labor Government sell their TAB? There is absolutely deathly silence from those opposite.

**Mr Kaine:** To make a quick quid?

**MS CARNELL:** Well, that could be right. A quick quid indicates, Mr Kaine, that there must be buyers out there, does it not? There must be people out there who are interested in investing in TABs generally. The fact is that a number of people have indicated that they are interested in our TAB. In the scoping study one particular consortium made their interest known in writing.

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Mr Speaker, I do not believe it is appropriate for anyone in this house to determine what somebody may or may not be willing to pay for the TAB. I have to say that at this stage the Government has not made any decision to sell it. On that basis it is very hard to make a comment on what people may or may not pay. We have had discussions with all of the relevant stakeholders. What is interesting is how few relevant stakeholders we have. I think we had seven submissions to the scoping study - seven altogether. We had a round table last Monday week. Mr Humphries and I, as shareholders of ACTTAB, were there. We asked the stakeholders around the table whether they would be interested in having bilateral discussions over the next few weeks with Treasury officials to further discuss the issues that they had with regard to a possible sale of ACTTAB. So far two people at that meeting have made appointments. The lack of interest is absolutely stunning at this stage in terms of people having a fundamental opposition, as those opposite do, to selling anything.

Still, back to square one, Mr Speaker; the Government has not decided at this stage to sell the TAB. We are in the process of discussions with various stakeholders, very few as they may be. We plan to have another round table in about three weeks' time with the stakeholders who are interested in being there, at which stage we will look at all of the issues, including the most important issue from our perspective and that is jobs in the ACT. At that stage we will make a final decision on what we may do. If by any chance there are no buyers out there offering a reasonable price, then fairly obviously it will not be sold.

Mr Speaker, I honestly do not know where those opposite are coming from on this. I think they have a fundamental view that any government asset must never be sold, no matter what. That means it is better to see a government asset go broke, it is better to see something end up not worth a cent, than it is to sell it. I think that is a very naive view, and a view that shows ideology that is at odds with any commonsense at all. Obviously there are times when assets should be sold and times when they should not be. At the moment we are having discussions with the stakeholders. We are looking at the issues, as those opposite should do, Mr Speaker. But they do not want to have a look at the facts. They just want to rule it out.

**MR QUINLAN:** I have a supplementary question. Does the Chief Minister concede that, to support its conclusion, the PKF report depends almost entirely on discontinuation of or substantial reduction in the racing development fund contributions?

**MS CARNELL:** No, Mr Speaker. My understanding of the report is that it indicates that the current level of the racecourse development fund should be kept in place for the next three years, at which stage negotiations should occur to determine how to put it together or how it should be done after that time. My understanding is that the PKF report indicates that possibly the Government should look at some form of incentive payments to the racing industry generally. It was interesting that in our discussions with the various parts of the racing industry they were certainly not ruling out incentive payments. They certainly did want to be confident of their future funding, as any organisation would. They did not seem to be worried about an incentive approach at some stage in the future as long as they had a basic grounding upon which to work.



### **Manuka - Car Parking**

**MS TUCKER:** My question is directed to the Minister for Urban Services and it relates to the Manuka car park development. Minister, you will be aware that one of the conditions for the original approval for this development was that the developer would provide 140 car parking spaces for shoppers while the building is being constructed. It came to my attention last week that this requirement has probably never been met and that the amount of car parking was recently reduced to about 80 spaces. However, the developer of the site, Barry Morris, has stated to the media that the original development approval had been superseded by another approval and that this latest approval does not contain the requirement for 140 car parking spaces. This new approval was certainly news to those members of the community who have taken a close interest in this development. Could you therefore please explain the basis of this new approval under the Land Act, and what changes have been made to the original approval?

**MR SMYTH:** Mr Speaker, I thank Ms Tucker for her question. The issue of parking at Manuka has been the subject of a lot of interest since the development began. The original PA and the approval that Mr Humphries as the then Minister gave included the requirement that 140 car parking spaces would be provided. It also set out, I believe, a schedule of how that would be provided and at that time it depended upon various parts of the development site being available for use as parking. One of the parts of the application was that the two substations that provide power to all of Manuka would be able to be developed one at a time. It is now apparent that both substations will have to be built at the same time and this has necessitated the loss of some of the parking. PALM has been working very well with the developer on this and in conjunction with the traders. There was a meeting today with the traders to discuss options on the siting of parking and 140 places will be provided.

**MS TUCKER:** I have a supplementary question. I did not understand from your answer whether another agreement was being signed. If another agreement has been signed, could you please table it? If another agreement has been signed, does this mean generally that the community should know, in future, that any agreement between government and developers must be seen as able to be amended or basically as a work in progress?

**MR SMYTH:** The issue here is that under the original development it was intended that both substations would be developed one after the other. Apparently now, on advice from ACTEW, the developer has to develop the two substations together. In his initial PA some of the parking would have remained on the site. That is now not able to happen simply because they have to develop both areas at once. What we will do now is vary the original agreement so that there are still 140 parks, probably none of which initially will remain on the site.

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### **Yarralumla Brickworks**

**MR CORBELL:** Mr Speaker, my question is to the Deputy Chief Minister. Deputy Chief Minister, on ABC radio 2CN on 17 July this year you told an interviewer this in answer to a question about the proposed redevelopment of the Yarralumla brickworks by Allied Projects:

No, as far as I'm aware Cabinet never discussed the matter, although obviously I discussed it at several stages with my Cabinet colleagues.

Deputy Chief Minister, can you confirm that the Government did, in fact, give in-principle agreement to the project in 1996? Was this agreement made by the Minister, your party room or the Cabinet? What planning processes were used to progress the proposal?

**MR HUMPHRIES:** Mr Speaker, yes, I can confirm that that decision was made by Cabinet. I rang the ABC back after my interview, after I had been advised that that was the case or reminded that that was the case, and advised them. I do not know whether they ran a correction subsequently to indicate that was the case, but, as is always the case with members of this Government, if we make a mistake we correct it at the first available opportunity.

**Mr Berry:** Can we expect another letter?

**MR HUMPHRIES:** I did not mislead the Assembly. I misled the ABC.

### **Wine Industry**

**MR WOOD:** Mr Speaker, my question is to the Chief Minister. Chief Minister, what are the outcomes of the feasibility study into the region's wine industry commissioned by ACT AusIndustry in early 1997? Among other matters, did the study recommend establishment of an ACT wine industry network and for the network to begin operations to market regional wines from an inner city shopfront? Further, what was the reaction of the region's wine industry to the proposal to establish the network?

**MS CARNELL:** I will take that question on notice, Mr Speaker.

**MR WOOD:** May I add some more to the notice that she will take?

**MR SPEAKER:** Yes, you may.

**MR WOOD:** Would you look at a possible conflict of interest in that the person who managed the feasibility study for the project for ACT AusIndustry and who remains, I understand, under contract to the Chief Minister's Department is the same person who is likely to operate the venture?

**MS CARNELL:** I will take it on notice, Mr Speaker.

### **Marketing and Promotion Campaign Contract**

**MR KAINE:** Mr Speaker, I have a question to the Chief Minister. Chief Minister, I go back to some questions that I asked you in May about the Canberra branding campaign. Part of my question which you did not answer and which I would now like you to address was whether any person acting for the ACT Government and involved in the negotiations of the contract with J. Walter Thompson was paid any fee for doing so. If the answer is yes, can you say to whom it was paid and how much was paid?

**MS CARNELL:** Mr Speaker, I think that the people who work for the ACT Government are paid salaries.

**Mr Kaine:** That is not my question, Chief Minister.

**MS CARNELL:** Well, you said somebody working for the ACT Government.

**Mr Kaine:** Yes, I asked were they paid any fee for their service.

**MS CARNELL:** Over and above what they are paid in their salaries?

**Mr Kaine:** Well, what do you think the question meant?

**MS CARNELL:** I do not know.

**Mr Kaine:** Mr Speaker, I think the Chief Minister is being deliberately obtuse, and I draw attention to the fact that she failed to answer this question before. I am now putting it quite bluntly, and I will repeat it if the Chief Minister requires me to do so. Was any person working on the side of the Government in negotiations with J. Walter Thompson paid any fee for being involved in those negotiations? If so, who was paid and how much? I think that is a pretty specific question.

**MS CARNELL:** Well, Mr Speaker, I assume that Mr Kaine means somebody who is not an ACT Government employee. Is that a fair statement?

**Mr Kaine:** Well, it may be a government employee or it may be somebody who is not. I am asking you the question.

**MS CARNELL:** Mr Speaker, certainly not to my knowledge. I certainly will, but again, provide information for Mr Kaine, as I have in the past, on the whole payment schedule of the people who have been paid with regard to the Feel the Power campaign. I thought I had provided that information before, but I am happy to provide it again.

**MR KAINE:** I have a supplementary question, Mr Speaker. Chief Minister, in answer to my earlier question in May you said that the Government up to that point had paid a total of about \$10,000 to J. Walter Thompson in licence fees. Can you tell me how much has been paid until today?

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**MS CARNELL:** Until today? Mr Speaker, I have to take that on notice if it is until today.

**Mr Kaine:** Well, make it last Friday. I do not mind. Last Friday will do.

### **Possession of Document**

**MR BERRY:** My question is to the Deputy Chief Minister in his capacity as the Minister for Justice and Community Safety. Minister, I hope you will think very carefully before you answer this question. Have you ever seen, received a copy or part copy, or had in your possession or in your officers' possession, a copy of the Ayers report?

**MR HUMPHRIES:** I can answer that question and say yes, I have had a copy of the Ayers report.

**MR BERRY:** I have a supplementary question. Will you table a copy of the Ayers report in this Assembly?

**MR HUMPHRIES:** No.

### **SACS Award**

**MR RUGENDYKE:** Mr Speaker, my question is to Mr Stefaniak, the Minister responsible for youth and family services. This year's budget shows that no funds have been made available to community and non-government agencies to assist with the imminent implementation of the SACS award. Minister, what contingency plans are in place to assist with the implementation of the SACS award?

**MR STEFANIAK:** Mr Speaker, I thank the member for the question. The implementation of the SACS award and the payment of salaries in line with the new award structure is very much a management responsibility of the non-government organisations. The Government regards the provision of services for non-government organisations as crucial and we have put in place purchasing initiatives to clarify and also strengthen that role. The service purchasing contracts that have recently been finalised with a number of non-government organisations certainly take into account, Mr Rugendyke, the services that are being provided to our community and the non-government organisations' ability to provide services that are inclusive of the costs of applicable industrial awards.

Since October 1995, in fact, boards of management have been strongly encouraged to consider various effective efficiency measures within their existing funding levels to meet any additional costs associated with the implementation of the award. Some of the things that they have been looking at and doing include reviewing staffing and operational structures, making significant attempts to achieve administrative efficiencies,

undertaking robust negotiations in terms of staff management, and completing a reasonable transition of each position to the appropriate level under the SACS award. I must say, Mr Rugendyke, that I am aware of a number of instances in the past where they have been given some assistance, too, by this Government, and that includes some financial assistance.

Education and Community Services and Health and Community Care have also jointly funded the Chamber of Industry and Commerce to provide information as well as assistance to non-government organisations to complete the transition process. Additionally, the ACT Council of Social Services and the Youth Coalition of the ACT have been funded to develop and deliver a training program for the boards of management and also the service directors. Those will cover such areas as the implementation of the SACS award, implementation of the Work Relations Act and the implementation of service purchasing arrangements.

Mr Rugendyke, I am also aware that the SACS award is still a bit of a moving feast. It is not by any means completed yet. There are a number of other issues which are still being argued out in the commission. One thing obviously that worries individual organisations a lot is penalty rates. I am also aware that there are matters that have been put before the commission in terms of the differences between New South Wales and the ACT; and how it is actually operated in the ACT and whether, in fact, some of those things should be taken into account in terms of the award. So the award itself and the ramifications in relation to it have not been finalised as yet, and obviously, Mr Rugendyke, that is something the Government is going to monitor very closely.

**MR RUGENDYKE:** I have a supplementary question, Mr Speaker. Minister, can you give the Assembly an assurance that funds will not be withdrawn from some smaller agencies to fund the implementation of the SACS awards of some larger agencies?

**MR STEFANIAK:** Mr Rugendyke, you are probably aware that fairly recently, I think, I announced a whole series of grants in relation to one of the community service programs. That was as a result of applications made and assessed. I do not recall any organisations being defunded. We treat all the applications on merit. To take money away from an organisation that is providing a recognised worthwhile service so that perhaps some other organisation can be funded is not something which I would think would be looked on very favourably by the committee that looks at giving out the grants. That is not a consideration in terms of what additional funds might be made available. That is another question entirely, Mr Rugendyke. Defunding a good organisation doing its job properly in order to fund another is certainly something that I do not think any committee that I have ever been associated with would look terribly favourably at.

### **Release of Prisoner**

**MR HARGREAVES:** I address my question to the Minister for Justice and Community Safety, at the moment my favourite Minister. On 28 May, coincidentally and irrelevantly the anniversary of Mr and Mrs Luchetti of Isaacs, who happen to live in your electorate - I am sure you would like to send them congratulations - in answer to a question from me,

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the Minister denied that the procedural breakdown in the release from Cooma Gaol of an ACT prisoner occurred at the ACT end of the process. I will say it again; the Minister denied that the procedural breakdown in the release from Cooma Gaol of an ACT prisoner occurred at the ACT end of the process. In the *Canberra Times* of 6 June the chairman of the ACT Parole Board was quoted as saying that "a lapse occurred" in the ACT procedure. Can the Minister tell the Assembly who is correct, him or the chairman of the ACT Parole Board?

**MR HUMPHRIES:** Mr Speaker, we are both correct. I have not got a copy of my brief from before here today but I will try to explain to members as well as I can from memory what the circumstances were. There is a procedure at the end of a non-parole period for the Parole Board to consider an application for parole from a person who is eligible. That generally happens at the time when a non-parole period finishes. Having considered such an application the board will either refuse it or accept it and convey the information to the New South Wales gaol system. There then will be a release of the prisoner, if a parole order is granted, out of the custody of the New South Wales prison system.

In this case it is true that, at the point where a consideration of the parole application would normally have been made, there was not a consideration of that person's application for parole. In other words, it would normally have occurred at a certain time, but it did not occur at that time. I understand that, because of some problem with the organisation of the area there, it was not considered by the board at the time it would normally have been considered. So that much is true; what the Parole Board chairman has said is quite true.

However, that failure to consider has nothing to do with the fact that the New South Wales gaol system subsequently released this prisoner from gaol. It was not a case of the ACT Parole Board accidentally, for example, sending off an approval to release when they, in fact, had not released or anything of that kind. There was, in fact, no communication between the ACT Parole Board and the New South Wales prison system, yet this prisoner was released from the gaol without any order having been delivered to them.

As you know, they claim that they received a telephone call and released the prisoner on the strength of a telephone call. Mr Speaker, I think we all know that that sounds pretty unlikely. As far as I am aware, the investigation is still going on in New South Wales. I will be surprised if we ever find a definitive answer from that process.

Mr Speaker, I can say with complete confidence that whatever shortcomings there were with respect to the Parole Board's consideration of any application for this, they did not lead to the release of that prisoner; except possibly to the extent that you might say that the New South Wales gaol system might have assumed that at the end of the non-parole period an order for parole would have come through from the ACT Parole Board. That is a very strange assumption to make, given that people do not always get parole at the end of their non-parole period. It is a matter of discretion. That is why we have a Parole Board - to decide whether they are eligible for such parole. Possibly, because that period of non-parole had ended, the New South Wales officer responsible made an assumption

that it was okay to release that prisoner. But, Mr Speaker, that was not a decision made or conveyed or in any other way contributed to by anybody in the ACT, as far as I am aware. I have to say again that I think there is a very big question hanging over the New South Wales prison system to explain why a prisoner was released from their gaol when there was no legal authority to do so.

**MR SPEAKER:** Do you have a supplementary question?

**MR HARGREAVES:** Thank you, Mr Speaker. The Minister has not really answered the question.

**Mr Humphries:** Yes, I have.

**MR HARGREAVES:** The question I asked was who was right, the Minister or the chairman of the Parole Board?

**Mr Humphries:** And I said they were both right. There is no contradiction.

**MR HARGREAVES:** He said, "It was the New South Wales prison system". It has become clear to me, notwithstanding the amount of waffle - - -

**Mr Humphries:** Is there a question here, Mr Speaker?

**MR SPEAKER:** Question?

**MR HARGREAVES:** The question is coming very shortly, Mr Speaker.

**MR SPEAKER:** No preamble. Question please.

**MR HARGREAVES:** Yes, Mr Speaker. Given that the Minister has indicated, in my view and in the view of my colleagues here, a reckless disregard for this Assembly in not answering the question, will he now apologise to this Assembly for refusing to answer the question? The question is: Was it you who got it wrong or was it the chairman who got it wrong? We do not want to know about New South Wales.

**MR HUMPHRIES:** Mr Speaker, I am glad that Mr Hargreaves asked that question because it illustrates again the sort of standard which the Opposition is applying in debates like the one we had this morning. I have said to the house very clearly that what the Parole Board chairman said was not untrue; it was perfectly accurate. What I have told this house on that subject is also perfectly accurate. There is no contradiction between those two statements.

**Mr Hargreaves:** There is.

**MR HUMPHRIES:** There is not, Mr Hargreaves.

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**Mr Hargreaves:** There is.

**MR HUMPHRIES:** There is not. Now I am told I am misleading the house because I am not acknowledging what is going on in this area. Mr Speaker, that is the kind of woolly logic we are getting from the Opposition. You can understand why they are moving motions like the one that came up this morning. The fact is, Mr Speaker, that the ACT did not contribute to the release by the New South Wales gaol system of that prisoner. I think it is about time members on the other side of the chamber trained their sights on the New South Wales Government - they are members of the same party as the New South Wales Government - and asked it why it released our prisoner, without any authority, supposedly on the strength of a telephone call, into freedom.

**Mr Hargreaves:** Was it you or the chairman? It was you or the chairman. One of you is right and one of you is wrong.

**MR HUMPHRIES:** Mr Hargreaves, Professor Hambly is a very reasonable man. He taught me family law at university. I think he is a very distinguished academic and a very capable chairman of our Parole Board. Why do you not go and talk to Professor Hambly and see whether he confirms that there is any contradiction between what I have said - - -

**Mr Hargreaves:** Because I am asking you, Mr Humphries. I am asking you.

**MR HUMPHRIES:** Well, I have already told you, Mr Hargreaves. I have answered your question fully and completely. I have answered your question but you obviously do not believe me.

**Mr Hargreaves:** No, you have not. You have ducked it. It walks like a duck and it quacks like a duck.

**MR SPEAKER:** Order! Mr Humphries has the floor.

**MR HUMPHRIES:** If you do not believe me, go and talk to Professor Hambly. I think he will clear up your doubts.

### **ACT Survey Office**

**MR OSBORNE:** My question is to the Minister for Urban Services. Minister, my question is in relation to the ACT Survey Office. I have here a letter from the Chief Surveyor. It is in regard to a private company going on the list of consultants for them. The letter says that there is uncertainty regarding the future of the ACT Survey Office. Could you tell me what is happening with the Survey Office and whether or not it is true that the Government is considering selling it?



**MR SMYTH:** Mr Speaker, I thank the member for his question. Mr Osborne, most of the surveys that the ACT Government now does are done through Totalcare. I assume that is what you are referring to. I understand at this stage that there is talk of a staff buyout. That is all that I have been informed of, but I am happy to get you more information if you like.

**MR OSBORNE:** I take that to be a yes, that they are considering selling it. My supplementary question is this: In regard to PALM survey work, PALM management for 1998-99 say that 75 per cent of work will go to Totalcare and 25 per cent of the surveying work will go to the private sector. Has that started, and is that ratio something that you will make up towards the end of the year? Will you give the majority of work to Totalcare, or is it something that you are working on job by job? Do you understand the question?

**MR SMYTH:** Thank you for the supplementary question. An agreement was struck between PALM and Totalcare to give that survey work to Totalcare in order to ensure that the Survey Office could get up onto level pegging, an equal footing, so that it is ready for anything that happened in the future. Given that the staff have now offered to buy it out, I would have to check for you on the status of that agreement.

**Ms Carnell:** I ask that all further questions be placed on the notice paper, Mr Speaker.

### **Marketing and Promotion Campaign Contract**

**MS CARNELL:** Mr Speaker, for Mr Kaine's benefit, my briefing folder for today says that to date - I am not sure whether this is up to today or last week - licence fees totalling \$11,000 have been paid by the ACT Government to J. Walter Thompson, but I will certainly give an update to today as well.

### **PERSONAL EXPLANATION**

**MR HARGREAVES:** Mr Speaker, I seek leave under standing order 46 to make a personal statement.

**MR SPEAKER:** Proceed.

**MR HARGREAVES:** It is with some regret that I rise to counter the serious accusations levelled against me by those spin doctors opposite. I am amazed at the monumental hypocrisy shown by Mr Hird, who it can be proved has a very poor record of confidentiality on prison issues. I will firstly put before you the facts and then address the process by which those opposite - a process which has not only attempted to water down the seriousness of a censure motion, which is really what this is about - - -

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**Ms Carnell:** I raise a point of order, Mr Speaker. A personal explanation under standing order 46 simply cannot have a preamble.

**Mr Humphries:** That is right. It has to be succinct and to the point.

**Ms Carnell:** It must be kept to the point of what the personal explanation is.

**MR SPEAKER:** Indeed. You may explain matters of a personal nature but such matters may not be debated. Thank you, Mr Hargreaves.

**MR HARGREAVES:** Thank you, Mr Speaker, and thank you very much, Chief Minister and Deputy Chief Minister. Mr Speaker, the facts are that I responded to a question and a query from the president of the Tuggeranong Community Council concerning an imminent article in the *Valley View* regarding prisons. As I have indicated in my letter of regret to the chair of the Standing Committee on Justice and Community Safety, a copy of which I trust and I am sure was forwarded to the eminent chief law officer of this Territory, I did indicate to the reporter that in my opinion the prison would not be located in Tuggeranong. Whilst this remark was made in semi-jest, it nonetheless is indicative of my position as a member for Brindabella, a member of this Assembly charged with providing good government for the people of the ACT, and my position as a member of the standing committee charged with the responsibility of responsible consideration of all implications of justice.

It must be noted here and underscored that the matter of the siting of the prison had not at the time of my alleged transgression been referred to the committee. Indeed, it has not yet been so referred. Mr Speaker, I make no apologies for flagging with anyone my intention to represent Brindabella. I reject any accusation that I have transgressed a confidentiality which has been provided to the committee, or any committee on which I did not sit. The matter of siting was considered, I believe, by the Legal Affairs Standing Committee, and I was not an elected member during that time. I have not been privy to deliberations by or of that committee, and in my time on the Standing Committee for Justice and Community Safety the possible sites have not been discussed. To check my memory, I sought the advice from committee secretaries on whether my recollections were correct. They concurred with my recollections.

