Contents

# DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

## HANSARD

26 November 1998

**Thursday, 26 November 1998**

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The Assembly met at 10.30 am.

*(Quorum formed)*

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

## ACTEW (TRANSFER SCHEME) BILL 1998

**MS CARNELL** (Chief Minister and Treasurer) (10.32): Mr Speaker, I present the ACTEW (Transfer Scheme) 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, as members are aware, I announced earlier this year that the Government would be seeking the agreement of the Legislative Assembly to the combined sale and concession of ACTEW Corporation in the December sittings. To ensure that the sale and concession arrangements are undertaken properly and that the community's interests are protected, I am today introducing the ACTEW (Transfer Scheme) Bill. This Bill will facilitate the proposed sale and will also allow the Government to enter into contracts for the operation, maintenance and management of the water resource, the dams and water and the sewerage treatment plants.

As members of the Assembly will recall, I announced the Government's intentions after receiving the "Scoping Study of ACTEW Corporation" by the consultants ABN AMRO and DGJ Projects. At that time I said that there were two major challenges facing the ACT - ACTEW, its largest asset, was losing value every day and the Government had a growing unfunded superannuation liability. Mr Speaker, nothing has changed since then. The Government has decided to meet these challenges head-on rather than sit on its hands and do nothing. I have yet to hear from anyone, including the Opposition, of an alternative method of successfully dealing with these two issues.

Before I turn to the provisions of the Bill, I want to foreshadow that I will be giving notice of a motion in the Assembly to seek the Assembly's general agreement to the proposed sale and concession. This will enable the Government to pursue the sale of ACTEW Corporation, its subsidiaries and major undertakings with the exception of the dams and water and sewerage treatment plants which will remain in public ownership.

Mr Speaker, this Bill will enable the sale of some assets of ACTEW Corporation and the grant of contractual rights with respect to the assets of ACTEW to be held in public ownership. The Bill will give effect to the Assembly's decision, if it agrees to the motion I have already foreshadowed, and will facilitate any necessary related actions by providing for a scheme whereby the assets and liabilities of ACTEW may be transferred to other parties. The Minister will have the power to make declarations to transfer relevant assets and liabilities. The Minister can declare assets to be public assets which are to be held in public ownership. These assets will be the dams and water and sewerage treatment plants. The water resource will not be declared a public asset because ACTEW does not own this now and it will not form part of any sale or concession of ACTEW's assets.

The Bill provides for the automatic transfer of the staff of ACTEW and its subsidiaries to successor bodies. The accrued entitlements of staff and their terms and conditions of employment are protected under this Bill. The Territory will be able to disclose information for the purposes of the sale and concession. The sale and concession are not to constitute a breach of any contracts to which ACTEW or one of its subsidiaries is a party.

The Bill also provides for the severance of certain assets from land and the vesting of ownership of those assets in ACTEW, compensation on just terms to be paid in the event of an acquisition of property, and the protection of structures of ACTEW that, because of ACTEW's status as a government body, currently may not fully comply with ACT planning and other laws.

Mr Speaker, members of this Assembly now have the opportunity to make the difficult decision that must be made if we are to protect the value of the Territory's most valuable business. This Government is determined not to let the value of ACTEW be diminished. We have gone down this path, not through ideology, but based upon the best information available to us and in the best long-term interests of the Territory.

Mr Speaker, this Bill does not exist in a vacuum. The Government will also table today a Statement of Regulatory Intent which maps out a clear structure to bring the current regulatory environment up to the level required to meet the needs of consumers and utilities as we approach the year 2000. As I will be announcing when I table the statement later this afternoon, the regulatory framework will enshrine in legislation consumer and environmental protections far beyond what exist today.

Mr Speaker, I conclude by quoting a prominent Australian politician who has outlined the principal arguments in favour of this approach far more eloquently than I ever could. That politician argued in favour of selling public assets to, and I quote:

> ... improve the efficiency of GBEs by exposing them to competition in the markets for their products; reduce the budget deficit and thus the level of public sector debt; and allow the enterprise to raise new equity capital rather than relying on government capital funding.

**Mr Humphries**: Who was that?

**MS CARNELL**: That is an interesting question, Mr Humphries. Mr Speaker, for the interest of members, I just quoted Mr Kim Beazley, Leader of the Australian Labor Party - - -

**Mr Kaine**: Is that supposed to impress us?

**MS CARNELL**: - - - who, as a former Federal Finance Minister, made these observations in an address to the National Press Club. It does impress me, Mr Kaine. I think it shows beyond all doubt that there really are very few choices here. The fact is that the ACT has to maintain the value of the asset and avoid risk or minimise risk. I think Mr Beazley really made quite clear what we have to do.

Finally, as the issues contained in both the Bill that I have presented and the motion I have foreshadowed are inextricably linked, the Government will be proposing that both be subject to a cognate debate on the first sitting day in the next sitting week of this Assembly. That will be 8 December.

Mr Speaker, I commend this Bill to the Assembly. This is a really important decision for every member of this Assembly to make. This is certainly not complicated legislation but this is something that has been subject to much debate already in this place and in the community. I urge members of the Assembly to look at this issue very carefully, not look just at politics or next week, but look at what this Territory will look like in the next century.

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

## VICTIMS OF CRIME (FINANCIAL ASSISTANCE) (AMENDMENT) BILL 1998

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (10.40): Mr Speaker, I present the Victims of Crime (Financial Assistance) (Amendment) Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

**MR HUMPHRIES**: I move:

> That this Bill be agreed to in principle.

Compared with many other parts of the world the ACT is a safe place in which to live, work and raise a family. However, we are not immune from crime. It is little consolation to the victims of violent crime in the Territory that their experience is comparatively uncommon. They share with victims around the world the devastating consequences of violent crimes such as murder, rape, assault and armed robbery.

The proposals in this Bill will reform the way in which victims of crime are assisted by the Territory in the aftermath of their victimisation. They are based on a considered examination of the real needs of victims of crime and build on the initiatives taken by this Assembly when it enacted the Victims of Crime Act in 1994. That Act gave formal recognition to victims' rights and needs by setting out guiding principles to be followed by law enforcement agencies in their dealings with victims. The Act also established the position of Victims of Crime Coordinator, with functions which included monitoring the observance of the guiding principles.

Last year my department released a discussion paper on reforming the criminal injuries compensation scheme. Submissions on that paper from the Victims of Crime Coordinator and community-based victims support groups emphasised the need for a more comprehensive review of the way in which government assists victims of crime.

In response to these concerns, the Victims Support Working Party was convened in October 1997. Its function was to examine the options for comprehensive reform of government assistance to victims. The working party was chaired by the Victims of Crime Coordinator and included representatives from community-based victim support groups such as the Victims of Crime Assistance League (VOCAL), the Canberra Rape Crisis Centre, the National Association for Loss and Grief and the Domestic Violence Crisis Service as well as representatives from government agencies and departments. I commend the working party for its work.

I would like to quote from the working party's May 1998 report which states:

> It is the view of the Working Party that the current allocation of Government and community resources to crime victims is seriously distorted and overly focused on individualised financial packages with little or no regard to whether the emotional trauma of criminal victimisation is actually alleviated. The fundamental argument of this report is that the vast majority of crime victims in the ACT are receiving no or an inadequate response to their victimisation. This report asserts the need to see current resources better and more effectively applied to numerically more crime victims than at present.

Mr Speaker, ours is not the first ACT government to seek to address the issue of the burgeoning costs of the criminal injuries compensation scheme. The former Labor Government put forward proposals, which it later withdrew, which had the sole focus on controlling costs. Unlike the comprehensive reforms contained in this Bill, those proposals essentially amounted to tinkering at the margins. They made no attempt to address the fundamental inequity identified by the working party's report which is clearly illustrated by the fact that under the current scheme about $5m was paid last financial year to around only 350 victims while thousands of other victims received no assistance at all.

The reforms contained in this Bill will not simply contain the costs of the present scheme. They focus on the whole range of victims' needs by providing victims with a mix of rehabilitative, practical and financial assistance. These legislative amendments will be supplemented by actions to address systemic problems experienced by victims in their dealings with the criminal justice system.

These actions will include the provision of funding for a witness support function within the Office of the Director of Public Prosecutions. The witness support function will be particularly valuable for witnesses such as those who are unfamiliar with the criminal justice system and children or persons with limited English for whom legal terminology and practices may be confusing. The Government has also decided to set aside a small amount of funding for specialised crime scene clean-up, such as the removal of bodily fluids, which will be especially helpful to victims who are attacked in their own homes.

The amendments dealing with financial assistance to victims will limit such assistance by restricting both the purposes for which the assistance can be awarded and the range of victims to whom it can be awarded. The changes should not be seen as a parsimonious approach by this Government to victims. Instead, they should be viewed in the context of a shift in focus from compensation to rehabilitation. This shift will be achieved by directing resources away from direct cash payments and into the provision of rehabilitation services and other forms of practical assistance to victims. Consistent with this change in focus, the title of the legislation will be changed from the Criminal Injuries Compensation Act 1983 to the Victims of Crime (Financial Assistance) Act 1983.

Under the amendments financial assistance will be available to those persons, referred to as "primary victims", against whom a violent crime has been committed or who are injured while assisting the police. Financial assistance will also be available to persons, referred to as "related victims", who are the relatives or loved ones of primary victims who die from their injuries. Except in cases where the victim dies or is so severely injured that rehabilitation is not possible, financial assistance will be limited to reimbursing the applicant for expenses associated with the injury and making the application and for lost earnings. As is the case under the current Act, an award of financial assistance cannot cover an applicant's legal costs.

The amendments recognise that in exceptional cases significant rehabilitation is not achievable. For that reason, the amendments provide for special assistance by way of a payment of $30,000, to be awarded to primary victims who sustain extremely severe and permanent injuries, whether physical or psychological, which greatly diminish their quality of life, or whose injury is the loss of a foetus. The related victims of a primary victim who has died from his or her injuries will also be entitled to an award of special assistance which will be shared between all the related victims covered by the application. Special assistance can be awarded in addition to financial assistance for expenses and lost earnings. Based on an analysis of the types and severity of injuries for which compensation has been claimed and awarded under the current legislation, it is expected that in a typical year awards of special assistance would be made only in about 20 to 30 cases at the most.

Finally, persons whose property is damaged while they are assisting the police will be eligible for financial assistance to reimburse them for the costs arising from the damage. This category of applicant is to be known as "eligible property owners". No award of financial assistance can be made in respect of primary victims who were committing a serious offence when they were injured.

The total amount of financial assistance that can be awarded in relation to applications under the Victims of Crime (Financial Assistance) Act 1983 is $50,000. This is the same limit as applies under the current legislation.

The Bill contains amendments which simplify the processes applying to applications for financial assistance and makes them more accessible to persons who choose not to engage legal representation. Applications will be made to and decided by the Magistrates Court, rather than as at present the Supreme Court or the Registrar of the Supreme Court.

As is the case with the current legislation, the court will take account of certain factors which act to reduce awards. To prevent double dipping, awards will be reduced if the applicant receives financial assistance from another source, for example, damages, compensation or insurance payments. The court must also take account of the circumstances in which the injury, or property damage in the case of eligible property owners, was sustained, including whether voluntary intoxication or the victim's involvement in a minor offence was a contributing factor. However, self-intoxication will not reduce awards in cases where a sexual crime was committed against the victim.

The transitional provisions prevent compensation for pain and suffering from being awarded in relation to any compensation applications under the current legislation that were made after 23 June 1998 which have not been finalised when the amendments commence. Applications made before 23 June 1998 are unaffected by the amendments. The significance of 23 June 1998 is that it is the date on which the Government announced, as part of the 1998-99 budget, that it would be amending the Criminal Injuries Compensation Act 1983 to limit financial assistance to victims of crime.

To ensure that the transitional provisions do not operate unfairly against severely injured victims whose applications were made before the amendments commenced, the transitional provisions give applicants affected by the amendments an opportunity to apply for special assistance under the new financial assistance arrangements. The criteria which such applicants must satisfy in order to be awarded special assistance are the same as those for applicants whose applications are made under the amended legislation.

The amendments to the Victims of Crime (Financial Assistance) Act 1983 include a new mechanism for recovering from convicted offenders any awards of financial assistance that have been paid by the Territory to their victims. The new mechanism cannot address the fundamental problem associated with such recovery, which is that in most cases the offender has few if any financial resources. It will, however, make recovery action more straightforward and it does provide for the Territory and the offender to make arrangements for payment, such as part payment or payments by instalments, which may result in an increase in the total amount recovered from offenders.

Offenders can also be made more accountable for their actions through an amendment to section 437 of the Crimes Act 1900 which will facilitate direct recovery from offenders by victims. This amendment gives victims the right to apply for a reparation order against the offender at the time of sentencing. It will provide a simple and cost-effective alternative to civil litigation against offenders for damages.

As I indicated previously in these comments, the Government's reforms will go beyond merely providing financial assistance by including measures for rehabilitative and practical assistance to victims of crime. The Bill amends the Victims of Crime Act 1994 to provide for the establishment of a comprehensive new victims services scheme.

Unlike the schemes set up in New South Wales and Victoria, the Territory's new victims services scheme will provide more than just counselling services to victims. Its primary purpose is the rehabilitation of the victim, both emotionally and physically, to the extent that this is reasonably achievable. No other victims assistance scheme in Australia goes this far and some may question why the ACT should take the lead by including certain physical rehabilitation services. The answer is that it is both simpler and more efficient for victims, the Territory and service providers for some types of rehabilitation services to be provided through the new scheme instead of requiring victims to obtain these services privately and then apply to the court for reimbursement.

Given the comparative novelty of the Government's approach, the details of the new scheme will be spelt out in regulations and guidelines rather than in the primary legislation. The use of regulations will enable adjustments to be made as and when experience shows them to be necessary.

The Government will select the agency to operate the new scheme by a competitive tender. A steering committee has been appointed to prepare draft regulations, guidelines and tender specifications for the new scheme and to advise the Government on the selection of the agency to operate it.

It is envisaged that the new victims services scheme will be funded to assist victims in a variety of ways, in particular by providing information to victims about the criminal justice system, their rights and responsibilities and the help available to victims; acting as case managers by coordinating the delivery of a range of rehabilitative services to victims either in-house or through referral to approved health and rehabilitation service providers; and putting victims in touch with appropriate groups and agencies in the community who provide other forms of assistance and support.

It is intended, Mr Speaker, that the assistance under the new scheme be accessible to a wider range of victims than financial assistance. As a starting point, the Bill provides that all categories of victims will be eligible to use the new scheme, subject to satisfying any eligibility criteria to be set out in the regulations, if there are any such criteria. The regulations can specify that different categories of victims, or victims in different circumstances, will have different levels of entitlements to assistance. This will ensure that victims are able to receive the level and type of assistance appropriate to their needs rather than adopting a sausage factory whereby all victims receive the same treatment.

Once the scheme is established the steering committee will be replaced by a Victims Assistance Board with responsibility for developing guidelines for the scheme's operation, supervising the funding arrangements for the scheme and generally overseeing the management of the scheme.

The Victims of Crime Coordinator is participating in the steering committee which is examining the best ways of ensuring the development of effective links between the new service agency and existing criminal justice system agencies such as the police, the Office of the Director of Public Prosecutions and the courts. The Bill provides that regulations can be made to confer functions in relation to the new scheme on the coordinator, so long as those functions are consistent with the coordinator's other functions under the legislation. The new scheme will be subject to the same annual reporting requirements as apply generally to government agencies under the Annual Reports (Government Agencies) Act 1995.

Victims can be assured that their privacy will be respected when using the new scheme. The Bill makes it clear that the new victims services scheme is to be regarded as a health service provider for the purposes of the Health Reports (Privacy and Access) Act 1997 and that health records relating to victims using the scheme are to be protected under that legislation. Victims who use the new scheme will therefore be assured of the same level of privacy and access in relation to their health records as victims who seek help privately.

The scheme will be funded from the savings generated by the reforms in the Bill to victims' financial assistance entitlements and is expected to assist several thousand victims each year. The Territory does not have the financial resources to continue funding victims' assistance measures at the current level of around $5m each year. The Government will keep the operation of its reforms under review. If it appears that the financial assistance reforms, particularly the special assistance provisions, are not being applied as intended then further refinements to the scheme can be considered. I commend the Bill to the house.

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

## CUSTODIAL ESCORTS BILL 1998

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (10.56): I present the Custodial Escorts Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

**MR HUMPHRIES**: I move:

> That this Bill be agreed to in principle.

Officers of the Australian Federal Police (ACT Region), in addition to taking into custody people they have arrested or detaining people in relation to the detection and prevention of crime, have traditionally secured the movement of detainees and prisoners within the Territory court precincts and when they are being conveyed from place to place within the Territory and to and from the ACT. It is government policy that court security and escort services be transferred from police officers to custodial officers in order to free up police resources for the core work of the AFP, the prevention and detection of crime.

Last year I announced that custodial officers appointed under the Remand Centres Act 1976 would replace police officers in securing detainees and prisoners. From early this year custodial officers in the Corrective Services' Court Transport Unit have provided detainee security at ACT courts and escorted detainees and prisoners to and from the courts, Belconnen Remand Centre, Quamby Youth Detention Centre, and other places in the Territory and interstate.

Currently custodial officers are providing these services under the direction of the superintendent of the Belconnen Remand Centre, with legal authority being conferred by virtue of their temporary commission as special members of the Australian Federal Police. These commissions will expire on 31 December this year.

The Custodial Escorts Bill has been developed to provide authority for custodial officers to take temporary custody of persons who have been lawfully detained and undertake escort services in respect of those people. This could occur where a person has been arrested by police and refused police bail. Police are under a duty to bring such a person before a magistrate as soon as possible. Under the new provisions police will be able to give custody of an arrested person to an escort officer to convey the arrested person to court. The escort will be vested with custody of the arrested person for this purpose.

The legislation is intended to make the best use of resources in tasking custodial officers with these functions while freeing up AFP officers to undertake policing activities. Of course, if the police consider that there are good reasons, such as the potential dangerousness of a particular detainee, for police undertaking the escort functions in respect of that detainee, that will still be possible.

The legislation will also enable courts to direct orders for persons to be conveyed to the Belconnen Remand Centre to escorts, rather than police. The legislation provides escort officers with appropriate powers to carry out escort functions, including powers to search persons under escort and use such force as is necessary and reasonable to retain the secure custody of the person. I commend the Bill to the Assembly.

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

## CUSTODIAL ESCORTS (CONSEQUENTIAL PROVISIONS) BILL 1998

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.00): Mr Speaker, I present the Custodial Escorts (Consequential Provisions) Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

**MR HUMPHRIES**: I move:

> That this Bill be agreed to in principle.

The Custodial Escorts (Consequential Provisions) Bill 1998 amends a number of Acts to ensure that persons appointed as escorts pursuant to the provisions of the proposed Custodial Escorts Act 1998 will be able to perform escort functions for the purposes of the amended Acts. For example, the Removal of Prisoners Act 1968 provides for the removal, by warrant issued to "all constables", from the ACT of prisoners sentenced to serve a term of imprisonment in a New South Wales prison. That Act is amended to include an escort officer appointed pursuant to the custodial escorts legislation within the definition of the term "constable".

Similarly, references in the Prisoners (Interstate Transfer) Act 1993 and the Prisoners' Interstate Leave Act 1997 to persons who may escort a prisoner are amended consequentially to provide that an escort officer appointed pursuant to the custodial escorts legislation can perform escort functions under those Acts.

As an escort officer may be required to carry a firearm for the purposes of performing his or her duties, escort officers will need to be licensed to carry and use such weapons. In order that the application of the Firearms Act to escorts not hinder the operations of the Corrective Services' Court Transport Unit, I propose to amend the Act to enable a firearm licence to be issued to a non-ACT resident where necessary for the person's business or employment in the Territory and amend the safe carriage and use requirements, designed for the maintenance of safety to other persons and property, so as to include a "without reasonable excuse" exception.

The first of these amendments, qualifying the current ACT residency requirement, will also benefit those New South Wales residents who are employed in the private security industry in the ACT or Jervis Bay and who will now be able to be granted an ACT firearms licence where required for that employment.

The second amendment, to include a "without reasonable excuse" exception to the offence in section 82, which requires the safe carriage and use of a firearm, will enable escort officers to respond to the particular nature of the work. It recognises the possibility that they may encounter circumstances in which their legitimate use of firearms may result in injury to, or the endangerment of the life of, another person. I commend the Bill to the Assembly.

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

## MOTOR TRAFFIC (AMENDMENT) BILL (NO. 5) 1998

**MR SMYTH** (Minister for Urban Services) (11.03): Mr Speaker, I present the Motor Traffic (Amendment) Bill (No. 5) 1998, together with its explanatory memorandum.

Title read by Clerk.

**MR SMYTH**: I move:

> That this Bill be agreed to in principle.

Mr Speaker, this Bill and the Motor Traffic (Alcohol and Drugs) (Amendment) Bill (No. 2) contain amendments which will improve road safety, allow greater efficiency in regulatory practice and deal with anomalies existing in the current legislation.

Firstly, the Bill introduces legislation to reduce the power and performance capabilities of motorcycles ridden by novice riders. All other States and the Northern Territory have similar legislation in place. We can no longer rely on good road design and traffic engineering processes to keep the road toll down while the performance capabilities of motorcycles increase with every new model. Novice motorcycle rider fatalities remain a major concern to all who seek to address road deaths among young people.

As is the practice everywhere else in Australia, learner riders will not be permitted to ride a motorcycle which has an engine capacity greater than 260 millilitres or a power-weight ratio greater than 150 kilowatts per tonne. These restrictions will also apply for the first year a provisional licence is held. The message for novice riders is quite clearly that youth and enthusiasm are no substitute for experience when riding modern high performance motorcycles. The amendment will add support to the novice rider training programs currently in place in the ACT, and keep Canberra at the forefront of motorcycle rider safety legislation.

Secondly, Mr Speaker, the Bill introduces into the ACT multiple-bay parking meters. A single parking meter for each parking bay is no longer necessary as modern parking meters can now control a number of parking bays. Existing law requires a meter to be placed adjacent to each parking bay. The Act will be amended to allow a single meter to control a designated number of parking bays which are clearly identified for users. The introduction of multi-bay meters will improve visual amenity by reducing the number of meters needed to control parking. It will also increase efficiency and reduce government costs associated with this activity.

A third amendment to the Act will allow the Registrar of Motor Vehicles to cancel a licence or registration when payment is made by a cheque which is subsequently dishonoured. This has not been possible in the past. Before a cancellation occurs, the registrar will write to the person concerned giving him or her two weeks to make the payment. If payment is not made by the end of that period, the licence or registration will be suspended for two weeks. If this two-week period of suspension lapses before payment is made, cancellation will take effect following advice of this in writing.

The NRMA will be notified in cases where the third-party insurance premium is paid with the same cheque so that the policy can be cancelled at the same time as the vehicle registration. The NRMA will remain on risk until cancellation occurs.

Mr Speaker, further amendments relate to the appeals provisions of the Motor Traffic Act 1936. An anomaly in the appeals provisions has been raised by the President of the Administrative Appeals Tribunal, and the Bill removes that anomaly. The amendment will effectively make the grounds on which the Registrar of Motor Vehicles can refuse to renew or cancel the registration of a motor vehicle consistent with those under which he or she could refuse to grant an original registration. This amendment will allow the Administrative Appeals Tribunal to consider appeals on consistent grounds, regardless of whether the registration has been refused or cancelled.

A further amendment to the appeal provisions will allow, largely for safety reasons, a stay to be granted on a decision of the registrar to cancel, suspend or not to renew the registration of a motor vehicle. This will apply where there is genuine dispute about the vehicle's condition or other good reason. This amendment is also based on advice from the President of the Administrative Appeals Tribunal.

The Bill also rectifies an anomaly relating to demerit points. The law relating to the application of demerit point penalties currently requires those points to be applied to the holder of a licence. In some cases this has allowed drivers to escape demerit point penalties because their licence was either suspended, cancelled or temporarily expired. Under the new rules, any demerit points accrued by an unlicensed person may be applied to their licence record. Demerit points will remain valid on a licence record for the same periods as apply to current licence holders. The amendment will ensure that demerit points are applied consistently to all drivers. Traffic offenders will no longer receive lesser penalties because of this technicality.

Finally, an amendment to the provisions relating to footcrossings controlled by traffic lights will align laws relating to them with both New South Wales and the proposed Australian Road Rules. These crossings will be defined as marked footcrossings in an amendment to the Traffic Act 1937. In mid-block situations, although similar to marked crossings at intersections, the lights have a flashing amber light phase. This phase allows traffic to drive through a crossing if no pedestrians are on it, thus improving traffic flow. The response required of motorists in relation to the flashing amber light is clearly spelt out in a table contained in the Act. The amendments in this Bill will also apply the same parking and overtaking requirements to marked footcrossings as apply to pedestrian and school crossings.

Mr Speaker, this series of amendments is a clear indication of the Government's commitment to improve road safety. It provides for efficient and consistent regulatory practice in the ACT. The Government intends to continue to demonstrate this commitment with practical and effective legislation.

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

## TRAFFIC (AMENDMENT) BILL 1998

**MR SMYTH** (Minister for Urban Services) (11.09): Mr Speaker, I present the Traffic (Amendment) Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

**MR SMYTH**: I move:

> That this Bill be agreed to in principle.