I have been accused of releasing material which was made available to the committee in private. I received no such information as a member of the committee. It is my recollection that I received information on siting from the reporter. The statutory declaration waved about by the Deputy Chief Minister refers to the reporter's recollection. Indeed, the reporter said in his letter that he suspects that I gave him information on the siting. So much for the statutory declaration! I am being accused of something based on recollections - sound legal practice from the ACT's first law officer! Well done, first law officer, and well done again. Mr Speaker, any transgression by a member of a committee ought to be dealt with in committee.

**Ms Carnell:** No, it should be dealt with here.

**MR SPEAKER:** Order! Proceed, Mr Hargreaves.

**MR HARGREAVES:** I must admit to being overawed by, and quite afraid of, the bullying from those people opposite. I am absolutely staggered by the absolute strength with which these people have tried to drown me out, and I accept your assistance, Mr Speaker. It is my recollection that I received information, as I have said, from these people. Mr Speaker, any transgression by a member of a committee ought to be dealt with in the committee. I have tendered an apology for being frivolous and a statement of explanation to the chair. This information was given in good faith and accepted by the chair and, I assume, by the members. Mr Hird opposite was sitting there at the time. There were no comments from any members that they had not accepted my explanations or were dissatisfied. Mr Speaker, I thought the matter rested there. It would appear not.

Mr Speaker, I need to clarify the issue by talking about precedents. My accusers accuse me on the flimsy basis of recollections and have provided no shred of proof that I had breached standing orders, yet they consider themselves so slighted by these recollections that they wish to pursue this. I remind members of the report from the Legal Affairs Standing Committee in September of last year, at page 2907, in which Mr Hird admits to providing the media with information given to the committee. On page 2909 the chair indicated that Mr Hird had not consulted with the committee. Mr Hird is a member of the Standing Committee on Justice and Community Safety. What abject hypocrisy!

**Mr Humphries:** Mr Speaker, members this morning were very keen to limit matters to relevance. If Mr Hargreaves is citing somebody else's wrong as justification for his own - - -

**Mr Osborne:** He was.

**Mr Humphries:** He obviously is.

**MR SPEAKER:** I uphold the point of order.

**MR HARGREAVES:** Mr Speaker, the personal explanation I am making here is that there is not one shred of proof that I have done what these people believe I have perpetrated. However, there is ample proof in *Hansard* that those opposite are far more guilty, and it can be proven. I cannot believe the abject hypocrisy of those people opposite.

**Mr Humphries:** Mr Speaker, it is well established under standing order 46 that members may explain a personal matter where they have been misrepresented or misunderstood but should not use that as a basis to start to attack other members. If Mr Hargreaves wants to change the rules, that is fine but he will need to amend standing orders before he has that privilege.

**MR SPEAKER:** Members may explain matters of a personal nature. The other problem is that we are getting into repetition.

**MR HARGREAVES:** Thank you, Mr Speaker. It is, however, significant that statements of personal explanation are in fact a defence mechanism.

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**Ms Carnell:** No, they are an explanation.

**Mr Humphries:** No, they are not.

**MR HARGREAVES:** Mr Speaker, may I address my remarks through you and not have to put up with the inane ramblings of those opposite in the meantime?

#### **PRISON SITES IN THE A.C.T. - VALLEY VIEW ARTICLE**

**MR OSBORNE:** Mr Speaker, might I seek leave as chairman of the Justice Committee to speak to the issue raised by Mr Hargreaves?

**MR SPEAKER:** Yes.

**Mr Moore:** It was a personal explanation.

**MR OSBORNE:** I have sought leave. I can talk all I like.

**MR SPEAKER:** Are you seeking leave to make a statement?

**MR OSBORNE:** Yes, Mr Speaker.

Leave granted.

**MR OSBORNE:** Mr Speaker, this issue was debated in the committee a number of weeks ago, and the majority of the members of the committee really have no problem with what happened. I have had discussion with Mr Humphries about it. As chair of the committee, I have complete faith in Mr Hargreaves being able to keep things close to his chest. I am aware of the circumstances behind this. When you compare them with what Mr Hird did last year, I think they pale into insignificance.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): Mr Speaker, I also seek leave to make a short statement on the same subject.

**MR SPEAKER:** Is leave granted for Mr Humphries on the same subject? All right. For continuity, I will allow that.

**MR HUMPHRIES:** Mr Speaker, I will be very brief. I want to put on record a matter that has not been cleared up by Mr Hargreaves's statement. That is the aspersion cast on a member of my office. I am not rising in my own right to make a personal explanation. I am rising on behalf of Mr Keenan. Mr Keenan is actually leaving my employ at the end of this week. He is going to pursue studies at Cambridge University in England, and he goes with my best wishes. He has been a very dedicated and hardworking member of my staff. I do not want him to leave with this cloud hanging over him.

The claim was made by Mr Hargreaves in committee that Mr Keenan had leaked information from my office to the *Valley View*. That allegation was denied by Mr Keenan in a statutory declaration, and it has been denied also by the *Valley View*. I would ask members to note that that is the case. That untruth should not be allowed to stand.

**MR HARGREAVES:** Mr Speaker, I would like to close this off if I may.

**Ms Carnell:** No, you cannot.

**MR HARGREAVES:** I will, thank you very much. Mr Speaker, can I have your ruling, please?

**MR SPEAKER:** Do you wish to make a statement?

**MR HARGREAVES:** I do, in relation particularly to that later statement.

Leave granted.

**MR HARGREAVES:** I wish the record to show that in no way have I suggested that either Mr Keenan or the reporter of the *Valley View* has acted improperly. You will not find that in any of the writings. I want that record absolutely certified. Thank you.

### ANSWERS TO QUESTIONS ON NOTICE

**MS TUCKER:** Under standing order 118A I would like to make a request to the Minister for Urban Services for an explanation as to why question on notice No. 30 that I placed on the notice paper on 24 June 1998 regarding sewerage maintenance in the ACT was answered only on 21 August 1998, well in excess of the 30-day period allowed.

**MR SMYTH:** Ms Tucker, unfortunately ACTEW is not in my portfolio. I consulted with the Chief Minister's office and approached ACTEW and got the answer for you as quickly as I could.

### STUDY TRIPS Papers

**MR SPEAKER:** For the information of members, I present reports of study trips undertaken by Ms Tucker, MLA, to Melbourne in November 1997; Mr Quinlan, MLA, to Sydney on 17 June 1998; and Mr Hird, MLA, to Sydney on 30 July 1998.

**AUTHORITY TO BROADCAST PROCEEDINGS  
Papers**

**MR SPEAKER:** Pursuant to subsections 4(3) and 8(4) of the Legislative Assembly (Broadcasting of Proceedings) Act 1997, I present an authorisation to broadcast given to government offices to receive broadcasts of committee proceedings and authorisations for a number of television and radio networks in relation to proceedings of the Select Committee on Estimates for the periods 20 to 24 July and 18 August 1998, proceedings of the Assembly today relating to the presentation of the report of the Select Committee on Estimates 1998-99 and the ministerial statement on the very high speed train service.

**PAPERS**

**MR SPEAKER:** I present the following papers:

Statutory Appointments Act, pursuant to subparagraph 4(1)(a)(i) -

Instrument of nomination, dated 4 June 1998.

Administration (Interstate Agreements) Act, pursuant to paragraph 7(a) -

Instrument of nomination, dated 20 July 1998.

Authorisation for the Tendering of Extract from Tabled Papers to Supreme Court in Manuka Business Association Incorporation & Ors v ACT & Anor, dated 14 July 1998.

**LEGISLATION PROGRAM - SPRING 1998 SITTINGS  
Paper and Ministerial Statement**

**MS CARNELL** (Chief Minister and Treasurer): For the information of members, I present the legislation program for the spring 1998 sittings and I ask for leave to make a statement.

Leave granted.

**MS CARNELL:** Mr Speaker, I am pleased to present the Government's legislation program for the spring 1998 session. This program continues the Government's commitment to provide the people of Canberra with a safe, fair and prosperous place in which to live and work. We propose to introduce a number of Bills which will deliver on the Government's objective of improving the accessibility and responsiveness of the criminal and civil justice systems to the community. A key measure will be a Bill to reform the criminal injuries compensation scheme to better target assistance provided

to victims of crime to enable them to recover from their injuries and to ensure that such assistance is more widely available. The responsiveness of the criminal justice system to victims of domestic crime will be further enhanced through a Bill to enable the making of out-of-hours protection orders.

The ACT's revenue laws form an important part of ACT statutes. Two revenue Bills will be introduced to address the potential weaknesses discovered as a consequence of a recent court decision and changes to Commonwealth legislation. An amendment will be made to existing stamp duty legislation to put beyond doubt the liability for duty of transactions which arise when a company buys back its own shares. This follows a recent adverse decision by the Victorian Supreme Court. Although the decision of the Victorian Supreme Court is not determinative of the meaning of the ACT law, as a safeguard measure the proposed amendments will be retrospective to protect revenue already collected over the years totalling in excess of \$4m. Amendments will also be made to the Debits Tax Act 1997 as a consequence of recent amendments to the Commonwealth's Cheques and Payments Orders Act 1986.

In addition, new stamp duty and taxation administration legislation will be introduced which will closely follow legislation already in operation in New South Wales. This will make it easier for Territory businesses operating across the border to understand and meet their tax obligations. The Rates and Land Tax Act 1926 will also be amended to strengthen delegation and investigation provisions to assist with increased compliance activity which will follow the land tax amnesty in respect of rented residential properties. The amnesty commenced on 1 July 1998 and is scheduled to end on 31 August 1998. Legislation will be introduced to implement the recommendations of the Government working party review of commercial and retail tenancies legislation. The Government is committed to enhancing the capacity of commercial lessors and tenants to resolve their disputes as fairly, quickly and inexpensively as possible.

The Government's commitment to improve the health and wellbeing of our community is also reflected in this legislation program. As announced by the Minister for Health and Community Care last week, we intend to introduce amendments to the Blood Donation (Transmittable Diseases) Act to provide access to compensation for those persons who have contracted hepatitis C in the ACT from a blood transfusion. Members would also be aware that the Mental Health (Treatment and Care) Act ceases to have effect from February 1999. The Assembly placed a sunset clause in the Act to ensure that it was reviewed. An extensive review and consultation process has commenced. The Government will introduce legislation after the review.

The legislation program being tabled is a small one, and deliberately so. The Government wishes to flag to members those legislative items which are regarded as important. The program indicates clearly those items of legislation which the Government regards as urgent and which should be passed by the end of the spring sitting period. I seek the cooperation of members in the timely consideration of those urgent Bills. From time to time, Bills may be introduced that do not appear on the program. These will generally not attract the same priority as those of which I have informed members today. I am sure that members will find the Government's legislation program extremely helpful in planning their own program and preparing for debate on relevant issues.

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I would like to restate the comments I made at the commencement of the autumn sitting period on the need for open communication in legislative planning and preparation for debate in this place. The Review of Governance of the Australian Capital Territory recommended:

In order to facilitate orderly business, and in order to allow for good financial management of the Assembly, non-Executive members should normally be expected, as the Executive is expected, to give notice of the bills that they plan to bring forward in each quarter.

I note that my colleague Mr Moore has stated his support for private members developing their own approaches to forward planning and his intention to do so himself. I trust the Opposition and all non-Government members will make similar commitments to ensure the effective and efficient use of the resources of the Territory and the Assembly in disclosing their legislative plans.

Mr Speaker, the silence of members on their legislative plans has a detrimental effect on the resources of the Office of Parliamentary Counsel. If members do not declare their legislative intentions, legislation may be developed which is unnecessary or duplicated. If all legislative priorities were disclosed, it would be possible for negotiation between members to occur at any early stage of drafting, which could also assist debate on Bills in this place.

Mr Speaker, I commend this paper to the Assembly and I do urge those opposite and members of the crossbench to think seriously about putting their legislative programs on the table to ensure that their Bills, as well as Government Bills, have an opportunity to be drafted in a timely fashion.

## **CULTURAL FACILITIES CORPORATION**

### **Paper**

**MS CARNELL** (Chief Minister and Treasurer): Mr Speaker, for the information of members I present, pursuant to subsection 29(3) of the Cultural Facilities Corporation Act 1997, the second quarterly report, for the period 1 January 1998 to 31 March 1998, of the Cultural Facilities Corporation.

## **SUBORDINATE LEGISLATION**

### **Papers**

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): Mr Speaker, for the information of members I present, pursuant to section 6 of the Subordinate Laws Act 1989, subordinate legislation in accordance with the schedule of gazettal notices circulated and notices of commencement as listed.



*The schedule read as follows:*

ACT Education Services for Overseas Students (Registration and Regulation of Providers) Act. See “Education Services for Overseas Students (Registration and Regulation of Providers) Act”.

Administrative Appeals Tribunal Act and Tenancy Tribunal Act - Determination of fees and charges - No. 97 of 1998 (G24, dated 17 June 1998).

Adoption Act - Determination of fees - No. 149 of 1998 (S173, dated 1 July 1998).

Ambulance Service Levy Act - Determination of fees - No. 154 of 1998 (S174, dated 1 July 1998).

Animal Diseases Act - Determination of fees - No. 139 of 1998 (S167, dated 29 June 1998).

Animal Welfare Act - Determination of fees - No. 140 of 1998 (S167, dated 29 June 1998).

Architects Act - Determination of fees - No. 161 of 1998 (S175, dated 9 July 1998).

Births, Deaths and Marriages Registration Act - Determinations of fees -

No. 116 of 1998 (S159, dated 18 June 1998).

No. 151 of 1998 (S173, dated 1 July 1998).

Board of Senior Secondary Studies Act - Instruments of appointment to the Board of Senior Secondary Studies - Nos 156 - 159 of 1998 (G27, dated 8 July 1998).

Building Act -

Appendix to the building code of Australia - No. 177 of 1998 (G29, dated 22 July 1998).

Determination of fees - No. 162 of 1998 (S175, dated 9 July 1998).

Revocation and adoption of building code of Australia - No. 176 of 1998 (G29, dated 22 July 1998).

Building and Services Act - Determination of fees - No. 127 of 1998 (S167, dated 29 June 1998).

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Bushfire Act - Bushfire Regulations (Amendment) - Subordinate Law No. 8 of 1998 (S92, dated 6 March 1998) - without explanatory statement.

Canberra Institute of Technology Act - Instrument of appointment to the Canberra Institute of Technology Advisory Council - No. 160 of 1998 (G27, dated 8 July 1998).

Cemeteries Act -

Canberra Public Cemeteries Regulations (Amendment) - Subordinate Law No. 18 of 1998 (S147, dated 28 May 1998, amended by G32, dated 12 August 1998).

Determination of fees - No. 126 of 1998 (S167, dated 29 June 1998).

Chiropractors and Osteopaths Act - Determination of fees - No. 188 of 1998 (S184, dated 10 August 1998).

Coroners Act. See "Magistrates Court Act".

Dangerous Goods Act - Dangerous Goods (Exemption) Regulations (Amendment) - Subordinate Law No. 14 of 1998 (S134, dated 21 May 1998).

Dentists Act. See "Health Professions Boards (Procedures) Act".

Dog Control Act - Determination of fees - No. 138 of 1998 (S167, dated 29 June 1998).

Domestic Violence Act -

Instrument of appointment as a Domestic Violence Project Coordinator - No. 182 of 1998 (S178, dated 30 July 1998).

Instrument of appointment as a Member of the Domestic Violence Prevention Council - No. 183 of 1998 (S178, dated 30 July 1998).

Drugs of Dependence Act - Drugs of Dependence Regulations (Amendment) - Subordinate Law No. 20 of 1998 (G24, dated 17 June 1998).

Education Services for Overseas Students (Registration and Regulation of Providers) Act - Determination of fees - No. 148 of 1998 (S173, dated 1 July 1998).

Electricity Act - Determination of fees - No. 163 of 1998 (S175, dated 9 July 1998).

Energy and Water Act - Determination of fees - No. 164 of 1998 (S175, dated 9 July 1998).

Fair Trading Act - Fair Trading Regulations (Amendment) - Subordinate Law No. 3 of 1998 (S48, dated 16 January 1998) - Codes of practice and explanatory memoranda for:

Bodyguard Industry;

Cash Transit Industry;

Guard and Patrol Services Industry.

Firearms Act - Firearms Regulations (Amendment) - Subordinate Law No. 5 of 1998 (S74, dated 18 February 1998).

Gaming Machine Act - Requirement to display warning notices on gaming machines and in gaming machine areas - No. 179 of 1998 (G30, dated 29 July 1998).

Gas Pipelines Access Act 1998 - Notice of commencement (1 July 1998) of remaining provisions (S174, dated 1 July 1998).

Gas Supply Act 1998 - Notice of commencement (1 July 1998) of remaining provisions (S174, dated 1 July 1998).

Hawkers Act - Determination of fees and charges - No. 125 of 1998 (S167, dated 29 June 1998).

Health Professions Boards (Procedures) Act -

Dentists Act - Instruments of appointment of Chairperson and members of the Dental Board of the ACT - Nos 98 to 101 of 1998 (G24, dated 17 June 1998).

Pharmacy Act - Instruments of appointment of Chairperson and members of the Pharmacy Board - Nos. 112 to 115 of 1998 (G24, dated 17 June 1998).

Physiotherapists Act - Instruments of appointment of Chairperson and members of the Physiotherapists Board of the ACT - Nos 143 to 146 of 1998 (G26, dated 1 July 1998).

Podiatrists Act - Instruments of appointment of Chairperson and members of the Podiatrists Board of the ACT - Nos 108 to 111 of 1998 (G24, dated 17 June 1998).

Psychologists Act - Instruments of appointment of Chairperson and members of the Psychologists Board of the ACT - Nos 102 to 107 of 1998 (G24, dated 17 June 1998).

Health Records (Privacy and Access) Act - Determination of fees and charges - No. 122 of 1998 (S167, dated 29 June 1998).

Housing Assistance Act - Variation to public rental housing assistance program - No. 155 of 1998 (S174, dated 1 July 1998).

Independent Pricing and Regulatory Commission Act - Declaration of a regulated industry - No. 119 of 1998 (correction of S162, dated 25 June 1998) (S169, dated 29 June 1998).

Lakes Act - Determination of fees - No. 124 of 1998 (S167, dated 29 June 1998).

Land (Planning and Environment) Act - Determination of fees - No. 165 of 1998 (S175, dated 9 July 1998).

Legislative Assembly (Members' Staff) Act -

Arrangements made under section 10(2) to amend staff salary allocations to Members to employ staff from 27 April 1998 until the end of the 1997-98 financial year - No. 79 of 1998 (S132, dated 20 May 1998).

Arrangements made under section 10(2) to provide staff allocations to Members to employ staff in the 1998-99 financial year - No. 189 of 1998 (S185, dated 13 August 1998).

Arrangements made under section 5(2) to provide staff allocations for the Speaker to employ staff in the 1998-99 financial year - No. 190 of 1998 (S185, dated 13 August 1998).

Liquor Act - Determination of fees - No. 152 of 1998 (S173, dated 1 July 1998).

Magistrates Court Act and Coroners Act - Determination of fees and charges - No. 95 of 1998 (G24, dated 17 June 1998).

Magistrates Court (Civil Jurisdiction) Act - Magistrates Court (Civil Jurisdiction) (Solicitors' Costs) Regulations (Amendment) - Subordinate Law No. 2 of 1998 (S46, dated 16 January 1998).

Meat Act - Determination of fees and charges - No. 121 of 1998 (S167, dated 29 June 1998).

Medical Practitioners Act - Determination of fees - No. 178 of 1998 (S176, dated 20 July 1998).

Motor Traffic Act -

Administrative charge for parking and traffic infringements - No. 134 of 1998 (S167, dated 29 June 1998).

Declaration of declared holiday period - No. 89 of 1998 (S148, dated 29 May 1998).

Determination of parking charges - No. 123 of 1998 (S167, dated 29 June 1998).

Determination of registration fees -

No. 180 of 1998 (S177, dated 24 July 1998).

No. 184 of 1998 (S179, dated 31 July 1998).

Determination of taxi fares - No. 118 of 1998 (correction of S162, dated 25 June 1998) (S169, dated 29 June 1998).

Drivers' licences - No. 132 of 1998 (S167, dated 29 June 1998).

Motor Traffic Regulations (Amendment) -

Subordinate Law No. 16 of 1998 (S136, dated 22 May 1998).

Subordinate Law No. 27 of 1998 (S177, dated 24 July 1998).

Motor Vehicle (Third Party Insurance) Regulations (Amendment) - Subordinate Law No. 22 of 1998 (S145, dated 16 June 1998).

Number plates - No. 135 of 1998 (S167, dated 29 June 1998).

Parking charges -

No. 130 of 1998 (S167, dated 29 June 1998).

No. 181 of 1998 (S179, dated 31 July 1998).

Parking labels - No. 131 of 1998 (S167, dated 29 June 1998).

Parking meter fees - No. 129 of 1998 (S167, dated 29 June 1998).

Vehicle Inspection Manual - No. 83 of 1998 (S143, dated 27 May 1998).

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Vehicle licences and permits - No.133 of 1998 (S167, dated 29 June 1998).

Motor Vehicles (Dimensions and Mass) Act - Dimensions and mass fees - No. 128 of 1998 (S167, dated 29 June 1998).

Nature Conservation Act -

Action plans - Nos 7, 8 and 9 - No. 191 of 1998 (G33, dated 19 August 1998).

Declaration of species - No. 192 of 1998 (G33, dated 19 August 1998).

Determination of fees - No. 136 of 1998 (S167, dated 29 June 1998).

Pharmacy Act. See "Health Professions Boards (Procedures) Act".

Physiotherapists Act. See "Health Professions Boards (Procedures) Act".

Plumbers, Drainers and Gasfitters Board Act - Determination of fees - No. 166 of 1998 (S175, dated 9 July 1998).

Podiatrists Act. See "Health Professions Boards (Procedures) Act".

Pounds Act - Determination of fees - No. 137 of 1998 (S167, dated 29 June 1998).

Psychologists Act. See "Health Professions Boards (Procedures) Act".

Public Health Act -

Determination of fees and charges - No. 120 of 1998 (S167, dated 29 June 1998).

Public Health (Infectious and Notifiable Diseases) Regulations (Amendment) - Subordinate Law No. 6 of 1998 (S75, dated 18 February 1998).

Public Health (Miscellaneous Provisions) Act 1997 - Notice of commencement (13 August 1998) of Part III, Part VII and section 43 (S185, dated 13 August 1998).

Public Place Names Act -

Determinations of street nomenclatures in the Divisions of -

Gordon - No. 87 of 1998 (S144, dated 28 May 1998).

Greenway - Amending Commonwealth *Gazette* No. P25 of 31 August 1998 by omitting Scollay Street - No. 88 of 1998 (S144, dated 28 May 1998).

Gungahlin - No. 141 of 1998 (S171, dated 30 June 1998).

Gungahlin - No. 174 of 1998 (G28, dated 15 July 1998).

Nicholls - No. 84 of 1998 (S144, dated 28 May 1998).

Nicholls - No. 85 of 1998 (S144, dated 28 May 1998).

Nicholls - No. 86 of 1998 (S144, dated 28 May 1998).

Phillip - No. 90 of 1998 (S153, dated 10 June 1998).

Determination of park name in the Division of Holder - No. 170 of 1998 (G29, dated 22 July 1998).

Determination of rural road name in the District of Tuggeranong - No. 175 of 1998 (G29, dated 22 July 1998).

Public Health (Miscellaneous Provisions) Act 1997 - Notice of commencement (21 July 1997) of Part III, Part VII and section 43 of Part VIII (S181, dated 3 August 1998).

Public Sector Management Act - Management standards -

No. 1 of 1998 (G24, dated 17 June 1998).

No. 2 of 1998 (G24, dated 17 June 1998).

Rates and Land Rent (Relief) Act -

Notice fixing rates of interest - No. 173 of 1998 (G28, dated 15 July 1998).

Rates and Land Rent (Relief) Regulations (Amendment) - Subordinate Law No. 25 of 1998 (G27, dated 8 July 1998).

Rates and Land Tax Act - Notice of interest rates - No. 172 of 1998 (G28, dated 15 July 1998).

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Residential Tenancies Act -

Determination of fees under -

Section 135 - No. 81 of 1998 (S141, dated 26 May 1998).

Section 134 - No. 82 of 1998 (S141, dated 26 May 1998).

Residential Tenancies Regulations - Subordinate Law No. 17 of 1998 (S146, dated 28 May 1998).

Roads and Public Places Act -

Determination of fees - No. 167 of 1998 (S175, dated 9 July 1998).

Road opening fees - No. 153 of 1998 (S174, dated 1 July 1998).

Stamp Duties and Taxes Act. See "Taxation (Administration) Act".

Supreme Court Act -

Determination of fees and charges - No. 96 of 1998 (G24, dated 17 June 1998).

Supreme Court (Admission of Legal Practitioners) Rules - Subordinate Law No. 15 of 1998 (S135, dated 22 May 1998).

Surveyors Act - Determination of fees - No. 168 of 1998 (S175, dated 9 July 1998).

Taxation (Administration) Act and Stamp Duties and Taxes Act - Determination to increase the rate of tax payable on the sale of motor vehicles - No. 142 of 1998 (S171, dated 30 June 1998).

Taxation (Administration) Act -

Determination that the interest rate for the purposes of section 31 of the Act is 16.8% per annum - No. 91 of 1998 (S154, dated 10 June 1998).

Determination that the interest rate for the purposes of subsection 35(1) of the Act is 5.0% per annum - No. 150 of 1998 (S173, dated 1 July 1998).

Tenancy Tribunal Act. See "Administrative Appeals Tribunal Act".

Trans-Tasman Mutual Recognition Act - Trans-Tasman Mutual Recognition (Temporary Exemptions) Regulations - Subordinate Law No. 4 of 1998 (S62, dated 10 February 1998).



Unit Titles Act - Determination of fees - No. 169 of 1998 (S175, dated 9 July 1998).

Vocational Education and Training Act -

Determination of fees - No. 147 of 1998 (S173, dated 1 July 1998).

Vocational Education and Training Regulations - Subordinate Law No. 26 of 1998 (G30, dated 29 July 1998).

## **DEPARTMENTAL PERFORMANCE REPORTS Papers**

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): Pursuant to section 25A of the Financial Management Act 1996, I present June 1998 quarter departmental performance reports for the Attorney-General's Department, including the Director of Public Prosecutions and the Emergency Services Bureau; the Chief Minister's Department; the Department of Education and Community Services; the Minister for Health and Community Care; the Minister for Housing; the Minister for Regulatory Reform, Industrial Relations and Tourism; and the Minister for the Environment, Land and Planning.

## **PLANNING AND ENVIRONMENT - STANDING COMMITTEE Report on Outdoor Lighting - Government Response**

**MR SMYTH** (Minister for Urban Services) (3.31): Mr Speaker, for the information of members, I present the Government's response to Report No. 38 of the Standing Committee on Planning and Environment of the Third Assembly, entitled "The Provision of Quality Lighting in the ACT", which was presented to the Assembly on 4 December 1997. I move:

That the Assembly takes note of the paper.

Mr Speaker, the Planning and Environment Committee of the former Assembly, which comprised Mrs Louise Littlewood, Ms Roberta McRae and Ms Lucy Horodny and was chaired by Mr Michael Moore, is to be congratulated for its work in preparing this report. The report set out some new and challenging perspectives on an important issue. The Government agrees with the committee's assessment that there is room for improvement in some of Canberra's outdoor lighting. The committee's report provides a good definition of "quality lighting", that is:

cost-effective and energy-saving lighting designed for a specific task which facilitates public safety, security and recreation while preserving dark skies to the maximum extent possible.

It is clear that the committee's report benefited from the submissions from individuals and organisations for whom the preservation of the night sky quality is a major issue because of an interest in astronomy or for other reasons. In responding to the recommendations of the committee, however, the Government has needed to face the following questions: What is the right balance between enhancing public safety through lighting and preserving dark skies? Is there a conflict? Given other calls on government expenditure and other community priorities, what additional funding should be made available for outdoor lighting improvement? It is clear that certain of the committee's recommendations would have considerable financial implications. Most complaints received by the Government relate to what is perceived to be a lack of adequate lighting, not night sky quality. In addition, the report calls for lighting standards that are considerably more rigorous than those of most other Australian towns and cities. The Government response has been prepared with these considerations in mind.

Further work will be required before the Government is prepared to agree to all these recommendations, particularly those that are signalled as long term. However, the committee has raised key strategic issues that must be addressed. It is important that we move to improve lighting quality. It is good to see that progress is already being made. We are seeing the results of careful lighting and planning and technical process in building projects such as the Magistrates Court. It is heartening that the private sector is also paying increasing attention to the quality lighting and construction activities, a fine example of which is the Lanyon Marketplace. Another demonstration of the importance we attach to better lighting has been the recently released Civic lighting and pedestrian signage strategy.

One particularly valuable feature of the report is the attention provided to certain technical issues that ought to be resolved. One is the whole-of-life costing of mercury vapour streetlights, in other words white streetlights, as opposed to yellow sodium lights. Another is a determination of the real cost of the greater use of cut-off streetlighting, lighting that casts all its output downward and so reduces glare. It is clear that engineers and lighting professionals have a diversity of opinions on lighting matters. As well, lighting technology is changing quite rapidly, and what might have been the case a decade ago is not necessarily the case today. Mr Speaker, the Government agrees that it is desirable that we come to a landing on these technical issues. We also believe that it is important to assess the energy savings and therefore the greenhouse gas reductions that can be achieved from lighting solutions.

The report also makes valuable comment about the concerns expressed by some residents about the effect of night lighting at ACT sportsgrounds. I would make two points in this regard. Night-time sports are a growing trend in Canberra, as elsewhere. It is fair to argue that there must be a spirit of compromise between the needs of sports goers and the needs of nearby residents. Bearing this in mind, the Government will continue to see that all reasonable steps are taken to reduce glare and light spill when lights are installed or refurbished at ACT government sportsgrounds.

Mr Speaker, already, as the committee has pointed out, we are seeing the results of careful lighting planning and technical processes in building projects such as the Magistrates Court. It is heartening that the private sector has joined in this. I have already quoted that example of the Lanyon Marketplace. I would like to thank once again the members of the former committee.

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

## **HEALTH AND COMMUNITY CARE - DIRECTIONS Paper**

**MR MOORE** (Minister for Health and Community Care) (3.35): Mr Speaker, for the information of members I present “Setting the Agenda - ‘A healthy community’ - Directions for Health and Community Care in the ACT” and I move:

That the Assembly takes note of the paper.

Mr Speaker, it gives me great pleasure to table “Setting the Agenda”, my vision for the development of health and community care in the ACT, how we as a clever, caring capital will proudly lead Australia in maximising both community and individual health and wellbeing. Good health and wellbeing are vital to us all. They are vital to us personally, as individuals and as family members. They are vital to us collectively, as contributing citizens to our healthy society. I believe good health and wellbeing represent an essential foundation for achievement of the Government’s vision for the ACT: A clever, caring capital.

As Minister for Health and Community Care, I am committed to the Government’s outcomes of a healthy, safe, diverse and contributing community; a community supported by accessible, cost-effective services; a community with a dynamic, sustainable economy. A healthy community is fundamental to a healthy economy and to a cohesive society. We need to promote and improve the health and wellbeing of all members of our society, with a particular focus on those who are most vulnerable and those with poorer health status.

“Setting the Agenda” provides an agenda for ongoing development of our health and community care system. It does not attempt to define all the things we will do, but rather establishes the framework within which actions will be undertaken. It establishes a systematic approach to our agenda for improvement in the ACT. It does not represent a radical change in direction. Rather, it builds on achievements at the local level over the past few years. It does aim to accelerate change, to create an increased sense of urgency about developing the type of system which best meets the needs of our community within the resources available.

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“Setting the Agenda” uses the World Health Organisation definition of health: “A state of complete physical, mental, and social wellbeing, and not merely the absence of disease or infirmity”. This definition underlines the centrality of issues such as access and equity; consumer participation and empowerment; partnerships, both within the health system and across the community; and continuously improving integration, coordination and continuity of care to develop a seamless system.

“Setting the Agenda” emphasises a focus on the health of the population, on promoting health and preventing illness, on primary health care to provide for people at home and in the community and on access to a high-quality hospital system when clinically necessary. This requires a shift in our thinking and delivery of health services. It requires a shift from a narrow focus on illness treatment to a broader focus on health and wellbeing. It requires more emphasis on improving partnerships between health professionals and customers, between health workers and the community, between the government and the non-government health sectors, and within government.

Mr Speaker, we expect a greater demand for our health services as our population ages. We expect more, and often more expensive, treatments to become available. We also know we have limited resources. We need to put those resources where they will be most effective. We need better evidence of success to justify our health interventions if we are to achieve the best possible health outcomes within our finite resources. In short, as a clever health service, we need to stop people becoming ill or injured. We need to act quickly when we detect risks and early signs of problems, and we need to provide timely and effective treatment when illness and injury occur. This means a greater role for home-based community care and a correspondingly reduced emphasis on hospital care as a centrepiece of our health system.

Acute care in hospitals remains an important component of our health service, but it should not overshadow the need for comprehensive and continuing health care in the community setting, both for promoting health and for treating illness. “Setting the Agenda” provides a clear direction for the many dedicated people working within the health and community care system. It will help inform all citizens of the ACT of our directions and our commitment to them. It is also the basis for further consultation with the health community and the wider community to ensure we work together in partnership with a shared understanding of our health priorities and approaches.

Mr Speaker, an essential aspect of any new direction is evaluation, making sure that we are doing what we intended and that we are achieving our objectives. We will regularly review our performance in implementing “Setting the Agenda”, and I have requested that the Department of Health and Community Care report on overall progress in its annual report, which will also inform this Assembly of progress. Mr Speaker, I am pleased to table “Setting the Agenda” in this Assembly.

**MR STANHOPE** (Leader of the Opposition) (3.41): I would just like to make a few comments on the report, if I may. As I have indicated previously, I welcome the fact that the Minister commissioned the report. The report has been published. I think anything that can be done to facilitate the debate in relation to the direction which public health and community health in the ACT take is to be encouraged, and I welcome that.

I have some comments I would like to make in relation to the report, its implementation and the Minister's hopes for it. It is probably regrettable that to an extent the Minister, in his recent announcement in relation to the reallocation of allied health professionals from the Canberra Hospital or the community sector, has pre-empted any possibility of consultation with those groups of people. I believe that his actions in relation to the allied health professionals belie his words at the time that he tabled and introduced his document "Setting the Agenda". Whilst I welcome the fact that the Minister is attempting to be strategic in relation to the ACT's future public health needs, I really hope that his rhetoric is genuinely matched by a determination to carry through with what it is that he sets out to do. In the same context I think it is to be regretted that the flush of pride with which the Minister launched his "Setting the Agenda" document was accompanied by a strike, if one might say so, at Canberra's public hospital, the Canberra Hospital. It seems to me that the Minister really has not quite got in balance the need to address the particular and very pressing needs and pressures which Canberra's public health system is suffering at a time when we are applauding the future and the new agenda.

We have specific and difficult problems to address here and now. The Minister is as aware as I am of the number of people coming to his office and coming to my office with dreadful tales of a lack of care and attention because of a lack of beds at the Canberra Hospital. People in Canberra over the space of this year, and I do not know how far into the past, have been experiencing the most dreadful problems in their interface with the public hospital system. Whilst I welcome the report - in fact, the report to some extent reflects very much of the Labor Party's platform and philosophy on health, so we obviously welcome it - I hope the Minister is genuine about it - - -

**Mr Humphries:** That is flattery for you.

**MR STANHOPE:** It is flattering. It is flattering to us that the Government is adopting the policies and the directions that the Labor Party urges and has consistently urged.

**Mr Humphries:** It is not the policies; it is the practices.

**MR STANHOPE:** Absolutely, and I do not have any difficulty welcoming and applauding the fact that the Minister appears to be quite genuine in his determination to reform. However, I am concerned that the Minister seems determined to gloss over the fact that our hospital, the Canberra Hospital, is a hospital under the most serious strain. It is bursting; beds are closed; it has been in fairly constant bypass. People are presenting to his office - I know, because they tell me about it - and presenting to my office with the most terrible stories of an inability to have pressing problems addressed because of the lack of beds. I am simply asking the Minister to address those very pressing problems, to deal with the Australian Nursing Federation in a much more sympathetic manner than he has, to be prepared to talk and to negotiate, and to deal with the here-and-now issues.

**MR MOORE** (Minister for Health and Community Care) (3.46), in reply: Mr Speaker, as nobody else is going to speak, I will just respond to a couple of issues raised by Mr Stanhope. The first issue is the specific one on allied health. Mr Stanhope, you have a clear misunderstanding of what has happened with allied health. There has been a management decision that allied health will answer to Community Care rather than to the hospital. The effect of that at this stage is an impact on a single person,

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Mr David Rhodes, who is the manager of the area of allied health within the hospital. He now answers to Community Care, to Mr Findlay, instead of answering through the hospital system to Mr Johnston. The rest of allied health is now going through the very process of consultation that you are talking about. In fact, at lunchtime today, Mr Stanhope, I was in the hospital auditorium, which seats about 200 people, and that auditorium was pretty close to full. I spent over an hour answering specific questions. Amongst the things I said was that we are beginning a consultation process. As far as they are concerned, there is a two-month starting period during which time there will be no change for these individuals, all these allied health workers, while they go through the - - -

**Mr Stanhope:** While they get used to the direction.

**MR MOORE:** The direction is set. The Government has taken a direction. And we meant it, Mr Stanhope. That is the difference between what happens here and how I will operate as a Minister. When I brought down this document, I meant what was in it and I meant to bring some change. I meant to change the focus. I am very pleased that that happens to coincide with the Labor Party philosophy. That does not surprise me, because the Labor Party philosophy no doubt draws from the same sources as I drew myself, from the World Health Organisation and from general public health policy. It is not surprising to me that there is a general agreement of view about where we are going.

In terms of the consultation, as I pointed out to people in the auditorium today, I could have gone in there and said, "Look, I have an empty piece of paper. I am not quite sure what we are doing but, hey, we want to have some change, so what about if we start a consultation process?". If I had done something like that, of course there would have been nothing. How do you start a process of consultation? We say, "We are going to have a two-month consultation period, the process is going to be consistent with 'Setting the Agenda' and how you operate now is going to depend on the direction that I am taking you. The direction that I am taking you to is to have allied health as part of Community Care". That is the process that is going on. There are no set specific roles or models that we have for how allied health is going to operate. In fact, I was very proud listening to Mr Terry Findlay, one of my senior officers from Community Care, explaining that we do not actually perceive that there will be a single model; that there will be a series of integrated models that operate next to each other and suit the particular situation and, more importantly, suit the patient. That is what this is all about. It is about making sure that we suit the patient.

That leads us to the other issue that Mr Stanhope raised about a strike at the hospital happening at the same time as I was launching this document. It does highlight that this document is going to put some strain on professional groups, whether it be nurses, doctors, physiotherapists, occupational therapists or whoever. The reason it will put some strain on them is that it shifts the focus. It says that health is no longer about the focus of those professional groups. It is no longer focused on those professional groups and the needs of those professional groups. It is about focusing our health care system where it belongs, on the patient. That is what is different from what Mr Berry offered when he was Health Minister.

I have had advice that the hospital is oversupplied by about 80 nurses. That advice came through the report from the Auditor-General prepared by an associate professor of nursing, Deborah Piccone, who for eight years was head of the ANF in New South Wales. She looked at our hospital and said, "You are 80 nurses overstaffed". Then I have the local ANF saying we are 50 nurses understaffed. Remember that when you are talking about 50 nurses understaffed you are talking about roughly \$3m.

That brings me to the point of what "Setting the Agenda" is about. If I had \$3m, which I do not, to spend on health care, I would not be putting it into an extra 50 nurses. What "Setting the Agenda" says is that we know where we are going and we know what our focus is. Our focus is about primary health care. If we had \$3m, it would be much more likely to go to areas such as allied health, aged care, respite care and so on, because we know that we would get much better health outcomes from that kind of expenditure. That is not to say, as Mr Stanhope correctly points out, that there are not strains on the hospital at that moment. There are clear strains on the hospital at the moment, but those strains, more than anything else, are about the VMO dispute.

**Mr Berry:** Cut it out, Michael. You cannot go on forever.

**MR MOORE:** As you know, Mr Speaker, Mr Berry has been interjecting through a large part of my speech. I will respond to this interjection. Remember the dispute, Mr Berry, that you had with the VMOs. That also put a huge amount of strain on the hospital system. Mr Berry, you may just remember that right through that dispute I was very supportive of you, in spite of the excessive strains it was putting on the hospital.

We will get through that, Mr Speaker. The activity report to be tabled in the next couple of days will indicate that even in spite of the strains of the doctors dispute and the normal strains of winter we are still delivering far more separations than was the case 12 months ago, and we have a much better performance in throughput and on a series of other measures than was the case when either Mr Berry or Mr Connolly was Health Minister. Yes, there is some strain on the hospital.

There will always be a strain on the hospital, but the first important thing is: Are we delivering waiting times that meet clinical necessity? Whether under Mr Berry or anybody else, all our hospitals have been successful in delivering emergency services when they are required. They have always done that. We should be very proud of the fact that they do that, because there are plenty of hospitals that do not.

The second important thing is: How is our hospital going in category 1 elective patients? In the vast majority of cases, patients are getting their treatment when they need it. When the doctor has said the clinical necessity is within 30 days, they are getting it. I believe that in the last month there were 39 exceptions to that. That is 39 too many, but we have explained what the issues are and we are attempting to deal with those.

People can always look for problems with this public hospital. There will be problems, because it is a major teaching hospital and occasionally that creates some problems. This hospital has been recently accredited. We are now the only jurisdiction in Australia where all public hospitals - both our public hospitals - are accredited.

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**Mr Berry:** First accredited under Labor.

**MR MOORE:** Mr Berry, I have to say to you that we ought to be very proud of our hospital. The report from the Commissioner for Health Complaints shows that 67 written complaints were made last year about what had gone on at the hospital. During that period there were 500,000 or so separations from the hospital. That was the number of people treated at the hospital, including some people treated a second or third time. Of the 500,000 occasions of service, 67 written complaints accounts for something in the order of 0.013 per cent. It is that sort of level but it is still enough for you or a television station or a newspaper to run one case every week, and it creates an impression in the public mind that this is not a good hospital. It is better than a good hospital; it is a great hospital. The clinical school is assisting it to be that, and it is improving. It has been through a long process of improving, and that has happened with a non-partisan approach in this Assembly. It is something that we should all be proud of and something that we should stay with.

Mr Speaker, through all that, the direction of the agenda is set so that we know where we are and where we are going and are not sidetracked by a strike at any given time. We know what our direction is. That is not to say that we should not deal with those things. I am down there dealing with those things one at a time, walking through the wards, talking to nurses, talking to patients. I have been doing those things and I will continue to do them, and I will continue to talk to those workers, so that we get the best possible health system right across the system.

Question resolved in the affirmative.

### **SPEEDRAIL - CANBERRA-SYDNEY VHST SERVICE Ministerial Statement and Paper**

**MS CARNELL** (Chief Minister and Treasurer): Mr Speaker, I ask for leave of the Assembly to make a ministerial statement on the Speedrail as the preferred proponent for the Canberra-Sydney very high speed train service.

Leave granted.

**MS CARNELL:** Mr Speaker, the announcement of Speedrail as the preferred proponent to provide a very high speed train service from Canberra to Sydney represents perhaps the single most significant step in the development of the national capital since it was founded in 1911. Tuesday, 4 August was a significant day for Canberra and for the Australian Capital Territory because this project means so much to our future. The announcement earlier this month was a milestone in the development of the project and, like all large infrastructure projects, often the most difficult part of the process is getting a start. The VHST project has been before governments for over 10 years and has gone through numerous evaluations. Looking around the audience in the Great Hall in Parliament House, I saw many people that were passionate about the project 10 years ago, and they still have the same amount of enthusiasm today. They have not been



worn down by government process. I would like to propose a special thanks to those people for keeping the project alive. Every project has some cynics, but the VHST stands apart with its overwhelming support in the community. When I talk to people they say that the link between Canberra and Sydney is a great idea and simply ask, as I am sure they ask every member of this Assembly, "When is it going to happen? We want to get on. We want to ride". The announcement of Speedrail as the preferred proponent takes us one step closer to the construction of this exciting project. It shows that the ACT Government will support the projects that make a difference, Mr Speaker - the projects that will provide opportunities and employment for the people of Canberra and the region, and this is a significant number of jobs.

The next matter is the evaluation process and key factors in the decision. Mr Speaker, the current evaluation process commenced in April 1997 when the ACT, Commonwealth and New South Wales governments decided to test the market to gauge whether a private sector consortium would be prepared to design, construct, finance and operate a high speed train service between Canberra and Sydney. To oversee the competitive process governments chose a structure that had been used successfully in the previous evaluations. The evaluation structure consisted of a project control group, PCG, with an independent chair and representatives from each government. This group was supported by a project evaluation committee, PEC, with representatives from each government and consulting experts. The governments had previously explored the potential for a fast train service between Canberra and Sydney on several occasions over the past decade. There was an intensive evaluation of options during 1996. Through these processes governments have developed a considerable body of knowledge on the competing technologies and their likely impacts.