Mr Speaker, this amendment is a consequence of the amendments carried out in the Motor Traffic (Amendment) Bill 1998 relating to "pelican crossings" to allow for pedestrian crossings which are controlled by traffic lights. "Pelican crossings" or crossings controlled by lights will now be known as "marked footcrossings". The definition of marked footcrossings corresponds with the current proposed Australian Road Rules definition. A further amendment clarifies the difference between the boundary lines for marked footcrossings and stop lines which apply to motorists approaching the crossings.

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

## MOTOR TRAFFIC (ALCOHOL AND DRUGS) (AMENDMENT) BILL (NO. 2) 1998

**MR SMYTH** (Minister for Urban Services) (11.10): Mr Speaker, I present the Motor Traffic (Alcohol and Drugs) (Amendment) Bill (No. 2) 1998, together with its explanatory memorandum.

Title read by Clerk.

**MR SMYTH**: I move:

> That this Bill be agreed to in principle.

This amendment is a consequence of the 1997 amendments to the Act in which the penalty provisions in the Act were restructured. In the course of this restructure, imprisonment provisions for some offences were inadvertently omitted. The particular offences relate to refusing to provide a breath sample for analysis, refusing to submit to a blood test or a medical examination, and driving under the influence of intoxicating liquor or a drug. The omissions effectively meant that a person who realised he or she was considerably over the limit may consider the penalty for refusing a breath test to be a lesser penalty than that which is available to the courts if the breath test is taken. The proposed amendments will reinstate the previously existing imprisonment provisions.

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

## MENTAL HEALTH (TREATMENT AND CARE) (AMENDMENT) BILL 1998

**MR MOORE** (Minister for Health and Community Care) (11.12): Mr Speaker, I present the Mental Health (Treatment and Care) (Amendment) Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

**MR MOORE**: I move:

> That this Bill be agreed to in principle.

This Bill seeks to amend the Mental Health (Treatment and Care) Act 1994. Some of you may recall when this Act was first passed in 1994. You may also remember that when the Assembly passed this Act it placed, at my instigation, a sunset clause in it to ensure that the Government reviewed the Act within the first four years of its operation. The legislative regime in place in 1994 was in need of an urgent upgrade.

The *Balancing Rights* report issued in November 1990 detailed some major shortcomings in the ACT's mental health law and recommended a major overhaul. By 1994 members of the Assembly had decided we needed to make changes urgently. By passing the Act as interim legislation, the Assembly provided consumers with significantly improved mental health legislation, while placing an expectation on government to continue to look for ways to further improve our mental health laws.

As an Independent member at that time, I had particular concerns arising from a strong diversity of views amongst the various stakeholders. I wanted to ensure that the issues were reconsidered after we had all had the opportunity to work with the new legislation for a reasonable period of time. At that time there was also considerable effort being applied nationally to the development of nationally consistent legislation that was also consistent with human rights principles. The sunset clause has ensured that we revisit the legislation and improve it wherever possible.

This Bill is the culmination of a consultation period which commenced in March 1997. In January 1998 the Government produced a report on the review which detailed the results of the consultation process and sought additional comments on a number of outstanding issues. There has been considerable debate on the results of the consultation process within government. The issues dealt with by this legislation are difficult ones for society and are therefore likely to lead to vigorous debate and discussion.

Mental health law is an extremely delicate area. Mental health laws enable the Government to take away a person's liberty and force them to undergo treatment and care. Any attempt to make or change laws in this area requires a great deal of discussion and consideration. While we have a duty to protect both the individual and the

community, any law which enables the removal of a person's liberty requires our fullest attention. We have been consulting on proposed amendments to the Act for almost two years. On some issues it has proven difficult to reach a consensus. However, we now have to rule off discussions within government and make some recommendations for changes to the Act.

I wanted to get this legislation into the Assembly at this time to enable consideration and passage of the Bill before the end of the 1998 sittings. The Act will expire early in February 1999, before the Assembly resumes for the budget 1999 sittings. It is therefore our intention to have the Bill debated in the December sittings. However, I want to clearly put on the record that the Government is receptive to changes to what is proposed here. If there are major concerns about the proposed amendments, we are fully prepared to respond to a request from this Assembly for the sunset clause in the Act to be further amended to allow those concerns to be addressed. I must say, Mr Speaker, as an aside, that Mr Wood has indicated that he will probably wish to introduce that sunset clause. As I said, the Government is receptive to that, and hopefully Ms Tucker would like that too.

**Ms Carnell**: We would have trouble arguing that one, Michael.

**MR MOORE**: Yes, we would. The Government, in recommending amendments to the Act, has been committed to furthering the principle that any treatment or care for mentally ill or mentally dysfunctional persons must be the least restrictive for their condition. The Government has sought to ensure that the legal process of taking away an individual's rights is based on sound clinical assessment and decision-making. The involuntary detention and treatment of a person must only be allowed where such a detention and treatment can be justified on clinical grounds.

The Bill replaces the current sections in the Mental Health (Treatment and Care) Act which deal with the types of mental health orders and the powers given to custodians under those orders. There will be two mental health orders available under the proposed amendments, a psychiatric treatment order and a community care order. Involuntary orders can only be imposed where a person has a mental illness or mental dysfunction; due to that illness or dysfunction the person is a danger to himself or herself or others; that treatment or care is likely to reduce such danger; and there is no less restrictive treatment or care available.

Only a person with a mental illness will be able to be subject to a psychiatric treatment order. This order, made by the Mental Health Tribunal, will place a person in the custody of a psychiatrist who will be responsible for providing treatment. The psychiatrist must release any person from a psychiatric treatment order as soon as it is determined that such treatment is no longer required.

Where a person does not have a mental illness but is considered to have a mental dysfunction, and the criteria for the imposition of an order are present, the tribunal may make a community care order. A community care order will require a person to receive care which may involve services such as counselling, training, rehabilitation, accommodation and life skills. This may require the development of a service response

from a range of health and community service providers. In such cases, a senior public servant will be responsible for coordinating the service care plan and ensuring that the required services are provided as arranged. This person will also be responsible for determining when the person subject to the order no longer meets the criteria for a community care order.

These orders will, in most cases, be served within the community. In some cases the tribunal may also impose a restriction order where some form of additional restraint is considered necessary to protect the community. A restriction order may require a person to keep away from a person or place, refrain from undertaking specific activities or be detained in a particular place. A restriction order cannot stand alone. It must be accompanied by either a psychiatric treatment order or a community care order. The tribunal will only make a restriction order where it is satisfied that, in the interests of public safety, the person should not be discharged from such an order unless the tribunal has revised the order.

In extreme cases, where a person continually refuses to comply with an order and the tribunal is concerned about significant potential danger posed by the person subject to an order, the tribunal may refer the matter to the Supreme Court for the making of a preventive detention order. This would only occur where a person refuses to comply with an order, the tribunal is satisfied that the person poses a significant risk to the community, and there is no evidence that treatment or care in any form can be provided to lessen the risk.

A preventive detention order would be sought in only the most serious of cases where there was considerable concern for public safety. The detention of a person who has not been charged with a crime and is not being detained for the treatment and care of a mental illness or mental dysfunction is an extremely serious proposition. However, the Government accepts that there may be some very rare cases in which preventive detention may be the only option available to protect the community from a very real and significant threat.

The Supreme Court would be required to review the initial preventive detention order within three months of its application. The order could then either be revoked or extended for further periods of up to six months at a time. While this seems severe, I do not envisage the need to use these provisions regularly in the ACT. Victoria has a similar provision. In four applications to the Supreme Court of Victoria for a preventive detention-type order over the last few years, the Supreme Court has yet to make a preventive detention order. I believe our Supreme Court will be at least as diligent as the Victorian court in ensuring that the detention of a person on other than criminal, mental illness or public health grounds is only enforced where a person is a clear and present danger to other persons in the community and there is no evidence that treatment or care in any form can be provided to lessen the risk to the community.

There may be some negative comments from the public in relation to this provision. However, under the current Act, preventive detention is available, although it is not so clearly enunciated. By including direct references to this form of detention the Government is ensuring that its intentions are totally transparent to the community.

In addition, while I hope the provision will never need to be used, I believe that government should have the capacity to protect the community from persons who pose a significant risk to others, yet cannot be satisfactorily dealt with by the criminal justice or mental health systems.

In other provisions of the Act we have been anxious to increase human rights protections for persons who access psychiatric facilities, whether as voluntary or involuntary patients. The establishment of an official visitors scheme will provide independent scrutiny of the ACT's psychiatric facilities for the first time. Official visitors will be able to visit any psychiatric facility in the ACT, with or without notice, and inspect rooms, talk to patients, read registers, evaluate facilities and services and hear complaints.

Official visitors will be required to report to me, as Minister, and the Community Advocate after each visit. I will also require an annual report of the work of official visitors to be made available to the Assembly.

The official visitors scheme should not imply that the Government is concerned about the level of service in psychiatric facilities in the ACT. In fact, I am pleased with what I have seen so far in the ACT and I am very supportive of the continuation of the move from institution-based care to community-based options. However, I am sure we can all accept that the creation of official visitors may make our facilities try that little bit harder to achieve the best clinical practice guidelines.

Other amendments to the Act include the following: Changing the objectives in the Act to require the inclusion of consumers and carers in mental health policy development, service planning, service delivery and evaluation; providing that involuntary seclusion is only used to prevent harm and only for as long as such a danger exists; all instances of involuntary seclusion will be advised to the Community Advocate, entered into the patient's record and recorded in the appropriate register; reducing the size of the Mental Health Tribunal to a single person so that all deliberations of the tribunal are open to the person subject to the proceeding; changing references to the Director of Mental Health to the Chief Psychiatrist, which will clearly demarcate the clinical responsibilities of the Chief Psychiatrist from the administrative responsibilities of the executive director of ACT Mental Health Services; and providing an additional assessment period of a maximum of seven days where, on sound clinical grounds, it has not been possible to complete an assessment on a complex client.

There are a number of other minor and consequential amendments to the Act which reflect a consensus position from our consultations. The proposed amendments seek to refine the Act which was passed in 1994. The Bill I present today is a sign of the Government's commitment to an evolutionary improvement to health outcomes for people with mental illness while balancing the need to protect the interests of the community as a whole.

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

## CRIMES (AMENDMENT) BILL (NO. 7) 1998

**MR MOORE** (Minister for Health and Community Care) (11.25): I present the Crimes (Amendment) Bill (No. 7) 1998, together with its explanatory memorandum.

Title read by Clerk.

**MR MOORE**: I move:

That this Bill be agreed to in principle.

Mr Speaker, this Bill seeks to amend the Crimes Act 1900. The proposed amendments are directly related to proposed amendments to the Mental Health (Treatment and Care) Act 1994 which are also being introduced into the Assembly today. The amendments are simply consequential amendments required due to the proposed changes to the Mental Health (Treatment and Care) Act.

The provisions in Part XIA of the Crimes Act deal with unfitness to plead, mentally dysfunctional offenders and the defence of mental illness and were passed at the same time as the Mental Health (Treatment and Care) Act in 1994. The Crimes Act provisions, like those in the Mental Health (Treatment and Care) Act, are to expire in February 1999. This sunset clause was instituted to ensure that the provisions introduced in 1994 were reviewed in the short term.

The operation of Part XIA of the Crimes Act was considered in the review of mental health laws which commenced in March 1997. However, the proposed substantive changes to Part XIA of the Crimes Act 1900, developed during the consultation process, are not proceeding at this time. They include provision for special hearings in the Magistrates Court, committal proceedings where the accused is unfit to plead and a special hearing by a judge alone. The changes have been largely suggested by agencies within government and it has not been possible to draft and settle these amendments with relevant stakeholders in the criminal justice system at this time.

The substantive Crimes Act amendments which are to be deferred are not related to any of the changes being made to the Mental Health (Treatment and Care) Act 1994. Nor are any changes to that Act dependent on the deferred amendments to the Crimes Act. The package of Crimes Act amendments will be introduced in the first sittings of the Assembly next year. The amendments which this Bill makes are only those required as a consequence of the proposed amendments to the Mental Health (Treatment and Care) Act as well as a provision to repeal the sunset clause.

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

## EDUCATION - STANDING COMMITTEE
## Inquiry - Work for the Dole Project in Primary Schools

**MS TUCKER** (11.28): I move:

> That if the Assembly is not sitting when the Standing Committee on Education has completed its inquiry into the work for the dole project in primary schools, the Committee may send its Report to the Speaker, or in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, circulation and publication.

Question resolved in the affirmative.

## TERRITORY'S SUPERANNUATION COMMITMENTS - PROPOSED SELECT COMMITTEE

Debate resumed from 19 November 1998, on motion, as amended, by **Mr Stanhope**:

That:

(1) a Select Committee be appointed to inquire into and report on the Territory's superannuation commitments, with particular reference to:

(a) the adequacy of the Towers Perrin reports, entitled Report on the Development of Alternative Superannuation Arrangements for the Australian Capital Territory Public Sector and Report on the Financial Management of ACT Government Financed Superannuation Liabilities as a guide to the magnitude of the Territory's superannuation commitments;

(b) the efficacy of the proposed one-off funding option to settle the Territory's unfunded superannuation liability;

(c) any alternatives to the proposed one-off funding option;

(d) the potential downstream impacts on the ACT economy of each of the alternatives identified for meeting the Territory's unfunded superannuation liability;

(e) in relation to the proposed sale of ACTEW, the effectiveness of any regulatory regime in achieving:

(i) consumer protection mechanisms;

(ii) fair and just price setting mechanisms;

(iii) adequate service standards; and

(iv) an adequate level of maintenance of system infrastructure; and

(f) any other related matter.

(2) the Committee be composed of:

(a) one Member to be nominated by the Government;

(b) one Member to be nominated by the Opposition; and

(c) two Members to be nominated by the four members of the cross benches

to be notified in writing by 3 pm on Thursday, 19 November 1998 and duly appointed by the Assembly;

(3) the Committee report by the first sitting day of February 1999, and the Government take no action in relation to the sale of ACTEW until the Assembly has considered the Government's response to the Select Committee report; and

(4) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

**MR OSBORNE** (11.29): I move:

> That the debate be adjourned and the resumption of the debate made an order of the day for a later hour this day.

I seek leave to make a short statement to explain why, Mr Speaker.

Leave granted.

**MR OSBORNE**: Given that I have been quite busy in the last week, I have not given much thought to this issue. I intend over the luncheon break to sit down with Mr Quinlan, Mr Rugendyke and the Government to see how good a deal I can make. But it is too late now, is it not? Oh, I got that wrong! Mr Speaker, I just need to look at the issues over the lunch break and come back to them this afternoon.

Question resolved in the affirmative.

**CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE**
**Inquiry - Draft Capital Works Program**

**MR QUINLAN**: Mr Speaker, pursuant to standing order 246A, I wish to inform the Assembly that on 20 November this year the Standing Committee for the Chief Minister's Portfolio resolved to inquire into and report on the form and content of the draft capital works program. As early as May of this year, the committee identified its interest in the draft capital works program as part of its responsibility to examine and report on all matters related to the Chief Minister's portfolio, including fiscal and economic policy, taxation and revenue and any other matter under the responsibility of that portfolio.

The committee sought to reconcile last year's capital works program commitments and provisions and the extent to which these had been initiated. The committee had difficulty in making this reconciliation and, through the Chief Minister, sought the assistance of the Office of Financial Management in outlining how projects attract across years and how priorities are reconfirmed between years. OFM briefed the committee and advised that next year's capital works program will be redesigned to include acquittal of programs, to avoid artificial staging of projects, and to show gross costs of projects and financial contributions to be made from non-government sources.

After further correspondence with OFM, which included the provision of a draft layout of content and the presentation of the future capital works program, the committee had the benefit of a further briefing by OFM. As a result of its research and consideration of this issue, the committee has come to the point where its findings should be reported to the Assembly. The adoption of this reference will provide the committee with a formal basis for presenting its report. May I give Mr Hird, the chairman of the Urban Services Committee, the assurance that we have no intention of usurping his role in examining the content - - -

**Mr Hird**: I find a gross discourtesy your not telling me before. You have been very busy and you have not raised it with me, but we will deal with that in a minute.

**MR QUINLAN**: It has nothing to do with being a gross discourtesy. I am telling you that we are looking at the form and content of it. We intend to review the form and content and we intend to bring back recommendations on the form and content of the draft capital works budget.

**MR HIRD**: Mr Speaker, I seek leave to make a statement in response to the statement of the chairman of the Standing Committee for the Chief Minister's Portfolio.

Leave granted.

**MR HIRD**: As chairman of the Urban Services Committee, I am concerned about the action proposed by the chairman of the Standing Committee for the Chief Minister's Portfolio. Indeed, there has been no information passed from that committee to my committee, either to the secretary or to any member of the committee, including me

as chairman. That is a gross discourtesy. I heard the chairman refer to some information he received from OFM as early as May of this year. You would have thought that under standing order 246A, which I will come to very shortly, he would have shown the courtesy of informing another committee which has an interest in this matter.

On the surface, the proposed inquiry cuts right across the traditional role of my committee, which for many years has scrutinised and monitored the Territory's public works and made many recommendations to improve the process, nearly all of which have been adopted by governments of all persuasions. The Urban Services Committee has built up a body of expertise in the area of public works and it is one of the hardest working committees within this parliament. You have only to look at the number of reports that it has brought down and the time that it takes. Mr Corbell would bear that out as a member of the committee.

It is a shame that Mr Quinlan does not talk to his colleague Mr Corbell. Or is it because his mate, Mr Berry, is trying to undermine the Chief Minister's endeavours to set up standing committees in line with the respective portfolios? He is setting a dangerous precedent in that that will allow any committee to traverse the work of any of the other committees. I warn the chairmen or chairpersons of other committees that this is a very dangerous precedent. I have not seen it established in the Territory prior to self-government or since self-government. Without doubt, it is the rudest act of a committee, through its chairman, to encroach upon the terms of reference of another committee.

The Urban Services Committee is, as I said, a body of expertise. We know the key players, we know the history, and we have a rapport with the department because we are aligned with the relevant department. Members believe that they have a responsibility under the resolution of the Assembly which set up the present committee structure. As chairman of the Urban Services Committee, I was not consulted at all about the proposed inquiry by the Chief Minister's Portfolio Committee. That is a gross discourtesy, to say the least.

In passing, I note Mr Quinlan's statement was made pursuant to standing order 246A. I will give him some education on standing orders. I note that Mr Corbell is learning. I suggest that Mr Quinlan could do better than he can with a calculator when he is trying to add up figures. He purports to be an accountant, but that is another question. Let us look at standing order 246A. It commences, "If a committee resolves that a statement should be made to the Assembly". I understand from what you said that you have resolved to do so, that there has been a minute made of this resolution by your committee. In other words, your committee has resolved to undertake this inquiry, from your statement earlier. If that is so, would you please present it to the chamber, table it.

The next thing I would like to draw your attention to is that the statement should be about "a matter within the committee's terms of reference". We will talk about the committee's terms of reference in a moment. The standing order requires a statement to be agreed to by committee members. If you have not done it, if you - - -

**Mr Hargreaves**: Have you tickled a trout or what? Keep going, Harold; I'm listening to you.

**MR HIRD**: I was impressed by you yesterday. At least you had the fortitude to stand up for your rights. That is what I am doing; I am standing up for the rights of my committee. Take note, because in future you may be a chairman of a standing committee and, under this precedent of the gentleman on your right, other committees can encroach upon your terms of reference. I am so concerned about the action of the chairman of the Chief Minister's Portfolio Committee that I think the whole question of which committee should conduct this inquiry should be referred to the Speaker. On that note, I seek leave to move a motion.

Leave granted.

**MR HIRD**: I move:

> That the proposed inquiry by the Chief Minister's committee be referred to the Speaker to determine whether the inquiry properly belongs with the Urban Services committee or the Chief Minister's committee.

I will not speak anymore, because I am damned annoyed about the whole exercise. I think it is a gross discourtesy of the worst kind.

**MR CORBELL** (11.39): With all due respect to my chairman - perhaps he did not get enough sleep last night - I have to say that the proposition put in the statement made by Mr Quinlan earlier today seems to me to be an entirely appropriate course of action for the Chief Minister's Portfolio Committee to take. OFM plays a significant role in the development of the capital works budget and the criteria that are used and the different categories that are put in place within the capital works budget. In case Mr Hird had not noticed, the Chief Minister's Portfolio Committee is responsible for overseeing the operations of the Chief Minister's Department, including, obviously, the Office of Financial Management and the role that OFM plays in the development of the capital works budget.

Mr Speaker, I think that this issue highlights more than anything else that the portfolio committee arrangement which this committee has chosen to implement does have a number of problems that need to be ironed out. Clearly, this highlights one of those problems. It highlights the fact that two portfolio committees have an involvement in a similar issue, but I would say from quite different perspectives and quite legitimate different perspectives. The Urban Services Committee, of which I am a member, is responsible for scrutinising the Government's draft capital works program. That is not what Mr Quinlan is proposing to investigate. Mr Quinlan, through his statement from his committee, is proposing to investigate the criteria used by the Office of Financial Management in its preparation of the draft capital works program - not the projects themselves but the criteria used in assessing those projects.

That, to me, seems quite a legitimate distinction, quite a reasonable one. I think the Chief Minister's Portfolio Committee is to be commended for going to this level of detail on what sorts of criteria are being used in the draft capital works budget. I think there is an opportunity, once Mr Quinlan's committee has reported, for the Urban Services Committee in its deliberations on the next financial year's draft capital works budget to use the work that that committee has done in its assessment of that budget.

It seems to me to be quite a sensible proposal and I would ask Mr Hird to reconsider it, because I think it is not an unreasonable proposition. It shows that there is a complex range of issues that can be addressed, and addressed quite legitimately, by the Chief Minister's Portfolio Committee separate from the Urban Services Committee. I certainly will not be supporting Mr Hird's motion.

**MR QUINLAN** (11.42): Mr Speaker, my committee has responsibility for examining the doings of the Chief Minister's portfolio. The Chief Minister's portfolio includes the Treasury. The capital works budget was compiled by OFM.

**Mr Hird**: Why didn't you tell me about it?

**MR QUINLAN**: I am going to tell you about it. On Friday last my committee had hitherto done no more than want to understand the capital works budget because it is an integral part of the overall Territory budget which is put together by OFM within the Chief Minister's portfolio, which my committee is charged to review. As of Friday last my committee, dissatisfied with the progress in just explaining to us how the budget is going to be put together - no intent of inquiry whatsoever - decided that it was necessary to take more formal action because, apparently, this problem is not a new problem. Apparently within this place there have been annual promises to restructure the capital works budget so that one can read it, so that one can reconcile previous years with the current year, and nothing has happened in that regard.

The current committee structure is different from previous committee structures. We have debated that in this place. I take chairmanship of my committee seriously. I take the requirement that we need to provide clear information to this place, all of this place, seriously. We pursued that in my committee formally with a view to just understanding the capital works budget so that we could discharge our more general responsibilities in relation to the overall budget. Last Friday we discussed the matter and said, "Look, we really need to formalise it. In fact, rather than keep asking OFM to review the structure of the budget and come back to us, how about if we put together some suggestions". How do you do that? I was advised by my more experienced committee members that the way to do that is to have a formal inquiry. We are not trying to play that up, make it a big deal. We are not calling witnesses, whatever. All we understand is that to be in a position to bring to this Assembly our suggestions for the structure of a capital works budget, we need to go through the facade, the routine, or the procedure of having an inquiry.

That is what we decided to do. So, at the first instance possible, we have advised the Assembly. Let me say that because my committee reviews the Chief Minister's portfolio, because OFM is included in that, because OFM is in charge of the budget, every damned thing is influenced by it. We had discussed that and we had said, "Yes, when we have

decided amongst ourselves" - we are not calling witnesses or whatever - "that we have a structure that we think is worth while then we will send it to the Urban Services Committee and get their input to it". I was only talking to Bill Symington about this the other day. That was what we intended to do. I cannot see anything wrong with that.

Mr Hird, if you are offended because we did not tell you that we had even had a briefing by the OFM to explain to us, to clarify, the capital works budget, because we are interested in it, because we are charged to be interested in it, you have my sincere apology. If you are offended by the fact that you are advised of this only at the same time as everybody else in this place, including the Chief Minister, who is responsible for the capital works budget, you have my sincere apology, Mr Hird. But, at the same time, I would call on you to withdraw some of the derogatory remarks that you made earlier as they were inappropriate. If, in fact, your sensibilities have been offended by such an omission, why do you not just show the courtesy that you thought I should show and say in the corridor, "Excuse me, mate: What about this one?". No problem!

**Mr Hird**: I did not know about it until today. I did not know about it until this morning.

**MR QUINLAN**: Mr Hird, are you sure about that?

**Mr Hird**: I did not know about it until this morning, thank you very much.

**MR QUINLAN**: Is that in *Hansard*?

**Mr Hird**: Yes, it is in *Hansard* and you heard what I just said.

**MR QUINLAN**: Okay. I return to it, Mr Hird: If you are offended by it, if the Chief Minister happens to be offended by the fact that we are reviewing the structure - not the content and not the programs in the capital works budget, which are your responsibility, but the presentability and the information value - of the capital works budget, you have my sincerest of apologies.