The project brief and invitation for detailed submissions for the Sydney-Canberra very high speed train project was sent to proponents in October 1997. The document took several months to develop and provided a thorough framework with which to undertake an analysis of the proposals. The consultants worked with the PCG to develop a framework that would encourage the private sector to submit what they considered to be the most viable and satisfactory option to governments. Relevant agencies in each government were asked to review the draft document to ensure that it was comprehensive. As a result, the invitation provided proponents with a very detailed account of the information that governments required to make an evaluation and also provided additional information that might provide proponents help in developing their submission. The invitation highlighted the key areas and issues for evaluation as: No net cost to taxpayer; financial and economic; risk; design; environmental; technology; land corridor; construction and delivery; operations; maintenance; local industry development plan; and other general criteria. Expert consultants were used to develop the specific sections of the invitation to ensure that the structure of the submissions would draw out the information required by the assessment framework. Evaluation against the criteria could then be undertaken quickly and with certainty. To assist the information-sharing process the consortia were allocated a weekly meeting where issues were raised, questions asked and answered. Proponents were also able to submit a range of options. The process was made as interactive as possible and aimed to achieve the best outcome.

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Four consortia chose to make detailed submissions to governments. Once submissions were lodged, the project evaluation committee conducted the evaluation against the agreed criteria under direction of the PCG. This evaluation formed the basis of the project control group's confidential report that went to the three governments for decision-making. The ACT Government agreed with the recommendations of the PCG report. The key recommendations included proceeding with a "proving up" or "confirmation" stage of the preferred proponent, and that the preferred proponent be Speedrail. The basis of the competitive process set down by governments was that there be no net cost to governments, as determined by the project control group rather than the proponents. This was achieved by two groups only, with Speedrail being well ahead of the other group. Governments engaged a probity auditor to monitor that the process was conducted effectively and efficiently. Part of the task was to ensure that the decision-making process was robust and that submissions were evaluated against the established selection criteria. At the end of the process the probity auditor confirmed that the PCG had completed its assessment appropriately.

The VHST project is large and complex. It is not simply a choice between train technologies. One example of this complexity is acquiring land for the rail alignment. It would be very difficult, if not impossible, for the private sector to acquire the land for the rail alignment by private negotiations. It made sense for governments to use their acquisition powers where necessary to ensure the corridor could be achieved. This difficulty was recognised at an early stage and the invitation document outlined that the acquisition would be conducted by governments at the proponent's cost. Lease terms for the corridor have been left to the negotiation stage. Other issues that have an impact on the selection of the corridor include the environment, design, planning policies, achievability, cost and social impacts.

I turn now to the future processes and the "prove up" stage. Mr Speaker, the evaluation process is not over yet. Governments have asked that Speedrail confirm their proposal over the next six months. The "proving up" process will include the satisfaction of some unresolved technical issues and the achievement of a fully financed and privately underwritten bid. Assuming that Speedrail passes the confirmation stage, negotiations towards a contract would commence. This contract would then be made subject to meeting the planning and environmental requirements of the three governments. The planning and environmental processes are likely to take a further 18 months at minimum. These processes will involve extensive public consultation.

With regard to revitalising the region: The ACT Government has been a strong supporter of the very high speed train proposal. We have contributed staff and resources on an equal footing with the much larger governments of New South Wales and the Commonwealth. And we have not baulked at doing this, Mr Speaker. The reasons are simple. The project has always had strong community support and the ACT Government listened and reflected this. The project also has the potential to revitalise our area of regional Australia. The ACT Government also sees this as the first link in a national fast train network that will eventually connect the capital cities and be accessible to the vast majority of Australians. Importantly, the spin-offs for centres and regions between the capitals will be significant. The service will provide the opportunity to revitalise these dwindling areas and reduce the strain on capital cities. In other words, Mr Speaker, it will revitalise regional Australia.

The project represents real net economic benefits to Australia. The Speedrail consortium has estimated: A massive private sector investment in revitalising Australia's transport infrastructure of over \$3 billion; 15,000 jobs generated during construction; and 1,800 direct and indirect jobs generated during the 30-year project. The ACT and region will strive to capture its fair share of these project benefits. The Speedrail consortium is already committed to constructing its maintenance facility in Canberra. As well as increasing employment, this will improve our skill base as our community gains the opportunity to maintain high speed trains using world's best practice.

The most enduring benefit, however, will be the linking of the national capital with Australia's international gateway by a highly competitive transport mode. This part of regional Australia will be able to operate in the dynamic business world of a large city without the penalties of distance while enjoying the lifestyle benefits of this wonderful region. As Chief Minister, I will be encouraging Speedrail to use firms from the ACT and region to help build this very exciting project. I will be encouraging members of the consortium to meet with businesses in the Australian capital region. We have tremendous skills and are competitive in industries such as construction, design, engineering, finance, logistics and environmental management - to name just a few services. The ACT Government will continue to lend strong support in realising this dramatic improvement in transport services.

My feeling is that we are only starting to realise the opportunities that high speed rail will open up for Canberra and the region. The VHST project will help realise the Government's vision for Canberra being the major transport hub in the region. Combining a high speed train with an international airport will improve linkages with Sydney and the markets of the Pacific rim. Canberra will be well positioned to benefit from new business and employment opportunities arising from our closer integration with the world economy.

Mr Speaker, this is an exciting project. It is a project on which many people, this Government included, have worked very hard to bring to this stage. It is important that everybody gets behind this project, that we put politics aside and make sure that the Speedrail proposal comes to fruition and the ACT is linked - hopefully in 2003 - with Sydney via a train that will do the distance in under an hour-and-a-half, a train that will produce significant employment, not just in Canberra but in our whole region. I present the following paper:

Governments announce Speedrail as the preferred proponent  
for the Canberra-Sydney VHST service - ministerial statement,  
25 August 1998.

I move:

That the Assembly takes note of the paper.

**MR STANHOPE** (Leader of the Opposition) (4.10): Mr Speaker, at the outset I join with the Chief Minister in congratulating Speedrail. It is wonderful that the decision has been made and we are able to move on in the development of the very fast train proposal. Having said that, I look forward with great interest, and the same measure of excitement as everybody else in Canberra, to the potential which the VFT potentially holds for this region. I am happy to say that I do not think there is anything that the Chief Minister has just said in her speech with which I disagree. The sentiments and the potential are endorsed absolutely by the ALP. This is a major issue on which there should be genuine bipartisan support. As I think everybody in this place knows, I have sought, as Leader of the Opposition, to play a positive role in the debate and to bring parties together to present a common view and attitude to other interested and important players in this issue.

I will not go on at any great length, Mr Speaker, other than to say that the Labor Party is genuinely interested in a bipartisan and Canberra-wide approach to the VFT. We recognise absolutely and implicitly the benefits that it potentially presents for this region and for the people of Canberra in a thousand ways, not only in terms of our economic potential but also in a whole range of ways it makes us a closer part of the nation and draws us, as a nation, together. Having said that, Mr Speaker, I must say that many of us developed, I think, some emotional attachment to or support for the idea of the Maglev proposal. It presented a very exciting visionary image. I developed a significant fondness of, and, as I say, emotional attachment to, the Maglev proposal and have some genuine regret that the decision was made that that proposal not be proceeded with. That is not to say that I do not share the Chief Minister's support for Speedrail. I congratulate Speedrail on being successful in this particular stage. I genuinely look forward to the proposal proceeding.

**MS TUCKER** (4.13): The Greens' position has been that, while we are certainly supportive of the concept of the rail link, we are concerned at the process. On the day of the announcement I rang the Prime Minister's office and asked whether we would be able to see the project control group's report because obviously we were interested in the rationale behind the decision. I was very concerned that this was seen to be a document not available to the community, so we have no idea why this particular proponent was the preferred proponent. We do not know how vigorous the assessment of the various proponents was and we do not know what the criteria were. I was also concerned when, in estimates questions, I asked the Minister responsible for the environment about his input to the discussion, in terms of the ACT's position, on which was the preferred proponent. He answered that he had not had any input into that. I am really concerned about that because not only is this a minority government but also within the Government itself there obviously appears to have been little input from the Minister for the environment.

I want it placed on the record that, while we are supportive of the rail link and the fast train concept, we are very concerned at the process. Of course, there will be an assessment done of the preferred proponent but, once again, as so often happens, the community is left not knowing why that was the preferred proponent. We will have to make the best of that particular offer when we look at the assessment process as it occurs now. We will obviously have to look at minimising the environmental harm.

There will be discussions around the route and there will be discussions around where it stops and so on, which is all very good, but it would have been much better had we been able to say, "Yes, we support this choice", as Mr Stanhope has done. I cannot say that because I have no idea why this choice was made. All I can say is that I hope it was the right choice. I would not know, so I cannot compare it.

**MR QUINLAN (4.15):** Mr Speaker, I reiterate some of the things that were said earlier. This side of the house is equally excited about the prospect of the VFT. On the other hand, we would have very much preferred to have seen the Maglev option considered further, particularly as it represents tomorrow rather than today and because, in the ultimate, it represents far less threat to the environment overall.

**Mr Humphries:** That is not necessarily the case.

**MR QUINLAN:** It is not? Apparently, they put fences around the Speedrail but they let the little critters run underneath the Maglev. We certainly endorse the project and hope that it can be brought to fruition. We hope it will not be used by the Federal Government in any way, as the Alice-Darwin train line was used, as a political ploy when the support that had existed before an election all of a sudden evaporated immediately after the election. I notice in the GST tax package that railways, pipelines, et cetera, attract an increase in price of 5.6 per cent. We are very concerned that that 5.6 per cent GST should not accrue to the VFT project because the GST is going into the States and Territories pool. I really cannot see the other States and Territories that are not affected by the VFT supporting the tax break that might otherwise accrue. So, we had better do away with the GST so that we can have our VFT to Canberra. I certainly hope and trust that we get it and we get it soon.

**MR BERRY (4.18):** The advent of a very high speed train for the ACT will be an extremely important event for this region, and indeed this city. There are some visions, of course, about how this city might perform some sort of a dormitory role for bigger cities to the north and how it might enhance the future of our city. I would like to relate a few experiences that I have had with three different examples of high speed and very high speed trains which I had the opportunity to examine about a year ago. The first was the TGV, the French high speed train. I was able to travel from Waterloo Station to Paris and from Paris to Brussels on that train and later from Paris down to Spain. Fundamentally, the train relies upon the tracks upon which it travels. That is why a new alignment for a very high speed train is very important. For example, when the Eurostar travels in Britain, it travels just as any other train in Britain would, at about 80 kilometres an hour. Essentially, it is not a very fast train anymore. It is restricted, of course, by the lines at stations and protection and security for the track which exists in the United Kingdom. It has to be designed to deal with the various electricity sources which the train uses as a power source and, of course, that varies from place to place. For example, in Britain electrically powered trains use a three-line system and the Eurostar has to deal with that. It has a special provision to pick up its source of electrical energy from the third rail. When it proceeds into France on the high speed line, it switches to a new arrangement where it uses overhead lines. A pantograph goes up, connects with the overhead lines at 25,000 volts, and off it goes at speeds of up to 300 kilometres an hour. Of course, going into the city of Paris it slows down again, and so on.

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In Spain I was able to travel on a tilt train, the Talgo tilt train, which has been a feature of Spanish railways for many years. I can tell you that if there was a Talgo travelling between Canberra and Sydney at 200 kilometres an hour I would be fairly impressed as well, compared with the trains which exist at the current time. But the French train, the TGV, with a new alignment, would be of magnificent benefit to our community as a whole. As has been properly said, there are some environmental issues which have to be considered in the context of the development of this alignment. That will be the subject of much interest amongst environmentalists, I am sure. In Germany I had the pleasure to travel on what I suspect is a very ordinary train in Germany but would be fairly special here because it was able to travel quite regularly at 160 kilometres an hour through the countryside. Then I was able to travel on the Maglev. My colleague Mr Moore also experienced the Maglev train. I have a little certificate at home which shows - and it is properly authorised - that I was on the train when it travelled at 412 kilometres per hour.

I have seen some false claims made about the Maglev train in various publications in Australia - that it is only in its experimental stage, has never run, and those sorts of things. However, it has been run for thousands of kilometres on a test track in Germany. I can tell you that if you go and travel on the train and look at the servicing facility that they have built to properly demonstrate how they would service this vehicle - I suppose we should not call it a train - you will see that they have also established a factory where they made the guide rail for the train. The project has been very well thought out and takes into account all the features which are required to develop such a vehicle. I must say that my emotional preference is for the German Maglev vehicle, but an assessment process has been gone through and the TGV-style train has been chosen as the right sort of vehicle for Australia.

There are some advantages with that sort of vehicle because it can use existing lines to some extent and can use existing overhead electrical power sources, whereas the Maglev train requires a very different alignment and uses a different power source. But, at the same time, the Maglev vehicle has significant advantages over the French arrangement because it is able to deal with grades of up to 10 per cent, I am told, whereas an ordinary-wheel train cannot manage grades beyond about 3 per cent, which gives it quite a large advantage when going up the escarpment and dealing with the hills and valleys between Sydney and the ACT. Large viaducts can be handled in the development of the guide rail for the Maglev train as easily as one would handle a valley with a water pipeline.

Ideally, I think the Maglev train would be the most preferable, but it is the most expensive. I suspect that came into the reasoning of those who chose the French arrangement. But I wonder whether in the future some may regret this. I am not in a position to really judge or be critical of the decision which was made in relation to the French train because of the processes, but I would say that I am a little concerned that the people who have developed the Maglev train have walked away unhappy about the process. There have been some claims that the process was too short and did not take into consideration many of the fine features which have been developed in the Maglev vehicle. It troubles me somewhat that that ill feeling may linger for some time.

I see from letters to our local newspaper that a significant number of people continue to argue the case for the Maglev train and, I suspect, argue that the assessment process was not as fair as it ought to have been. But, at the end of the day, a decision has been made on a train system, a railway system rather than a guide rail system, to travel between Canberra and Sydney and perhaps to Melbourne one day. There is a lot of argument about how it will compete with airlines and there are some realities that we have to take into account. The fact of the matter is that the population densities in Europe are far more suitable to the provision of these sorts of railway systems than is the case in the ACT and Australia. After all, Canberra's population base is very small when you take into account the cities between which fast train systems travel in Europe.

I do not recall the argument about the time that the train will take to get from Sydney to Melbourne, but I know that it would be fairly difficult to compete with airlines on that sort of distance. Between Sydney and Canberra, of course, the distance is ideal because the trains, both the French one and the German one, could easily compete with aircraft. I suspect they would take much of their patronage if there were appropriate train stations, or vehicle stations, in Sydney and Canberra. At the same time, I think a 200-kilometre per hour tilt train would compete with the airlines as well. Again, one has to take that statement into consideration against the background of what the ticket costs might be. Mr Speaker, I am quite enthusiastic about seeing a better transportation system between Sydney and Canberra. Maybe it is not fundamental to our future, but it is an important addition which we should all applaud.

**MR SPEAKER:** The member's time has expired.

**MR MOORE** (Minister for Health and Community Care) (4.29): Mr Speaker, I rise because I like trains too. I join other members in congratulating Speedrail. We accept that was the decision. But, as somebody who has ridden on both a TGV train, as Mr Berry has, and a magnetic levitation train, I share that emotional disappointment that so many other members have already touched on. Had I been in Mr Howard's shoes as the prime decision-maker in this area and had I been really looking for a nation-building exercise, an exercise that actually touched the imagination and gave the nation a sense of going somewhere into the future, in my view, a magnetic levitation train would have been it. Those of us who have ridden on it know that it is exceptional.

The two trains do not compare. But it is the old story. A Rolls Royce or a Ferrari may be fantastic to drive, but the vast majority of us still get around in our Toyotas, Holdens, or whatever. Those issues had to be taken into consideration. The decision has been made and I think it is a fantastic one because, as I said right from the beginning when I looked at this, provided we get a fast train coming through to Canberra, we are winners. That is the most important thing. Still speaking with that little disappointment that we have missed out on the Rolls Royce, had the magnetic levitation train been considered right through to - - -

**Mr Berry:** Or the Volkswagen, as they could now properly call it, instead of a Porsche.

**MR MOORE:** I take the correction because of the German connection. We are going to have the Renault instead of the Porsche. Mr Speaker, had the magnetic levitation train and Speedrail been compared on a run between Sydney and Melbourne through Canberra, we may have seen a different outcome. For me that is also part of the disappointment. But that is the disappointment side of it. It is still a very exciting prospect because those of us who have ridden on the TGV or any of those trains that operate at those speeds know that they are exceedingly comfortable. The difference between going through an airport process to get to Sydney and walking down to the station, getting on a train and getting off in the centre of Sydney will be great for the vast majority of people who travel there. From an environmental perspective, it will make a big difference to the number of people who will be attracted to that train from both airline and road. I think that it will attract people from both those systems.

Mr Speaker, as part of my trip - and I imagine that Mr Berry did something similar - I went to Lille to have a look at how that town and community has developed as part of a fast rail system. They happened to be located in an appropriate spot to take advantage of the redevelopment and the development opportunities associated with the fast train. Those issues were raised by the committee chaired, I think, by Mr Corbell - or certainly initiated by Mr Corbell - on the very fast train and the advantages of it. There are some great opportunities. We should now look at how we can capitalise on those opportunities and make sure that they bring about extra work for people in the ACT to help us deliver more sustainable economic circumstances.

**MS CARNELL** (Chief Minister and Treasurer) (4.33), in reply: Mr Speaker, I thank members of the house for their support on this issue. I am pleased that, basically, there will be a non-partisan approach to it. For the information of Ms Tucker, who indicated that she did not know what the assessment criteria were, I mentioned them in my speech, but I will mention them again. They were financial and economic; design; technology; environmental; land corridor; construction and delivery; operations; and maintenance. Each of the four consortia were assessed against these criteria. As I think I have said before, the problem with keeping Transrapid in the process, as some people wanted, was that they did not come second. It would have been extremely difficult to keep one of the consortia that did not come second in the process if you knocked off the consortium that did come second. I do not think any of us would have wanted a process where all we did was go from four to three, or alternatively we had to keep four in the process. I did not want to make a comment on exactly where Maglev actually came. Mr Speaker, I think it is a pretty exciting project. We have got to get behind it now and I am pleased that the majority of this Assembly is going to do that.

Question resolved in the affirmative.



**CHIEF MINISTER AND DEPUTY CHIEF MINISTER**  
**Motion of Censure**

Debate resumed.

**MS TUCKER (4.35):** The Greens will be supporting this censure motion. We believe it is very important to send a clear message once again to this Government and its supporters that, while we are not opposed to development, we are very opposed to the erratic and ad hoc approach which has been a feature of this and past governments' approach to development and planning issues. We also believe that the Assembly has been misled in relation to the Hall/Kinlyside development, in particular as to the details of the status of the leases.

We still see processes being developed on the run. When we challenge the process and ask for reasons behind decisions, we are told that it is government policy. That is fine if government policy is actually supported by some rationale. For example, when I asked Mr Smyth in the Estimates Committee last week why the Government had decided to proceed with the development of section 56 and the Canberra Centre expansion before a strategic plan for Civic was developed and before we had seen the long awaited retail policy from government and before the "Our City" discussion paper had been progressed, Mr Smyth replied that the Government thought it was the right time for such development. When I asked the Minister why it was the right time the answer basically was: "Well, the Government just thinks it is". Mr Speaker, this does not inspire us with confidence. Neither does it inspire us with confidence when we hear the Chief Minister say, in response to questioning on the detail of advice and processes leading up to the decision to enter into a preliminary agreement for a joint venture for development of a rural subdivision around Hall, that rural subdivision is part of Liberal policy and therefore the Government has the right to pursue that agenda.

Mr Speaker, to convince us that the Government is responsible in implementing its policy, the very least we would want to see is the application of good planning principles before a decision is taken to enter an agreement with a developer. We would want to see the local community and broader community properly consulted. We would want to see an open and transparent process which leads to the selection of developer and partner in such a venture. This proposal has involved expenditure of a significant amount of money. The Government has consistently said that all the appropriate planning principles will be applied after the initial commitment to the joint venture has been made, but there are some fundamental problems with that. Implicit in the partnership is acceptance that there will be a rural subdivision. If in fact this is not the case, how can government be seen to have been responsible in allowing the expenditure of ratepayers' money at such a preliminary stage of the discussion?

Rural residential development is not currently allowed under the Territory Plan. How can the Government assume that this development could go ahead unless they think planning approval would just be a rubber stamp for their ideas? This has not gone through the Assembly. Maybe rural residential would be approved. This proposal though, I repeat, is contrary to the Territory Plan and the National Capital Plan. Most of the land is zoned as hills, ridges and buffer areas; which does not allow residential development.

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This type of development, commonly referred to as a hobby farm or hobby farm development, is not allowed in any part of the ACT as it contradicts a long-held planning principle for Canberra that there should be a distinct boundary between urban areas and rural areas. This principle was adopted because of the desire to maintain a distinctive bushland and rural landscape setting around Canberra. If rural residential development was allowed then the boundary between urban and rural areas would blur, because rural residential development is, in essence, just an even lower density form of urban sprawl.

The principle of maintaining the ACT rural areas as rural has been confirmed in the recent Rural Policy Task Force report commissioned by government. It recommended that rural leases not be allowed to be subdivided, but did accept that planning studies could be done to identify areas not used for primary production in the ACT that may be suitable for rural residential. No wonder the community are flabbergasted.

**Mr Humphries:** I rise on a point of order. I think Ms Tucker is saying that we should be censured because we support rural residential development. If that is the case that is not what the motion before the house says. There should be an amendment of the motion if this is to be relevant to the motion. It is not relevant to the motion. If Ms Tucker disagrees with rural residential and disagrees with us therefore, that is fine; but that is not what this motion is about. This motion is about misleading the house.

**MS TUCKER:** Mr Speaker, I am, as the Chief Minister was doing before, building up an argument. Okay?

**MR SPEAKER:** Thank you. Very well. We will just watch it.

**MS TUCKER:** I would like to be able to continue. I believe that the planning process in general is certainly associated with the issue of misleading the Assembly and the community because, basically, what we have seen from this Government in the past three or four weeks is an insistence that all is done well. You have misled us, and that is my argument, or one of the arguments. I will continue to explain why I believe also that you have misled the Assembly on the question of the leases. As I was saying, no wonder the community is flabbergasted at government processes. To make things even more confusing and alarming for the Hall community, they were already working with PALM to develop their own strategic plan for the area. This was going to be a staged plan, Hall 98, and Hall 2020. How was this strategic plan meant to fit into the Government's joint venture proposal? There are heritage and cultural issues to be considered. There are environmental issues, community issues, national capital issues and regional issues to be considered. How insulting it is to the goodwill of the community who were prepared to do this work believing there was commitment and support from government.

This sorry saga is enough in itself to warrant a censure motion, but to top it off we then saw a backdown by government which was characterised by inconsistencies and incredible explanations. Three leases? One lease? No leases? Blocks? It is hard to think that the planning Minister would not know the difference. If there has been confusion in the use of language, the point really is that whether or not the developer has relationships with leaseholders should not be the determining factor in selection of the developer anyway.

The leasehold system is valued in the ACT precisely because it allows government to make long-term land use decisions in the best long-term interest of the community, not a particular developer.

The arguments we have heard today from government have been even more concerning because basically what we have been hearing is that the Government had no knowledge of what actually had been said to us in the Estimates Committee and other forums when talking to and asking questions of officials. What has happened to ministerial responsibility? Where does the buck stop? I am absolutely shocked to hear the Government put the argument that because they did not know they therefore should not be censured. The point is that the community and this Assembly have been told by government consistently that good, due process was met. I believe it has not been met at all. I believe that significant amounts of ratepayers' money have been spent in a process that has been, to say the least, inconsistent and ad hoc. We are seeing a diminishing of ministerial responsibility being taken in this parliament and other parliaments, particularly with outsourcing and corporatisation, and I believe that this is an issue of very serious concern for members of this place and for the broader community. It is not good enough. We have to see Ministers accept responsibility if they, in fact, have not been across a subject totally because if we do not have that the buck will not stop anywhere. We will not have accountability and we will be able to see continuing diminution and loss of effectiveness of government services.

I believe, after listening to the debate today, that in fact the Government has misled us not only in its attempt to convince us that they know what they are doing in planning, but also in terms of the information they have given us, or their officials have and which is therefore their responsibility, about the status of the leases and blocks.

**MR SMYTH** (Minister for Urban Services) (4.44): Mr Speaker, a censure motion should be a very serious matter and it should be about very serious subjects. I must say that I, and I think those on this side of the house, take this motion quite seriously. That is why I am somewhat surprised at the matter that is currently before the Assembly and what the debate has descended to. Just what are we arguing about? Is a lease a block?

**Mr Stanhope:** The truth.

**MR SMYTH:** Well, the truth is interesting. Is a lease a block? Is a block a house? Is a lease on a property, on a farm, on a block? They are interchangeable words that we all use to describe where we live. What does the *Macquarie Dictionary* say, Mr Speaker? It says this about "block":

... a section of land, frequently suburban, as for building a house ... a portion of a city, town, etc., enclosed by ... neighbouring and intersecting streets.

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A lease, Mr Speaker, is described as:

... an instrument conveying property to another for a definite period ... in consideration of rent or other periodical compensation ... to take or to hold by a lease, as a flat, house ...

Mr Speaker, I think we on this side of the house have already acknowledged that, according to the dictionary, the terms are not interchangeable. They seem to have clear and distinct definitions. I suspect that for many people, however, the terms are in fact interchangeable. Perhaps we need to be much more careful in our exact and precise choice of words in this place, and I am happy to take that on board. But we need also to remember exactly what we are talking about. We are talking about a preliminary agreement that required a full planning study. Mr Speaker, this was simply an agreement to look at a proposal. If governments were held accountable for looking at proposals as if they were in fact already implemented then government would simply stop.

As the Chief Minister has already said, this was not a joint venture. This has not cost the ACT taxpayers the \$20m that Harcourt Hill has cost the Territory. It has cost us just over \$100,000, for which we have received some very valuable work that we will use in future for any work at Kinlyside. When a basis for this proposal at Kinlyside could not go ahead, we stopped. We simply did not proceed any further. At that stage it was no more than an idea, and, when it became an idea that was not worth pursuing, we stopped. If we had persisted, Mr Speaker, as others have in the past, that would have been reckless. If we had persisted, as others have in the past, that would have been deliberate. We did not deliberately or recklessly proceed, unlike Labor with Harcourt Hill.

Mr Speaker, the Government then was committed, as it is now, to a full and proper planning process, including a look at all social and environmental impacts, before we proceed to any form of rural residential in the ACT. The Government also made it quite clear well before the last election that it was its policy to support rural residential in the ACT. Indeed, in its response in December last year to the Rural Leases Task Force the Government said quite clearly that it supported rural residential. This was also made quite clear during the election campaign.

Mr Speaker, the issue here is whether or not the Chief Minister and the Deputy Chief Minister have recklessly or deliberately misled the Assembly. This comes back to the issue of what is a lease and what is a block, and whether the terms were used in a way that was deliberately misleading. Mr Speaker, I do not believe that members here have demonstrated any recklessness or wilfulness in misleading the Assembly; nor have they demonstrated a deliberate intention to mislead the Assembly. As the Chief Minister pointed out in her letter to all MLAs, the confusion between "lease" and "block" was inadvertent.

Today we have heard a number of members opposite use language that may be considered misleading. Mr Berry, in an interjection, referred to this as a joint venture. It is not a joint venture. Is that deliberate, reckless and misleading? Mr Quinlan referred to it as a deal. What deal? A preliminary agreement to continue to talk is hardly a deal. Is that deliberate, reckless and misleading? Mr Stanhope also used language that somebody might consider misleading when he said, "Here comes the killer punch".

We are waiting. Mr Corbell, I understand, also used the word “leases” when he should have used the term “lease”. Is that deliberate or misleading? Mr Speaker, language is an interesting thing and to be censured for the use of language and how it leads to a debate is very curious.

Mr Speaker, Ms Tucker spoke of the work that PALM is doing with the Hall residents, and will continue to do. None of what we are doing with the Hall residents is in the least inconsistent with rural residential. I only saw it once but Mr Whitcombe’s plan considered issues like protecting Hall and its heritage and its environment. So that work that we have done has value and we will use it in the future.

Mr Corbell also stated that the Government had no reason to enter into an exclusive agreement. This is not correct either. As the Chief Minister has already pointed out, Mr Whitcombe brought the concept of the development, and the Government believed that he had brought the support of the Bolton family who had a 150-year association with the land.

Mr Speaker, I bought a block once. It has my house on it. It came with a lease and, depending on the context, I often use the terms interchangeably. I have even heard some senior public servants use the terms interchangeably. I have many friends in the rural community who talk about going down to their lease, or being on the block, or down on the farm, or in the back paddock. I think that is what this is about here today, Mr Speaker. Those opposite are in the back paddock. Perhaps those opposite are looking for a gate into the back paddock. They might be on the long paddock instead. We are here in the home paddock. We are running the show and they do not like it. Five months into the new government we have the same old face of the Opposition showing up. I guess we have to have analogies for those on the crossbenches. Perhaps Trevor is down in the river paddock making hay. Mr Rugendyke, with his hair cut, perhaps was shorn in the shorn paddock near the shed. This is what it is about, Mr Speaker. There is nothing in this.

I have heard nothing here today that has convinced me that the Opposition has even come close to substantiating the suggestion that either the Chief Minister or the Deputy Chief Minister was reckless, wilful or deliberate. When a basis for the proposal at Kinlyside could not go ahead we stopped. We simply did not proceed further. At that stage it was no more than an idea, and when it became an idea not worth pursuing we stopped. Yes, it was \$109,000 worth of work which we will use, as opposed to the \$20m that we have lost through Labor when Labor proceeded; when Labor was reckless with Harcourt Hill, when Labor was deliberate with Harcourt Hill. If we had persisted, that would have been reckless. If we had persisted, that would have been deliberate. We did not deliberately or recklessly proceed, unlike Labor with Harcourt Hill.

**MR WOOD (4.52):** Mr Speaker, I am going to give two speeches. I am going to give my speech and I am going to give the speech that Michael Moore will shortly deliver. More of that later when I do detail my remarks to what Mr Moore will also say. But, first to my speech. The Government has mounted its defence on two grounds.

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First of all it says, "We did not know about it". Secondly, it presented as a diversion the Harcourt Hill proposal. That has been a diversion. There was a problem that emerged with Harcourt Hill and that was the election of John Howard who cut housing funds to this Territory to the bone. We saw housing development in this Territory go beyond levels we had ever seen. We have seen fewer housing starts than ever before in the postwar years, and that was a problem with Harcourt Hill. As a further point, the Chief Minister has been trying to say what a better process Kinlyside was compared with Harcourt Hill. I wonder whether, tomorrow, she will maintain the same remarks, as I understand now that there is to be some media report tonight on that process. I will listen very attentively to that media report which I hear is to be on television tonight.

Mrs Carnell said there was no advice to government. That was simply an evasion. Mrs Carnell has made no mistake - she has been up front about it - about her enthusiasm for rural residential. It suddenly developed. It suddenly emerged. Of course, we know the nonsense of that. The National Capital Authority would never allow it, but suddenly, out of nowhere, came this wonderful enthusiasm for rural residential. With that, note the familiarity we heard here today in the Chief Minister's speech about Derek. It was Derek this and Derek that, and I think that says a whole lot. That familiarity makes very clear what the connections are here.

Given the focus on this issue, the Minister and the Chief Minister had to know. Mr Humphries's staffer, Stephen Forshaw, made it quite clear in the document that Mr Stanhope read from earlier today. He annotated a document, and said the Chief Minister was well aware of this issue. Of course she was well aware of all the ramifications of it. There were ample warnings.

The Chief Minister, Mr Humphries, and the Government as a whole have complained and moaned about the emphasis the Opposition gave to this issue. How many questions? There were something like 22 questions. Mr Corbell's motion on notice was taken up, and we spent the best part of one day debating that motion under private members business.

I come back particularly to two other points. There was Mr Corbell's question to Mr Gilmour in the Estimates Committee. Again, Mr Stanhope read that out today. There it was said, "Are you sure? Be careful". It was not just a - - -

**Mr Corbell:** Mr Lilley.

**MR WOOD:** Sorry; Mr Lilley. I will get my bureaucrats right. He was asked, "Are you sure about this?". Any cautious person would have given a different answer. There were Mr Corbell's questions to the Chief Minister in an earlier debate in this chamber. "Listen carefully, Chief Minister", he said. "Are you sure? Think about this". There are all those sorts of issues. So there was no question about the emphasis we gave on this side of the house to this question. Do not tell me that government ears were not pricking, or that the bureaucrats back at their desks were not attending to it. It is simply impossible to think that there was no communication; that the Chief Minister and Mr Humphries had not been alerted to this.

Mr Humphries, in fact, has made it clear that he did know about it. Let us go back to the debate on 28 May. This is what Mr Humphries said as reported in *Hansard*. I thought that Mr Humphries - perhaps I read a bit into it - was a bit disconcerted when Mr Stanhope raised this this morning. On page 765 of *Hansard* for this year - I am quoting a sentence within a paragraph - Mr Humphries said this:

She made reference to Mr Whitcombe, because they were the block numbers of the three leases he brought in to the Chief Minister's office and put on her table.

Now, Mr Humphries says he did not know anything about leases and he is confused between leases and blocks. But it is even more disconcerting than that because, if you go back to the uncorrected proof copy of *Hansard*, this is what is attributed to Mr Humphries, and I quote at the same spot:

She made reference to Mr Whitcombe because they were the three blocks he brought in to the Chief Minister's office and put on her table - and put on her table.

Someone changed "three blocks" to "the block numbers of the three leases". Mr Humphries cannot now say that this was all confusion to him, because there has been a careful, deliberate change. Someone knew about it, and I wait for Mr Humphries's explanation of this when he gets up to speak. Was it *Hansard* who made the change for greater precision? I would doubt that. That was clear enough there. Did Mr Humphries, in his office, later, amend that, as we all get the opportunity to do, or did Mr Forshaw do it for him? But, that is a very telling little statement about that. I think Mr Humphries has clearly misled this Assembly, and those changes there show it. There is no question about that, and I am pleased that he has gone off to check that out. He will need to. I want to see at some stage in this Assembly the uncorrected proof *Hansard* that Mr Humphries's office returned to *Hansard* to see who changed that, and we might pursue that further down the track.

If Mr Humphries says, "I did not know", let us look at the letter that was also quoted today that he wrote to Mr Bill Kearney of the Hall Progress Association on 14 August. I quote the key sentence:

I understand the Boltons' lease is over the area now known as Block 630 (as shown on the attached plan) and is leased on a month to month basis.

Debate interrupted.

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## ADJOURNMENT

**MR SPEAKER:** Order! It being 5.00 pm, I propose the question:

That the Assembly do now adjourn.

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

Question resolved in the negative.

## CHIEF MINISTER AND DEPUTY CHIEF MINISTER Motion of Censure

Debate resumed.

**MR WOOD:** Mr Speaker, I think it is quite clear from all that that we have been misled, and we have been deliberately misled. Of that there is no doubt. Having said that, I will move on to my second speech which dovetails into Mr Moore's speech. A little earlier today Mr Stefaniak was talking about recklessly misleading. Well, I am going to move to a higher authority than Mr Stefaniak. I am going to refer to Mr Moore on the subject of recklessly misleading. Let me give a bit of context to this. I want to quote Mr Moore on a no-confidence motion actually.

On 29 May 1990 there was an attempt to censure Mr DUBY - it was not successful - concerning an incident where he did not give a blood sample to the police. I think Mr Moore quite accurately set down some of the principles about no-confidence motions and censure motions when he said in that speech, "What is at stake is the credibility of the Assembly". That is how important it is. I hope you pay attention, Mr Smyth. Further, Mr Moore said that Mr DUBY's credibility had been doubted, that the Alliance Government's credibility was at risk, and that the Assembly's credibility was at risk. They are good principles to establish and I support what Mr Moore said.

Let us go to another no-confidence motion and Mr Moore's comments. There was a no-confidence motion moved against Mr Connolly on 1 December 1994 and this is what Mr Moore said:

Where a case of deliberately misleading the house has occurred, there is no choice but for this house to demand the highest standard and to say, "You cannot mislead this house. You cannot mislead this house and be a Minister".

*(Extension of time granted)* That was a case of deliberately misleading the Assembly. I think such a case has been well established today. It has been. But let us put a little bit of reserve in. It is not necessary, but let us do this and let us go to the question of recklessly misleading the house. I refer you again to the motion that Mr Stanhope moved this morning. I will repeat it:



That this Assembly censures the Chief Minister and the Deputy Chief Minister for deliberately or recklessly misleading the Assembly in relation to the Hall/Kinlyside development.

Let us get on to “recklessly misleading”. What did Mr Moore say? He spoke of some principles that I think have been generally accepted by this Assembly. This is what he said on 12 April 1994 in the no-confidence motion moved against Mr Berry. This is a fairly long quote. I will give it to you. Listen carefully. Mr Moore said this:

One of the most important parts of this motion is that it deals not just with deliberate misleading of the Assembly but also with reckless misleading of the Assembly. It is not good enough, when we are talking about a reckless misleading, to say, “I did not know”. It is not good enough to say, “Well, that was my advice”. It is not good enough, Mr Stevenson, -

to whom he was particularly addressing this -

that something was done in an inadvertent manner when there was a responsibility to know.

I repeat, “when there was a responsibility to know”. Mr Moore went on:

It is not good enough when somebody is working just on the advice of their own advisers when they had a responsibility to know. That would be reckless.

I heartily support those remarks. I have no doubt that Mr Moore will repeat them before this debate is over and before he votes in support of Mr Stanhope’s motion. There is no question about that. He has set the pattern for describing what recklessly misleading the house is about.

Let us remember something else about Mr Moore. I could not find this in *Hansard*. It is there somewhere, and if challenged I will have to dig it out. In a debate he thumped himself on the breast and said, “Well, I have higher standards than everybody else”. He was going to oppose something because it did not relate so much to standards of the parliament but to his standard which was so much higher. He was being very pious about that. The question on an issue as important as this is that the Government ought to have known.

**Ms Carnell:** Ought to have known what?

**MR WOOD:** Ought to have known what? Ought to have known about these blocks and leases - simple basic stuff. It is simple basic stuff, Chief Minister, that Mr Stanhope carefully pointed out this morning. We do know the difference between blocks and leases. Mr Humphries was planning Minister for how long? He held the position for 3½ years or so.

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**Mr Stanhope:** And Attorney-General.

**MR WOOD:** And Attorney-General. Mr Humphries says, "I was confused". Who is going to believe that nonsense? Who could possibly believe it? Mr Speaker, in the terms of the motion, I believe it has been clearly shown that the two members concerned deliberately misled the house. It also has been most clearly shown that they recklessly misled the house. Members here must support the motion.

**MR KAINE (5.07):** Mr Speaker, I intend to be brief, but there are a couple of points that I would like to make in connection with this debate. I am not going to traverse the argument about the difference between a lease and a block, and whether people really understood that or not. I must say that one thing that was said today troubles me greatly; that is, that the Chief Minister rested her defence on this statement - and I quote: "We believed that Mr Whitcombe was bringing the whole of the Hillview property". I have to ask the question: Why did the Chief Minister believe that? Did she simply believe it because Mr Whitcombe said so? What I find astonishing is that the Chief Minister and the Attorney-General, the Deputy Chief Minister, have available to them the entire resources of the ACT Government which owns the land management data system for the ACT. If they really wanted to satisfy themselves all they had to do, surely, was ask and somebody would have told them, even if they did not know, what the true situation was. So I am a little disturbed at the fact that the Chief Minister is resting her defence on that proposition, that "we believed that something was the case", when, clearly, she did very little, if anything, to establish the validity of that belief. For a government to act, to sign an agreement, to sign a contract without satisfying themselves as to the facts of the case, seems to me to be a dereliction of duty.

But the more important issue for me is something that really has not been dealt with today, and that is why was there a preliminary agreement? Why was such an agreement signed? It was not necessary. The Chief Minister has told us that it contained all of the prerequisites to a contract. It set down the fact that there had to be a preliminary assessment. There did not need to be a contract signed to ensure that was the case. That is a requirement under Territory law. So there did not need to be an agreement between the Government and Mr Whitcombe to have a preliminary assessment under the Land Management Act carried out. That was required anyway. She then went on and she said:

Proceeding with the development was also dependent on assessments of its financial feasibility, and architectural, engineering, town planning, land use, market and other relevant matters.

Well, those matters would have to have been addressed whether there was a preliminary agreement or not, and the Government, I assert, would have been derelict in its duty had it proceeded to a joint venture contract without having clarified all those issues beforehand. Yet, somebody deemed it desirable to sign a preliminary agreement. The very fact that that was done begs the question: "Preliminary agreement to what?". It was a preliminary agreement to signing a joint venture contract, and it was merely the first step to getting there. The only reason that I can assume why such an agreement was signed is that it gave Mr Whitcombe some rights, some prerogatives in negotiating with the Government on this matter. Mr Speaker, it gave the Government nothing.

It imposed no additional obligations on the Government other than to concrete in place Mr Whitcombe's place in the negotiating process, as far as I can see. The very fact that it was called a preliminary agreement indicates quite clearly that it was a step towards something else. It is all very well for the Government to beg the issue now and say it was not; that, to quote the Minister for Urban Services, it was only an idea. Since when do we need a contract to embody an idea? The Government has been dissembling on this issue, and I thought that the Minister for Urban Services was the ultimate dissembler on this question.

I have been totally unconvinced, Mr Speaker, by the Government's defence on this issue. The facts do seem to speak for themselves. This seems to have been done largely behind closed doors. People did not know what the Government's intentions were, despite the Chief Minister saying that there was public consultation. It was not instituted by the Government, Chief Minister. None of that public consultation that took place out there was instituted by the Government. It was instituted by other parties. It was instituted by the people from Hall who started to wonder what was going on and demanded to know. It was instituted by Mr Whitcombe in response to that sort of public demand that started. As a developer, I would think it would start to trouble him somewhat. Here he was hoping to get into a major contract for a development and the people most directly concerned were starting to get a bit twitchy about it and starting to ask questions, such as "What is going on?". So Mr Whitcombe took the trouble to go out there and explain to people. It was Mr Whitcombe who made sure that members of this Assembly went and had a look at the location. Where was the Government in all of this? The answer is, Mr Speaker, that the Government was absent, totally absent.

I am not convinced by the defence put up by the Government. They were hoping somehow to get this thing through the system. I am not clear on what their aim was. That has not been adduced. There does seem to be something odd about the whole process. The Government went into this preliminary agreement in the first place when there was no need for it. No such agreement is called for under any contracting process that I have ever been aware of, and it did not prescribe a requirement for any precondition to the contract that was not already required or would, as a matter of prudence, have been done anyway.

I think the Government has failed to answer the general proposition that it was reckless. They did not know and they could have informed themselves very easily. To go into a contract like this and sign it, binding the people of the ACT to any financial consequences, some of which were realised, without knowing what the status was is, I think, something that I find worthy of criticism.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (5.14): Mr Speaker, I rise as one of the two Ministers who are the subject of this censure motion. I want to cover a large number of issues and I think I will need more than 10 minutes to do that. I seek members' indulgence in that respect. First of all, let me make some comments about censure motions generally in this place and the way in which they have been debased, I think, over the last few years.

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Mr Corbell made some comments about the number of censure motions. Since we are in the mood for saying that people mislead things, Mr Corbell, I am sure unintentionally, misled the listeners of the ABC this morning when he was interviewed about this - it may have been yesterday - and said this is the tenth censure motion or no-confidence motion we have faced since the Carnell Government came into office. It is actually the eleventh. The fact is that we have had a large number of these motions. They have become increasingly frequent. I think, Mr Speaker, it suits some members of this house to move such motions because apparently it proves that they are doing their job. I do not think that is the case.

I want to make a point about the effect of censure motions in the broader community. The first censure motion that was moved, to the best of my recollection, of the Carnell Government was in November 1995. There was a headline on the front page of the *Canberra Times* that read "Censure ploy: Carnell on a rocky road" and it reported with considerable coverage the details of the censure motion. By the time the Third Assembly had finished sitting, the significance, or the prominence, given to reporting of censure motions had declined considerably. The second last motion got a much smaller article on page 3 of the *Canberra Times*. They have been getting smaller ever since, in my perception. This says something about the way in which censure motions have been overused, indeed abused, in this place in the last few years. The currency is being debased. Members need to ask themselves whether what is happening today is going to further debase that currency.

Mr Speaker, it is a little hard to respond to this motion because, quite frankly, the case put by members of the Opposition in particular - in fact, all members who have spoken in favour of this motion - has been quite confusing. Mr Stanhope rose in what I thought was one of the more lamentable speeches that we have been given in this place in the last six months or so and told us that he accepted that people can make a confusion between leases and blocks. He seemed to discard altogether the argument that there should be a censure on the basis of confusion of those two terms. But then he went on to base his claim not on deliberately misleading but recklessly misleading on the information which should have come to us from members of the Public Service.

Mr Quinlan took a slightly different tack. He restated the concept of deliberately misleading and said that, although we had no proof or evidence that the Ministers actually knew that the proponent came with only one lease rather than three - however, he had no evidence of that - it is logical that the Ministers must have known and, therefore, the censure motion should get up on that basis.