**MR HARGREAVES** (11.49): I will be very brief, Mr Speaker. In my experience as an officer in the Public Service running around doing just these sorts of things, compiling capital works budgets and other sorts of budgets, I can recall providing them in a format laid down by the OFM and its predecessor organisations. What we are talking about here is defusing the issue. First of all, if I can digress for a moment, Mr Speaker, I apologise to Mr Hird sincerely for some frivolous comments I made before and I withdraw them quite unreservedly.

We are talking about two committees here and we are talking about process and content. The Urban Services Committee is, quite rightly, charged with examining and being critical of the content of capital works submissions and estimates. The operative word there is content. The Chief Minister's Portfolio Committee is quite right in wanting to look at the format, because the format goes across many departments. I have had significant service in Health and in Education and in both instances I was obliged to prepare my paperwork in accordance with templates laid down by OFM, even though at times I thought that it was the biggest load of rot I had ever had the misfortune to be connected with. However, I had to.

If the committee looking into the Chief Minister's portfolio is trying to arrange for a template to go across departments which will assist in the process, I think they should be encouraged to do so, because they do have an overarching thing across the rest of our departments. Planning is in the same boat. Mr Speaker, I think we ought to settle down for a couple of minutes and just think about it. I would ask Mr Hird to think about the relative roles of the two committees. A point has been made and I think the point has been taken on this side of the house. I would ask that we not proceed with the motion to refer it to your good offices, Mr Speaker, because I do not think it is necessary.

**MR KAINE** (11.52): Mr Speaker, I must say that I find Mr Hird's reaction to this matter quite bizarre, and I will explain why in a minute. It looks to me like a case of the old bull and the brash young bull carving out a territorial imperative somewhere. That is what it seems to me, that the old bull is trying to defend his empire. As to the motion put forward by Mr Hird, I take the view - and I am not pretending to advise you, Mr Speaker; I am merely commenting - that you would have to reject it out of hand, because what Mr Hird is implying in this motion is that the Chief Minister's Portfolio Committee in its role as the public accounts committee has no right to look at financial matters. That is what Mr Hird is, essentially, saying.

The Chief Minister's Portfolio Committee subsumes the public accounts committee and in that role it is our function to look at the accounts of the Government. Of course, the accounts of the Government very much include the capital works program because it translates into money. The reason why the public accounts committee has chosen to look at this matter is that we found that we could not trace the financial accounts, the financial transactions, arising from the capital works program from one year to the next. There was no way that you could take last year's capital works program as expressed in financial terms in the budget and track it through to this year's budget and know what was happening. So, we sought from OFM an explanation as to how we could devise a system so that the financial trail could be tracked. That is all we are planning to do.

If Mr Hird believes that that is not a function of the public accounts committee, that it is properly a function of the Urban Services Committee, I am afraid that he will have to explain to me how that is the case, because the terms of reference of the Chief Minister's Portfolio Committee in the role of the public accounts committee of this place are quite clear. I think that the chairman of the Chief Minister's Portfolio Committee has been quite magnanimous in informing Mr Hird, as chairman of the Urban Services Committee, that we are proposing to do so and we will make him a beneficiary of whatever we learn from it. How on earth could Mr Hird possibly take exception to that? Unlike my magnanimous chair, I make no apology as a member of the public accounts committee for taking on this matter.

I said that I thought that the course of action that Mr Hird was proposing was a bit bizarre because, in fact, the Speaker is one of the members of the public accounts committee who took the decision to go this route. To ask him now to make a judgment about whether the decision of the public accounts committee of which he is a member is right or wrong is rather odd, to say the least, because I do not know on what basis the

Speaker could make a judgment on that except by looking to the terms of reference of the two committees. If he does that he would have to concede that the Chief Minister's Portfolio Committee in its role as the public accounts committee has a perfect right to take on the inquiry that it has decided to take on. Mr Hird can feel that his nose is out of joint, but all I can say is: Tough luck.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.56): Mr Speaker, I rise to move an amendment to the motion Mr Hird has put on the table. Mr Hird has perhaps overly charitably suggested that the matter ought to be sent somewhere else to be thought about. I think, in fact, that that is not appropriate. I think that we should determine this matter today on the floor of the Assembly and that we should ensure that this reference goes rather to the Standing Committee on Urban Services.

Let me address some of the arguments that have been put in this debate. The argument has been put that there are very good reasons why aspects of the capital works program are related. I will not move my amendment just yet, Mr Speaker. I will speak to the motion and move my amendment at the end of speaking to the motion. Mr Speaker, there are very good reasons, we are told, why the work of the Chief Minister's Portfolio Committee covers potentially aspects of the capital works program. There may be a very good point in that. But, Mr Speaker, we need to bear in mind that every committee of the Assembly has considerable potential to overlap with the work of other committees. Every single committee of this Assembly could be said to have an area where its work overlaps that of another committee.

For example, what would stop the Chief Minister's Portfolio Committee, with its very wide purview of scrutiny over matters to do with finance, from inquiring into any other element of an inquiry by another committee that touched on finance? It would be quite possible for that to occur in every case. What would happen, for example, if the Chief Minister's Portfolio Committee decided to inquire into the financial basis for the gaming industry in the ACT? They would have every right to do so, but that would intrude on the inquiry of Mr Kaine's committee into gaming. It is perfectly within the purview of the Chief Minister's Portfolio Committee for that to happen.

Mr Speaker, there is a story in the Bible about how two women come before Solomon arguing about a baby and the proverbial wisdom of Solomon is applied by suggesting that the baby should be cut in half. This is just such wisdom being applied in the house today. We have two committees wanting to look at the capital works program, so the Solomonic decision is to cut it in half, with half going to one committee and half going to another committee. As in the story in the Bible, Mr Speaker, it is a silly proposal. It makes no sense. It is an illustration of why you should not have an inquiry split in this way.

Mr Quinlan justifies the inquiry by saying that this is just about us understanding the capital works budget. Mr Speaker, if committees of the Assembly wish to educate themselves about particular aspects of the ACT's fiscus, its legislative program or some other matter, that is perfectly within its entitlement, but not as an inquiry where it will report, presumably, to the Assembly on its findings and make, as it were,

recommendations to the Assembly and presumably to the Government about particular matters that had been considered by that committee. That is not appropriate because another committee will be charged with that exercise in respect of the capital works program, that is, the Urban Services Committee. If Mr Quinlan's committee wants to find out about the capital works budget, it should call for a briefing from the Office of Financial Management, take on board that briefing and, if necessary, then deal with it in some other way, such as a recommendation to the Urban Services Committee or some other kind of process for further examination of issues that arise from that process.

The last point I want to make about this issue is very simple. Last night - well, only a few hours ago - we were in this place being lectured about abuse of parliamentary process and lack of consultation. Does it not strike anybody as odd that a committee of the Assembly should inquire into a matter which is quite expressly referred to as a responsibility of the Urban Services Committee without the chair of that committee going and talking to the chair of the Urban Services Committee? It seems to me very strange indeed. We were talking yesterday about consultation with the community. We were also talking about lack of consultation between members. If members felt that was important, why was there not any discussion with the chairman of the Urban Services Committee?

I move the amendment which has been circulated in my name:

> Omit all words after "That" substitute "this Assembly directs the Standing Committee for the Chief Minister's Portfolio not to proceed with the inquiry on the form and content of the Draft Capital Works Program, and that the inquiry be undertaken instead by the Standing Committee on Urban Services.".

In speaking in support of the amendment, I would say to members that it is important that we not allow this reference by the Chief Minister's Portfolio Committee to go ahead because, if we do, we encourage and condone a process of committees unilaterally setting up themselves to make inquiries into areas which quite clearly touch on the work of other committees without consultation with those committees. That is a bad precedent to set. In future, there ought to be consultation. By passing my amendment to the motion of Mr Hird we achieve that outcome.

**MS TUCKER** (12.02): I agree with Mr Humphries' amendment in that he is saying that the Assembly should decide this matter and that it is not appropriate to refer it to the Speaker, but that is as far as the agreement goes because I believe that the Chief Minister's Portfolio Committee, if you look at its terms of reference, certainly is able to look at this issue. We have had the discussion in this place before about why this supposedly strong link is always made between the Urban Services Committee and capital works. If you look at it, capital works goes across all areas. It goes across education and it goes across health.

I remember having a debate here on this issue and a number of members disagreed with the point that Mr Humphries makes that it is absolutely and totally tied to the Urban Services Committee. It seems much more likely to me that it would be tied to the Chief Minister's Portfolio Committee, which has an overarching responsibility through the public accounts committee functions, to look at issues of, and I quote from the terms of reference, fiscal and economic policy. So, it is perfectly appropriate for the Chief Minister's Portfolio Committee to do so.

I heard Mr Quinlan apologise to Mr Hird this morning about the lack of consultation. I do not know whether Mr Hird is accepting that apology or is still too grumpy because he was up so late, but an apology was made.

**Mr Hird**: I am not grumpy; it was a gross discourtesy.

**MS TUCKER**: He has apologised for the discourtesy, Mr Hird. I think everyone is acknowledging that it is useful to have consultation between committee chairs. Mr Quinlan has apologised, so that issue has been dealt with as much as it could. But it is not a reason to totally spit the dummy, as Mr Humphries is suggesting we should do in his amendment.

Mr Humphries also made the rather strange claim that, if a committee wants to look at economic issues or any other issues and get informed, they could do that by getting a briefing but that it is not the role of the committee to become informed on an area and then make recommendations. One of the purposes of committees as explained to me when I first came here was to look in detail at issues of concern to the Assembly and make recommendations around those issues. So, for me, it seems to be a perfectly logical and very important subject that the Chief Minister's Portfolio Committee have decided to take on at this point. If they are prepared to spend the time to analyse and evaluate what is happening in this area and then make recommendations to the Government, the Government should be grateful. It may actually improve their performance. It is advisory only, as we well know, so I cannot see why Mr Humphries is so nervous about three other members of the Assembly taking the trouble to get a much more detailed understanding of the issues.

In conclusion, I have dealt with the consultation. Mr Quinlan has acknowledged that it is not appropriate to be sending these sorts of issues to the Speaker, particularly, as members have already mentioned, the Speaker himself is on this committee. It seems a very poor response to come from a member of the Assembly to refer it to him. It would obviously put him in a difficult position. Anyway, why should the Assembly have the right to totally override the position of a committee which has decided to take on an inquiry? The committee informed the Assembly this morning of the intentions of the committee. They are within its terms of reference; so, there is no argument here, but we are sorry for Mr Hird if he is upset.

**MR MOORE** (Minister for Health and Community Care) (12.06): I think the nub of the argument here is in the concluding words of Ms Tucker: Why should the Assembly have the right to override the committee? I think that is when we get into very dangerous ground. It is clear that the committees are creatures of the Assembly. As such, the Assembly must always have the right to override anything that an Assembly committee does. I think that is absolutely fundamental to the democratic process. I have been an enthusiastic supporter of self-referral by committees, but I have also been very keen to ensure that, when an Assembly committee self-refers, they immediately let the Assembly know. That gives the Assembly the prerogative to do something like move the motion moved by Mr Hird or the amendment moved by Mr Humphries.

I shall be supporting the amendment moved by Mr Humphries, but I would ask members to ensure that they work together to ensure that the work is not lost hereto. It seems to me that we have had a minor problem. I might remind members that we are all a little tired. I think this can be resolved fairly easily and fairly quickly.

**MR QUINLAN** (12.07): Mr Speaker, speaking to the amendment, I am very tempted to support the amendment: Show me yours, Harold, and I will show you mine. Let me give this very grave issue some perspective. We had a couple of briefings on the capital works budget as part of exercising our responsibility, trying to understand the capital works budget, and we were told that OFM had made earlier commitments and were going to restructure the capital works budget, that it would be a whole lot more readable and contain more genuine information. They promised to give us a bit of feedback. They came back with the feedback and it really did not involve the communication of much more information.

I sat down and wrote a list of the things and the structure I thought would make a reasonable format, not content, for a capital works budget. I then asked my committee secretary, "How do I get this into the system? I want to get it into the system in a manner with some force". I was told that I should advise that there was a formal inquiry and then at the next sitting immediately report, having passed the list of contents by my committee so that they were happy with it. That is all there is to it. All we wanted to bring to this place was a strong recommendation for the content of a capital works budget. If the Assembly wishes to vote up this amendment, I will stick my list in my bottom drawer and wait for Harold to come forward with his suggestions, having come with a clear mind, and we will get the benefit of both our thoughts. I do not want to corrupt your thinking along the way. When we have the benefit of your thinking on the content of it, we can sit down over a coffee or a beer, Harold, and exchange our ideas on it and come forward to the Assembly with a composite answer. The only thing I desire out of all this is that this Assembly incorporate some form of instruction as to what it requires in the content of its capital works budget, because this appears to have been an unresolved problem between the Assembly and various forms of Treasury office for some years. I will not be supporting the amendment.

**MR SMYTH** (Minister for Urban Services) (12.11): Mr Deputy Speaker, I will speak quickly because my voice is going quicker. I rise to support my colleague Mr Hird. His leadership on the Urban Services Committee has been tremendous. The amount of work that they get through is tremendous. I think it is more appropriate that this matter, if it is to go ahead at all, be handled by the Urban Services Committee. As Mr Moore has already said, setting the Assembly to overrule decisions of the Assembly is a very dangerous precedent. This matter, as Mr Quinlan has just acknowledged and, indeed, earlier apologised for, could have been sorted out over a beer. Perhaps that should have been done. Perhaps it should be done now.

**MR DEPUTY SPEAKER**: Order! It being 45 minutes after the commencement of Assembly business, the debate is interrupted in accordance with standing order 77.

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

> That the time allotted to Assembly business be extended by 30 minutes.

**MR SPEAKER**: The question is: That Mr Humphries' amendment to Mr Hird's motion be agreed to. I have been asked to read it out. The amendment reads:

> Omit all words after "That" substitute "this Assembly directs the Standing Committee for the Chief Minister's Portfolio not to proceed with the inquiry on the form and content of the Draft Capital Works Program, and that the inquiry be undertaken instead by the Standing Committee on Urban Services.".

The Assembly voted -

| *AYES, 8* | *NOES, 9* |
|---|---|
| Ms Carnell | Mr Berry |
| Mr Hird | Mr Corbell |
| Mr Humphries | Mr Cornwell |
| Mr Moore | Mr Hargreaves |
| Mr Osborne | Mr Kaine |
| Mr Rugendyke | Mr Quinlan |
| Mr Smyth | Mr Stanhope |
| Mr Stefaniak | Ms Tucker |
| | Mr Wood |

Question so resolved in the negative.

Original question resolved in the negative.

## DAYS OF MEETING

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (12.18): Mr Speaker, I move:

> That, unless the Speaker fixes an alternate day or hour of meeting on receipt of a request in writing from an absolute majority of Members, or the Assembly otherwise orders, the Assembly shall meet as follows for 1999:

| | | | |
|---|---|---|---|
| February | 16 | 17 | 18 |
| March | 9 | 10 | 11 |
| | 23 | 24 | 25 |
| April | 20 | 21 | 22 |
| May | 4 | 5 | 6 |
| June | 22 | 23 | 24 |
| | 29 | 30 | 1 Jul |
| August | 24 | 25 | 26 |
| | 31 | 1 Sep | 2 |
| October | 12 | 13 | 14 |
| | 19 | 20 | 21 |
| November | 16 | 17 | 18 |
| | 23 | 24 | 25 |
| December | 7 | 8 | 9 |

Members will see that a 14-week sitting pattern is proposed, a couple of weeks more than for this year. We have endeavoured to avoid school holidays, public holidays and major conferences that will call members of various committees away from the Assembly. The result is a reasonably workable pattern of meetings. I commend the motion to the house.

**MR CORBELL** (12.18): Mr Speaker, the Labor Party has been consulted on the sitting pattern and we have no difficulty with it.

Question resolved in the affirmative.

**Sitting suspended from 12.19 to 2.30 pm**

## QUESTIONS WITHOUT NOTICE

### Hospital Waiting Lists

**MR STANHOPE**: Mr Speaker, my question is to the Minister for Health and Community Care. The Minister noted in question time on Tuesday that, despite the Government's $3m offer to the Canberra Hospital for the purchase of additional elective surgery throughput in 1998-99, specifically to target long waiting lists, this offer has not yet been taken up. Can the Minister say what the potential impact of the proposed $3m offer, if accepted, would have on the waiting list, and can he say why the hospital has not taken up the offer?

**MR MOORE**: Thank you, Mr Stanhope, for the question. I have been concerned that the Canberra Hospital has not taken up that offer but, as I indicated, I am looking at the possibility of having the service done elsewhere. I am continuing discussions with the Canberra Hospital. They have not said no; they have not taken up the offer so far. Rather than do a quick calculation off the top of my head, dividing roughly $10,000 into the $3m to get a very broad figure, I think it would be better if I took on notice the question about the impact that the $3m would have. We would be quite specific in buying a certain number of cost-weighted separations for that money.

We have to get a positive response from the Canberra Hospital. Then we can look at the waiting list and say which particular areas we want to target. We are not going to just say, "Here is $3m. Try to reduce the broad waiting list". We are going to say, "These are the particular areas of specialty; these are the categories that we want done", and so on. When we asked Calvary Hospital to do orthopaedic surgery, we were quite specific about purchasing services to do with hips and knees, because we know that hips in particular cause a huge amount of pain before they are done and they are quite an extraordinary example of surgery that turns people's lives around. We were particularly keen to focus on that strategy.

To be very clear, the part of the question I will take on notice is the part about the $3m, but I will also ask the hospital for more information about what we need to do. The answer I was given when I asked what the problem was was that the combination of theatre time and intensive care unit beds makes it very difficult to get any further throughput. Currently a review of the intensive care unit is being conducted. In fact, I can give you a little bit of detail on that review. I do not want to go on too long, Mr Stanhope, but these things are all tied in together. Dr Phil Byth from John Hunter Hospital and Dr Theresa Jacques from St George Hospital will be doing it, as I recollect, during December 1998, and I hope that we will have the report as early as possible in the new year.

**MR STANHOPE**: I acknowledge the Minister's offer to provide additional information going to the reasons that the $3m offer has not at this stage been taken up. The supplementary question I ask is: In the context of additional information that the Minister has undertaken to provide, could he also advise whether or not the fact that

to date the hospital has failed to take up the $3m offer has anything to do with lack of beds or professional nursing staff in addition to the relationship the Minister has just raised between theatre time and bed availability in the intensive care unit?

**MR MOORE**: I can answer that question now. The answer is yes. We would have to find particular staff for the intensive care unit, but let us put that aside for one minute and assume that we were able to resolve that problem and that we opened a series of new beds and put on extra staff. This is one-off money. That would mean that we would then somehow have to get rid of the staff again. However, there are ways of getting contract staff and giving people extra duties if they wish to have them. There are a series of things like that.

One of the parts of the dispute that was running with the nurses for some time was about these sorts of issues. The hospital is particularly sensitive and trying very hard to make sure that they are working with the Nursing Federation and the nurses so as not to undermine the current position. I would hope, Mr Stanhope, that we can resolve some of those problems and find ways to increase the number of beds or, more importantly, to increase the throughput at any given time. I think that is part of management of the hospital.

## Canberra Cosmos

**MR QUINLAN**: Mr Speaker, my question to the Chief Minister follows on from my question yesterday on the Cosmos, only I will not mention the club's demise. At a press conference yesterday, the chairman of the Canberra Cosmos, Mr Ian Knop, aside from sacking the odd coach and player or five, hinted at approaching the Government for a little bit more support. It was reported in the *Canberra Times* that an injection of no less than $600,000 was needed. The *Canberra Times* also suggested that the Government was unlikely to provide any part of that sum. Can the Chief Minister inform us on that little contradiction?

**Ms Carnell**: Contradiction?

**MR QUINLAN**: Between Mr Knop and the *Canberra Times*?

**MS CARNELL**: Mr Knop has not approached me for any extra funding. If he did, the reaction would be the same as the reaction was to the Cannons. The ACT Government is already supporting our national teams by the national teams policy, which gives the Cannons $100,000 a year for marketing purposes and gives $100,000 to the Cosmos and other national teams. That has been debated and is in our budget. That is the total commitment that this Government will be willing to make to national teams in this financial year. We have already supported the Cosmos in the past with loan guarantees and so on. I think we have done as much as any government could be expected to do.

**MR QUINLAN**: I ask a supplementary question, Mr Speaker. Does that answer apply as widely as to include any government business enterprises? To your knowledge, is there any prospect of government enterprises or government departments providing further support to the Cosmos?

**MS CARNELL**: What TOCs might do in terms of sponsorship I really cannot comment on. There are none I know about particularly. They do not come to me first. Certainly I have no knowledge of any pending sponsorships or whatever. The comment I stick with is that the Cosmos has been supported very well by the Government. It is certainly able to draw, and has been drawing, on the national teams policy money which was allocated in the budget. The ACT Government will not be providing further funding to the Cosmos or, for that matter, to the Cannons or to any national team.

**MR STEFANIAK**: I wish to add to that for Mr Quinlan's benefit. I heard on the radio a few days ago, Mr Quinlan, that apparently the Hellenic Club has also sponsored them to the tune of $50,000.

## Paterson's Curse

**MR WOOD**: My question is to the Minister for the environment. Minister, as we drive around Canberra the brilliant purple of Paterson's curse seems to be flowering everywhere. It is covering the outskirts of Canberra and, to my surprise, also growing alongside roads and ovals and in small suburban parks, places we have never seen it before. I am sure this has been - - -

**Mr Kaine**: It is very pretty, Bill.

**MR WOOD**: I am not sure it is. I am sure you have had approaches on this already, Minister. The Government has a weed strategy which acknowledges that the Government has a role in coordinating and providing resources for weed control to the extent that the community as a whole benefits. Minister, first, what strategic actions are being taken under the weed strategy to remove this brazen weed from our city before it has established such a hold that we are completely smothered beneath an un-Australian sea of purple? Secondly, has the Government allocated additional resources to address the particular problem of Paterson's curse? What role, if any, do the Government's weed hit teams play in that process?

**MR SMYTH**: Mr Speaker, I thank Mr Wood for his question, and a very important question it is. Paterson's curse is not just an issue for the ACT. I recently had occasion to drive to Mount Buffalo in Victoria. South of about Gundagai the entire country is just lush and purple. It is curious that South Australians, I am told, call Paterson's curse Salvation Jane. They call it Salvation Jane because in terrible drought conditions it is about the last thing that grows. In opportunities like that cattle will eat it and can subsist, but for us it is a terrible thing.

I am told that in the drought of about 1982-83 a lot of feed was imported into the ACT from areas infected with Paterson's curse and that through the use of that feed and in subsequent years the seeds have been spread. The weed hit teams you mention are important. The removal of Paterson's curse is something that we take very seriously. Its ability to displace native species is quite amazing. As you mentioned, it is starting to appear all over the ACT. We are monitoring the spread of Paterson's curse and, through the allocation of our hit teams, making sure that where we can we take on Paterson's curse.

It would be of interest to members that for many years CSIRO has funded research into Paterson's curse. They are looking for biological agents that will control it naturally rather than at sprays. They thought they had a winner in the form of a butterfly but the butterfly, unfortunately, was a flop. The CSIRO are now testing to find out whether or not the boll weevil is a natural enemy of Paterson's curse and whether or not it can be safely released in the ACT.

**MR WOOD**: I ask a supplementary question, Mr Speaker. Minister, why is it that many but not all property leaseholders seem to be keeping many of their paddocks free of Paterson's curse but the Government seems not to be able to do so? Are there not enough resources being allocated to the problem?

**MR SMYTH**: Mr Speaker, if you tour down the Cotter Road and other areas in rural ACT, you will see that some very industrious rural lessees have kept their properties as free as possible of the curse. There are some quite large paddocks out there that are covered in the curse. The Government commits its resources where it can to ensure that we take these things on through our ACT weed hit teams. They started work this year and will go through to March-April next year, ensuring that we meet the needs where they are.

## Police Training

**MR HIRD**: Over a period of years I have admired and appreciated the excellent service that we have received from the police within the ACT. Some recent utterings by a member caused me some concern. I address a question to the Minister for Justice, Mr Humphries. Is the Minister aware of criticism which came from the member for Brindabella - and I trust that it had some foundation - that the latest recruits to the Australian Federal Police are inadequately trained? Is this criticism valid?

**MR SPEAKER**: Do you wish to leave the room, Mr Hargreaves? You do not need to put your hand up.

**Mr Hargreaves**: I will protect Mr Wood.

**MR HUMPHRIES**: I think Mr Hargreaves is owning up in advance of being named.

**Mr Kaine**: I am glad you fessed up. I thought he was talking about me.

**Mr Hargreaves**: He was. I was just protecting you.

**MR HUMPHRIES**: Perhaps you can all confess and be arrested.

**MR SPEAKER**: Perhaps they could all leave the room, Mr Humphries.

**MR HUMPHRIES**: Indeed, Mr Speaker. On 6 November, 17 new AFP members graduated from training. These new recruits are lateral entrants, that is, they are all experienced police officers. They are all highly qualified, most of them have tertiary qualifications and all have considerable experience in law enforcement. At least one also has postgraduate qualifications and another has an honours degree. The experience in policing of the graduates ranges up to 12 years. One is actually a former AFP member who resigned in 1997 after 10 years' service. Three of the 17 recruits are former members of the AFP. Obviously, people like that require no further training.