Ms Tucker had a different line of argument altogether. Her concept of censure revolved around the fact that she was not in favour of rural residential; the Government was. It had pressed ahead to establish rural residential in the ACT and, therefore, we were deserving of censure on that basis.

Mr Speaker, it is hard to respond to members, given that there have been so many different planks, sometimes contradictory planks, in this debate. There is a fundamental question: Did we deliberately, according to this argument, or recklessly, mislead the Assembly? Some have said one, some have said the other and some have said both.

Let me put this to the Assembly: If members accept the premise that the two Ministers concerned, the Chief Minister and I, deliberately misled the Assembly, that we came into this place, so the argument goes, and told the Assembly that we knew this was going to go ahead; that we knew there were three leases in respect of this matter, when in fact we did not know that - we knew that there was only one lease over Hillview that Mr Whitcombe brought to the table for these negotiations - the question needs to be asked: What tactical or political advantage was gained by the Government in so deliberately misleading the Assembly?

**Mr Corbell:** The Government is just stupid.

**MR HUMPHRIES:** Mr Corbell sums it up. We were not just stupid but incredibly stupid under that scenario - to go and tell the Assembly something which the Assembly could find out quite adequately in other ways was not true. Mr Speaker, with great respect, members are asked to assume, in supporting this motion, that there was an extraordinary amount of stupidity in doing that. I am a lawyer, Mr Speaker. I am perfectly well aware that anybody can go over to the Land Titles Office and check on the nature of the leasehold.

**Mr Corbell:** Why did you not?

**MR HUMPHRIES:** I did not do that, Mr Corbell. That goes to the question of recklessness - not deliberate misleading of the Assembly. If it were possible to go and make that check - and I, as a lawyer, would be well aware of that - why would I deliberately tell the Assembly the contrary? It just does not make sense.

**Mr Corbell:** Because you were arrogant. You were arrogant and you assumed that no-one would check.

**MR HUMPHRIES:** The only basis for making that claim in this place is that we must have been incredibly stupid so as to climb into the vehicle of state and deliberately drive it over a cliff knowing we were going to head for a terrible smash at the bottom of it just for the sheer hell of it because we had no idea we were driving over a cliff. Mr Speaker, it does not make sense. It does not add up. To quote Mr Quinlan's remarks, the only logical explanation for what occurred is that we did not know what the status of those leases was and, at best, we recklessly misled the Assembly.

Let us put to one side what he is saying about deliberately. It just does not make sense; it does not add up. Let us assume that the basis for this claim is that we recklessly misled the Assembly. The basis, as Mr Stefaniak and Mr Smyth have indicated to the Assembly, for a claim that Ministers recklessly misled the Assembly would be that they knew or ought to have known that there was a different state of affairs to the one on which they professed to operate; for example, that they received warning advice from their department or departments and chose to ignore that advice and to press on regardless; advice which did not say expressly that this could not be done because, for example,

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there had been only one lease rather than three, but which gave other reasons which a careful and prudent Minister would take into account before making a decision, and, having done so, would not make a decision to proceed on those grounds. Mr Speaker, the question then comes back to this: What was the advice, what was the information, that came to the attention of Ministers?

A number of things have been put before this house in this respect. One was my letter to Mr Kearney of August last year. It was suggested that because I referred there to one lease I must have known there was no sustainable basis for proceeding with an arrangement - a deal, if you like - where at least three leases and a larger block of land were required. Mr Speaker, the problem with that particular line of argument is that the letter that members have quoted from in this place, a letter from Mr Kearney, was a letter that asked me expressly about a particular block. It referred to Hillview in general, but also went on to refer to a particular block. In response to that question about a particular block, I answered in respect of that particular block.

Mr Speaker, bear in mind that we have here questions from Mr Kearney and a response from me - a response to a particular request about a particular block of land. If Mr Kearney's letter to me had said, "Will you describe all of the blocks that Mr Whitcombe brings to this negotiation?" and I had said, "There is actually only one block, Mr Kearney", I would certainly be guilty of having understood that there was an argument about three blocks versus one block. But that is not what Mr Kearney's letter to me said. It referred to Hillview and then said, "I understand there is a particular block", and he gave a number to the block concerned. Mr Speaker, I seek an extension of time of 15 minutes. (*Extension of time granted*) My response to him in that letter was - and I have not got the words in front of me: "The block you referred to now has a different number", and I made some description of that particular block in the letter. Mr Speaker, I think it is quite sustainable to argue - and I do, in fact, argue in this place - that I had the information. I was responding directly to Mr Kearney's question. I was not addressing my mind to the question of how many blocks in total there were that were being considered in this particular debate - that is, in this particular proposal brought by Mr Whitcombe.

Another argument has been advanced by the Opposition. They say, "Public servants knew that there was only one block and therefore the Government" - that is, members of the ministry - "knew or ought to have known that that was the case". The document that they chiefly rely on for that purpose is that of the minutes of the project control group of 18 May 1998. Mr Stanhope relied on it very heavily - - -

**Mr Stanhope:** I do not rely on that document for anything, Minister.

**MR HUMPHRIES:** Mr Stanhope relied on it quite heavily and he said - - -

**Mr Stanhope:** I did not refer to it, Minister.

**MR HUMPHRIES:** I thought you did, Mr Stanhope.

**Mr Stanhope:** No. I referred to Ms Pegrum's minute of 18 May, Minister.

**MR HUMPHRIES:** All right. You did not quote from this document.

**Mr Stanhope:** I do not believe I did.

**MR HUMPHRIES:** You quoted from another document dated 18 May. This is dated 18 May as well and Ms Pegrum is referred to. Are you sure it is not the same document?

**Mr Stanhope:** No, it is not, Minister.

**MR HUMPHRIES:** Mr Stanhope was referring to another document.

**Mr Stanhope:** I do not believe it was, Minister. I do not believe I quoted from it.

**MR HUMPHRIES:** Well, go back and check, Mr Stanhope. This document of 18 May does quote Ms Pegrum. It is the minutes of the project control group and it says:

Annabelle Pegrum advised that two of the three leases had in fact been withdrawn in 1991 and 1992. This left only one-third of the property, block 630, held on lease by the Bolton family.

Interestingly, the next sentence reads:

John Harris indicated that they were unaware the leases had been withdrawn.

This is the solicitor who acts for Mr Whitcombe saying on 18 May he was not aware that the leases had been withdrawn.

**Mr Stanhope:** What did Ms Pegrum think of that, Minister? What did Ms Pegrum think of Mr Harris's advice?

**MR HUMPHRIES:** There are a number of things that she goes on to say about that. She may well have indicated that she disagreed with that particular view, but Mr Harris indicated at that meeting that he was not aware the leases had been withdrawn and at that meeting, clearly, Ms Pegrum was aware. Mr Speaker, this is evidence. I will concede, for the sake of the argument from the Opposition, that here is evidence that a senior public servant in the Carnell Government was aware on 18 May that there was only one lease and not three. A person with the seniority to be able to go into the Chief Minister's office or into the office of the ex-Minister for Planning, as I then was, or the present Minister for planning, as Mr Smyth was and is, could go into those offices and say, "Listen, I have discovered there is a serious flaw with this particular proposal that you should know about". Mr Speaker, that was 18 May. On 19 May - the very next day, probably less than 24 hours later - Ms Carnell came into this house and said:

Whereas the developer believed that he was bringing three leases to the table, it turned out that two of those leases had already been returned to government some six years ago. The full implications of this are now being examined by both the Government and the developer involved ...

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Mr Speaker, if it is true that we can impute this knowledge to the Government, that is, the Ministers, because a senior public servant knew, the Assembly has the satisfaction of knowing that 24 hours later on the next sitting day - 18 May was not a sitting day - the Chief Minister came into the house and put on the record immediately what the state of play was, indicating also at that time that the process was not going to proceed with Mr Whitcombe as the preferred proponent. That occurred the very next day. If Mr Stanhope was quoting a different document, some other document of 18 May, the same argument precisely applies. A senior public servant knew about it on 18 May, and that is why the Chief Minister came into the house the very next day and told the house that the proposal was not proceeding and that there were not three leases; there was only one.

Mr Speaker, what more can a responsible parliament expect of a responsible government? To put it another way, where is the evidence that there was any information against which the Government recklessly decided to proceed with the development which was ill fated? Where is that evidence? In this debate it has not been presented. To the best that I can deduce, the argument has been that senior public servants found out about it and the Government should have known. The Government did know, 24 hours later, and when it did know it came to this house and told the house. Mr Speaker, if this censure motion passes today it will unalterably and quite damagingly affect the standard of responsibility to this place, because if members of any government, indeed any member of the house - this applies to us all - are expected to tell the truth to the house at all times, it ought to be a system which comes with both incentives and disincentives; disincentives in that members who fail to honour that obligation will be censured, but incentives to encourage members who realise they have misled inadvertently to come to the house and put their mistake on the record at the first opportunity. Mr Speaker, that is what has happened in this particular case.

**Mr Corbell:** Nonsense.

**MR HUMPHRIES:** That is what has happened.

**Mr Corbell:** Absolute nonsense.

**MR HUMPHRIES:** Where is your proof, Mr Corbell? Where is the evidence that we had information upon which we did not act or on which we acted recklessly? Where is that information? Mr Speaker, the Opposition has an obligation to discharge and that obligation is to show that there was information that the Government had which it ignored. It is perfectly true, and I admit this very openly in this place, that as Minister for Planning last year I did receive advice from PALM to suggest we should proceed by way of an open tender to release this land. That advice came to me from PALM. I make no bones about the fact that PALM's view was that we probably should not deal with Mr Whitcombe by himself; we should have an open tendering process. That information is already on the public record, so I am not disclosing anything particularly exciting or new in that respect.



Mr Speaker, it is not the obligation of government in every case to follow the advice of public servants; rather, it is the obligation of government to consider and decide for itself what is the best course of action for the people that elect it. In that case, Mr Speaker, we made the decision that we would proceed with a process which at that stage was not an open process. Mr Quinlan argued that the exclusivity of the deal was wrong and we should be censured, in effect, for having exclusively entered into an arrangement with Mr Whitcombe.

I remind members of this place before they choose to adopt that as a standard in this place that there have been 15 joint ventures entered into since self-government, of which nine were conducted without an open tender process. I believe, Mr Speaker, that almost all of those exclusive, non-open tender processes were conducted by the very party which now moves to censure the Government for having entered into a preliminary arrangement with Mr Whitcombe - the very same party. What standard does that set in this place if we were to pass a motion of censure in those circumstances? You are censured because you entered into an exclusive arrangement, a preliminary arrangement, with some members of your Public Service advising against it. If Ministers are going to do what their public servants tell them, we may as well not have a government. We may as well have a government run by the Public Service. That is not what we have been elected to do, Mr Speaker. We have been elected to exercise our judgment.

It should be very clearly on the record that PALM did not say to me, the Chief Minister or anybody else, "Do not enter into this arrangement because Mr Whitcombe has only one lease". That was never put to the Government - that is, to the Ministers concerned. Mr Stanhope and his colleagues, in all the documents that they have tabled, have tabled none that suggest that that was the case - none whatsoever.

**Mr Corbell:** Then what was the case? What is your argument?

**MR HUMPHRIES:** My argument, Mr Corbell, is that there was no advice suggesting to us that this was inappropriate, for the reasons that you have put before the chamber in this motion - that is, that there was only one lease. The Public Service believed, and I concede this, that we probably should not have done an arrangement of the kind that we did. That is true. Members of PALM at least were of that view. But if you are going to censure us because we did not follow the advice of a public servant, we are all in big trouble because when you are a Minister one day, Mr Corbell, you are going to make decisions which your public servants do not like either, and that is not a dereliction of your duty. That is indeed your obligation, on occasions, as a Minister.

Mr Speaker, we have had some other, I think fairly strange, arguments. Ms Tucker has argued in this place essentially, as far as I can tell, that because rural residential is, in her view, a bad idea and because we have pushed this idea we are, therefore, open to a motion of censure in this place. That is a very strange basis on which to support this motion. We are censured for supporting rural residential - that is fine - but how have we misled the Assembly in that respect? She did not at any point tell the Assembly where we have misled it. I cannot understand that argument at all, Mr Speaker.

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Another argument was put in the course of her remarks that the Planning Minister should have known the difference between a lease and a block. Mr Speaker, if I am shown a plan, a document or a deed of some kind, I am perfectly capable of telling the difference between a lease and a block. But if I am reading a speech which has been prepared for me with the words, “b-l-o-c-k” or “l-e-a-s-e”, I will read them as block or lease, as the case may be. That was the case here. Mr Speaker, if I am going to be censured for that, so be it, but a standard is being applied here which is ridiculously high and which Ministers in any government will find impossible to comply with on a long-term basis.

As I said before, Mr Speaker, if this motion is carried today, we change the standards; we change the rules. The rule becomes one that you should adopt a different approach. Members opposite have adopted a different approach. Motions of censure have been moved on them in the past. Their approach generally has been to follow what I think was an old dictate from Ian Sinclair: “Never apologise, never retract, never resign”. I look back to what I think was the first censure motion in this place. It was against Mr Berry in October 1990 for misleading the Assembly in respect of ambulance crews. Mr Berry - even he would concede that now - simply refused to concede to the house that there was any argument, even though there was very clear evidence that what he said was wrong. He simply stonewalled and, when he was censured at the end of the day, he wore that as a badge of honour.

If we pass this motion today, to be perfectly frank, that is the standard that I think I will adopt in this place as well. Why would a Minister eat humble pie and be censured into the bargain when he has the choice of maintaining his innocence and being censured anyway? Where is the incentive to come back and be truthful to the house? There is clearly none. Mr Speaker, my standard - and the standards, I am pleased to say, of other members of this Government - has been that, if you make a mistake, you come back and you own up to it. We have done that in this case. The argument that we have been reckless in our misleading of the house has not been sustained in this debate. Where is the evidence that we were advised not to do this because there was only one lease and we did not do that? It has not been produced. On that basis, Mr Speaker, this motion should fail.

**MR CORBELL (5.39):** I seek leave to speak again.

Leave granted.

**MR CORBELL:** I indicate to members that I did not seek an extension of time in my original speech. Mr Speaker, what we have heard this afternoon from Mr Humphries is a most incredible argument. We have heard both our planning Minister and a former Planning Minister say to us, “We do not understand the difference between a lease and a block”. And we have heard Mr Humphries say that, when he sees the words written down, he just reads them out.

**Mr Humphries:** Well, if it is in a speech, yes.

**MR CORBELL:** And he confirms it now by saying, "If it is in a speech, yes". Mr Speaker, you would think that, under sustained questioning from an Opposition that is obviously concerned about it and from significant concern in the community directly affected by it, the Minister would go back and check to make sure that what he was saying was right. Would you not think that, when you get continued questioning from the Opposition on an issue, you would check your facts, just to make sure? Would you not think that someone with, obviously, the undoubted intelligence of Mr Humphries would have checked? But they did not check. Mr Speaker, they did not check at all.

Mr Humphries suggests that one of the documents quoted this afternoon by the Opposition, the letter he wrote on 14 August to Mr Bill Kearney, who is the president of the Hall and District Progress Association, answered the questions that Mr Kearney asked - no more, no less. I indicated in the debate earlier today that I would table documents associated with that letter. Thanks to the assistance of the clerks, they have indicated to me that the letter has been tabled but the map attached to the letter has not. I seek leave now to table that document.

Leave granted.

**MR CORBELL:** I thank members. That is the map that Mr Humphries sent to Mr Kearney. The map clearly shows block 630, but it also shows all the other blocks of land that are in the area where Kinlyside or the Hall rural residential estate would have been built. You would think, would you not, Mr Speaker, that the Minister would have received a brief with that document and that brief would have explained what the letter was about, why he was signing it, and it would have explained the situation of the other leases surrounding it. Clearly, we are meant to accept the Minister's arguments that that was not the case, that that did not happen. It is beyond credulity for them to suggest that. It is absolutely beyond that.

We have had the argument from Mr Humphries this afternoon that they did not deliberately mislead the house, because to deliberately mislead would be stupid. Mr Speaker, I have to say to you that this Government is stupid - arrogant and stupid - because they assumed that no-one would check. They assumed that no-one would look into this issue. They put forward an argument that said the deal was entered into because Mr Whitcombe brought three blocks of land to the negotiation.

**Ms Carnell:** They brought all of Hillview.

**MR CORBELL:** They brought all of Hillview to the negotiation - the three blocks of land. That was the reason that was given and, when the three blocks of land were not there, that was the reason they got out of the deal. Mr Speaker, you would think maybe they would have thought about this a bit. Maybe they thought this issue was something which could be seen as a bit strange, maybe even a bit shonky. Maybe someone might make that unfair suggestion. Maybe they needed to have a look at that. Mr Speaker, they did. They recognised from the beginning that they knew it was a problem, and I will provide evidence to prove this.

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There is a document released under the FOI request. It is a commercial-in-confidence document released under the FOI request and it is titled "Hall (Kinlyside) Rural Estate: Meeting with John Bolton (National Capital Authority) - 4 May 1998". Hall (Kinlyside) Rural Estate is the entity set up between the Government and Mr Whitcombe to progress the Hall-Kinlyside development. The Chief Minister confirms that now. But what does this document say? The document has a very interesting list of major points of potential criticism of this development. What does it say, Mr Speaker? Dot point 1 states:

Original Derek Whitcombe proposal

letters from Derek Whitcombe on file

Obviously there was some concern about Mr Whitcombe's letters to the Government. Dot point 2 states:

Exclusive dealing - why Derek Whitcombe?

It goes on:

what's so special about the proposal

what does Derek Whitcombe bring to the proposal

Derek Whitcombe's financial capacity

These are all listed as major points of potential criticism, Mr Speaker. Dot point 3 states:

Inconsistency between executed agreement and Cabinet Submission draft

reversal of responsibility for costs

staging.

Dot point 4 reads:

Expenses

Territory to meet consultancy fees prior to preliminary agreement (and joint venture)

Dot point 5 states:

Timing

September 1998 for signing joint venture

2 years for all other preconditions to be finalised

Dot point 6 reads:

Rural residential study

Dot point 7 says:

ACT Sub-Regional Planning Strategy

rural residential nodes identified in the subregion ...

no rural residential node identified in the ACT

Strategy never considered rural residential in the ACT as it was not an issue for the Territory.

Mr Speaker, these are the plans of the company set up between the Government and Mr Whitcombe to progress this development, and they show clearly that from the very beginning they were aware that there was a page full of major potential criticisms of this project.

**Ms Carnell:** Sorry, what date was that? What date - 4 May? From the beginning? Are you lying?

**MR CORBELL:** It was 4 May 1998. Mr Speaker - - -

**Ms Carnell:** The 4th of May was two days or three days before we terminated.

**MR CORBELL:** What this clearly shows, Mr Speaker, is that the Government were aware from the beginning that this deal was shonky, that this deal was not something that they could justify. For that reason, when this deal broke, they made up an excuse to justify the deal. That is what they did. What was the excuse, Mr Speaker? The excuse was: "Mr Whitcombe brought three blocks of land to it". When the deal broke, when it was reported in the newspaper and they knew they could not justify it, because they had been able to work out all the reasons themselves, they said the deal was off because Mr Whitcombe did not bring three leases to the table. That is what they have said. That reason is false. That reason never existed. The justification for that deal never existed. It was not in any of the documents that we have received under the FOI request. It was not a condition of entering into the deal. It was never a condition of entering into the deal, so it could not be a reason for getting out of the deal. That is where this Government have misled the Assembly. That is where they have almost certainly deliberately misled this Assembly.

But if you have some doubt that it is not deliberate, you have to ask yourselves why it took three months of questioning in this place for the Government to admit they had made a mistake. Day after day they stood over there and stonewalled. They refused to answer and they tried to make it into a bit of a joke, did they not, Mr Rugendyke? They tried to say that this was not an issue that the Opposition could keep questioning about.

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It was only when they were caught out, it was only when they realised that the three leases did not exist, that they admitted they had made a mistake. After making the argument for three months, with 21 questions in this place and numerous questions in the Estimates Committee, they were suddenly put on the spot and they could not justify the existence of those three leases, because those three leases did not exist.

What does this debate come down to, Mr Speaker? It comes down to the fact that we are asked to believe that a planning Minister, a former Planning Minister and a Chief Minister do not understand the difference between a block and a lease. Can you believe that? Do you think the people of Canberra can believe that? Do you think the people of Canberra can have confidence in the planning processes of this place? (*Extension of time granted*) Mr Speaker, can the Canberra community seriously believe a government and have confidence in a government charged with administering planning processes in this Territory when the Minister for planning and the former Minister for Planning both say they do not understand the difference between a block and a lease? Can the Canberra community believe in a government that says, "We just read what is put in front of us."? Can we believe that? No, I am sorry, Mr Speaker, this Opposition cannot believe it. We cannot believe it at all. Quite clearly, this issue is something that cannot be ignored.

Mr Speaker, thanks to my very efficient and effective staff - and we have them over here as well - I have had some work done on the issue of development in the Hall district. There was a letter to Mr Humphries from Mr Bill Kearney. Mr Humphries has said that in his letter to Mr Kearney he was simply answering questions that Mr Kearney asked him, and that did not indicate his full knowledge of the status of the land. Let us have a look at what Mr Kearney asked Mr Humphries. Mr Kearney asked four things. First of all, he asked about the status of all rural leases bounding the Hall village. I emphasise: All leases. He asked about the status of the lease of the Bolton farm - Hillview. He also asked about options available to the Government with regard to that block of land - Hillview. And he asked about the intentions of the Government regarding that block of land.

Mr Speaker, that is very different from what Mr Humphries has said in this place. That letter was dated 27 July. Mr Humphries has stood up in this place and said that the document that he sent to Mr Kearney did not tell the full story about leases because he was only answering the questions that Mr Kearney asked him. Mr Kearney asked him about the status of all rural leases bounding the Hall village. I repeat: All of them.

**Mr Humphries:** It is not in the Hall village.

**Ms Carnell:** It is not in the Hall village.

**MR CORBELL:** Bounding the Hall village. Not the Hall village; bounding the Hall village, Mr Humphries.

**Mr Humphries:** Some of these do not bound the Hall village.

**MR CORBELL:** He also asked about the status of the lease of the Bolton farm called Hillview. Mr Humphries answered that. The point is that there is no confusion. There is no issue that Mr Humphries did not answer all of the questions or only answered part of the question that Mr Kearney asked him and, therefore, he did not answer all of the issues about land at all. There is no confusion about that because, quite clearly, Mr Kearney asked him about all of the land associated with that development. He quite clearly asked about that and Mr Humphries chose not to answer all of it. That is the reality, Mr Speaker. I seek leave to table that document because I think it demonstrates quite clearly that is not the case, as Mr Humphries put to him.