Before they were selected to enter the AFP on lateral recruitment, they were all assessed for core competencies. They were then given an induction into the AFP. The other 14 - that is, those who were not already AFP officers - were trained in a five-week training course to qualify them for policing duties in the ACT. That training included evidence management, police powers, crime scene management, common offences in the ACT, practical assessments of crimes such as assault and street offences, domestic violence, mental health, deaths, firearms and safety training principles, integrity and dispute resolution.

**Mr Hargreaves**: How many?

**MR HUMPHRIES**: How many what?

**Mr Hargreaves**: How many went through that course?

**MR HUMPHRIES**: There were 17.

**Mr Hargreaves**: On that course?

**MR HUMPHRIES**: Sorry, 14 went through the course. The other three were previous AFP officers and, naturally enough, did not require any training in issues of the kind I have just read out. They will also receive training in traffic duties later on. Each of the members serves a 12-month probation and operates in a buddy system with a more experienced Canberra officer. I think anyone looking at that would fairly say that the training and the background of the officers concerned are appropriate and more than adequate for the responsibilities that go with operating in the ACT component of the Australian Federal Police. Mr Hargreaves saw fit to denigrate those new members by suggesting that they were inadequately trained to operate on the streets of Canberra.

Quite apart from an opinion about these matters - an opinion which was not shared, for example, by the AFP Commissioner, Mr Palmer, who very quickly issued a rebuttal to assertions - I think it is unfortunate that we see - - -

**Mr Hargreaves**: Another senior public servant.

**Mr Quinlan**: Do not vilify a public servant.

**Mr Hargreaves**: He can have a go at me, but I cannot have a go at him. I do not intend to.

**MR HUMPHRIES**: Mr Speaker, can I ask for some quiet, please?

**MR SPEAKER**: Order! If you two wish to talk together, would you please go outside and do so.

**Mr Hargreaves**: Mr Speaker, I raise a point of order. I was responding to the mouthings of the Chief Minister, who asked me - I say "asked" instead of "demanded" - to shut up. I merely informed her I had no intention of doing so.

**MR SPEAKER**: Very well. Interjections are out of order, no matter which side they come from. However, Mr Humphries has the floor.

**MR HUMPHRIES**: These 17 new police graduates started work on 6 November. On the same day a press release advertised all over Canberra that these people are not up to the job, by way of their training, to carry on policing duties in the ACT. I do not know whether Mr Hargreaves feels that is a little bit inappropriate. If he had a concern about their level of training, he should have raised it, I would have thought, with the commissioner or with me or with somebody else. Simply branding these people as being inadequately equipped to do their job is a pretty poor and unfortunate reflection on them. I think raining on their parade was not called for. I can only echo the words of the Commissioner for the Australian Federal Police, Mick Palmer, who said:

> This unwarranted criticism only serves to undermine and disrupt the working life of those members who joined the AFP today.

**MR HIRD**: I ask a supplementary question, Mr Speaker. Minister, has the member for Brindabella in question been asked for an apology?

**MR HUMPHRIES**: Mr Speaker, I never hope for the impossible. No, I have not asked for an apology. If the member concerned feels any tinge of regret, I am sure he will come forward and express his regret, if not to the Assembly, to members of the Federal Police who are so offended.

## Signs Showing Aboriginal Traditional Owners

**MS TUCKER**: My question is to the Urban Services Minister. Minister, this morning you and I both attended a moving ceremony to meet with Bruce Elder, author of *Blood on the Wattle*, at the little-known memorial on the slopes of Mount Ainslie dedicated to Aboriginal soldiers who died at war. Speakers at the ceremony noted how,

like the memorial, so much of Aboriginal history since white settlement is not known about. A suggestion from one of the speakers to help the reconciliation process and to remind Australians about the land's original occupants was for place name signs on city or shire limits to note the name of the traditional owners. This has apparently been done in some centres across New South Wales and I understand Queanbeyan is considering it too. Minister, could you tell the Assembly whether you would consider adopting this practice in the ACT? If so, would you ask your department to investigate having the signs on the ACT borders and city limits modified to include the names of the area's traditional owners?

**MR SMYTH**: Mr Speaker, I guess the quick answer to Ms Tucker is no. We will not consider this, simply because I spoke to the Chief Minister this morning, straight after that very meeting, to suggest that we should do it and the Chief Minister has said that we will investigate it. Unfortunately, the majority of entrances to the ACT are controlled by designated land under the NCA, but I will be taking the matter up with the NCA soon.

Mr Speaker, it was a delightful gathering this morning on the slopes of Mount Ainslie. Ms Tucker attended with one of her staffers. One of my staff also attended. Warren Snowdon was there; Chris Schacht was there; Al Grassby, the former Minister, was there.

Al Grassby, in conjunction with another author, wrote a book called *Six Australian Battlefields*. Some of that looked at the little-known history of the conflict that occurred as European settlers arrived in Australia. At 12.30 today the second edition of *Blood on the Wattle*, a revised and much larger edition, was launched by Bruce Elder at Woden library. He would be finishing up his presentation about now. That book is quite a significant book. That book, Eric Willmot's story of Pemulwuy, and Mr Grassby's book *Six Australian Battlefields* certainly changed my perception of the relationship between the Aboriginal people and European Australians.

In his book Bruce has gone back through history and quite conclusively debunked the idea that terra nullius existed and the Aboriginal people simply acquiesced and gave their land over. The book is quite comprehensive. If members wanted something good to read over the Christmas break, I could certainly recommend it. He starts with Pemulwuy. Pemulwuy ran a 15-year guerilla war against the British. He saw them as invaders and he fought them until he was killed.

Of more importance to us are the Wiradjuri people, one of the largest tribes in Australia. Their traditional borders come down to near Yass and Goulburn. The Wiradjuri were so successful in their resistance against the British troops of the time that martial law was declared around Bathurst after the Aboriginal people cut it off from contact with Sydney. He tells the story of Yagan in the west and how he was killed by the early settlers.

He chronicles the guerilla warfare of Jandamarra up in the mountains. He talks about the Kalkadoon people, who made a charge reminiscent of the Zulu charges. Most Australians would not know that the Kalkadoon people defended their ground to the bitter end, spear-hurling natives charging into the barrels of the British riflemen. They showed extraordinary courage. Bruce created such a stir with the first edition that many people wrote to him and said, "This happened in our area" or "That happened in our area". As a part of consciousness raising, it was a tremendous effort. I am looking forward to getting my copy of the second edition.

For those who do not know, the monument is a simple plaque on a rock about a third of the way up Mount Ainslie behind the Australian War Memorial. Bruce said that he did not know we had such a monument in the ACT. He did not know that it existed. He found today quite enlightening and was very pleased that such a thing existed in the national capital.

## Canberra Hospital - Psychiatric Unit

**MR HARGREAVES**: My question is to the Minister for Health and Community Care, the ever lovable Mr Michael Moore. Can the Minister say when the refurbishment of Canberra Hospital's psychiatric unit will commence? Have any decisions been taken on where current patients will be housed while the refurbishment takes place?

**MR MOORE**: Thank you, Mr Hargreaves, for the question. To the best of my knowledge, no decision has been taken at this stage. The Government is spending $2m to refurbish the psychiatric unit at the Canberra Hospital, which is actually a great shame. The plaque in the unit shows that it was opened by Mr Berry only five years or so ago, and already the unit is proving to have been poorly designed and created. Built at the end of an era, it reflects that era rather than the new era. It was caught by time, but the challenge for us is to make sure that we can deal with the patients there.

A number of options are being considered. One option is to use one of the wards in the Canberra Hospital that are currently closed. That would create quite a number of problems, particularly as a secure care facility. Many mental health patients are smokers. That creates a further problem for us. Other options include Watson Hostel and Jindalee, but to the best of my knowledge no decision has been made on the best option.

**MR HARGREAVES**: I ask a supplementary question. I thank the Minister for that response. I also congratulate the Minister on his perception about the fact that that particular ward was done and then the refurbishment started. That indeed caused a lot of problems. I appreciate that. Can the Minister guarantee that all necessary measures will be taken to ensure that the interim facility - Watson, Jindalee or wherever - will be adequately equipped to deal with patients' safety and comfort while the psychiatric ward is refurbished? How much does the Minister envisage the interim provisions will cost? Will these resources come from within the $2m you have allocated for the refurbishment?

**MR MOORE**: The intention was to do the refurbishment within the money that was set aside for it, but we will do it in the most flexible way we can. We are also in the process of preparing a secure care facility at the Hennessey hostel site. It may require a flexible arrangement between the two sets of capital works to get the best possible outcome but, as is asked for in your question, the focus will always be on ensuring that we deal with patients in the most effective way we possibly can.

## Interim Tuggeranong Homestead Community Authority

**MR CORBELL**: Mr Speaker, my question is to the Minister for Urban Services. In answer to my question yesterday about the resignation of a member of the Interim Tuggeranong Homestead Community Authority, the Minister stated that the code of conduct declaration was simply a routine mechanism in order to ensure that commercially sensitive matters relating to the expressions of interest process for the homestead site were protected. The Minister further claimed that the member was invited to participate on the interim authority as a representative of her community organisation. I ask whether the Minister can explain how his answer yesterday is consistent with advice from the executive officer of the interim authority to Ms Lamb reminding her that the inaugural meeting of the authority had agreed:

> The Interim Authority is separate to any organisation which members may already belong to and each member is here in his/her own right, NOT as a representative of their respective organisations. No decisions of the Authority are to be compromised by discussions with other organisations.

Can the Minister explain whether the interim authority has the capacity to determine the status of its membership in this way, and does the Minister support the authority's apparent decision to ignore the important role of community representatives in this way?

**MR SMYTH**: Mr Speaker, the interim authority does not ignore the rights of people to represent groups. Whenever people are appointed to boards in the ACT, they are asked to sign the Bowen agreement. There are confidentiality agreements governing information they may receive and may have to assess. This is a standard practice. I stand by my answer yesterday. Ms Lamb was picked as a representative of MOTH. MOTH has had an interest in the Tuggeranong Homestead for a long time, but other community representatives are there as well. Ms Rosemary Lissimore, the president of the Tuggeranong Community Council is there. She signed the confidentiality agreement. Representatives from the Heritage Council signed the confidentiality agreement. I understand that the interim authority is working well together. They all agreed that this course was appropriate so that we could progress the future of the Tuggeranong Homestead.

Tuggeranong Homestead is 31 hectares of very special land in the middle of the Tuggeranong Valley. It is an immense asset for us. There we have signs of convict participation. As Europeans moved in they displaced the original habitants,

the Ngunnawals, who have scarred trees there. We then saw a succession of rural establishments. The highlight of the homestead could be thought of as Bean's time there after World War I, when he wrote the histories of the Anzacs overseas. We are now moving ahead to do something permanent with the Tuggeranong Homestead.

The Federal Government has recently given us a grant of $675,000 to do conservation work there. What we need to do now is come up with a master plan. To determine that master plan, the interim authority must decide what is the best option from the many submissions that we have had. They need to do that in a confidential manner, and a confidentiality agreement is entirely appropriate.

**MR CORBELL**: I ask a supplementary question. Minister, it is also my understanding that Ms Lamb gave an undertaking in writing to respect the confidentiality of matters relating to the expressions of interest process and clearly understood her responsibilities in relation to commercially sensitive information or discussions she might be involved in. She also offered to sign the code of conduct in her capacity as chair of Minders of Tuggeranong Homestead. This was rejected by the authority and the requirement that she not discuss any matter relating to deliberations of the interim authority was reinforced. Minister, in light of this information and the clear concerns expressed by members of MOTH, no doubt directly to you as well as to me, will you now undertake to investigate this matter and will you ensure that community representatives on this body are able to participate freely and that they are able to consult with the communities they represent, of course with due regard for the need to maintain the confidentiality of commercially or otherwise sensitive information?

**MR SMYTH**: Mr Speaker, all the other members of the interim authority have agreed with this and believe that this is the most appropriate course. They believe that what they are doing is absolutely important. It is not for members of committees to dictate how matters are discussed. The chair of the interim authority, Mr Tony Ayers, is doing a tremendous job and what we will see is a tremendous outcome, not just for the people of Tuggeranong but for all the people of Canberra. We should see appear on this site, in whatever form it is that the authority proposes, a valuable asset for the people of Canberra in terms of preservation of our history. I believe it will also be a wonderful tourist destination in the Tuggeranong Valley, and that is something we could certainly do with down our way.

## Football Park

**MR KAINE**: My question is to the Minister for sport, Mr Stefaniak. Minister, things seem to have gone a bit quiet lately on the AFL scene. Can you tell me what the current status is of the proposal to redevelop Football Park? There seems to be a big gap in information lately.

**MR STEFANIAK**: I thank the member for the question, Mr Speaker. I think Mr Quinlan asked a fairly similar one several weeks ago. Since then, as Mr Kaine may well be aware, the AFL and the Australian Cricket Board, in conjunction with the local Australian rules and the local cricket, are looking at the way ahead for Manuka

and Phillip. The Government has indicated that it has a certain amount of money available, which amount members will observe from the budget figures. That is well known to both bodies, and they are looking at ways in which those two grounds can be developed.

One ground may well be developed more than the other. I note with interest, Mr Kaine, an article in last Saturday's *Canberra Times* by Di Lloyd. That article indicated that they were very close. My recollection of it was that Phillip was preferred by Australian rules although certain aspects of Manuka were still being looked at. The article finished by saying that Mr John Livy, CEO of the AFL New South Wales and ACT Commission, will be reporting to government in the next month. If that article is correct, I would anticipate a report in December.

As I said some time ago to Mr Quinlan, initially we were hoping to get by late September or early October a report by Mr Livy and his committee on the way ahead for those two grounds. I think that was probably unrealistic. He told both the Chief Minister and me that on about 6 August. He said that in six to eight weeks' time he hoped to have a report. He indicated to me when I saw him last at the Rams' annual function several Fridays ago that it had been delayed but that they were very keen to get the process right. I think Di Lloyd might have been a bit premature in what she said, but she quoted Mr Livy as saying that they were going to get a report to government in December.

I look forward to seeing that report. As I indicated earlier to Mr Quinlan, I am not particularly concerned that they have taken a little longer than they thought. I think it is important that the sports that will be using those grounds get it right. I think it is particularly important when we are talking about such things as night cricket and when the Comets are going quite well in their second season in the Mercantile Cup and really establishing themselves as a force and promoting Canberra. It is pleasing to see the AFL commit itself in a very real way to being involved in the process of developing grounds and developing the code in Canberra, especially when one considers the concern in Australian football ranks at the March report by the AFL, which seemed to indicate a greater emphasis on Sydney. Some people were concerned that they were drawing back from the ACT.

More recent events indicate that they seem to have a commitment to develop the code here. When the Government gets that report - it will be what the codes themselves see as the staged development of those ovals - hopefully we can then move on to more regular quality Australian football games than in the past.

**MR KAINE**: I ask a supplementary question, Mr Speaker. That background is interesting, Minister, but given the positive steps that the Government takes in fostering other brands of sport with considerable investments in some and considerable investment in facilities and resources for others, I would hope that the Government itself is taking some positive steps to foster Australian football here with a view to getting a national team here rather than just relying on the AFL to make its decisions in a much broader context. Is the Government doing anything positive? Does it have any positive initiatives to establish Australian football as a substantive sport here with a team in the national competition just as we have in almost every other brand of sport?

**MR STEFANIAK**: Mr Kaine, as the AFL indicated to me, the commitment of some $8m for the redevelopment of Manuka and Phillip will benefit Australian football. I understand from the current study being done by Mr Livy's group that Australian football is very keen to utilise Manuka as well as Football Park. As the AFL chief executive officer indicated to me about 14 months ago when I saw him in Melbourne, $8m is quite a lot of money and you can do a lot with it. That was a substantial commitment by the Government to help that code. I think it was a very important commitment, especially as Bruce Stadium is now a rectangle. I think it was an essential commitment for this Government to make.

As well as that, Mr Kaine, the Government supports the great game of Australian football through a number of other initiatives. We provide support through the sport and recreational development program. One of the more recent initiatives - it did not cost us a fortune but I was delighted to provide some money towards it - was the hosting of a junior carnival which for the first time ever involved a South African team, an under-18 team from South Africa. There were also teams from Papua New Guinea and the Northern Territory as well as a local team. It was a particularly good event at the Ainslie football field. I was delighted that it was the first time an Australian rules football team from another country, apart from Papua New Guinea, played on Australian soil. I was pleased to see that a couple of the provinces in South Africa were keen to develop the code. I think that will assist the code immensely in years to come. That positive development was started by some members of the Australian Defence Force who were in South Africa on exchange. Senator Reid and I presided at the opening in September. That is a recent example of the type of support we are giving. Although it is not so much at the grassroots level, it is indicative of the general support we give to the local ACTAFL. We are certainly very keen.

The $8m for both Manuka and Phillip is not an inconsequential amount of money to support the code. Mr Livy from the AFL commission is involved and they are spending some of their own money on what they want to see happen with those two ovals. That is a very positive step and one the Government encourages. They are very keen to work in partnership with us. That can only augur well for the code. There have been so many frustrating starts for an Australian football team for Canberra. That may be quite unrealistic because we have a relatively small population, but I think some of the more recent steps, especially since Mr Livy and his committee became involved in August, are very positive and augur well. The Government looks forward to working with them.

## Nurses

**MR BERRY**: I thank Mr Rugendyke for allowing me to ask my question next. Age before beauty. My question is to the Minister for Health and Community Care, Mr Moore. Minister, figures published recently by the Australian Institute of Health and Welfare in its "Nursing Labour Force" report showed that the ACT has 10 per cent fewer nurses per head of population than the national average and that nursing enrolments in the ACT dropped 20 per cent from 1993 to 1997. Can the Minister outline what measures he intends to take to improve the retention and recruitment of nurses in the ACT in order to secure adequate health outcomes for residents of the Territory?

**MR MOORE**: I would certainly be delighted to answer that question. I knew the question was going to be for me, because Mr Berry said, "Age before beauty". As the oldest member of Cabinet, I knew it just had to be for me. It is interesting that I am both the oldest and the best looking in Cabinet, although we have the advantage that Mr Humphries at least hides his face behind hair.

I will need to check the nurse staffing levels in Canberra that Mr Berry identifies. My recollection is that the same sort of thing has been happening right across Australia. I would like to check those figures, so I will take that part of the question on notice. There certainly have been a number of studies of nursing at the Canberra Hospital. Those studies have indicated that, if anything, we are about 50 nurses overstaffed on a national benchmark. I think it is fair to say that in our community nursing area we could always do with more nurses. The amount of work available, if we could afford it, is really quite extraordinary. Indeed, if we had an open purse, who would hesitate to purchase more nursing staff for the hospital?

Mr Speaker, 17 new skilled nurses commenced employment with the Canberra Hospital in November, but the hospital is supporting a number of training programs both within the hospital and outside, particularly within the speciality areas where we know we have a long-term shortage of nurses. They include the intensive care unit, which I referred to earlier in answer to a question from Mr Stanhope. The Canberra Hospital and the Australian Nursing Federation are currently involved in a joint review of nursing management information systems. In addition, the Canberra Hospital will continue to consult with the federation over ongoing changes within the nursing service. Let us hope that the ongoing dialogue and consultation will see an amicable resolution to the difference of opinion on nursing services that has erupted into industrial action over the last few months over the notion of nursing services.

Mr Speaker, it seems to me that we must continue to work as best we can to try to get the best possible outcomes for our patients. That is the challenge for us.

**MR BERRY**: I direct a supplementary question to the Minister. Minister, why are you so blinkered to the disincentives created by the mismanagement of our health system by consecutive Liberal Ministers?

**MR SPEAKER**: Is this a supplementary question, Mr Berry?

**MR BERRY**: Yes, it is. I am starting with a question. Why are you so blinkered to the disincentives created by the mismanagement of the hospital by successive Liberal governments and the effect that has on enrolments? Why are you so blinkered to the disincentives created by poor working conditions endured by nurses and the effect that has on enrolments? Why are you so blinkered to the pressure on nurses created by long waiting lists and the effect that has on enrolments? Why are you so blinkered as to the lost job opportunities created by bed closures and the effect that has on enrolments? When are you going to acknowledge these things?

**MR MOORE**: Thank you for that question, Mr Berry. There was a series of questions. The first question asked why I am so blinkered about Liberal governments and the way they handle health. It is very simple, Mr Berry. I sat on the crossbenches and I watched how Labor did it. When I watched how Labor did it - specifically, Mr Berry, how you did it - compared to how it was done by other people, I have to tell you, Mr Berry, that it was done much better by other people than by you.

The second question asked why I am so blinkered to poor working conditions. National benchmarks indicate that nurses in the ACT have a whole series of working conditions that put them well ahead of their colleagues in the other States. But nobody can take away from how hard our nurses work in the hospitals. The structures within the hospital and the way they work within those structures mean that the outcomes are nowhere near as efficient as they should be, and that is something that we want to tackle.

I am hoping that as we enter into the enterprise bargaining agreement with nurses and we enter our discussions on those things over the next few weeks we will be able to offer much better working conditions for the nurses. Mr Berry, when we have the opportunity to offer better working conditions to nurses, I hope that will have your support. I will be very disappointed, Mr Berry, if it does not.

Mr Berry, I am not blinkered about waiting lists; just the opposite. In fact, the waiting list worries me greatly. One of the reasons I welcome an examination by the Health and Community Care Committee is to see whether they can come up with more ideas than those currently being put into effect by the hospital and those coming from the Department of Health. Why am I blinkered about lost job opportunities? Because of bed closures. In response to a question I had from Mr Stanhope earlier and in response to the question about job opportunities lost because of bed closures, I have to say that I think that bed closures and bed openings are a management issue for the hospital.

**Mr Berry**: What about jobs?

**MR MOORE**: No, the real issue is throughput. We have to ensure that management is such that we increase the throughput. That is the challenge before us. The most important thing is that I am open-minded, not bound to ideology. When I look back over the past at how Mr Berry managed the hospital system and how it has been managed since that time, the contrast is quite extraordinary. I certainly do not want to take it back to the bad old Berry days.

## Schools - Maintenance

**MR RUGENDYKE**: My question is to the Minister for Education, Mr Stefaniak. Minister, today I received a copy of a letter which was sent to all parents of students at Forrest school in relation to voluntary contributions. The letter outlined details of a revamp to the voluntary contributions system in order to meet maintenance projects that will not be funded by the department. I would like to know why the Government refuses to commit itself to undertaking improvements at ageing schools.

**MR STEFANIAK**: I thank the member for the question. The Government does have a fairly significant maintenance program in schools, Mr Rugendyke, if you have a look at the budget. Quite clearly, the Government cannot fund every single thing that a school might want to undertake. Schools, of course, do have voluntary contributions. Schools, with enhanced school-based management, might use some of the money. I think we saw some recent reports in the *Canberra Times* which indicated that that has gone so well, in fact, that some of the moneys held have gone up by about $5m. At some time some schools might want to use some of that for certain tasks around the schools.

We do have ongoing maintenance schedules within our schools. We have rolling programs. We have priorities, too. For example, at the bigger end of the scale we have science and technology upgrades at a number of schools. That has been a very successful ongoing program. Certainly all schools can be part of the maintenance program. But there are certain things that individual schools might want to do now. One of the valid uses of voluntary contributions is maintenance, Mr Rugendyke.

**MR RUGENDYKE**: I ask a supplementary question, Mr Speaker. Minister, are you likely to review the situation to ensure that the Government meets its responsibility of adequately maintaining ageing schools rather than trying to put the responsibility onto parents?

**MR STEFANIAK**: I think the Government very much does that, Mr Rugendyke. If you look at the figures, you will see that we account for over 98 per cent of money spent on schools. Some of the moneys that go to schools are raised by voluntary contributions and some of the improvements through enhanced school-based management also assist schools, but the vast majority of money spent on schools is spent by governments, and obviously that is something that will continue.

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

## Canberra Cosmos

**MS CARNELL**: Mr Speaker, I have some further information on a couple of questions from question time. I do not think it was the basis of Mr Quinlan's question, but Totalcare have sponsored the Cosmos for the last two seasons, so there is some government sponsorship or TOC sponsorship already.

## Paterson's Curse

**MS CARNELL**: A question was asked about weeds. If we sell ACTEW, there will be a real probability of having enough money for a significant one-off weed eradication program that could make a fundamental difference for the Territory.

## Mental Illness

**MR MOORE**: Mr Speaker, during question time last week Mr Rugendyke asked me a question relating to Annabelle's care for four to 13 mental health patients under the Work Resources Centre. He asked whether it was the same Annabelle's as the Annabelle's in the *Yellow Pages* which provides a pet grooming and wheelie bin service, how much of the grant to the Work Resources Centre went to Annabelle's, how the money was acquitted by the Government and whether it was appropriate that a business which walks your dog and services wheelie bins should have responsibility to care for mentally ill patients in the ACT. At the time I said that I do not mind how businesses structure themselves, but I have a prepared answer. I table the answer and seek leave to have it incorporated in *Hansard*.

Leave granted.