Leave granted.

**MR CORBELL:** Mr Speaker, in conclusion, the decision you have to make tonight is this: The Government's action was either deliberate or it was reckless. Those are the terms of the motion put forward by Mr Stanhope. If you do not believe that it was deliberate, you have to ask: Why did they continue to say it when it was quite clear that advice from them and to them showed that they were aware of the status of the leases? Why did they continue to do it? Why did they continue to argue a proposition which was fundamentally untrue? When it comes down to it, they are responsible. As Ministers, they are responsible. They are responsible for the actions of their public servants. They are responsible for the activities of this Government. If this parliament cannot say, "That is not acceptable behaviour", and issue the censure that should be issued against them, it is a sad state of affairs in this Territory when these sorts of things go past unnoticed. I urge members to support this censure motion.

**MR SPEAKER:** Mr Quinlan, I think, wishes to make a statement under standing order 47.

**MR QUINLAN:** I do. Mr Speaker, I do believe that I heard Mr Humphries quote me as saying that at best he and the Chief Minister had acted recklessly. My terminology, I recall, this morning - - -

**Mr Humphries:** No, I said Mr Stanhope had said that. That is what Mr Stanhope said. You said it was deliberate or reckless.

**MR QUINLAN:** Let us get it on the record that my terminology this morning was that at absolute minimum they were reckless. I find this little event quite astounding in a debate when we are talking about misleading the Assembly.

**MS CARNELL** (Chief Minister and Treasurer) (5.56): I seek leave to speak again, Mr Speaker.

Leave granted.

**MS CARNELL:** Mr Speaker, if we are talking about misleading this Assembly, I think that Mr Corbell just did that on more than one occasion in his speech and I cannot believe that he would have meant to do that. He made comments that after "three months of intensive questioning" finally this Government admitted that Mr Whitcombe did not hold all of Hillside - Hillview, I should say - except that all of the questions - - -

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**Mr Moore:** Hillview or Hillside?

**MS CARNELL:** Hillview. All of the questions, apart from the one from Ms Horodny in September, were after we terminated the agreement. Mr Corbell has just raved on for a very long period of time about how “that side of the house”, throughout the intensive questioning, just continued to hold the line that Mr Whitcombe had all of the leases. He said that finally they forced us to admit that Mr Whitcombe did not have all of the leases. Wrong. The first question was on 19 May. When did we terminate? It was 18 May, Mr Speaker. The only person who asked a question before that, certainly on my advice here, is Ms Horodny, in September. There were questions on 19 May, 20 May, 21 May, 26 May, 27 May, 28 May and, I think, 23 June. The fact is that by then the Government had made it quite clear that the agreement had been terminated at that stage; that Mr Whitcombe and the Government had both agreed that he did not bring all of the leases to the Assembly. If we are looking at embellishment of the truth here, we may have just heard it from Mr Corbell.

Mr Speaker, I think it is important to get back to basics. This morning, certainly Mr Stanhope, but I think others, made the point that the reason that we were being censured was that they could not believe that we entered an agreement with Derek Whitcombe because he brought Hillview. He could not accept that we believed that the preliminary agreement was based upon the fact that Mr Whitcombe brought Hillview in total to the table.

**Mr Stanhope:** Something of no value.

**MS CARNELL:** Now they are saying that that is not the issue; it is the fact that it was of no value, not the fact that Mr Whitcombe brought all of Hillview. The fact is that those on the crossbenches and the Government, and actually those opposite, know that Mr Whitcombe did believe he was bringing all of Hillview. The fact is that there has been documentary - - -

**Mr Stanhope:** That is the point. He believed it and you should have known better.

**MS CARNELL:** Sorry. No, you did not say that this morning. You said that we knew. Mr Speaker, he said that we knew. Now they are saying something else. This morning they said categorically that the reason we were being censured was that when we signed the preliminary agreement Mr Humphries and I knew that Derek Whitcombe did not bring with him all of Hillview. We have shown categorically that that is not the case. In fact, I think just about everyone in this place has now seen the Cabinet decision that was made as a result of that, because obviously somebody has leaked it on more than one occasion.

**Mr Moore:** Who do you think leaked it?

**MS CARNELL:** I cannot really imagine. Anyway, we will not get into who might have leaked it.



**Mr Moore:** No. I think it would be worth it.

**MS CARNELL:** It might be worth making some comments. That Cabinet decision makes it quite clear that the decision that Cabinet made was based upon Hillview, not bits of Hillview - not parts of Hillview, but Hillview. That decision, of course, as everyone knows, because everyone has seen it by now, was made in December. It must have been a week or so before the preliminary agreement was signed. That showed categorically that the basis upon which the Government made the decision was that Mr Whitcombe brought Hillview to the table. That Cabinet submission, as members would know, because it has been leaked, also went into quite significant depth on why parts of Kinlyside were added to the preliminary agreement. Mr Kaine, who was part of that debate in Cabinet, could not understand why a preliminary agreement was entered into at all. I have to say the reason it was entered into was that it was a Cabinet decision, of which he was part, to do so. I am surprised he did not know.

Mr Speaker, that without any doubt shows categorically that the Government did believe that Mr Whitcombe was bringing all of Hillview. The information that I tabled this morning showed categorically that Mr Whitcombe, even on 18 May, when the information became absolutely evident, was of the view that he had brought to the table all of Hillview. If that is the case - if Mr Whitcombe believed he brought all of Hillview, Mr Whitcombe's lawyer believed he brought all of Hillview and the Cabinet decision that was taken a week or so before the PA was entered into was based on the belief that all of Hillview was what we were talking about - it shows categorically that that was the advice that was given to Government upon which to make a decision. That totally rules out any view of a reckless or intentional mislead.

Mr Speaker, if we are talking about blocks and leases, Mr Stanhope started his speech this morning by saying that yes, it was quite normal for people to use "block" and "lease" interchangeably; that in fact, to quote, he had done it. That rules out any view that we could be censured for that reason. If we cannot be censured for interchanging "block" and "lease", which I immediately wrote to members of the Assembly about, we cannot be censured for knowing that Mr Whitcombe did not bring all of Hillview, because members have all seen the Cabinet submission which shows categorically that was the basis upon which the decision was made.

**Mr Stanhope:** I have not seen it.

**MS CARNELL:** Everybody else has. Mr Speaker, that rules out any view of recklessly or intentionally misleading. What this Government did was enter into an approach or a process that protected the Territory. I do not think that anybody could suggest that Ministers who enter into something that protects the Territory, and did protect the Territory, I have to say - it actually worked - could be in any way censured.

**Mr Stanhope:** Except for a few hundred thousand dollars here and there.

**MS CARNELL:** Mr Stanhope says, "Except for a couple of hundred thousand dollars".

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**Mr Stanhope:** Here or there.

**MS CARNELL:** Give or take \$100,000 - is that what you are saying? It was \$107,000, as we know. All of that information will be used in future rural residential development or future subdivision of that particular area. I think we have shown time and time again that this is just ridiculous. I think we have shown categorically that this Government, or Mr Humphries and I, did not in any way mislead this Assembly, whether it be intentionally or recklessly. The fact is that we did not. Mr Corbell, in his comments a few minutes ago, tried to indicate that we had somehow been forced to admit the issue of leases. No questions whatsoever were asked in the Assembly until after the 18th, apart from Lucy Horodny's question in September, until we terminated the agreement. (*Extension of time granted*) The issue here is not what happened after the PA was signed but what happened before the PA was signed. That is what this debate has been about, yet almost all the documents those opposite have quoted from have referred to things that happened after the PA was signed and become somewhat irrelevant to why the Government entered into a preliminary agreement with Derek Whitcombe.

**MR SPEAKER:** Before I call Mr Rugendyke, I would like to recognise the presence in the gallery of the Deputy Mayor of Renmark Paringa District Council, Mrs Trish McAuliffe, and her husband. Welcome.

**MR RUGENDYKE (6.07):** Mr Speaker, I have sat here all day with an extremely open mind. I have been lobbied left, right and centre on this issue. We have come here with the promise of a big conspiracy of some sort. That is why we have had to listen carefully to all the debate. What have we had? We have heard about everything that we have been told over the last several months. Twenty-two times we have come to question time and heard the same old questions again over and over. Where is the conspiracy? Unless Mr Stanhope's final 15 minutes of fame comes up with a knockout punch, I do not know that we have had it. I guess what we have seen, if nothing else, is perhaps a monumental cock-up. Excuse the language, but that is what it may well be. But there is a major difference between a cock-up and a conspiracy, or whatever it is that this motion has tried to find.

I have also been sitting here wondering just exactly what standard of proof we might need to establish that this motion should be supported - the balance of probabilities, as in a civil court, or beyond reasonable doubt, as in a criminal court. That is my background; that is my knowledge of these sorts of things. My thoughts would be that this place is much more revered and much more important than the Magistrates Court or the Supreme Court, so my standard of proof here is beyond reasonable doubt. I am sure, Mr Speaker, that we have wasted far too many words here today, only to come to the conclusion that this motion has not been satisfied beyond reasonable doubt. On that basis, unless there are knockout blows in the final summation, I am unable to support this motion.

**MR MOORE** (Minister for Health and Community Care) (6.10): Mr Speaker, I think Mr Rugendyke, in applying his police background, sifting through evidence and drawing his conclusions, has put it rather succinctly. Indeed, he has followed the good work of the speech of Bill Wood, who quoted me about the range of principles that apply to this sort of decision. I would like to thank Mr Wood for doing that for me. It is going to shorten my speech significantly. It is greatly appreciated. However, my support is dependent on delivering the level of proof that Mr Rugendyke talks about. We have already spent a huge amount of time today on something that simply has not been substantiated. The motion simply has not been substantiated.

Let me deal with a couple of things. The beginning of Mr Wood's speech I found very interesting. He said "Look, we should not be dealing too much with Harcourt Hill, because it is a digression, a \$20m digression. After all, it was not my fault; it was John Howard's fault". I would say that there was a stronger level of proof of misleading applying to that statement than ever there was to the statements made by Mr Humphries or Mrs Carnell, if you are looking at recklessly misleading. I do not think Mr Wood's statement was misleading. I think there was a bit of flamboyance and a matter of opinion in it and a little bit of rhetoric, and therefore I accept it.

Look at the issue of blocks and leases. I have been working fairly intensely on the leasehold system in this Territory since about 1983. When people were talking about a block and a lease, I thought, "A lease is the bit of paper and a block is the land". Then I heard people pretty well interchange the terms "blocks" and "leases". It did not register for me as anything extraordinary, because we often deal with the words "blocks" and "leases" in an interchange in normal language. Even when the letter that Mrs Carnell wrote to us and the letter Mr Humphries wrote to us on whatever the date was - - -

**Mr Berry:** Have you tried signing a block lately, or bringing a block into your office instead of a lease?

**MR MOORE:** Mr Speaker, can you protect me from Mr Berry?

**MR SPEAKER:** Yes, I will, Mr Moore.

**MR MOORE:** Thank you. I hardly ever stand to speak without Mr Berry's constant interjections.

**MR SPEAKER:** Please respect the standing orders, Mr Berry.

**MR MOORE:** It seems to me, Mr Speaker, that had there been a strong reason, a good argument, for a decent censure motion here it could have been put succinctly. There has been no effort whatsoever to put a succinct case, with the exception to a certain extent of Mr Corbell, who did put an argument, I felt, in a reasonably succinct way. I do not accept the argument but he did put it in a reasonably succinct way. It was more about the leasehold system generally than about the specific issue that is the subject of this censure motion today. I do not believe that the Chief Minister or the Deputy Chief Minister deliberately misled the Assembly, nor do I think anybody here believes that they deliberately misled the Assembly.

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**Mr Berry:** I do.

**MR MOORE:** There are some people who believe they deliberately misled the Assembly. Did they do it recklessly? To be satisfied that they acted recklessly, we would have to believe that they believed they had some good reason for doing something and then proceeding as we did in the case with Mr Berry when we dealt with a no-confidence motion.

It is ironic, Mr Berry, you might note, that Mr Humphries quoted from a 1990 censure motion. I think it was the first censure motion ever moved in the Assembly. At that stage, Mr Berry, I strongly supported you in that censure motion but we lost. I just thought I would remind you.

**Mr Berry:** When you had some standards, Minister.

**MR MOORE:** The standards remain the same. I will just add something else. It would be a rather convenient situation for me to support a censure motion. Nothing would so clearly separate me from the Government and verify my independent status as supporting this censure motion. It would be a very convenient tool for me to be able to do that, with no cost. Had it been a no-confidence motion, the cost would have been very clear, but a censure motion I could support with no cost whatsoever. In fact, the smart thing for me would have been to go to the Chief Minister and the Deputy Chief Minister and say, "Nudge-nudge, wink-wink. Wear this. It will really help me a huge amount". After all, what does a censure motion do? You have had them passed before.

But there just was not enough evidence presented to have me believe that this really was about a censure motion. You talk about the crossbenches. I heard Mr Kaine's argument and I can understand his perspective. Ms Tucker's arguments, I must say, were quite extraordinary. I agree with what Ms Tucker was saying about protection of the leasehold system and about the general leasehold system. That is something that I have separated myself from the other members of Cabinet on. I have quite a different view from them. I will support all of that, but it is not a reason to censure somebody if they have a different view. That is how the Assembly operates. We have different views, and that is why we are here. But when it comes to a censure motion, as far as I am concerned, the argument was just not substantiated.

**MR STANHOPE** (Leader of the Opposition) (6.16), in reply: I will close the debate, Mr Speaker. Contrary to what the Chief Minister and the Deputy Chief Minister and others have said, and contrary to what Mr Moore has found it convenient to think for reasons that I really do not understand and will worry about, we have today provided clear, substantial and substantive evidence that throughout the ACT bureaucracy there was a level of knowledge about the status of the Bolton lease. There is absolutely no doubt, and it cannot be denied that there was knowledge throughout both parts of PALM and throughout both parts of OFM that were relevant to the development of the preliminary agreement. I mentioned it this morning, and I will mention it again briefly before I get on to my concluding remarks, because I think it is important that I reinforce it, that senior officers within Planning and Land Management, on 11 July, prepared a detailed minute on the precise status of the Bolton lease. It is a three-page minute. It goes into detail.

**Ms Carnell:** Whom did it go to?

**Mr Humphries:** To whom?

**MR STANHOPE:** It was an internal minute and it is in extremely precise detail. It was prepared two weeks after Mr Whitcombe made his proposal. It was prepared by that part of PALM which had responsibility for rural leases and management of metropolitan land. I presented this morning a minute prepared within the Office of Financial Management, part of the Chief Minister's Department, by Mr Leigh Osborne for, I believe, Mr Neil Morgan. Also indicating on it is Mr Steve Wallace. I do not know these gentlemen personally, but I believe they are all officers who were involved in this project. I believe Mr Neil Morgan is a senior officer of the Chief Minister's Department. I believe Mr Neil Morgan was intimately involved with the development of this proposal. This document states precisely, clearly and unequivocally that the Bolton lease had had blocks withdrawn from it by the Territory and that they had been reafforested. That was the knowledge within the Chief Minister's Department. There is also an indication, of course, that it was generally known within PALM and that it was generally known within the Department of Urban Services that the Bolton lease did not comprise the three blocks. This is revealed not in the minutes of the project's control group of 18 May but in a minute from Ms Annabelle Pegrum, as executive director, directly to the Chief Minister, through the executive director of the Office of Financial Management, Mr Lilley. It was seen by Mr Lilley. It was referred to the Minister on 18 May and was returned from the Chief Minister's office on 21 May - - -

**Ms Carnell:** Yes, 18 May, this year.

**MR STANHOPE:** This year.

**Ms Carnell:** After the PA.

**MR STANHOPE:** It refers to knowledge in the past and indicates clearly, specifically, unequivocally and unambiguously that officers in PALM had been involved in discussions with Mr Whitcombe - - -

**Ms Carnell:** On what?

**MR STANHOPE:** About the tenure area of the Bolton property. The evidence is there. It is clear and it is unequivocal. That is the evidence that has been provided and that those on the other side do not wish to see.

**Ms Carnell:** There is any amount of evidence that Mr Whitcombe does not agree with that.

**MR STANHOPE:** They choose not to listen. They choose not to - - -

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**Mr Corbell:** Mr Speaker, I am sorry to interrupt my colleague, but the Chief Minister is wilfully ignoring your ruling.

**MR SPEAKER:** Please, let Mr Stanhope conclude.

**MR STANHOPE:** They choose not to listen. They choose not to be concerned about the fact that in that evidence there is clear reference to the fact that bureaucrats, public servants, at senior levels were fully aware. We are running this amazing argument now: "Well, as long as I personally did not know, I am not responsible. I, the Minister, was not personally told; therefore I, the Minister, am not personally responsible".

**Mr Berry:** That is reckless.

**MR STANHOPE:** That is reckless and it falls directly within the quote that Mr Wood made from Mr Moore. I must say that I was impressed with the words. It is precisely that that Mr Moore says is the standard. Mr Moore has suddenly discovered a higher standard, beyond reasonable doubt. That was not his previous standard by any means.

The other major factor in this case, the one that I have noticed, the one that not a single member of the Government or those who will not support this motion has addressed, is the fact that the Chief Minister and the Deputy Chief Minister consistently and persistently insisted that there were three sets of documents; that there were three sets of leases or, if not leases, there were three sets of block documents. As we all know, you cannot have three sets of block documents. They simply do not exist. They insisted time and time again that there were three sets of lease documents and that they actually saw Mr Whitcombe bring the documents in to the Government. Mr Humphries said that Mr Whitcombe brought them in and put them on the Chief Minister's table. I think it is interesting that not a single one of those who have indicated they will not support this motion have explained away how that is not a direct and deliberate misleading of this Assembly. How is it not a direct and deliberate - not reckless - misleading of this Assembly for the Chief Minister and the Deputy Chief Minister, assisted by Mr Lilley, to say that they actually saw the documents; that they saw these three sets of documents? Mr Osborne questioned Mr Gilmour in estimates at length about this. He asked, "How did this happen?".

**Mr Humphries:** I did not say I had seen the documents.

**MR STANHOPE:** I will not repeat it but you said repeatedly, as did the Chief Minister, that Mr Whitcombe brought in three sets of documents, the actual documents, the physical documents. But there are not three sets of documents. There never have been and never can be. As Mr Corbell indicated in his presentation earlier today, we got into this situation because quite legitimately we in the Opposition simply wished to better understand why it was that the Government entered into this arrangement in the first place. All this stems from that. The debate we have had and the questions the Opposition has asked stem from a reasonable desire by the Opposition to understand why in the first place we, the people of the ACT, entered into an arrangement with Mr Whitcombe to develop a certain block of land. Why him? We were given a reason. It went to the fact that Mr Whitcombe supposedly brought something to the table.

We now discover that he did not. Regrettably for him, he did not. The point is, of course, that the reason that was advanced to us from the start was this reason - that there was something of value in what Mr Whitcombe brought to the table. It subsequently transpires that there was nothing of value in that, but the Government has constructed its entire defence of this arrangement on that fact, and that fact has fallen over. Its defence of why it allowed that situation to occur was then built on these very shaky grounds. The files will disclose that these very shaky grounds - the question of the three leases and the lack of knowledge, which I have debunked, of the status of the lease - were only dreamt up on 7 May by Annabelle Pegrum and repeated on 18 May in Annabelle Pegrum's minute to the Chief Minister. That is the fact.

We have been forced through three months of questioning. If only the Chief Minister had said at the outset that they were entering into the arrangement because it was a good arrangement. If only the Chief Minister had suggested at the outset that they entered into the arrangement with Mr Whitcombe because Mr Whitcombe was a person of certain standing and brought certain things and certain strengths to the development. If only the Chief Minister had been up front and honest about why we had entered into the development, why she had chosen Mr Whitcombe. If she had said, "We are doing it because we think it is a great idea; we are doing it because we think Mr Whitcombe is really tremendous; we are doing it because all other problems such as changes to the Territory Plan can be overcome", then we may have been satisfied. We perhaps could have been satisfied. We may have gone away satisfied and we would not have then questioned, and questioned repeatedly, on these spurious grounds, which have now been proven to be spurious, that something of value was brought and therefore we entered into the arrangement.

The whole edifice has fallen over, and it is obvious from the documents. We have Mr Humphries's letter to Mr Kearney. We have Ms Pegrum's personal minute to the Chief Minister. We have evidence of the advice provided on 11 July - specific advice, the specific details of the block. We have evidence of Mr Morgan's meeting with Mr Osborne on 25 August. (*Extension of time granted*)

As I said, Mr Speaker, the Chief Minister could have said straight out that Cabinet did not know the status of the leases that they took the decision on in 1997 because the leases were never a factor in making the decision, so neither she nor Cabinet had bothered to ask. She could have said that. That is in fact the fact. They were not a factor. She could have stated, as she has since, that she saw no problem with pre-empting the review of the rural residential development. She could have said that. As I said, if the Chief Minister had just answered the questions, the Assembly could have moved on. We could have debated, as I said, whether this was the best way of doing business. We could have debated whether other developers' claims - and they did exist, as we all know they did exist, and Mr Humphries actually dismissed the last of those on 9 January, I think, to Woden Constructions, and in doing so promised an open process in the development of rural residential in the Kinlyside area - - -

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**Ms Carnell:** In 1996?

**MR STANHOPE:** No, in 1998, 9 January 1998. But the Government, for whatever reason, did not wish to answer the simple questions. Why was the deal necessary? Instead, we have had this rigmarole, this house built on shifting sand. We have had amazing stories of the developer bringing in three blocks, actually bringing in the documents. We have had absolute denials that anybody ever knew about the fact. Actually, we have had PALM and OFM through this place seriously defamed - that they did not know what they were doing; that they were incompetent; that they allowed their Ministers to enter into a development worth perhaps \$150m without ever once a single one of them, these competent and experienced public servants, telling their Minister, "Hey, Minister, perhaps there is a problem here. We have advice in the department that Mr Whitcombe actually does not have authority over all that land. Minister, do you know what you are doing?". Are our public servants that incompetent? Are they truly that incompetent? Are those who advised Mr Humphries before he went to Cabinet on 22 December, are those public servants who advised Mrs Carnell before she went to Cabinet on 22 December, that incompetent? I do not think so. If that is what the Government is suggesting, then I truly fear.

Just to conclude, Mr Speaker, this has got nothing to do with whether or not, from time to time, we confuse the word "block" with the word "lease". That is just simply spurious. This debate has got nothing to do with whether every now and again we inadvertently use the word "block" when we should use "lease". We all know what a block is generally. We all know what a lease is. We know what a lease document is. Mr Moore knows that. Mr Humphries particularly knows that. A Minister for Planning and a lawyer and an Attorney-General knows that. He knows that there is a difference. We can sometimes inadvertently make a mistake in our words. We can transpose words. We all do it, but we do not make that sort of serious mistake about the legal ramifications of a lease document and a block. We all know. If those of us in this place actually take our roles seriously and we do not know that, then we should not be here. Mr Humphries, you should not be continuing as Attorney-General if you do not know what is the difference between a lease and a block.