*Document incorporated at Appendix 3.*

## Police - Patrol Cars

**MR HUMPHRIES**: Mr Speaker, I took a question on notice yesterday from Mr Hargreaves concerning a newspaper report of a slow response by the Federal Police to a reported incident on Sunday afternoon. He was referring to an item in the Macklin column in the *Canberra Times* which stated that on a particular day at 6.00 pm there were only two patrol cars on patrol in North Canberra. The incident concerned took place in Woden, so I am not quite sure why North Canberra is relevant. In any case, I was asked how many cars are available for general response in Belconnen, Gungahlin, Weston Creek, Tuggeranong and Kambah. I am not quite sure why Kambah is separate from Tuggeranong, but anyway - - -

**Mr Hargreaves**: No, it was not Kambah; it was Central Canberra.

**MR HUMPHRIES**: Central Canberra, okay. The column by Mr Macklin reported that there were only two patrol cars available in the whole of Canberra. He was somewhat out. In fact, there were 22 cars available in the whole of Canberra at that time; that is, 22 patrols with either one or two members were available to go out in a car or some other means of transport to a scene where a particular incident was taking place. Mr Speaker, this is not the first time that Mr Macklin has reported incidents concerning the police, police resources, the speed of police cars and all sorts of issues fairly inaccurately. I think I need to put on the record that those sorts of quite inaccurate and completely unchecked assertions about the Australian Federal Police, apart from being a misleading of the public, are a disservice to the people who provide those policing services to this Territory, often in very difficult circumstances. Through *Hansard* I would urge Mr Macklin to reconsider this sort of approach, because it really does his newspaper no service and does the people of Canberra no service either.

## Active Australia Games

**MR STEFANIAK**: I have the remainder of an answer to a question from Mr Rugendyke. I gave him some of it yesterday. Further to what my colleague Mr Humphries said, I think Mr Macklin has got something wrong about the clock at Manuka too. The cricket organisation run the oval rather than the Bureau of Sport or the Department of Education, as he suggested. Perhaps he needs to correct that as well. In response to Mr Rugendyke's question yesterday, I gave a number of answers. I was actually fairly right. The number of entries is about 1,000. Final numbers for the games will not be known until after all the participating sports have submitted their reports. Many sports are accepting late entries at this stage. Twenty-five per cent of the entrants are from interstate.

Mr Rugendyke, you asked me about sponsorship. The ACTEW Active Australia Games is owned and organised by the Confederation of Australian Sport, CAS. CAS is a private company whose membership comprises national sporting organisations. It owns the Australian Masters Games, which it licenses to State and Territory governments. The ACTEW Active Australia Games is licensed on a similar basis. It had its genesis in our very successful Masters Games here last year, as I said.

CAS has advised that it is satisfied that this year's Active Australia Games equate to the size of the inaugural Masters Games in Australia, in Tasmania, as I mentioned yesterday, and they expect the event to grow in a similar manner to the Masters Games, whether it continues here in 2000 and 2002, as planned, or interstate. The sponsorship is private between ACTEW and CAS but they are happy, Mr Rugendyke, to talk to you and tell you anything you need to know about the games.

You also asked me what sports were cancelled. They were athletics, basketball, cricket, hockey, lawn bowls, Oztag, touch, rowing, softball and tennis. The sports conducted in the games are billiards, broomball, cycling, duathlon, eightball, full-bore rifle shooting, golf, indoor netball, indoor soccer, indoor volleyball, mountain biking, netball, orienteering, soccer, snooker, swimming, table tennis, tenpin bowling, triathlon and the street mile, which is a multi-category event culminating with the richest professional street mile in Australia. Street mile numbers are not included in the numbers I quoted.

The Bureau of Sport and Recreation is involved too. It is not making a cash contribution. However, it is supplying in-kind support and the games are using some equipment which is owned by the bureau, remains the property of the bureau and will go back to the bureau at the end.

## Greenhouse Gas Reduction Target : Integrated Land Use and Transport Study

**MR SMYTH**: Mr Speaker, I have additional information on two questions. On Tuesday Ms Tucker asked me a question on greenhouse gas and on Wednesday asked what progress had been made on some other programs that Mr Humphries had initiated. The answer is comprehensive. It is three pages long. I will make a few points, then ask that the answer be incorporated in *Hansard*.

The phasing in of a requirement for all new homes to contain roofing insulation has been implemented. The mandatory disclosure of the energy rating on all homes at time of sale has been implemented and is to commence on the 24th of this month. The opening of home energy rating inspections to existing home owners has been implemented. The review of energy efficiency in government buildings has been completed and recommendations are currently being prepared for me.

On the cash-back or subsidy programs for the installation of low-flow shower heads, a decision on the most appropriate rebate or incentive mechanism will be made in the context of the finalisation of the draft ACT greenhouse strategy. The energy advisory service is in place. It was launched on 11 September this year and is doing well. It has received more than 130 inquiries thus far, many resulting in detailed consultations about house plans.

There have been significant difficulties in implementing the Greenfleet program in the ACT. Other jurisdictions and the ACT are examining the model in Victoria, where the expected emission reductions have been very disappointing due to the poor take-up rate and to administrative difficulties. We are looking further to see what we can carry out under that program. The inclusion of an environmental criteria scheme in the ACT business incentive scheme guidelines is the responsibility of the Chief Minister. Her department are currently reviewing the existing guidelines, and I would hope that greenhouse issues will be addressed in the new guidelines which will be released early next year.

The integrated transport and land use strategy report was tabled. There is a document called "An Integrated Approach to Land Use & Transport Planning". It was released in December 1997. Considerable work and consultation have taken place for the implementation strategy. We have spoken to groups like the cyclists, and Canberra Bicycle 2000 was released in late 1997. This year I have established the ACT bicycle liaison group, and they have met a couple of times since. Of course, we are putting in the new ACTION bus network next year.

Mr Speaker, we have also been reducing emissions from landfills with the methane capture facilities. Motor vehicle registrations have now been linked with weight and emissions. ACTEW has announced its commitment to reducing greenhouse gas emissions through a mini-hydro scheme, and its Greenchoice program is being revamped. The ACT has led the way in public housing retrofitting programs with innovative projects such as Condamine Court.

Mr Speaker, I ask for leave to incorporate the answer into *Hansard*, for the information of all members.

Leave granted.

*Document incorporated at Appendix 4.*

## AUDITOR-GENERAL - REPORT NO. 7 OF 1998
## Magistrates Court Bail Processes

**MR SPEAKER**: For the information of members, I present Auditor-General's Report No. 7 of 1998, entitled "Magistrates Court Bail Processes".

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

> That the Assembly authorises the publication of the Auditor-General's Report No. 7 of 1998.

## STATEMENT OF REGULATORY INTENT FOR UTILITIES IN THE A.C.T.
## Paper

**MS CARNELL** (Chief Minister and Treasurer) (3.37): For the information of members, I present the statement of regulatory intent for utilities in the ACT and move:

> That the Assembly takes note of the paper.

Mr Speaker, for the information of members, I am pleased to table today a very important document. This statement of regulatory intent outlines the changes this Government proposes to make to the regulation of the electricity, water and sewerage industries. The need to amend the regulation for these services arose out of the identification of a number of deficiencies in the current regulatory framework and the system breakdowns which have occurred in other jurisdictions.

Accordingly, this Government intends to implement a comprehensive and robust regulatory regime. In developing this regime we will build on the ACT's existing framework, draw from the regulation developed in other jurisdictions and, where necessary, create new ways to address specific community concerns and ACT issues.

The new framework will provide better consumer protection, monitor and maintain the integrity of water quality and electricity supply, ensure that the market operates fairly and that there are appropriate safeguards for environmental protection, public health and safety, service quality and security of supply of essential everyday services.

Mr Speaker, I believe that, at the end of the day, the new regulatory regime will provide a regulatory model for governments elsewhere in Australia and overseas. The ACT community deserves and expects no less than best practice on such important matters. It is important for both consumers and utilities to have a stable and predictable regulatory environment in which to operate. Each industry needs to be able to plan ahead knowing what standards are required and how they will be enforced. There needs to be proper identification of roles and responsibilities and the separation of regulatory and commercial functions.

The Government intends establishing a single regulatory body to improve the capacity to develop a clear and consistent approach to disclosure and licensing arrangements. The new regulatory body will be established by expanding the capacity and functions of the Independent Pricing and Regulatory Commission. Regulation which is effective in setting and maintaining service standards and monitoring investment levels will ensure that consumers receive a fair deal on quality, as well as price.

Service standards will be established for regulated utilities. Standards will be set at least to current levels and there will be incentives to improve, over time, services according to best practice. The ACT Government and Legislative Assembly will continue to be responsible for determining the standards and the conditions with which licensed utilities will be required to comply.

The reforms will put in place a clearly defined consumer protection framework within which businesses must operate. This framework features, among other things, standard customer contracts and an independent consumer council. The council's primary aim will be to resolve problems through conciliation, although the council will have the authority to make binding decisions. The council will be formed by building on the existing role of the Essential Services Review Committee.

Regulatory procedures need to be fair, they need to be clearly understood and they need to allow all those affected by the final outcome to be involved in the process. Regulators can only protect customers if the real interests of consumers are properly understood. Consumers are best placed to communicate these. The council will provide consumers with an avenue to express their interests.

Price concessions, including pensioner concessions, will continue to be funded by government as community service obligations. The delivery of community service obligations will be entrenched in the new framework and any or all licensed utilities will be required to deliver community service obligations.

The regulatory framework will also incorporate the current health, environmental and water resources legislation. Public health, safety and environmental standards will continue to be regulated by the Department of Health and Community Care and the Department of Urban Services.

We want to work in partnership with industry, regulators and the general community to create a regulatory regime which ensures that services are available to all consumers on fair terms. I am therefore tabling this statement of regulatory intent to enable members of the public to consider, and provide input into, the proposed regulatory reforms. The Government intends developing legislation for introduction and debate in the Assembly in the autumn sittings next year.

We will be guided by the Government's consultation protocol in ensuring that this statement is subject to the broadest possible range of views and input. As an example of this, the statement has now been posted on the ACT Government's web site to enable Canberrans to access its contents quickly and conveniently. As well, the Government has agreed to second an officer from the ACT Public Service to work with the community sector peak body ACTCOSS in the development of the framework.

Mr Speaker, as I said at the outset, this is an important document. I urge all members to examine it carefully, because these issues will have to be addressed regardless of whether the sale and franchise of ACTEW Corporation proceed or not. We are aiming to develop world-class legislation and, with the support of members and the input of the Canberra community, I am confident that we can do just that. This statement of regulatory intent is an important document. Mr Speaker, I am confident that, as this progresses, the legislation that comes out of this will ensure that the Canberra community is protected and it can be confident of service delivery regardless of who owns our electricity and water authority.

**MR CORBELL** (3.44): Mr Speaker, I would like to congratulate the Chief Minister. I understand that blood pressure was high on this document and I am glad to see that it has finally emerged. I move:

> That the debate be adjourned.

Question resolved in the affirmative.

## PAPERS

**MR MOORE** (Minister for Health and Community Care): For the information of members, I present the following papers:

> Calvary Public Hospital - Information Bulletin - Patient Activity Data - October 1998.
>
> The Canberra Hospital - Information Bulletin - Patient Activity Data - October 1998.
>
> Department of Health and Community Care - Activity report - September quarter 1998.

## MENTAL HEALTH SERVICE PROVISION FOR THE AUSTRALIAN CAPITAL TERRITORY REPORT
### Ministerial Statement and Paper

**MR MOORE** (Minister for Health and Community Care): I present a report on mental health service provision in the Australian Capital Territory for the period 1 July 1997 to 30 June 1998, including the Mental Health Service Director's report for 1997-98 made pursuant to section 120 of the Mental Health (Treatment and Care) Act 1994 and the Annual Reports (Government Agencies) Act 1995. Mr Speaker, I seek leave to make a short statement.

Leave granted.

**MR MOORE**: I am pleased to table this report on mental health service provision in the Australian Capital Territory for the period 1 July 1997 to 30 June 1998. This is the second report of this kind, the first being distributed in September 1997. The Government's *Moving Ahead* statement committed us to the production of a report on mental health service provision in the ACT on an annual basis. As it is not an agency-based report, this report is not classified as an annual report, and thus is not subject to section 14 of the Annual Reports (Government Agencies) Act 1995. This report builds on the report produced in 1996-97 and includes further information about other government departments and non-government agencies. You will particularly note the inclusion of the mental health service provider network, convened by ACTCOSS, in the major achievements section.

The report is a method of ensuring government accountability. The community has an opportunity to gain important information about the activities of government departments, and the allocation of government funding. The "Looking Forward" section of the report gives a clear indication of the future direction of services. I believe that this is an important mechanism for guaranteeing the transparency of government process.

In future years, the report will be based on the whole-of-Territory strategic plan for mental health, and will report against the performance indicators soon to be developed for the plan. This will make the implementation of the new plan a process open to public scrutiny and comment. I commend this report to members as an important way of keeping abreast of the developments in mental health in the ACT.

## PERSONAL EXPLANATION

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

**MR SPEAKER**: Please proceed.

**MR BERRY**: During question time Mr Moore referred to a couple of issues which I think need explanation. He talked about the very bad days in health. Mr Speaker, the record - - -

**Mr Moore**: Mr Speaker, I rise on a point of order. Mr Berry sought to make a personal explanation. He cannot debate issues.

**MR SPEAKER**: Order! Mr Berry, you cannot debate the issues.

**MR BERRY**: It is not a matter of debating. Mr Moore also talked about the psych unit. In my day in Health, Mr Speaker, there was a Mental Health (Treatment and Care) Act, in collaboration with my colleague Mr Connolly; the accreditation of what is now the Canberra Hospital; the clinical medical school; the boxing legislation, which came under sport but was health related, as I recall it; the health complaints legislation; and smoke-free public places legislation. I also broke the infamous deed of agreement.

**Mr Moore**: Mr Speaker, on a point of order: I said they were the bad Berry days. He is now trying to prove that they were not. That is the fundamental of debating.

**MR BERRY**: There is nothing before the house, Mr Speaker, to put forward.

**MR SPEAKER**: Order! I do not uphold the point of order. Mr Berry is enumerating a number of measures that he introduced during his time as Minister for Health. He is allowed to do that. If he is subsequently proven wrong, I suppose matters will be taken up. Please proceed.

**MR BERRY**: Those are among the issues I have just thought of and scribbled down on a piece of paper. The infamous deed with the VMOs was broken, which allowed for better VMO agreements. You may recall that. I mentioned the clinical medical school. The Health Promotion Fund was established by me. I increased the public methadone program from 80-odd places to 300-plus, as I recall it.

**Mr Moore**: On a point of order, Mr Speaker: If you allow Mr Berry to proceed and use this standing order in this way, all that will happen is that any time a comment is made in question time about Labor's performance, those opposite will get up and play this sort of game. Any member can play it. It is a debating game. It is quite clear that Mr Berry is misusing standing orders. You ought not set a precedent like this, Mr Speaker.

**MR SPEAKER**: Order! Members can explain matters of a personal nature. I am listening to Mr Berry very carefully. He is not debating the issues. He is listing a series of achievements.

**MR BERRY**: Indeed, Mr Speaker. One achievement that I am not proud of was when, at the peak of the doctors dispute, or at the end of it, there were something like 4,400 people waiting for surgery within the hospital system. I did not think those numbers were too flash. When I look at the numbers now - - -

**MR SPEAKER**: Order! You are now debating. Sit down, please.

**MR BERRY**: I will go to the other issue he raised about the psychiatric unit then.

**MR SPEAKER**: Very well.

**MR BERRY**: Mr Speaker, all I can claim regarding the psychiatric unit is the plaque on the front. This is not a reflection on Mr Humphries, because I think Mr Humphries was doing what everybody else would have done. I cannot take credit for it and I would not criticise him for it. The only thing I can take credit for is the plaque at the front. I think it was shortly after there was a change in leadership that I had the job of opening a building I knew nothing about. The plaque is there and at the time I thought - - -

**Mr Moore**: I was actually trying to put it in for timing, but the plaque is there.

**MR SPEAKER**: Order!

**MR BERRY**: Is the plaque still there? I thought somebody would have stolen it and melted it down for brass or something.

**Mr Moore**: I imagine it will go in the refurbishment, Mr Berry.

**MR SPEAKER**: I think we have gone far enough on this mutual admiration society. Let us get on with the business.

**MR BERRY**: The waiting lists now are higher than they were when I was there. When Mr Moore has achieved all of those things that I achieved I will be happy to give him a pat on the back.

## SUSPENSION OF STANDING AND TEMPORARY ORDERS

**MR QUINLAN** (3.51): Mr Speaker, I move:

> That so much of the standing and temporary orders be suspended as would prevent the order of the day No. 1, Assembly business, relating to the establishment of a Select Committee on the Territory's Superannuation Commitments being called on forthwith.

Mr Speaker, it is necessary to debate this particular topic and to decide on the establishment of this committee today because the Bill to set up and pave the way for the sale of ACTEW, which is the Government's preferred option for funding the superannuation liability, has been tabled today with the intent of its being decided at the next sitting of the Assembly. If we are to deal with this process thoroughly, it is necessary to set up this select committee today so that it is under way, and we understand that it is happening, before we reach debate on the sale of ACTEW, which is a motion foreshadowed by the Chief Minister today.

**MR MOORE** (Minister for Health and Community Care) (3.53): Mr Speaker, the Government has other business to consider. The Water Resources Bill has been tabled and there has been plenty of time to deal with it. It is on the program and we are expected to consider it. Had Mr Quinlan discussed this with us, we could have set a time when we were prepared to consider the matter. My understanding is that this is a debate that Mr Osborne moved this morning be adjourned to a later hour this day. Under those circumstances, I am quite comfortable about dealing with it, but I do not think it is appropriate to spring it in the middle of the program. Perhaps Mr Quinlan would be prepared to back off now and have this matter brought on later today. The Water Resources Bill is a landmark piece of legislation and has very broad ramifications. We really ought to proceed with that. If we can proceed with that water Bill now, it will give some time to negotiate what it is you want to do.

**Mr Berry**: Will you guarantee that we get this back?

**Mr Quinlan**: We are negotiating, are we?

**MR MOORE**: The matter was adjourned by Mr Osborne for a later hour this day. I am quite happy to have this debate later on. I am not prepared to guarantee it at the moment. I have not had the opportunity to discuss it with my colleagues. Maybe we should just adjourn the debate on the suspension of standing orders, deal with the resources Bill and come back to the matter in a minute, if you need to do so.

**Mr Smyth**: Gary needs to get bushfires through. Bushfires has to be done today too, because of the season - - -

**MR MOORE**: My colleague Mr Smyth reminds me that there are two Bills that we consider absolutely critical to get through today - the Water Resources Bill, which you know about, and the Bushfire (Amendment) Bill. With the bushfire season coming on there are very good reasons why we want to get that piece of legislation dealt with. Then we should have the debate about standing orders and, with a bit of luck, we may be able to come to a position. We can just do it by leave.

**MR SPEAKER**: Order! I am reminded that the motion relating to the establishment of a select committee has already been adjourned to a later hour this day. It was moved earlier this morning by Mr Osborne. My advice is that the simple method of overcoming this is for you to withdraw your motion. The motion to adjourn this to a later hour this day remains.

**MR QUINLAN**: Mr Speaker, I seek leave to withdraw my motion.

Leave granted.

**MR QUINLAN**: I withdraw my motion.

## WATER RESOURCES BILL 1998

Debate resumed from 24 November 1998, on motion by **Mr Smyth**:

> That this Bill be agreed to in principle.

**MR CORBELL** (3.56): Mr Speaker, finally here we are with the Water Resources Bill, much to the Minister's relief. There is no doubt that the Water Resources Bill is a significant piece of legislation. It is a piece of legislation which, for the first time, will achieve a uniform method of regulating and managing the Territory's water resources. The Labor Opposition welcomes the opportunity to consider this Bill and to put in place a sensible framework for the management of the Territory's water resources. Mr Speaker, I think it is important to reiterate the objects of this Bill. I will quote from the Bill:

> (a) to ensure that the use and management of the water resources of the Territory sustain the physical, economic and social well being of the people of the Territory while protecting the ecosystems that depend on those resources;

> (b) to protect waterways and aquifers from damage and, where practicable, to reverse damage that has already occurred; and
>
> (c) to ensure that the water resources are able to meet the reasonably foreseeable needs of future generations;

The significance of this legislation has been acknowledged by this Assembly and it has, therefore, been referred for inquiry and report by the Assembly's Standing Committee on Urban Services, of which I am a member. That committee has produced a report on the Bill and the amendments circulated both by the Minister and by Ms Tucker.

I would like to clarify up front Labor's position in relation to this Bill. We certainly see that many of the measures outlined in the Bill are sensible ones and ones that deserve support. We have to recognise that this Bill effectively has two strands. One is to deal with the environmental management of water resources, to protect the viability of water resources, to take stock of the Territory's total water resources, and to put in place a regime for protecting those resources. Measures in relation to environmental flows and determining levels of flows through watercourses are commendable. We accept such measures as entirely appropriate.

However, the other side of this Bill has bigger questions to be dealt with, and it is there that the Labor Opposition has some difficulty. I draw the Assembly's attention to the issue of water allocations. Obviously we will deal with this in some detail during the detail stage of this debate, but I think it is important to put our concerns on the record immediately.

The provisions in the Bill that allow for a water allocations regime are provisions which we have enormous difficulty with because, at the end of the day, the allocations process is as much about putting in place a tradeable regime as required under agreements of the Council of Australian Governments as it is about protecting the environmental qualities of watercourses and other water resources.

There is a real possibility that, if we are to go into this process of a water allocations regime, where we allow for the trading and sale of allocations, we are turning water into a product that can be bought and sold on the open market and we are putting that in place in the context of national competition policy reforms.

Mr Speaker, in my dissenting report of the Urban Services Committee report into the Water Resources Bill, I made my concerns clear and it is important to reiterate those here. I said in the report that I am not convinced that these water allocation provisions "will adequately protect and ensure the continued provision of clean safe drinking water for the ACT into the future". I went on:

> Further I am concerned that the proposed process for sale of allocations may ultimately result in a situation where the Territory's valuable water resources are over committed as a result of a "competitive" water trading market.

That is a possible outcome of the implementation of a water allocations regime. It is that sort of process which I think everyone in the Canberra community should have an enormous deal of concern about, particularly in light of the question mark over whether or not we will continue to manage our water resources in a public ownership model or in some form of contracting out or privatised ownership model. Those two factors combined cast real uncertainty over how our water resources are going to be managed into the future and whether or not they are going to be managed in the best interests of the Territory in terms of their allocations for use within, and potentially outside of, the Territory.

The Government has suggested that water allocations, in combination with a licence system and the use of environmental flow guidelines, will provide the greatest possible level of environmental protection. I would argue that this position fails to recognise that the water allocations proposal is closely tied to provisions to allow for the trading and sale of such allocations and that this is probably the most significant potential change to the management and demand for the Territory's water resources.

Mr Deputy Speaker, I would like to draw a hypothetical scenario which I have the greatest concern about and which I have also outlined in my dissenting report, and that is the possibility that, under a private or franchise ownership/management model for the Territory's water, the Territory's domestic supply could be seen as quite a highly marketable commodity and it could potentially be seen as that to population centres outside of the ACT.

Because of the quality and volume of our supply, there is every possibility that a supplier or an operator of our water supply could choose, in a competitive water market, to seek to sell our water outside of the Territory, with the result that the supply available for Canberra itself could be diminished. This presents a real possibility, Mr Deputy Speaker, that other population centres may choose to postpone, or indeed cancel, the necessary infrastructure work they are required to undertake to satisfy their own water requirements. Instead, they will choose to draw on the Territory's supply through an arrangement with a private supplier who is managing our water resources and undermine the ability of the ACT to meet its own future needs.

The consequences of that sort of situation, perhaps not now but into the future, are extremely serious. As the Territory continues to grow, as the size of our city continues to expand, which we all hope it will, the consequences for overcommitting our supply as a result of the allocations regime is something that I do not think the Government has been able to address, either in its explanations to the Bill itself or in the information it was able to provide to the Urban Services Committee in its inquiry.

For that reason, Mr Deputy Speaker, the Labor Opposition will not be supporting the provisions of this Bill that deal with allocations. The Government may come back and say that that is irresponsible. The Government may come back and say that an allocations regime is essential to good environmental management of our water supply. We are prepared to contend that the licensing regime can be used in an effective way to deal with the issues to do with effective management of our water resources, and that the risks associated with allocations outweigh the benefits in light of the potential changes to the tradeability, if you like, of water in what is to become, plainly, a competitive market.

There are a couple of other points in the Bill that I would like to mention. The first is a concern that has been raised by rural leaseholders in relation to rights to water and rights to flows, and how those could potentially change. The rural lessees have reasonably pointed out that they are concerned that, when a new lease agreement comes up for renewal, their existing flows or rights to water may no longer be available to them. The environment protection people and Environment ACT have acknowledged that this is an important issue, but that rural lessees do not have an enormous amount to worry about, in that existing rights to water will be maintained but, when a new lease is negotiated, as it is with a whole range of other conditions, it is quite possible that rights to water will be renegotiated.

This, I think, is a sensible measure in that it is required to get the Territory across the very broad range of complex issues associated with managing the Territory's water resources and determining the correct level of environmental flows and a range of other issues. So on that point there is a concern, but we think it has been dealt with adequately by the Government.

The second point relates to the cost structure for the charging of water, particularly the issue raised by golf courses and other users of large amounts of water. Again, as to the concerns raised about how that price structure will be set, we are confident that the responses provided by Environment ACT and the Minister in this regard meet those concerns. Again, we think that the need to establish effective control and management of the Territory's water resources outweighs the initial concerns of those bulk users of water such as golf courses. The Labor Opposition will be supporting significant sections of this Bill and we will certainly pass it in principle, but we will not be supporting the allocations regime when we get to the detail stage of this debate today.

**MR KAINE** (4.10): I support this Bill in principle because I believe that the legislation to manage the water resources of the Territory is something that we badly need to protect our resources into the future. The Bill, however, raises several issues that I believe need rectification, in particular the lack of effective arrangements for requiring consultation and the need to link administrative elements to a formal properly connected network, and I will deal with those issues.

I am pleased to note that the Government has agreed to amend the Bill in response to the recommendations of the Standing Committee on Urban Services and that there will be prior public consultation on the environmental flow guidelines. I note that those guidelines will also come before an Assembly committee before the Minister publishes his determination in respect of them. Most of all, I am pleased that the Government will provide a consultation process involving rural lessees and ACTEW, but I do not think that that goes far enough. Later I will refer to situations in which I see a need for consultations with rural lessees with respect to particular water storage and use proposals.

The Bill as presently drafted contains a number of drafting matters which I believe require attention. I have already handed a list of those to the Minister for his consideration. I am prepared to leave it to him as to whether or not there are errors there that need to be rectified by amendment, either now or in the future.

Mr Deputy Speaker, I have no great difficulty with the administration of the Bill coming under the Environment Management Authority, established under the Environment Protection Act, but I do find it odd that the Bill makes no reference to participation by ACTEW in the management of the Territory's water resources. I should have thought that involvement of ACTEW was an obvious element that the Bill should include.

Now, I know things have changed, or may change in the future, but this Bill has been written presumably on the basis of current needs and not a change that may or may not take place in the future, unless the Government is clairvoyant and can see what is going to happen in the future.

The Bill will most directly affect the rural sector - that is, farmers, graziers and horticulturalists who make significant private investment necessary for collecting, storing and delivering water used in primary production. The Bill needs to deal fairly, therefore, with those activities which impact more on the rural sector than on the urban population connected to ACTEW's reticulated system.

Country folk are, by and large, very careful about their water usage, not just because they have invested in it on top of what they contribute in their rates for providing water to the urban population, but more importantly because, when the water on the farm runs out, they cannot merely open a tap to get more or call on a water utility to solve the problem. I would feel great concern if the Bill made water issues any more difficult for rural folk than they already are. The administration of the Bill must take proper account of the needs of rural people and let them deal with water problems on a basis no more onerous than that which city dwellers do.

The Bill declares a crown property right in all water in the Territory. This principle was not in the Water Resources Bill introduced in 1997. However, I have no conceptual problems with it. But I wonder how it can be upheld in the case of streams which cross the Territory's border. While the border was designed to follow the main catchment areas, several major streams, as we all know, enter and leave the Territory. It seems to me to be dangerous, even presumptuous, to declare that the Territory has a property right in the water in those streams when the exercising of that right will obviously affect rights of people in New South Wales.

I am told that the intention is for the Bill to be administered in a way that essentially involves crown intrusions only in cases where water usage proposals would have a gross impact on the totality of the resource and that it is not intended that this Bill should circumscribe rural land-holders' entitlements to collect, store and deliver water within the boundaries of their land to meet their reasonable needs. It is a matter of regret, however, that the Bill does not declare this principle as forthrightly as it declares crown ownership of all the Territory's water.

I believe that the right of a rural land-holder to capture, store and use so much of the rain that falls on his land as is prudently necessary for his pastoral or horticultural or agricultural activities should be sacrosanct and unfettered. To fail to declare the specific right of a rural land-holder to provide adequately for the water supply needs of the land he occupies without having to undergo the bureaucratic process and the risk of refusal

would, at the very least, be mean-spirited. In New South Wales a rural land-holder may block a watercourse to store water in a dam with a capacity not exceeding seven megalitres. There is merit in rural land-holders in the Territory having assurances of a similar right without having to negotiate a morass of bureaucratic requirements to achieve it.

The Bill should make it clear that it confers no power for any authority to order modification of dams and bores already in place on rural land. Proposed section 28(1)(f) empowers the Minister to direct the modification of dams. This is a power capable of unjust application because if a rural land-holder at his own expense builds a farm dam, the time to modify the structure is in the design stage before the dam is built, not at some future time. To reduce the height of an existing dam wall that is already built to allow greater flow into a stream is, to say the least, bad engineering chasing bad water management, and it will negate capital investment made by prudent land-holders in good faith.

The Bill in several places provides power to remove water rights already enjoyed. It provides for cutting the total water pie into more and inevitably smaller slices and there is in this an uncomfortably large scope for injustice. Requiring the authority to consult with all of the folk whose interests a water usage proposal would affect and to take proper account of the outcome of those consultations when implementing the proposal would bring the injustice within acceptable dimensions. This process will not be easy, but I think it is essential.

Let me sketch some hypothetical examples. Land-holder A relies on a licensed bore for his livestock or to irrigate an orchard, vineyard or market garden. Land-holder B wants to sink a bore to draw water from the same aquifer for an equally valid rural purpose, but the authority assesses that the total draw-up cannot supply the needs of both without stressing the aquifer. Taking from A and giving to B, or denying B's application because it would diminish a prior right enjoyed by A, bristles with difficulties and the assessment could be wrong anyway. Or A might want to build a dam to store rain that falls on his land at the top of a chasm, but B opposes the project on the grounds that it will diminish the water flow into a dam on his land further down the hill. Both parties have legitimate reasons to have water storage.

The Bill would do a service by requiring the parties in either of these cases, or indeed any case, where A's proposal to take water has potential to affect B's interests, to consult with each other and with the authority to try to work out a compromise before final decisions are taken and by spelling out some user-friendly ground rules for both of these processes. The Bill is silent on such issues. And this situation to confer initial review of decision jurisdictions on the AAT is to plug the hole in the dam, if you like, after much of the water has leaked away. AAT jurisdiction proceeds from a bureaucratic decision already taken and I would like to see a more humane and less antagonistic approach in these matters. Consultation without confrontation before setting the decision in concrete has much in its favour and I rather fear a heavy-handed administration which has made up its mind and has the legal authority to turn that into a fait accompli.

I believe the Bill will serve the ACT community well in managing water resources that serve no purpose other than just being there. Water that is simply there is no less important than water for which an established usage pattern already exists. The Territory has natural resources supporting significant ecotourism activities; its streams and water features are a major element in the catalogue of those resources. Their health depends heavily on continuing refreshment to replace that used by man and to reduction through natural influence.

I referred earlier, Mr Deputy Speaker, to the right of rural land-holders to as much of the water falling as rain on their land as their rural productive activities require, plus a little in reserve for the unexpected hard times that every Australian farmer expects. It is a concomitant of this principle that what the fellow at the top of the catchment does not need he must allow to travel down to his neighbour and so on until the surplus arrives at a stream. I would much prefer to see the Bill expressed to declare that principle than leave it for an administration to implement on a basis open to uncertainty from one government to another or from caprice or from excessive caution or from insider pressures.

In the urban environment I believe that the Government should be actively encouraging and helping householders to install tanks to store water from their roof for domestic purposes. The benefits of this for householders and government alike are enormous and the era of prohibiting domestic tanks on Canberra residential leases because of their perceived conflict with desirable visual values is long past. We know better now. Diverting rainwater into household tanks would not only reduce the amount entering the run-off system and provide households with a better class of domestic water, but also it would offer potential benefits for Canberra's lakes and rivers and could significantly reduce demand on Canberra's public water storages. And not least of those benefits is that reduced run-off will also reduce the amount of pollutants deposited in those watercourses.

Mr Deputy Speaker, there are a number of issues involved. I have not proposed amendments to the Bill. I have already informed the Minister of the general gist of what I was going to say today. I am happy to enter into discussion with the Minister so that we can collectively develop amendments to the Bill where they are required. I do not say that they have to be incorporated in this Bill that we are going to debate today. If we agree that there are deficiencies in the Bill, we can agree on amendments that can be brought forward at some future time. I come back to the point that I made at the beginning: To have an Act like this on the books is essential. The fact that it may have some matters in it or some omissions that need to be rectified need not delay the adoption of the Bill today. But I am happy to enter into discussion with the Minister to see whether we cannot improve it in the future.

**MR HIRD** (4.21): A number of issues were raised by my committee in its inquiry and my colleague Mr Corbell touched on that. All members of the committee recommended in relation to the environmental flow guidelines that the Bill spell out the considerations to be taken into account in determining those guidelines. I compliment the Minister on the fact that, in the main, he has taken the recommendations in the committee's report.

In regard to those guidelines, we should have regard to the broadest range of environmental, social and economic factors, reflecting the broad definition of environment in the legislation, and I think he has done that. To my understanding the Bill specifies the process to be used in determining the guidelines. This process includes a requirement to obtain public comment on the proposed guidelines. This would have the effect of not putting the whole onus upon the Assembly to consider a motion to disallow the guidelines once they had been determined by the Minister. This revised Bill does just that. Before the Minister determines those guidelines, he should refer them to the appropriate committee. Indeed, at the end, the Minister has brought in that recommendation.

I was intrigued to hear Mr Kaine say that nowhere in this legislation does it identify the flow guidelines. The committee recommended that rural lessees and ACTEW should be closely involved. That was the point Mr Kaine raised. I dare say the Minister will elaborate further in respect to that. The committee would be deeply disturbed if the guidelines had the effect of bringing forward the date of construction of a new dam or if they in any way hindered the reuse of water, whether of effluent or other water. The committee considers that the impact of the legislation should be assessed by an independent environmental auditor once it has been in place for two years. I notice that that is exactly what the Government or the Minister intends to do.

I think in the main that the effort that was put in by my committee has been vindicated. The Minister is to be complimented because those who gave evidence at our public hearings have been listened to. The recommendations put forward on their behalf to the Government have been accepted where possible.

The other matter that concerns me relates to the rural lessees in the Murrumbidgee corridor and access to water for stock. This is a question that our committee is coming to grips with. There are pluses and minuses. If, for generations, a rural lessee has had access to water stock from that area, the Murrumbidgee corridor, you just cannot turn it off overnight. You have to gradually ease it in if that is the intent and make other arrangements if it is warranted. You must look at the number of stock in question - I believe it was fewer than 50 head that we were talking of - but that is another matter for another report at another time.

In the main, I am delighted with the response by the Minister, as always. Our efforts on behalf of those who gave evidence to our committee is well appreciated, not only by the Minister but by the Government.

**MS TUCKER** (4.26): I also welcome the move to establish controls over the management of water in the ACT. The management of water has been an important aspect of Canberra's planning right from when the ACT was first mapped out. The decision-makers of the time showed real vision by ensuring that the ACT boundary would include sufficient water catchments, primarily the Cotter River but also the Paddys and Gudgenby rivers, so that the future city of Canberra would have a ready supply of water.

However, there are significant aspects of this Bill which I have major problems with. It is interesting that the need to have legislation on water management has only been identified recently. I assume that this is because up until recent years the management of water has been regarded as the prime responsibility of government. Government built the dams and government utilities treated and piped the water throughout the community. This idea has, however, been overtaken in recent years by the rise of economic fundamentalism which believes that it is more efficient to have essential services like water and energy traded as a commodity through markets involving private companies.

This legislation reflects this approach by not only regulating the taking of water from ACT waterways but also establishing a market for water where allocations of water can be sold off to the highest bidder who can then trade their allocations with others, not just in the ACT but interstate. In theory, somebody could buy our water here but then take this water out of the Murrumbidgee River downstream from the ACT.

The Greens reject this aspect of the Bill. Water is a vital natural resource that is necessary for our very survival. The Government has a responsibility to manage our water resources well for the benefit not just of the present community but for future generations of Canberrans. The Government also has a responsibility to take a total catchment management approach to water to ensure that the environment as a whole is not degraded from excessive water-taking.

While we accept that there may be a place for improved efficiencies in how water is treated and distributed, we cannot accept that the availability of water should be handed over to the marketplace and that private companies with commercial objectives should be making decisions which affect the environment of our rivers and the availability of water to the community. It is our belief that the supply of water is a natural monopoly that can only be turned into a private market at the expense of the loss of control over environmental and social outcomes regarding water use. This whole Bill is really an attempt to integrate environmental and social outcomes into the water market concept, and we have grave doubts whether this can occur in practice.

The water market idea rests on the assumption that there is a surplus of water in our rivers available for sale beyond what is required to maintain the so-called environmental flow of those rivers - that is, an amount of water that will maintain the natural aquatic ecosystem of a river. However, there is considerable uncertainty about what are the environmental flows of rivers in the Murray-Darling Basin. It is only in recent years, with the increasing amount of irrigated land being opened up in the basin and the subsequent degradation of farmland and waterways, that governments have realised that there has to be a cap on water use. Water is not an unlimited resource.

The Government is asking us to accept on faith that they can accurately calculate the environmental flows of waterways in the ACT to enable this market to operate effectively, but we believe that considerable technical work still needs to be done on this subject. We believe that a precautionary approach is necessary to protect our vital water resources. We do not want the situation arising where the ACT Government sells off all our water and then realises that they have sold off too much.

There is also the technical problem that you cannot just buy an allocation of water here and expect to take out the same amount of water downstream from the ACT, as water is lost as it flows downstream through evaporation and underground seepage. Nobody seems to have worked out yet how this will be accounted for in a water market. There is also the problem that the Government cannot establish environmental flows in the ACT in isolation of what is happening upstream and downstream in the Murrumbidgee River in New South Wales. For example, it would be pointless if the ACT set high environmental flows only to have that extra water extracted downstream in New South Wales if it sets lower environmental flows. There really needs to be a cross-border approach to the environmental flow issue across the Murrumbidgee catchment.

Given that most water supplied to ACT residents comes from ACTEW, which is still a government-owned monopoly for water, is there really a need to establish an ACT water market? What seems more likely is that this Bill is just setting the stage for the Government's grand plan to have a privatised ACTEW compete with other companies to sell water, as is already happening with electricity.

Setting up a trade in water in a localised catchment between competing water users, such as farmers, may be workable in determining an efficient allocation of water, but it is very unclear how such a market could work across the vast Murray-Darling Basin. Here there is a need to balance water supply across a range of water users, as well as maintaining sufficient water in wetlands and lakes, et cetera, for birds and aquatic wildlife. These are issues that we think governments should resolve and be held accountable for, not markets.

Despite the pronouncements that this Bill is necessary to implement COAG agreements on water reform, these agreements were more in the form of principles to be applied, and the States have not yet worked out how an interstate market in water is going to work in practice. I am certainly not prepared to support this Bill setting up an untested water market until much more work has been done on understanding the ecology of the Murray-Darling Basin and of the human impact on that ecology, and on determining the best way of managing water use across State borders to reduce those impacts.

I note that the Urban Services Committee mentions in its report that other States have tried to use regulatory licensing, but with limited success, and that they are changing to allocation models. What the committee does not mention is that the use of water in the ACT is quite different from the other States. Most water use in the ACT is for urban uses and is supplied through one utility, ACTEW. The other States, however, have to deal with a wider range of water uses, for example, irrigation and industry, and have to manage much larger catchment areas and a range of water supply infrastructures in different areas. The ACT does not really need an internal market for water, and it seems we are only doing this to participate in an eventual New South Wales water market.

There appears to be an assumption that the ACT has lots of spare water that we could sell off to the surrounding regions for a quick buck, but this approach ignores the need for long-term management of our water to ensure reliable supply, and also the environmental need to encourage the conservation of water in the region, not its increased use.

I can see, however, that there are aspects of this Bill that are worthy of support. Greater controls over the use of ground water are welcome, as is the development of a water resource management plan. Clarification of the rights and responsibilities relating to water users is also important.

I have therefore prepared a number of amendments to the Bill to remove all references to establishing a water market, leaving the control of water to be handled solely by the proposed licensing system. I think that such a regulatory system will work much more effectively in achieving the noble objectives of the Bill. I will talk about these amendments more fully when we get to the detail stage.

**MR OSBORNE** (4.35): In considering the importance that this Bill has to the people of the ACT, I believe that we need to firstly consider a brief overview of the Territory's historical association with water. The Australian Capital Territory had its beginning back in 1849 when a member of the Privy Council suggested to the governors of our fledgling nation that one of their number ought to become the Governor of Australia. It was very nice of them, to recommend that for one another. The vital part of that role would then be the authority to convene what was eventually to become our Federal Parliament. As this idea took hold in subsequent years a political tug-of-war developed between New South Wales and Victoria as to which of them would become the national capital. Progress towards the decision on the location of the capital was slow, due to the depth of bad feeling that these two had for each other.

Around that time in the 1850s, Victorians were commonly referred to by New South Welshmen as inhabiting a cabbage garden in the south, and that its people were to be mistrusted for they were guilty of treason, having seceded from New South Wales. Real progress only came about due to the alarm caused by German and French expansion in the Pacific and the completion of the Sydney to Melbourne railway in 1883. By the end of the century all six colonies had voted in favour of a Federal Constitution Bill, with reference to a site for the national capital being somewhere in New South Wales and at least 100 miles from Sydney.

Mr Deputy Speaker, once this Bill had been passed into law the search for a site for the new capital city began in earnest. As could be expected, many potential sites were suggested. There were so many, in fact, that one MP commented at the time that the Government "found itself in the position of a bridal couple returning from their honeymoon to be overwhelmed by enterprising real estate agents with offers of eligible sites for their home".

Choosing the site proved to be difficult and took nine years in total. It originally took some time before the men charged with the selection decided what they should be looking for, but they settled upon three general criteria. Firstly, the site needed to be easily accessible to both Sydney and Melbourne via their rail link. This excluded all sites north of the Sydney to Bourke railway. Secondly, climate - well, they got that wrong - and topography were considered to be important factors as it was widely accepted at the time that cooler climates produced more robust and healthy people who were less susceptible to rebellion. I wish I could say that about Mr Rugendyke. At that time James Edmund of *The Bulletin* wrote:

> The Commonwealth city is going to practically create a million or more new Australians and it wants to make them of a hardy race such as Australia may be proud of in the future. All the existing great cities of the coast of this continent lie low on the hot muggy relaxing atmosphere of the coast. All the world over it is known that the man who comes of twenty generations of mountaineers is far more than a match for the representative of twenty generations of dwellers on a steaming coast.

To all those who complain about Canberra's winters, you did not know you had it so good. Mr Deputy Speaker, I mention all of this in relation to this Bill because of the third criterion which was considered to be of equal importance as the other two, namely, an adequate water supply. Almost as soon as the search began for a suitable site a severe drought afflicted most of New South Wales, with the result that an assured water supply came to be considered vital. The early front runner for the national capital, Albury, was rejected on the basis of this factor alone.

Mr Deputy Speaker, the limestone plains did not become a serious contender until very late in the piece. The Canberra site did not originally include water catchment areas to the west of the Murrumbidgee but these were eventually added to combat criticism from *The Bulletin* that the Cotter River would provide Canberrans with "only a hatful of water to drink" and from Victorians who preferred Dalgety as it was much closer to Melbourne. Prime Ministers Watson and Deakin supported our area and eventually pushed through a deal with the New South Wales Government. The district was surveyed by Scrivener in 1909, after which it became the national capital, based in no small part on the fact that it had access to, and the assurance of, a lot of good-quality water.

I agree with the Minister that the ACT has few natural resources and that the Territory's water resources are among our most significant. To that end I support the intention of the Bill to protect this valuable resource and to ensure its availability for generations to come. There have been large parts of this Bill that I have struggled with, Mr Deputy Speaker, as other members have. The system of water allocations has caused me a lot of concern, as has the level of the various fees which are intended, and the interaction that the legislation would have with rural lessees, especially in regard to their transition to 99-year rural leases.

I am pleased that the Bill has already been looked at by the Urban Services Committee and some of the uncertainty about its application has been addressed. However, I am not yet satisfied that enough of the uncertainty has been taken away, especially certain aspects of the Bill as they would apply to rural lessees, and I would like to hear some assurances from the Minister before we vote today.

I do not find it acceptable that we are expected to pass this Bill with there still being no word from the Government on the level of the licence fees which they intend to charge. I appreciate that any fees intended to be charged will automatically come before the Assembly for approval. However, I believe that those who will be affected by those fees have a right to know, before the Bill is passed, how the Government intends those fees to impact on their business.

I admit to initially being attracted to Ms Tucker's amendments which would remove all references to water allocations in the legislation, but I am less nervous about allocations now. I do find it odd that the Labor Party are opposing the system of water allocations when their introduction was such an integral part of the COAG agreement signed on behalf of the Territory by the former ALP Chief Minister, Ms Follett.

Mr Deputy Speaker, given that the proper use of water has such importance for us, my preference is for us to err on the side of caution with this legislation. The biggest concern I still have about this Bill is in regard to clause 7, which establishes crown rights to all water in the Territory other than ground water under land which is subject to an existing lease of Territory land before the Bill is passed.

I accept that the Government intends to provide a free water allocation to holders of existing rural leases, and this clause in part provides for that. However, I believe there is still doubt as to how a rural lessee will be affected if they transfer their existing lease to take up a new 99-year lease which will soon be made available to them. I would like an assurance from the Minister now that under this legislation any lessee who transfers to a 99-year lease will be able to take their water allocation with them.

I also intended to table an amendment today to change the Government's proposed amendment No. 14 in regard to the size of a dam which may be constructed without a permit, to bring us into line with recent changes in New South Wales. I have not had the time to have that amendment drafted, Mr Deputy Speaker, as I have had other things on my plate over the last couple of weeks. I am prepared, however, to pass the Government's amendment as it stands today and to table amending legislation to this clause in February.

Mr Deputy Speaker, residents of the ACT are fortunate that the founders of the Territory 100 years ago had the foresight to place such a great emphasis on the availability of water, as I do not think it was expected that Canberra would ever grow to the size it is now. These concerns were raised by the president of the Rural Lessee's Association when he came to my office a number of weeks ago, and I think they are serious concerns that the Government needs to address when they close the debate today.

**MR SMYTH** (Minister for Urban Services) (4.43), in reply: Mr Deputy Speaker, I thank members for their comments and at least their agreement that this is important legislation and that we should debate it. Although we have difficulties, perhaps, on trading and allocations, the acknowledgment from all that we should proceed with this Bill is most appreciated.

Mr Corbell started by acknowledging the importance of the Bill, and I thank him for that. He has always had difficulties with the system of allocations, and I would appreciate his position on that. It is interesting, Mr Deputy Speaker, that in all other jurisdictions there is some form of trading, and there always has been. The ACT lags in having legislation that covers water. All the other jurisdictions have long histories, in the main, of trading in water resources. It is curious that currently, in the Mallee region, New South Wales, Victoria and South Australia are trialling cross-jurisdiction trading.

I want to make it quite clear that this Bill places overall control of our water resources firmly in the hands of the Government and the Assembly. I am disappointed that Mr Corbell does not believe that the Assembly can control, through a disallowable instrument, the allocation of water. While there will be a market in water, we are talking about a sophisticated reform designed to ensure that water is treated as a precious resource and is not wasted. It will not be a discount sale. It will not be some sort of bazaar. The water resources management plan is subject to Assembly scrutiny. The formal conditions of water allocations are under the control of the Government and will regulate the market. They will, for example, strictly limit the quantity of water that can be traded after allowing for priority uses such as environmental flows as well as a generous reserve for the future. We are going to put away all the water that we need, a generous reserve, and then set in place a system that will allow, under the scrutiny of the Assembly, through a disallowable instrument, the trade of water.

Specifically, the plan and conditions of allocation for urban water supply will prohibit the trading of water allocated for urban water supply. There is no scenario in the future which will allow a commercial water supplier to even contemplate selling off part of that allocation. If members do not trust the Government on our ability to deliver this, they are well able to amend the water resource management plan when it is tabled in the Assembly. If you listened to some of the comments you would almost think there would be tankers from Victoria coming down Northbourne Avenue to spirit away our water, as it were.

I think there is some misunderstanding on how a trading system works. Trading is not about selling off water as such, and it is certainly not about selling water that has been treated for urban supply; but it is about using the market to adjust the competing needs of commercial users and bulk water. Mr Deputy Speaker, a person who sells his allocation loses the right to take that water, and he leaves it there for somebody else to take at a different place, using the allocation that they have purchased.

Mr Kaine was very generous in alerting me to some of his concerns and I thank him for that. He raised the issue about ACTEW not being enshrined in legislation. ACTEW has a commercial role. It already has that commercial role. Whether ownership changes in the future or not, it still will have a commercial role. It will be consulted as an industry player, but it does not need to be covered by the legislation.

Mr Kaine also raised issues about ground water run-off. New South Wales has just limited the amount of harvesting of ground water, the run-off, that rural lessees or rural property owners can do in New South Wales to 10 per cent of that run-off without a licence. This is a recognition in New South Wales that that run-off is essential to the life of rivers. Existing dams cannot be modified without compensation being paid under clause 70, and future dams initially will have to have approval. Should they be modified, it would be with compensation payable. In terms of looking at the total system, the harvesting of that surface water is an important issue in the way that it contributes to the all-up life of that ecosystem.

Mr Kaine also mentioned the take-up of water tanks. I think something like 34 Canberrans have now installed water tanks next to their houses. I think it is a good system and I would certainly encourage people to look at it if they have the ability and the facility to put a water tank on their houses.