In conclusion, Mr Speaker, members of the Assembly have listened to the evidence provided today. It is clear that both Mrs Carnell and Mr Humphries had the chance repeatedly to clarify their statements. They have recklessly or deliberately persisted with their statements both in the Assembly and in the Estimates Committee. Those statements have been exposed by their own mouths in some regards. By the paper trail that we have followed through the FOI, those statements have been exposed as misleading, as evasive and as untrue. The mislead is clear. The mislead is absolute. It stems from the fact that the reason they provided for the Kinlyside deal was never ever true. It all stems from that. It stems from the fact that they built a defence which they felt they needed, on the basis of advice dreamed up by an officer who did not understand that for a lease you had to have a document. This all stems from that, and we all know that. It all stems from the excuse that was made up to explain away the embarrassment. We all know that. We know it and we know where it stemmed from.



I think the points that have been made are relevant. This matter does go to the heart of the way business is done. This matter does go to the heart of the way this community thinks about this institution. The point has been made often that if we as an Assembly do not take that step of actually censuring, only censuring in a way, Ministers who come into this place and who do quite deliberately mislead and who are, I think, so unthinking of their responsibilities that they actually do not take advice from public servants, that they actually feel that they can distance themselves and abandon their responsibility by not accepting responsibility for the advice that their servants have, then we have truly arrived at a dismal point for this Assembly - that, in fact, misleads are acceptable; that you can come into this place and not tell the truth and get away with it. That would be an appalling result today.

**MR SPEAKER:** Order! The member's time has expired.

Question put:

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

The Assembly voted -

*AYES, 8*

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

*NOES, 9*

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

Question so resolved in the negative.

#### **NON-AUTHORISATION OF BROADCAST OF CENSURE MOTION DEBATE**

**MR BERRY** (6.34): I seek leave to move a motion which has been circulated in relation to the absence of a declaration of a landmark debate in relation to the censure motion this day.

Leave granted.

**MR BERRY:** I move:

That this Assembly dissents from the decision of the Speaker to not authorise the debate on the censure motion this day as a landmark debate.

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Mr Speaker, this morning Labor learnt that you had not authorised the debate on the censure motion which has just been disposed of as a landmark debate. I understand there were letters or requests from the media in relation to this matter. It was something that the Labor Party had agreed to but we understand that you, Mr Speaker, dispatched a runner to offices to collect information on what might be considered consensus in relation to the matter. Mr Speaker, your decision, I think, was made in good faith. We do not dispute that. This motion does not question the Speaker per se. It is just a way of this Assembly stating its position in relation to this matter.

Mr Speaker, I will keep my speech in support of the motion as short as possible, but I do need to go to a statement by Mr Moore which appears in the *Hansard* of 25 June 1997. Mr Moore said:

I think it is a very important day in terms of open government. I think it is a very important day in terms of the Assembly that we have unanimously agreed that we have reached the point at which we should now make sure that our proceedings are opened up even further. I hope that the decisions of the Speaker will be reasonably free when interpreting landmark or important debates. I think that many, if not most, of the debates that are held in this Assembly are particularly important, in that they affect many lives and the way people go about their lives in this community. That, in itself, should mean that there should be a fairly open way of dealing with the guidelines.

I know, Mr Speaker, that you acted on the basis of information that was dutifully collected for you, and I understand that the Liberals at least and perhaps some of the crossbenchers at first opposed this being a landmark debate. I know that what I read out was not a contemporary version of what Mr Moore's policies might be this day, because they are fairly rubbery and change from time to time, but I trust that he has stuck with this one. I think the Assembly might have a different view from the one that was expressed in not allowing the broadcast of a landmark debate to go ahead.

**MR MOORE** (Minister for Health and Community Care) (6.38): Wayne Berry just has a way of luring people in by saying, "Yes, come with me, Michael. Here we go. This is the way we should go". Mr Berry, in putting up this motion, really challenges us to think about what it is that we believe a landmark debate is, what it is that we believe the media should have a presence for. I stated at the time I was responsible for this legislation that I was interested in open government; that I wanted to ensure that as much as possible we expose to the public media what we do in debate. I have a doubt in my mind about question time. When I look at how the Federal Parliament is reported, the media is all about question time and the conflict then instead of about something more substantive; so I have in my mind some reluctance to perceive question time as landmark, not so much because of what happens in question time but because of the way it is reported.

Mr Speaker, I think this is quite a sensible motion that has been put up by Mr Berry. I do not think it in any way questions your decision. It says that what we are doing is going through a new process of trying to test just what is a landmark debate. I was not aware that this decision had been made by you. I must say that had I been aware I would have encouraged you very strongly to allow the media in here. In supporting the motion that has been put by Mr Berry, I think it is important that it be used simply by the Assembly to help you readjust your thinking - that is the way I would look at it - and say, "We are finding our way about what is a landmark debate and what is not".

The censure motion clearly had significant public interest and clearly had strong media interest. That in itself was an indicator, but only one of the indicators, as to what should have been. I believe personally that this ought to have been considered a landmark debate for the purposes of the Act. I also recognise that the decision you are making is very difficult. It was an on-balance decision. In supporting the motion, I am asking you to take the balance over a little further in the future. As I think Mr Berry stated, it is not about what has just happened. It is about what happens in the future, and I think we should go with it.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (6.41): Mr Speaker, I do not think it is really worth wasting a great deal of time on this matter, given that we have already wasted a lot of time today, but I just indicate that as far as the Government is concerned, obviously excepting Mr Moore, we will not support this motion, simply because I think that there are better ways of expressing the view of the Assembly than in dissenting from a decision that the Speaker has made. We on this side of the chamber argue that motions of censure or dissent are fairly serious matters and reflect on the person in respect of whom they are moved. To move dissent from the decision of the Speaker does cast some doubt on his judgment. I would argue, Mr Speaker, that you have exercised a decision under the rules that the Assembly has provided for you to exercise.

I personally think the better way is to take it up in the Administration and Procedure Committee and indicate in that forum how in the future the Speaker is to make these decisions. I just do not feel that a motion dissenting from the Speaker's ruling, in the aftermath of a debate, or in the heat of a debate, is necessarily the right way of doing it. I accept Mr Moore's different view, Mr Berry. I think that there are better ways of doing it. I would say that we should do it in another forum, particularly in the Administration and Procedure Committee. I understand that you, Mr Speaker, have operated in a very consultative fashion in that forum and have fully consulted members of the Assembly represented on that committee about these sorts of decisions. I think it would be unfortunate for the Assembly to express its disagreement with the outcome of that process in this particular way. I think a better way is to indicate, for example, that the matter should be referred to the Administration and Procedure Committee for consideration of like cases in the future.

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**MR CORBELL** (6.43): Mr Speaker, I think that this is an entirely appropriate course of action to take. We have had a situation today where a significant motion of censure has been debated in this place. It has taken all of the sitting period during daylight hours to complete that debate. It is not acceptable for the Canberra community not to have the opportunity for members of the media to report to them what occurs in this place through the media that the community find the most accessible - TV and radio.

Mr Speaker, I have to say that your decision not to authorise broadcast was a political decision. You were quite clearly representing the interests of your side of the chamber on this matter. It was embarrassing for the Government to have the censure motion debated. Mr Speaker, it was not the Labor Party who came to you and said, "We would like this debate authorised for broadcast". It was a member of the media. We are meant to be encouraging greater accessibility in this place. We are meant to be encouraging greater understanding of the processes of this place. I think that the debate over the last 24 hours in relation to a censure motion demonstrates that we needed the media to be in here reporting what happened so that people can understand just how significant a censure motion is. But you decided not to do that, and you did that for political purposes, Mr Speaker. When I indicated to you during the debate that quite clearly a majority of members in this place wanted this debate broadcast, you still refused to reconsider your decision. It was a political decision, and it is entirely appropriate to dissent from it.

**Ms Tucker:** I was not asked.

**MR CORBELL:** I hear Ms Tucker indicate that she was not even asked whether or not it should be broadcast. Ms Tucker was not asked. Mr Moore was not asked. When you made your decision, you did not even have the courtesy to come back to members who were asked and say what happened, what your decision was. That is not a particularly acceptable process either, Mr Speaker.

I take Mr Humphries's point. We will be raising it in the Administration and Procedure Committee. The Administration and Procedure Committee is going to have to look very seriously at the issue of broadcasting this place. What has happened today has happened for party political purposes. It has nothing to do with the dignity of this place. It has nothing to do with your role as Speaker. It has everything to do with exercising political power to protect the Government. That is unacceptable, and we will be pursuing it further.

**MS TUCKER** (6.46): I will be supporting this motion, but I do want to support what Mr Humphries said. Normally I would not want to dissent from the Speaker's decision. I have always taken that very seriously, but I think in this particular instance it is different. I will now refer to what Mr Moore said. I agree with him. While I do take it seriously, I think on this particular issue it is a new rule in this place and we have to work out what we think are landmark debates. I think the censure motion was important and I would have supported it being broadcast if we had been consulted. I am happy to look at this in the Administration and Procedure Committee. Supporting this motion is not particularly a disrespectful thing to the Speaker, and I am not claiming necessarily that his decision was a political decision. I believe that it would have been a good thing to have broadcast the debate on the censure motion. I look forward to us being able to discuss further in the Administration and Procedure Committee how you make those decisions.

**MR OSBORNE** (6.47): I think this whole motion was my office's fault, so I feel compelled to say something. Mr Speaker, my attitude is that I have no problem with anything in the Assembly being broadcast. My understanding is that someone came round to my office and one of my staff - I will not name him, because he has just walked out of the chamber and might hear me - made a decision not to broadcast it. I was tempted to take a stick to him and beat him round the head, because this obviously was the most important issue of the day, apart from estimates and a few other things, so I would have thought that he would have paid more attention to this. Unfortunately, he did not.

Mr Speaker, we have passed this legislation and I think you should be able to make a decision rather than check with us. My understanding is that the issue of the fast train was broadcast, but I was not asked about that. I think you either make a decision or you do not. That is why I will be supporting this motion.

Question resolved in the affirmative.

### **STAMP DUTIES AND TAXES (AMENDMENT) BILL 1998**

**MS CARNELL** (Chief Minister and Treasurer) (6.49): Mr Speaker, I ask for leave to present the Stamp Duties and Taxes (Amendment) Bill 1998.

Leave granted.

**MS CARNELL**: Mr Speaker, I present the Stamp Duties and Taxes (Amendment) Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

**MS CARNELL**: I move:

That this Bill be agreed to in principle.

Mr Speaker, this Bill makes important amendments to the Stamp Duties and Taxes Act 1987. These amendments are essential in removing any doubt about the validity of collecting stamp duty from share buyback transactions under that Act. Mr Speaker, the ACT Government has been collecting stamp duty on share buybacks since these transactions were first authorised by the Companies Act 1981, that is, from 1 November 1989. This has been done on the basis that a buyback transaction comes within Part V of the Stamp Duties and Taxes Act 1987.

Earlier this year the Victorian Court of Appeal, in what is known as the Coles Myer decision, held that under Victorian stamp duty legislation a share buyback did not attract a duty liability. This decision was arrived at on the basis that such a transaction did not involve a transfer within the meaning of the Victorian legislation. Mr Speaker, while a decision of the Victorian Court of Appeal is not determinative of the meaning

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of provisions in the ACT Stamp Duties and Taxes Act 1987, the Coles Myer decision creates uncertainty for ACT taxpayers. This decision could have significant implications for the ACT since the concept of a share transfer contained in the ACT legislation would appear to be similar to that in the Victorian legislation.

On 30 May 1998 I announced the Government's intention to amend the Stamp Duties and Taxes Act 1987 to ensure that duty is payable on share buyback transactions. In addition, Mr Speaker, as a safeguard measure, the amendments will validate both past and existing assessments. No new obligations are imposed on companies involved in share buyback transactions.

Mr Speaker, the changes proposed in this Bill will ensure that share buyback transactions authorised by the Corporations Law are assessable for duty under the Stamp Duties and Taxes Act 1987 and will protect the Territory's revenue base, retrospective only to the extent that the amendments validate past assessments in relation to ACT share buyback transactions.

Mr Speaker, I commend this Bill to the Assembly. I would like to suggest to the Assembly that this is an urgent piece of legislation which would need to be passed in this sitting period.

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

## ADJOURNMENT

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

That the Assembly do now adjourn.

## Arts - Funding

**MR WOOD** (6.52): Mr Speaker, I propose over the next few days, if I have the opportunity, to read a small sample of a large number of letters the Opposition has received about the cuts to the Institute of the Arts. These are passionate letters from people who care about the arts and who know about the arts. They are in response to actions by a government which appears neither to know nor to care about the arts.

The first letter is from Mr Gavan Griffith, QC, a former very high level public servant. When my office asked Mr Griffith whether we could read this letter to the Assembly, he wholeheartedly agreed. It is addressed to Kate Carnell and copied to Mr Stanhope. It is dated 6 August. It reads:

Institute of Art Funding

My wife and I, indeed our entire family, write to protest the budgetary cuts in the Institute of Arts funding.

Your public justification has been to the effect that it is inappropriate to continue the longstanding funding to institutions controlled by the Commonwealth. I suggest that this justification carries no further weight than an argument that the renovations at Bruce Stadium should not be funded by ACT money because the site at the AIS is Commonwealth controlled and funded.

Arts in Canberra, in its various emanations of the National Gallery, the National Library and the Institute of Arts, comprise the heart of Canberra in more than a cultural sense. Each of the Schools of Art and of Music is a centre of acknowledged excellence. Studies show that these cultural institutions bring more wealth, tourism and outside money into the area than the pursuit of sport.

On a more personal level, on the issue of ACT responsibility, my complaint is directed at the almost actionable consequences the reduction of funding will cause to the education of my daughter ... now in Years 11 and 12 at Narrabundah College. She is carrying as her major for Years 11/12 the advanced subject "Music type 2" (which is also a pre-tertiary study and essential for a musical career). I picked her up last night after 2.5 hours of lectures at the School of Music in a state of excitement. However, the message she has from the School is that the withdrawal of funding will result in her course collapsing next year. Her "major" comprising an integral part of her year 11/12 studies at Narrabundah will be reduced to a minor. The entire balance of her studies, upon which her entry to tertiary studies depends, will be in disarray and disappointment. She is devastated. Her entire future, as she sees it, is threatened.

My daughter tells me that her position is typical of some 100s of ACT secondary students. Further, that her excellent teachers probably will have to leave Canberra. The Canberra Youth Orchestra which brings great credit to the Territory, and which exists outside the Institute, will be gravely damaged.

In the context that I read publicly put out in your name describing you as "a staunch Raiders supporter"; it is reported that you walked out of a B Minor Mass saying it was not your bag, and I read of a budget error in excess of \$4m in the Bruce Stadium renovations, I find it difficult to respond short of invective to express the depth of my protest at this brutal budget deprivation. Further, I am shocked that you associate yourself with the intemperate abusive backbencher of the Heads of the Schools, doing their duty to protest the cuts. Such hectoring is best left to the football. The Pryor cartoon last Thursday says it all.

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There is a clash of cultures here. I deny your right as First Minister to impose football as the principal culture of the territory. I separately protest the deprivations which this narrow budgetary decision has upon the quality of my child's education, which now also threatens her access to tertiary studies. She is a punctilious, if not brilliant, student with a principal love of cello and music.

I would hope and expect that those few persons elected by an anonymous voting system will respond to these protests, which rise to anger, at the insensitive actions exposed by this initially secret decision.

It pains me that I am put in a position of writing in such strong language to those whom I expect to represent the interests of the people of Canberra, including my child. This letter is addressed to you and your government in terms of barely repressed anger. By all means, fill your own Saturday afternoon at football matches. But I request, indeed demand, that you and your administration stand back and reconsider a decision which has abandoned what others regard as a more important side of Canberra's life.

Mr Speaker, he wants an answer. He has not had one yet.

### **Naltrexone**

**MR MOORE** (Minister for Health and Community Care) (6.58): Mr Speaker, this evening in the adjournment debate I would like to use the opportunity to warn people about black market naltrexone. It is a warning particularly to heroin users that I hope will go into the media. It has recently come to my attention that injecting drug users are buying naltrexone on the black market as a form of home detoxification. Clearly these are people who have a desire to get off heroin and are using black market naltrexone in this way. Despite all the media attention given to it, naltrexone is not a wonder drug and should be used only within a strictly controlled treatment program. I strongly urge people not to buy naltrexone on the street. Used inappropriately, naltrexone is very dangerous. It will precipitate very severe withdrawal. Symptoms are intolerable and cannot be controlled by Rohypnol. There is a general rumour that that is the case. It is wrong. Severe withdrawal symptoms may lead people to use heroin. The usual dose of heroin will be blocked by naltrexone, and there is a very real risk that larger doses of heroin used to override the naltrexone will lead to overdoses. Mr Speaker, there is a great danger here for people trying to do something about their addiction. We do have people who can deal with that. The first place people should go is perhaps the Drug Referral and Information Centre - there they will be guided into assistance - rather than using this sort of method to withdraw from heroin.



### **Stromlo Forest Toilet**

**MR STANHOPE** (Leader of the Opposition) (7.00): Coincidentally, I did consider rising in the adjournment debate today to talk about the delay in the methadone program and the wait that people have. I think it is perhaps an associated issue.

**Mr Moore:** It is reducing but not fast enough.

**MR STANHOPE:** I will leave it perhaps to the debate on the estimates. I would be pleased to hear your response on that. I rose to speak about the women's jogalong. The women's jogalong is a sporting event that has been conducted in Canberra for 20 years or so. I have quite a long association with it. It is an event conducted for women. It is a handicap run conducted in Stromlo Forest. It is over six kilometres. It attracts once a month upwards of 200 women. It is perhaps the most significant and successful running event for women and girl runners anywhere in Australia in terms of encouraging participation in sport by women. It is a very successful event. It has grown very strongly over the last 10 years or so. I was the director of the jogalong for five or six years, an association which I really enjoyed. The jogalong is held in Stromlo Forest. There is only one toilet in Stromlo Forest. It is a feature of running that one does often need to use it.

**Mr Humphries:** There are lots of bushes.

**MR STANHOPE:** There are lots of bushes, and I guess that is the point I am coming to, Mr Humphries. The need for toilets in the bush or out in the forest is not an issue that affects men nearly as much as it does women. This is a very successful event, as I said. ACT Forests have constructed a very good toilet facility there. They have now, however, for reasons that I think are petty and mean spirited and that will certainly impact on the success of the women's jogalong, decided to impose what I can only regard as a toilet fee for the use of the picnic area in Stromlo Forest, which has been used once a month for this most successful women's running event. A fee is now to be charged for the use of the toilet.

I rise to ask whether the Chief Minister, having regard to her responsibilities for the status of women, Mr Stefaniak, having regard to his responsibilities for sport, and Mr Smyth, having regard to his responsibilities for forests, can find some way of actually averting what I regard as a completely inappropriate, mean-spirited and in some ways discriminatory charge on toilets, a charge that will require the organisers of this run to charge the women and girls. It is not easy for a lot of people to get out and take up physical exercise. Minister, as you would know, there are large groups of women who through socialisation and through a whole range of other issues do not find it easy to get out and participate in mass sport. The women's jogalong is perhaps one of the most successful events in Canberra at achieving that.

I think it was runner-up for the Prime Minister's women's sports award. I think for the ACT Government to impose this sort of fee on the women's jogalong is very regrettable. We are talking here probably about a couple of hundred dollars a month. I just think that the Government in its policy-making should have some way of avoiding that sort of charge on events such as this.

### Use of the Term “Cock-and-Bull Story”

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (7.03): Mr Speaker, in the Assembly in June I made a comment about an article which appeared in the *Canberra Times* about a cock-and-bull story. Given the policy of the Government, already reaffirmed today, to correct the record where one misleads, I want to indicate that when I - - -

**Mr Stanhope:** How many times have we had two in a day?

**MR HUMPHRIES:** It is really not that hard if you want to do it, Mr Stanhope. It can be done. It is not that hard if you are prepared to shoulder the responsibility that falls on you. I did indicate in earlier discussions that I had not used that phrase. It has been drawn to my attention that in fact I did use that phrase, not in a press release or a comment outside the Assembly but in remarks made within the Assembly. I clearly did misrepresent the situation with respect to the reporter from the *Canberra Times*, Frank Cassidy, and I want to put on record that I was in error. I do apologise to Mr Cassidy for that mistake. I take the first opportunity to correct the record.

### Stromlo Forest Toilet

**MR BERRY** (7.05): I want to put a plug in for orienteering and raise the same matter as the leader of the Labor Party, Mr Stanhope, raised earlier in this adjournment debate, the charge which has been imposed by ACT Forests. Orienteering is a sport suitable for all ages and is practised by a fairly large number of ACT residents from very young people up to people like me who are getting on, and even people a bit older. Cunning running, as they call it, is quite technical and involves a lot of preparation and organisation. Thousands of dollars are spent on preparing maps for events and preparing courses for events so that orienteering can be as successful as it is. The various clubs that involve themselves in this sport or recreation go to a lot of trouble to prepare courses and print maps so that runners can participate.

The difficulty they now have is that a fee of \$1 a head is imposed on them when they run in the ACT forests. They have some difficulty moving away from the ACT forests, because they just cannot abandon the capital that they have put into the development of courses and maps and those sorts of things in the areas where they practise this sport. It is a sad day for running in the ACT that this fee has been imposed. The ACT has a reputation for its forests as venues for runners. A lot of them are going to be very angry about the user-pay principle being lobbed on them as it has been. The difficulty for them is that they do not have to pay. It is going to be an honour system, it seems to me, in many ways and people could play with the numbers if they wanted to, but most people involved in these sports are honest people and they will pay. At the end of the day I think sport will be affected by it.

I will declare my interest in this matter. I am a member of the ACT Veterans Athletic Club. We go for a run in the forests on occasions. It just means that the cost of events will go up and fewer people will participate. That is a pity, because I think we all have an interest in keeping Australians active. Those involved in active campaigns around the country would view this fee as a retrograde step. I think it is very disappointing, I think it is penny-pinching, I think it is small-minded and I think it is miserable. There will not be much money raised in the scheme of things. It has all the possibilities of having a serious deleterious effect on sports that use our forests.

Yes, it does cost to run toilets in forests. Everybody accepts that, but it is also an important feature of the ACT's landscape that we encourage sportspeople to participate. Now that there is a cost in the forests, organised sports may well have a disincentive, and that would be a great pity.

Question resolved in the affirmative.

**Assembly adjourned at 7.09 pm**