Mr Kaine also spoke about rural lessees. Rural lessees will retain their existing water rights, but so far they exist in a legislative vacuum. You could almost say we have a totally privatised system now because the private owners currently take what water they want. In fact, this puts water released under government control for the first time in the ACT. Ms Tucker might think we are privatising it, but you could almost say we are nationalising water. We are giving control back to the people of the ACT through this Assembly. In the future, if rural lessees want additional bulk water they will have to pay for it, and that is consistent with the rest of Australia. Only the ACT has free bulk water and we need to have this legislation in place so that we can manage the water resources properly.

Ms Tucker raised the issue of trading. I am sure trading and allocation will be the key issue today, and I hope I can convince all members that they should support this. Mr Deputy Speaker, no water will be traded outside the ACT without the approval of this Assembly. Until the ACT is satisfied that the trading provides benefits for the Territory, trading of allocations will not be allowed outside the ACT. This will be done by a requirement in the water resources management plan that allocations to be created must include a condition not allowing them to be traded interstate.

Mr Deputy Speaker, in the process for disallowance of the water resources management plan, the community will be given the opportunity to comment and then, through the members of this Assembly, they will be able to ensure themselves that there is adequate protection from interstate trading.

Ms Tucker also mentioned environmental flow guidelines. Environmental flow guidelines, she said, would be fine if we get it right in the ACT, but what happens when it goes interstate? That is a very important question and it is something that the States have avoided answering. I am pleased to say that at the ANZAAS conference in Wellington on 12 June this year Dorothy Kotz, the South Australian Minister for the Environment, and I were able to get on the agenda for the December meeting a paper that would discuss having consistent flow guidelines across all States and Territories. For the first time we will be comparing apples with apples instead of apples with oranges, which is currently going on. I think the ANZAAS paper will be very interesting and I look forward to the December meeting.

I think we need to look at the system as it currently is in New South Wales simply because New South Wales is moving to where we will be when this Bill is passed. Currently, in New South Wales, they have allocated 115 per cent of the water flow in the Murrumbidgee. They have allocated more than exists, and this is because of a failure of their licensing system. Their licensing system has given away allocations over the years to various individuals. There are three sorts of users of these allocations. There are those who use it wisely. There are sleeper licences which are never used. People hold these licences and they are locking away part of the valuable resource that water is for their own use, but they never use it. Then there are sorts of dozing licensees who only use them sometimes.

When developments have come up in New South Wales that have required more water, the New South Wales Government has not been able to secure it for these people so they have just issued more licences. Clearly, that is unacceptable. The allocation system, which will allow a trade in water, will allow those who have excess water to use it or to sell it, to trade it as it were, and that will allow an appropriate and a proper use of that resource.

You have to remember that we have initially put aside water for environmental flows. We have allocated to existing users. We have put aside water for urban use. We have put aside a generous reserve. It is only the water which is left that will be traded. The system that we have put in place in this Bill, subject to this Assembly, through a series of disallowable instruments, will guarantee that. If members are saying they do not trust this Assembly, that they do not think we here have the ability to look at a disallowable instrument and make sure that it works for the good of the environment, then what are we doing here? Mr Deputy Speaker, we are well able to make this law. This is good law because at last we will have reasonable, efficient and effective use of our water resources. It will guarantee the future water supply of the ACT and it will guarantee water for the environment.

Look at the water that we currently have access to. Through the Cotter catchment area we currently pick up about 58 megalitres, of which 48 megalitres are allocated to urban use. Through the Googong catchment we pick up about 55 megalitres, of which 12 megalitres are dedicated to urban use. My understanding of the current Googong Dam legislation is that it specifies that water pumped from Googong to the ACT can only be used for ACT purposes. So even in that we have another security so that that water resource cannot be frittered away.

Mr Hird spoke about the work in the committee. He said that the committee had asked for some assurances and these have resulted in government amendments which I will move later. I thank the committee for their work. The Urban Services Committee works exceedingly hard. They get through a lot of work, and the quality of the work, in the main, is very good.

Mr Osborne gave us quite a good history lesson. I think Matthew Higgins, the local historian, would be quite proud of Paul because what he said is quite right. The unique shape that the ACT has is actually dictated by catchment lines. We heard from Mr Osborne that he has some difficulties with the Bill. Mr Osborne, there is a review facility in two years. That review will reveal any faults or flaws. All legislation has to be trialled to make sure that it works properly. I believe we have got it right. This is brand new legislation for the ACT and we need to make sure that it does work properly, so we will review it in two years' time.

Mr Osborne spoke of fees. The fees cannot be set until the mechanism for setting those fees becomes law, and that will occur, I hope, some time later today. There will be three kinds of payments made under the scheme in this Bill. First and foremost, we will have some simple administration fees. There will be a licence application fee and it will be set on the basis of full recovery of administrative costs. I do not expect them to be large,

Mr Deputy Speaker, perhaps $50 to $100. All the other fees go to the Independent Pricing and Regulatory Commission, such as annual fees for taking water. I cannot know what the commission will recommend. That is up to the commission and we will have to look at that.

In the case of water allocations that can be bought, the market will set a price for those. The market, I think, will set fair and reasonable prices for them because water is a very important resource for agriculture and for industry. I cannot say what the market will pay. We will have to see how that works out. What it will allow, at last, is reasonable and consistent use of our water to ensure the future of the ACT.

Under the transitional clause, rural lessees could go through the surrender and re-grant process with their lease and then apply for a free transitional allocation. They would only then be up for an ongoing annual water resources charge and that would be set by the Independent Pricing and Regulatory Commission. The detriment to the rural lessees is that they would then be up for the annual charge for the ground water. Under existing leases we cannot charge them for their ground water, yet ground water is a resource that belongs to all of us here in the ACT.

In terms of the ACT's total water resource, Mr Kaine spoke of run-off. That run-off is in excess. *(Extension of time granted)* Mr Deputy Speaker, the run-off that Mr Kaine thought belongs to rural lessees, that it was theirs to control - New South Wales, as I have said, has now reduced it to 10 per cent - is in excess of 400 gigalitres. That is 400 million kilolitres, if my maths is right. Around 200 gigalitres could possibly be harvestable in non-drought years. Currently, around 60 gigalitres of this is delivered through the ACTEW network, and something like another 15 gigalitres is used via access to the resource. So it is a total of something like 113 gigalitres that could possibly be delivered through the existing ACTEW network, through the Cotter catchment areas. That is a valuable resource and we need to treat it wisely. We need to ensure that it is looked after for the future.

Mr Deputy Speaker, this legislation has been a long time coming. Mr Humphries put up the original Bill with, I think, an expectation that it would be operational mid-1998. Now we look like getting it up and running for mid-1999. I congratulate Mr Humphries. The work I have been able to go on with is built on the basis of the work that he started.

Mr Deputy Speaker, we have had an inquiry into this Bill by the Urban Services Committee and we have had discussions, consultation and round tables to ensure that we get this as right as we can. We have taken on board the technical amendments that the Urban Services Committee suggested and I will move those amendments later.

In developing this Bill we have drawn on the experience and, need I say, the mistakes of the other States and Territories and the work that has been done on similar legislation there. In passing this Bill the ACT will take its place among jurisdictions with some of the simplest clear water resource management legislation that will protect this valuable

resource for our generation and those into the future. The Bill will provide security for water users so that they can go about their businesses without having to worry whether or not they can rely on it being there tomorrow. Through this Bill, the Government intends to ensure that the use of the Territory's water resources sustain the physical, economic and social - - -

Debate interrupted.

## ADJOURNMENT

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

That the Assembly do now adjourn.

**Ms Carnell**: I require the question to be put forthwith without debate.

Question resolved in the negative.

## WATER RESOURCES BILL 1998

Debate resumed.

**MR SMYTH**: The Bill will also provide the capacity for the Territory to comply with the agreements of the Council of Australian Governments on water reforms. Control of the water resources in the ACT is complicated by its split between national and Territory land. When this legislation has been passed I will be writing to the Federal Government to seek their agreement to be covered by the legislation so that all water in the ACT can be managed as the single important resource that it is.

This Bill contains a number of elements which are important tools. We will formalise environmental flow guidelines. We must protect our aquatic ecosystems. The requirement for a water resources management plan will give the Assembly the opportunity to oversight this planning for future management of our water resources. Licensing of water will protect this valuable resource and give security. The drillers licence will ensure that we can protect ground water from harm. Mr Deputy Speaker, I thank members for their contributions to this debate and I look forward to this Bill being passed expeditiously.

Question resolved in the affirmative.

**Detail Stage**

Clause 1 agreed to.

Clause 2

**MR SMYTH** (Minister for Urban Services) (5.02): Mr Deputy Speaker, I move:

> Page 1, line 12, subclause (3), omit "6", substitute "12".

The Bill currently proposes that some parts of the Act be implemented immediately and the remaining provisions of the Act start after six months if not commenced earlier. This amendment extends that period to 12 months.

**MR DEPUTY SPEAKER**: Do you have a supplementary explanatory memorandum? It might have been circulated.

**MR SMYTH**: It should have been circulated. I think it was circulated on Tuesday. I present the supplementary explanatory memorandum.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 3 agreed to.

Clause 4

**MS TUCKER** (5.04): I move amendment No. 1 circulated in my name and present an explanatory memorandum:

> Page 2, line 16, definition of "allocation", omit the definition.

This amendment is a consequential amendment. It is part of a package of amendments that delete the provisions of the Bill relating to the sale and trading of water allocations. While this amendment is fairly minor, we might as well have the debate on my package of amendments now because, if this amendment fails, many of my other amendments will cease to have effect. I should note, however, that some of my amendments are not related to the water trading issue.

My package of amendments deletes all references to water allocations in the Bill, leaving the control of water to be handled solely by the proposed licensing system. A key amendment for deleting the provision for water allocations is the one to delete the whole of Part VI of the Bill, which refers to the allocation of water. I believe that the Bill can still operate effectively without this part. It would just mean that the management of water would be done through the licensing scheme set up in other parts of the Bill.

As I said in my earlier speech, I do not believe that the management of water should be left to the market. It should be a government responsibility, because it is an essential service and also because water supply is a natural monopoly and can never be a totally competitive market as the supply of water is physically restricted to particular catchment areas. Water is a very precious resource. It needs to be managed on a sustainable basis and not be subject to commercial imperatives to sell more and more water.

I also do not think enough work has been done by State governments in the Murray-Darling Basin on how the interstate trade in water will work in practice to avoid any negative environmental impacts. We have just had Mr Smyth actually acknowledging that totally and trying to reassure us by telling members that in December there will be a meeting and it is on the agenda to talk about how we will manage water and interstate management of environmental flows. My question has to be: Why are we debating this legislation before that has been worked out to our satisfaction? As I also pointed out in my speech, which Mr Smyth did not acknowledge, I do not believe that the technical expertise is there yet to be definite about what the environmental flow should be anyway. So, it is certainly not the argument put by Mr Smyth that, in fact, it is up to the Assembly and therefore we should all feel very confident. I will not go through my whole speech again, but I have outlined why I do not believe that that is appropriate.

**MR CORBELL** (5.06): Mr Deputy Speaker, the Labor Party will be supporting this amendment, as we will other consequential amendments and, of course, amendment No. 7, which, as Ms Tucker has indicated in her explanatory memorandum, deals with the deletion of provisions for water allocations. Mr Deputy Speaker, we share the concern that Ms Tucker has in relation to the placement of water into, basically, a competitive market and the sale and trading of water. We do not believe that it is an appropriate course of action in dealing with the management of the Territory's water resources.

I do not think that claims that Labor governments of previous Assemblies have entered into COAG arrangements have much weight in this debate. The bottom line is that the Council of Australian Governments has implemented a number of important reforms, but that does not mean that we should simply accept every agreement from a Council of Australian Governments meeting and subsequent negotiations at their face value. We should closely scrutinise the implications of all decisions made at Council of Australian Governments level. We should ensure that they are still in the best interests of the Territory. As a parliament we have an obligation to do that, and that is why we are here.

The Labor Party has considered very carefully the issue of water allocations, and we are not confident that it is in the best interests of the Territory to enter into such a regime. We are not confident that it will protect the best interests of managing the Territory's water resources. We are greatly concerned that it will place the management of these sorts of resources into a competitive market, with the subsequent risk of market failure and the other consequences of such a regime. So, we will be supporting consequential amendments and the key amendment - amendment No. 7.

**MR SMYTH** (Minister for Urban Services) (5.08): Mr Deputy Speaker, the Government will not be supporting this amendment simply because it would stop good management of our water resources. The problems that exist in New South Wales now are there because they do not have a system that meets the needs of the community. In New South Wales over years water licences have been overallocated, such that 115 per cent of the available waters in the Murrumbidgee have been allocated to water licences. The allocation system, on the other hand, will protect that; it will stop that. What it will mean is that we will have a system whereby water can be used wisely instead of being either locked up or lost.

The allocation system allows those who wish to expand into a business to take into account their water needs so that they can go out and secure those water needs. An individual that has an existing allocation will have to use the allocation wisely. If they wish to expand their business, they will have to either seek additional allocation from the Government or purchase it. Mr Deputy Speaker, this is a reasonable way to conduct this business. If we do not have it, we will undermine the fundamental good management of the water resources of the ACT. The Government does not support this amendment.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (5.10): Mr Deputy Speaker, I want to add a few words about the unwisdom, if there is such a word, of going down the path that has been suggested in this amendment. We need to ask ourselves, if we do not agree with the concept of water allocations, what is the alternative we propose. Ms Tucker and Mr Corbell are rejecting the allocation notion, which is now well entrenched in the management of water resources round Australia. It is used in every jurisdiction. The present form of those allocations is a result of agreements at national level through the Council of Australian Governments, admittedly, but there are - - -

**Ms Tucker**: You have evaluated it, you think it is a great success and it is working really well, is it?

**MR HUMPHRIES**: I did not hear all that; but, Mr Deputy Speaker, let me say that the system that works at the moment across the rest of Australia is based on the idea of valuing the asset through attaching a price to it and requiring people who have the asset to pay for the asset. You obtain the licence, you buy the licence, and if you want to transfer the licence to somebody else, obviously you are in a position to be able to sell it.

The idea of attaching monetary value to the water offends Ms Tucker because she sees it as some sort of community asset and allowing people to trade in the water offends against the idea of its being a community asset. That is a fine concept in very broad principles, but in reality there are millions of Australians out there in rural or semi-rural settings who use water in that way. If there is no value allocated to the water that they use, they simply are not likely to value it. They simply are not likely to value it in the same way. If they have unlimited access to water and there is no value attached to it, clearly that water stands at more risk of being wasted than would be the case if it was properly allocated and a value was attached to that allocation.

As I understand Ms Tucker's proposal, if she says that trading in water allocations should not be possible, then it follows that people who cannot use the water that they are allocated will simply have to leave it in the ground or on the surface, wherever it might come from at the present time. So, you have a situation where landowner A has surplus water and landowner B has inadequate water. Logically you would expect that, in a trading environment, landowner A would sell his water to landowner B, but in the proposals Ms Tucker has put forward there is no incentive for landowner A to transfer water to landowner B if there is no monetary value attached to it. Of course, you could get a black market in water. If you have an unrealistic structure for water allocation in Australia, you will end up with a black market in water to the extent that that is possible.

But, Mr Deputy Speaker, that makes very little sense. I cannot see the argument for creating a model in the ACT which is different from the models in other parts of Australia, which is not tested in other parts of Australia and which puts us at odds in a serious way when so much water flows through the ACT and we have obligations to other jurisdictions, particularly New South Wales and other members of the Murray-Darling Basin initiative. I think it is a mistake to assume that we can magically adopt some new and idealistic way of dealing with water which fails to reflect the actual value that we place on the water through this allocation system.

I think we have to get Australians to value water, to treat it as a scarce resource. One way of doing that is to say that you have an allocation pertaining to your licence to sink a bore, to take water from a dam or whatever and to attach a monetary value to that so that wasting of that water becomes not just a waste of water but comes at a monetary penalty in certain circumstances. That is why this system of water allocations has been developed and why we should support its being applied in the ACT, as it is applied in other jurisdictions including Labor States around Australia which are quite happy to work with this allocation system.

**MS TUCKER** (5.15): I would like to reply. I am sorry that I did not hear Mr Rugendyke or Mr Osborne speak. I will call a division on this amendment, because I think it is very important to understand where members sit and vote on this issue. I would like to respond to a couple of comments. The statement that it is impossible to develop a responsible water management process without putting a monetary price on it, with the obvious inherent risks of the profit motive coming into how water is managed, is a statement that does not hold up at all. In fact, the ACT is different from the States at the present time, as we well know anyway. I repeat that I do not believe that we have the technology to understand what the environmental flow should be. There is nothing wrong with having more water running in the river than is actually being used.

What we are asking for here is a precautionary principle, and I repeat that. The States, as we have already heard, have not worked out how to do it properly. We are told that, because everyone else is doing it, this is the way to manage water. I am looking for an evaluation of how it is working and how our environment is faring under this new model and I do not believe that we have that at this point. I know that there are critics of it.

I think that this is a sensible amendment. It is about the precautionary principle. I do not know what the haste is about here. We could at least wait until after December so that members can look carefully at what comes out of that meeting and have some sense of how the overall scheme will work. Of course, in this place, there is always a great rush to move to the market model because, we are always told by the Government, that is what makes people value things, the market model will solve our problems and deliver good outcomes to society and the environment, which is laughable when you look at how it has worked in other places.

Question put:

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

The Assembly voted -

| *AYES, 8* | *NOES, 9* |
|---|---|
| Mr Berry | Ms Carnell |
| Mr Corbell | Mr Cornwell |
| Mr Hargreaves | Mr Hird |
| Mr Osborne | Mr Humphries |
| Mr Quinlan | Mr Kaine |
| Mr Stanhope | Mr Moore |
| Ms Tucker | Mr Rugendyke |
| Mr Wood | Mr Smyth |
| | Mr Stefaniak |

Question so resolved in the negative.

**MR SMYTH** (Minister for Urban Services) (5.20): Mr Deputy Speaker, I move amendment No. 2 circulated in my name:

> Page 2, line 28, definition of "bore", add "but does not include a subsoil drain;".

This amendment changes the definition of a bore in clause 4 to ensure that it is clear that the definition does not include a subsoil drain. It is cleaning up the situation regarding drains used to drain excess moisture from house foundations and retaining walls. Without this change, a bore construction permit would be required to construct such drains. Amendment No. 4 also adds the definition of a subsoil drain to clause 4.

Amendment agreed to.

**MR SMYTH** (Minister for Urban Services) (5.22): I move amendment No. 3 circulated in my name:

Page 2, line 38, insert the following definition:

" 'environmental flow guidelines' means guidelines approved under section 5D;".

Mr Deputy Speaker, this amendment adds the definition of environmental flow guidelines to clause 4 to ensure that it is clear in the guidelines prepared under clause 5, which are referred to throughout the entire Bill.

Amendment agreed to.

**MS TUCKER** (5.22): I was going to move amendment No. 2 circulated in my name, which was part of the package to delete references to water allocations, which I spoke to earlier. Because I lost the first one, I will not put them at all. I withdraw the ones that were consequential, namely, amendments Nos 2, 3, 4 and 5 circulated in my name.

**MR SMYTH** (Minister for Urban Services) (5.23): I move amendment No. 4 circulated in my name:

Page 3, line 23, insert the following definition:

" 'subsoil drain' means an underground pipe or construction the purpose of which is to drain underground water -

(a) to protect a building, retaining wall, excavation, roadway or other construction from seepage or water pressure; or

(b) to facilitate the use of an area of ground by eliminating or reducing wet ground conditions in that area;".

Mr Deputy Speaker, as with amendment No. 2, this amendment adds the definition of a subsoil drain to clause 4 to restrict the meaning of subsoil drain to those drains which remove excessive moisture from around structures or areas of ground.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 5

**MR SMYTH** (Minister for Urban Services) (5.24): Mr Deputy Speaker, I move amendment No. 5 circulated in my name:

Page 4, line 26, omit the clause, substitute the following clauses:

"**5. Preparation and variation of environment flow guidelines**

**(1)** The Authority shall prepare draft guidelines for ascertaining the flow necessary to maintain aquatic ecosystems.

**(2)** The Authority may prepare a draft variation of the guidelines.

**(3)** In preparing draft guidelines or a draft variation of the guidelines, the Authority shall take into account the environmental, economic and social impact of the guidelines.

**(4)** Sections 5A to 5F, inclusive, apply to a draft variation of guidelines as if they were draft guidelines.

**5A. Guidelines - consultation**

**(1)** After preparing draft guidelines under section 5, the Authority shall publish in the *Gazette*, and in a daily newspaper printed and circulating in the Territory, a notice -

(a) containing a brief description of the guidelines;

(b) indicating the place from which copies of the draft guidelines may be obtained; and

(c) inviting any person who wishes to do so to lodge any suggestions or comments about the draft guidelines in writing with the Authority within 60 days after publication of the notice.

**(2)** The Authority shall consider the suggestions and comments lodged in accordance with an invitation under paragraph (1)(c) and, if the Authority considers it appropriate to do so, may revise the draft guidelines in accordance with any of those suggestions or comments.

**5B. Guidelines — formal changes**

Section 5A does not apply in relation to a variation of draft guidelines that is the sole purpose of making changes of a formal nature.

**5C. Guidelines — submission to Minister**

The Authority shall submit draft guidelines (as revised under subsection 5A(2)) to the Minister for approval, together with -

(a) a written report setting out the issues raised in any written comments submitted to the Authority in relation to the draft; and

(b) a written report about the Authority's consultation with the public and with any other person or authority about the draft.

**5D. Guidelines - Minister's powers**

On receipt of draft guidelines submitted under section 5C or 5E for approval, the Minister may -

(a) by notice in the *Gazette*, approve guidelines in the form in which the draft is submitted; or

(b) refer the draft to the Authority together with any of the following written directions:

(i) to conduct further specified consultation;

(ii) to consider any revision suggested by the Minister;

(iii) to revise the draft in a specified manner.

**5E. Guidelines — referral back to Authority**

If the Minister refers draft guidelines to the Authority under paragraph 5D(b), the Authority shall -

(a) comply with the Minister's directions;

(b) if the Minister gives a direction under subparagraph 5D(b)(i) or (ii) - revise the draft guidelines;

(c) revise the draft guidelines to correct any formal error; and

(d) re-submit the draft guidelines (as revised) to the Minister for approval together with a written report about the Authority's compliance with the Minister's directions and about any revision of the draft guidelines under paragraph (c).

**5F. Guidelines disallowable**

**(1)** A notice under section 5D approving environmental flow guidelines is a disallowable instrument for the purposes of section 10 of the Subordinate Laws Act 1989.

**(2)** Section 6 of the Subordinate Laws Act 1989 applies to environmental flow guidelines as if paragraph 6(1)(b) were omitted and the following paragraph substituted:

'(b) takes effect on the first day on which the environmental flow guidelines are no longer liable to be disallowed under this section; and'.".

This amendment was drafted in response to the Standing Committee on Urban Services' recommendation that the preparation and variation of environmental flow guidelines take into account the environmental, economic and social impact of the guidelines. The standing committee also recommended that a formal consultative process be provided for in the Bill. This is also proposed in this amendment and is similar to the consultative process already in the Bill for the water resources management plan.

**MR CORBELL** (5.24): The Labor Party will be supporting this amendment and thanks the Government for its response to the Urban Services Committee's recommendation. The amendment provides for a greatly improved level of preparation, variation and consultation and a range of other issues in relation to environmental flow guidelines, and we welcome the amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 6 to 13, by leave, taken together, and agreed to.

Clauses 14 and 15, by leave, taken together, and agreed to.

Clause 16

**MS TUCKER** (5.26): I move amendment No. 6 circulated in my name:

> Page 8, line 35, add the following subclause:
>
> "**(2)** Where the Authority makes a change of a formal nature to a management plan, the Authority shall notify the making of the change in the *Gazette* and in a newspaper.".

This amendment is not about water allocations. This amendment ensures that any formal change to the water resources management plan is still publicly notified so that the public can keep up to date with changes that have been made to this plan. This is a simple measure to keep the community informed.

**MR CORBELL** (5.27): The Labor Party will be supporting this amendment. Certainly, the evidence given to the Urban Services Committee, particularly the evidence given by the Environmental Defender's Office, urged a greater degree of public notification in relation to management plans and a range of other mechanisms within the Bill. The Labor Party believes it is appropriate that, at every stage of this important process, there be the opportunity for public notification so that the community has the opportunity to comment on or at least be made aware of changes. We will be supporting the amendment.

**MR SMYTH** (Minister for Urban Services) (5.27): The Government will be supporting this amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 17 to 20, by leave, taken together, and agreed to.

Clauses 21 to 26, by leave, taken together

**MR SMYTH** (Minister for Urban Services) (5.28): I move amendment No. 6 circulated in my name:

> Page 10, line 23, clause 22, subclause (6), after "writing", insert ", on payment of the determined fee".

This amendment ensures that the appropriate fee can be charged for allocations created by the Minister in clause 22.

Amendment agreed to.

Clause 21, clause 22, as amended, and clauses 23 to 26 agreed to.

Clause 27 agreed to.

Clause 28

**MR SMYTH** (Minister for Urban Services) (5.29): I ask for leave to move amendments Nos 7, 8 and 9 circulated in my name, together.

Leave granted.

**MR SMYTH**: I move:

> Page 14, line 18, paragraph (1)(c), omit "or".
>
> Page 14, line 20, paragraph (1)(d), add "or".
>
> Page 14, line 20, after paragraph (1)(d) insert the following paragraph:
>
> "(da) is adversely affecting the environment;".

These amendments act together to change clause 28 to increase the reasons available to the Minister to limit the taking of water or to require changes to dams to include adverse effects on the environment. That will ensure that the taking of water is not harming the environment in ways not directly related to water flow during a drought. For instance, it is important that such dams do not unnecessarily restrict the movements of fish within a stream. Compensation is still provided to cover the removal of an existing dam where the owner could not have anticipated the need to have built it differently.

Amendments agreed to.

**MR SMYTH** (Minister for Urban Services) (5.30): I move amendment No. 10 circulated in my name:

> Page 15, line 11, subclause (6), omit "Authority" (last occurring), substitute "Territory".

Mr Deputy Speaker, amendment No. 17 makes the same change to clause 64. Amendment No. 10 changes subclause 28(6) so that a debt under these provisions is due to the Territory rather than the authority, since it is the Territory, not the authority, which can accumulate financial liabilities.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 29

**MR SMYTH** (Minister for Urban Services) (5.32): I move amendment No. 11 circulated in my name:

> Page 16, line 11, paragraph (9)(a), after "record", insert "both in the Territory and elsewhere".

Mr Deputy Speaker, clause 29 is being changed by this amendment so that it uses a more complete description of environmental record, both in the Territory and elsewhere, as already used in other clauses of the Bill.

Amendment agreed to.

**MS TUCKER** (5.32): I move amendment No. 8 circulated in my name:

> Page 16, line 26, paragraph 10(a), omit the paragraph, substitute the following paragraph:
>
> "(a) if, in the opinion of the Minister -
>
> (i) the amount of water that, in the aggregate, could be taken under licences to take water in force under this Act would exceed the total amount of water determined in respect of a period (if any) specified under a management plan if, in that period, all licensees were to take the total volume of water permitted to be taken under their respective licences; or
>
> (ii) to do so would otherwise be inconsistent with a management plan;".

This amendment does remove some words regarding water allocations, but it also introduces a limitation on the total amount of water that can be taken under licence, which is a major omission from the Bill. I think that this amendment can stand on its own, regardless of the fate of my other amendments, so I do still want it debated. The amendment says that the Government cannot grant a licence to take water that would mean that the total amount of water being taken would exceed the total amount of water available under the water resources management plan or would otherwise be inconsistent with the plan. It concerns me that there does not appear to be a formal link in the Act between the water resources management plan and the granting of water allocations. While the water resources management plan is supposed to include proposed water allocations under section 13 of the Act, there is no formal requirement for the Minister to take this into account in allocating water under section 23. My amendment corrects this anomaly.

**MR CORBELL** (5.34): Mr Deputy Speaker, the Labor Party will not be supporting this amendment. Having had the debate already in relation to allocations, we do not believe that it is appropriate to try to partly amend this clause in that we are dealing partly with the allocations process and partly with the licence regime. It is simply contradictory and confusing. Now that the question of allocations has been resolved - not to our satisfaction but, nevertheless, resolved - we do not believe that it is appropriate to continue to support this amendment.

**MR SMYTH** (Minister for Urban Services) (5.34): Mr Corbell is correct in this matter. The Government also will not be supporting this amendment.

Amendment negatived.

Clause, as amended, agreed to.

Clause 30

**MS TUCKER** (5.35): I withdraw amendments Nos 9, 10 and 11 circulated in my name.

Clause agreed to.

Clause 31 agreed to.

Clauses 32 to 39, by leave, taken together, and agreed to.

Clause 40

**MR SMYTH** (Minister for Urban Services) (5.36): I move amendment No. 12 circulated in my name:

> Page 21, line 24, subclause (1), omit "without limiting the generality of", substitute "subject to".

Mr Deputy Speaker, amendment No. 12 changes clause 40 to make it clearer that the power to give direction in clause 40 does not change the need to obtain consent under clause 49 before entering premises to determine if that direction is necessary.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 41 agreed to.

Clauses 42 to 57, by leave, taken together, and agreed to.

Clause 58 agreed to.

Clauses 59 to 61, by leave, taken together, and agreed to.

Clauses 62 and 63, by leave, taken together

**MR SMYTH** (Minister for Urban Services) (5.38): I move:

> Page 32, line 3, subclause (1), omit "in a waterway" (first occurring).

This amendment, which changes clause 62, results from discussions which have occurred about recently constructed farm dams in ACT streams. Previously a construction permit was required only for certain water control structures within streams. The discussions have identified the need to require permits for dams and other structures constructed off-stream where these have significant impacts on the water flows.

Amendment agreed to.

**MR SMYTH** (Minister for Urban Services) (5.39): I move amendment No. 14 circulated in my name:

> Page 32, line 9, subclause (2), omit the subclause, substitute the following subclause:
>
> "**(2)** Subsection (1) does not apply to the construction or alteration of -
>
> (a) a dam not in a waterway, the capacity of which is less than 2 megalitres; or
>
> (b) a prescribed water control structure.".

Amendment No. 14 replaces the existing subclause 62(2) with a new one which proposes that there be no requirement for a permit to construct a water control structure for farm dams of less than two megalitres not located on waterways which are necessary for normal stock watering or rural domestic need.

Amendment agreed to.

**MR SMYTH** (Minister for Urban Services) (5.40): I ask for leave to move amendments Nos 15 and 16 together.

Leave granted.

**MR SMYTH**: I move amendments Nos 15 and 16 circulated in my name:

> Page 32, line 10, clause 62, add the following subclause:
>
> "**(3)** In proceedings for an offence against subsection (1), a certificate purporting to be signed by the Authority stating that, on a particular date, there was, on land to which the proceedings relate, a dam, water storage or other water control structure, is evidence of the matters so stated.".

Page 33, line 5, clause 63, subclause (8), omit the subclause.

These amendments act together to change clause 62 to correct a reference about an offence. The change means that certified evidence referred to in the amendment will apply in relation to the offence provision in subclause 62(1), as was originally intended.

Amendments agreed to.

**MS TUCKER** (5.41): I move amendment No. 12 circulated in my name:

Page 33, line 8, clause 63, add the following subclause:

"**(9)** Nothing in this section affects the operation of the Land (Planning and Environment) Act 1991.".

This amendment makes clear that the construction of any water control structures, such as dams, must still go through the development approval and environmental impact assessment process under the Land (Planning and Environment) Act 1991. It concerns me that the Bill gives the impression that to build a dam all you need to get is a permit, but there is a whole range of planning and environmental issues and community concerns that need to be resolved in any assessment of the building of a dam. These issues go way beyond the criteria listed in clause 63. The most appropriate mechanism to address these concerns is through the Land Act and not this Bill.

**MR CORBELL** (5.42): The Labor Party will be supporting this amendment.

**MR SMYTH** (Minister for Urban Services) (5.42): The Government will also support the amendment. The Bill has been drafted to be consistent with the Land Act and clarification of this nature is more than acceptable.

Amendment agreed to.

Clauses, as amended, agreed to.

Clause 64

**MR SMYTH** (Minister for Urban Services) (5.42): I move amendment No. 17 circulated in my name:

Page 33, line 31, subclause (4), omit "Authority" (last occurring), substitute "Territory".

Amendment No. 10 made the same change to subclause 28(6). Amendment No. 17 changes subclause 64(4) so that a debt under these clauses is due to the Territory rather than the authority, since it is the Territory, not the authority, which can accumulate financial liabilities.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 65 and 66, by leave, taken together, and agreed to.

Clauses 67 to 69, by leave, taken together, and agreed to.

Clause 70

**MR SMYTH** (Minister for Urban Services) (5.44): I move amendment No. 18 circulated in my name:

> Page 36, line 22, subclause (3), after "damage", insert "by the Authority".

Clause 70 is modified by this amendment to ensure that it is clear that damage which is compensated by the Government is only damage caused by the authority and not damage caused by others.

Amendment agreed to.

**MS TUCKER** (5.44): I move amendment No. 15 circulated in my name:

> Page 36, line 22, subclause (3), omit "caused in", substitute "in excess of that which could reasonably be expected to occur as a consequence of".

This amendment makes changes to the compensation provisions of the Bill. My amendment to proposed subsection 70(3) makes clear that compensation would only be payable for damage beyond what would reasonably occur in the performance of water investigations. I am concerned that the current wording of this proposed subsection is too general and that the Territory could end up being held liable for virtually any water investigation activity on private property even when the investigation activity is being legitimately carried out.

**MR SMYTH** (Minister for Urban Services) (5.45): I think the amendment is perhaps a bit superfluous, but the Government has no objection to it.

Amendment agreed to.

**MS TUCKER** (5.46): I move amendment No. 16 circulated in my name:

> Page 36, line 23, add the following subclause:
>
> "**(4)** Compensation is not payable under this section in respect of the modification or removal of a dam, embankment, wall or other structure constructed after the commencement of this section.".

My second amendment relating to compensation adds a new subsection to proposed section 70 to make clear that compensation would be payable only for any required modification to dams and other water structures built before this Act comes into effect. I can accept that dams built in the past, when we did not have as much knowledge as we do now about water management, may not have been built in a way that allowed modification and that it would be unfair to make a private owner pay for changes to a dam that had been legally built in the past. However, any new dam should be designed in the first place to take account of potential restrictions on taking water in the future. I therefore see no reason for the Government having to compensate the owners of new dams. Anybody who builds a new dam from now on should accept the risk that at some time in the future their water supplies may need to be reduced for environmental reasons.

**MR CORBELL** (5.46): The Labor Party will be supporting this amendment. It is a sensible clarification of the obligations of the Territory.

**MR SMYTH** (Minister for Urban Services) (5.47): The Government will not be supporting this amendment simply because any dam or structure that is built after the commencement date of the Act would have been approved by the Government, so that it would have been built in good faith by those that applied to build it. If in the future there is a need to change the said structure, it is only fair and reasonable that when you have built something with the approval of the Government and the Government tells you to remove it you should be compensated.

Amendment negatived.

Clause, as amended, agreed to.

Clause 71 agreed to.

Clauses 72 and 73, by leave, taken together, and agreed to.

Proposed new clause 73A

**MR SMYTH** (Minister for Urban Services) (5.49): I move amendment No. 19 circulated in my name:

> Page 38, line 28, insert the following new clause in Part IX:
>
> "**73A. Review of Act**
>
> **(1)** The Minister shall review the operation of this Act as soon as possible after the period of 2 years after the date of commencement of section 3.
>
> **(2)** A report on the outcome of the review shall be tabled in the Legislative Assembly within 6 months after the end of the period of 2 years.".

This amendment is in response to the Standing Committee on Urban Services' recommendation that we provide a review provision for the Act. It provides for a review after two years and the report must be tabled in the Assembly.

**MR CORBELL** (5.50): The Labor Party welcomes the amendment. This was another useful recommendation from the Urban Services Committee report. The amendment recognises a provision originally suggested by, I think, the Environmental Defender's Office and accords with, if I recall correctly, procedures that other governments have adopted in other States or Territories.

Amendment agreed to.

Remainder of Bill, by leave, taken as a whole

**MR CORBELL** (5.51): I want to take the opportunity at this stage of the debate to place on record my thanks to a number of officials in Environment ACT who are present in the gallery this evening and an official whose face I cannot see, Mr Gary Croston, who has also been involved with this Bill for some time. This Bill is one of the first Bills and the issue of water regulation allocations is one of the first things I received a briefing on when I became a member of this place in 1997. I still have some material that Mr Burnett from Environment ACT provided to me at the time. I know that they worked for a very long time on this Bill. Whilst, obviously, we are not entirely satisfied with the outcome of it, I have no doubt that it will be a relief to those officials in Environment ACT that the Bill will now pass the Assembly and they can get on with the very important work of making all the different assessments they have to make before this legislation can take effect. So, I would like to place on the record my thanks to those officers for the briefings they provided to me personally and for the very effective and thorough advice they provided to the Standing Committee on Urban Services.

**MR SMYTH** (Minister for Urban Services) (5.52): I, too, rise in this place to thank those that have had something to do with this Bill. I thank fellow members of the Assembly for the way that it has been progressed after so many false starts. I am very pleased that it is through, because it truly is a landmark piece of legislation for the ACT in that we now can control our own water resources in a reasonable manner. I reiterate to the Assembly that we will review the situation after two years to make sure that the legislation functions properly and that it does all that is intended of it. I look forward to confirmation of that in two years' time.

I also would add to Brian, to Gary Croston, who is not there, and to Peter Burnett my thanks for their assistance in this regard. As a new Minister, this is the first time I have taken a Bill of this size through the Assembly. I am very grateful to them. I am also glad that circumstances conspired to get Mr Burnett here. I received a note from Mr Burnett saying that he had been called away to another matter that he had to attend to urgently

and would not be here for this Bill, but it took only five minutes and Peter has been able to return. I am pleased that he is here to see this Bill go through because I know that all the staff of Environment ACT have put a lot of work and a lot of effort into this Bill and it is pleasing that their efforts have been rewarded by its being passed in this place.

Remainder of Bill agreed to.

Bill, as amended, agreed to.

## BUSHFIRE (AMENDMENT) BILL 1998

Debate resumed from 17 November 1998, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

**MR KAINE** (5.55): Mr Speaker, I believe that we are still dealing with the matter in principle and that we have not moved onto the detail stage yet. I have no comment to make on the matter in principle.

**MR HARGREAVES** (5.55): Mr Speaker, I have no comment to make on the Bill in the in-principle stage. We will deal with it in the detail stage in one hit.

**MR SMYTH** (Minister for Urban Services) (5.55): Mr Speaker, I am very pleased that the Minister has brought this Bill to this place, because the issue of bushfires is something that I can speak of with just a little bit of knowledge. I see in the gallery somebody we refer to as CFCO - Chief Fire Control Officer - Peter Lucas-Smith. Bushfire is a threat that is often placed at the doorsteps of Canberrans. Fire can commence from the smallest of sparks. It can commence from a cigarette thrown from a moving vehicle. It can commence from light focused through a broken coke bottle. It can commence through carelessness. It can commence as an act of arson.

These are very serious amendments. What Mr Humphries does here is seek to strengthen the ability of the Chief Fire Control Officer to make sure that, where appropriate, we can declare fire bans, to protect all Canberrans. I think that the Bill is very good and that we should agree to it in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

**Detail Stage**

Clauses 1 to 3, by leave, taken together, and agreed to.

Clause 4

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (5.57): Mr Speaker, I move:

> Page 2, line 1, paragraphs (c), (d) and (e), omit the paragraphs, substitute the following paragraphs:
>
> "**(c)** by adding at the end of subsection (2) the following paragraphs:
>
> '(d) the lighting, maintenance or use of a fire in accordance with an exemption permit granted under section 7B; or
>
> (e) the maintenance of a fire declared by the Minister under subsection (3) to be an exempt fire.';
>
> and
>
> **(d)** by omitting subsection (3) and substituting the following subsection:
>
> '(3) The Minister may, by instrument published in the *Gazette*, declare a fire to be an exempt fire where -
>
> (a) the fire is maintained for a ceremonial or commemorative purpose;
>
> (b) the fire is less than 1 cubic metre in volume;
>
> (c) the surrounding area within a radius of 3 metres from the fire is clear of flammable material;
>
> (d) reasonable steps have been taken to prevent the escape of flame, sparks or burning or incandescent material from the fire; and
>
> (e) written consent to the maintenance of the fire has been given by -
>
> (i) in the case of a fire in a built-up area - the Fire Commissioner; or

(ii) in the case of a fire outside a built-up area - the Chief Fire Control Officer.'.".

It is an extremely good amendment, Mr Speaker. In fact, it is an outstanding amendment. I present a supplementary explanatory memorandum to the house.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 5

**MR KAINE** (5.58): Mr Speaker, I seek leave to move together my amendments Nos 1 to 7.

Leave granted.

**MR KAINE**: Mr Speaker, I move:

Page 2, line 11, proposed subsection 7B(1), after "use a fire", insert "or use fireworks".

Page 2, line 15, proposed subparagraph 7B(2)(a), after "proposed fire", add "or fireworks".

Page 2, line 16, proposed subparagraph 7B(2)(b), after "proposed fire", add "or fireworks".

Page 2, line 17, proposed subparagraph 7B(2)(c), after "proposed fire", add "or fireworks".

Page 2, line 19, proposed subparagraph 7B(2)(d), after "proposed fire", add "or fireworks".

Page 2, line 23, proposed subparagraph 7B(3)(b), after "proposed fire", add "or fireworks".

Page 2, line 25, proposed subparagraph 7B(3)(c), after "proposed fire", add "or fireworks".

These amendments all have to do with a single question, and that is to enable the use of fireworks after the obtaining of a permit. At the present time subclause 7B(5), in fact, specifically precludes the use of fireworks. I believe that that is an unreasonable prohibition. I do not see any reason why a professional fireworks promoter should not be allowed to seek a permit to use fireworks, just as anybody else that wants to light a fire or have a fire in an open space can, under the Bill, seek a permit for that purpose. I understand that some fireworks have caused grass fires; but, of course, no amount of legislation is going to stop kids getting out in the scrub and letting off a few crackers.

However, this is not aimed at that. That is a job for others to determine. But I believe that a person whose profession it is to mount fireworks displays should be allowed to seek a permit, like any other person that seeks to carry on an activity. Of course, that permit can be refused; but, in considering whether or not such a person should have a permit, the same considerations should be taken into account as apply to other circumstances detailed in the Bill. So my amendments are aimed at allowing such a person to seek a permit, on the basis that such activity should not be totally prohibited.

**MR HARGREAVES** (6.01): Mr Speaker, I rise to indicate the Labor Party's support for Mr Kaine's amendments. This amendment Bill is a really good Bill. It actually takes the responsibility for the control of flames, in times of particular danger, out of the political arena and puts it into the hands of the experts, where it belongs. I think the support this Bill will receive here will show the confidence this Assembly has in the Chief Fire Control Officer and the Fire Commissioner.

Mr Speaker, the only hassle we have with the Bill is that it allows exemptions to be granted for such things as Carols by Candlelight and other types of open fires where it can be proven to those two officers that they do not pose a danger to life or property. To exclude a particular thing like fireworks is, in our view, in a sense, a denial of natural justice, because people do not have the opportunity to have their particular case evaluated by the experts. Mr Speaker, I am aware that the principal reason for the exclusion is to keep the cowboys out of the industry; to keep out of the industry the people who will pose, and who have a record of posing, a danger to this society. However, Mr Speaker, it seems to me also that the exclusion may very well keep out of the industry those people who are responsible, and it is a denial of justice.

I urge the Assembly to accept these amendments, with the proviso that, if other information comes to light which justifies an amendment reversing them, we give it due consideration at that time - for example, if there is consistency in the States about this particular thing or if it can be proven that the letting off of fireworks in times of extreme and total fire danger is, by the nature of the activity, a danger to life and property. So, Mr Speaker, I urge the Assembly strongly to support these amendments for the time being.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (6.04): Mr Speaker, the Government will only speak once, and briefly, on these amendments. The advice that I have received from the Fire Commissioner and the Chief Fire Control Officer is that there is an inherent danger in the use of fireworks which warrants an extra level of caution in their employment by the ACT; that, unlike other possible exemptions to the total fire ban provisions, the use of fireworks potentially involves the dispersal of flame, which can be a threat to the integrity of that total fire ban.

I do not come to the Assembly with any professed knowledge about fires or bushfires. Others in this place - Mr Smyth - are more expert than I am. But I will say that I understand that there is an inherent danger in fireworks. My advice is that it is dangerous to exempt them and we should not do so. I draw members' attention to the fact that, in the ACT in recent years, a number of fires have been caused by fireworks. Indeed, only last summer, a house in Conder was burnt down, with damage estimated at $150,000, because, it is believed, some form of firework device may have lodged in the roof and the fire found its way into the roof space and eventually involved the whole roof space. There is some suggestion that the firework that burnt down those particular premises was not a shop-bought firework but, in fact, was a commercial or professional firework. Maybe it was not lit or let off by a professional. I do not know.

Mr Speaker, the other danger with creating an exemption for fireworks is the public pressure that would be placed on fire authorities to provide exemptions in the event that there was a major public event that proposed to use fireworks. Supposing that Sky Fire was due to take place and a total fire ban was declared for that day and that night. Can you imagine the public pressure that would be placed on people like the Chief Fire Control Officer and the Fire Commissioner to provide an exemption for that event. That would be very considerable pressure, and it would be based on public entertainment issues rather than on public safety. I think that that would be unfortunate. So, Mr Speaker, I urge members not to accept the amendments.

**MR KAINE** (6.06): Mr Speaker, I would just like to comment on the matters raised by the Minister. I think that those matters are quite unrelated to the reason why I have moved these amendments. As I said, there is no amount of regulation or legislation that is going to stop somebody in a suburban street setting off a firework, from whatever source it was acquired; and, under those circumstances, it is unsupervised and could well cause property damage.

That is not what these amendments are about. They are about fireworks professionals who seek to mount a professional fireworks display. Under the legislation as put forward by the Minister, they would be absolutely prohibited from doing so, no matter how professional they are, no matter where the location is and no matter what the circumstances are. My argument on this is that they should be in no different position from anybody else. They should be entitled to seek a permit. If the circumstances are such that it is undesirable to issue a permit, then they will not get one; but they should not be totally denied the opportunity to seek such a permit.

The Minister refers to the pressure that might be put on the authorising officer. I am afraid that that is part of the job. If a public official has the discretion, which can be exercised, to issue or not issue a permit, there are going to be many occasions when he would be pressured to issue a permit when he may not wish to do so, and very often it will not have anything to do with a fireworks display. So I do not think it is valid to say that, because the public official might be pressured, we should not allow people to seek a permit. It does no more than that. It allows a person to seek a permit. That permit can be declined or it can be approved. I think that the matters put forward by the Minister in opposition to the proposition are not terribly relevant at all.

Question put:

That the amendments (**Mr Kaine's**) be agreed to.

The Assembly voted -

| *AYES, 9* | *NOES, 6* |
|---|---|
| Mr Berry | Ms Carnell |
| Mr Hargreaves | Mr Cornwell |
| Mr Kaine | Mr Hird |
| Mr Osborne | Mr Humphries |
| Mr Quinlan | Mr Moore |
| Mr Rugendyke | Mr Smyth |
| Mr Stanhope | |
| Ms Tucker | |
| Mr Wood | |

Question so resolved in the affirmative.

**Mr Berry**: Mr Speaker, I wish to inform the Assembly that Mr Corbell and Mr Stefaniak are paired.

Amendments agreed to.

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

Page 2, line 29, proposed new subsection 7B(4), omit "the built-up area" (first occurring), substitute "a built-up area".

Amendment (by **Mr Kaine**) agreed to:

Page 2, line 33, proposed subsection 7B(5), omit the proposed subsection.

Clause, as amended, agreed to.

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

Bill, as amended, agreed to.

## SUSPENSION OF STANDING AND TEMPORARY ORDERS

**MR BERRY** (6.14): Mr Speaker, I move:

> That so much of the standing and temporary orders be suspended as would prevent the order of the day No. 1, Assembly business, relating to the establishment of a Select Committee on the Territory's Superannuation Commitments being called on forthwith.

Mr Speaker, this is a matter that has been the subject of negotiations with the Government and others and it is agreed to. Accordingly, I commend the motion.

Question resolved in the affirmative, with the concurrence of an absolute majority.

## TERRITORY'S SUPERANNUATION COMMITMENTS - SELECT COMMITTEE
### Appointment

Debate resumed.

**MR RUGENDYKE** (6.15): Mr Speaker, this motion to appoint a select committee to investigate the Territory's superannuation commitments is on the right track. Since privatising ACTEW first appeared on the Government's agenda, at least publicly, the black hole which is the superannuation liability has been the chief selling pitch. Just how big is that black hole? If we do not dump all the proceeds of an ACTEW sale into that black hole as a stopgap measure, does it really have the potential to terrorise the Territory forever? I would like to know the full extent of the problem and I would like to know whether there are any alternatives to selling ACTEW to manage the unfunded superannuation liability.

This motion does address the superannuation problem in a satisfactory manner. I would like the Assembly to be able to obtain a clear picture of what the superannuation liability actually is, where it is at and whether or not it is beyond our control. I need to know whether the growing debt of the unfunded superannuation is going to be as crippling as it has been described and whether there is another way of solving the problem, without selling ACTEW. If it becomes apparent that there is no alternative to selling ACTEW and funding the superannuation debt, then I would find it very difficult not to support the sale. So I commend the motion to the Assembly and trust that we will be able to get on with the job.

**MS TUCKER** (6.18): The Greens will be supporting this motion to set up a committee to look at the Territory's superannuation commitments. Apart from the fact that it is obviously an issue which requires careful consideration, it is an issue which has become highly politicised in recent months. Obviously, I would have preferred to have seen my own motion to set up a committee supported, as it would have included the issues covered by this committee but, as well, would have addressed the other significant issues related to the sale of ACTEW.

Mr Speaker, I was absolutely astounded to read in the newspaper that Mr Rugendyke is of the view that my committee would not have looked at super. "It did not even mention super", Mr Rugendyke said. If Mr Rugendyke had read my terms of reference, he would have realised that the impacts of the sale of ACTEW on the ACT budget would include superannuation. I will support this inquiry, though, because it is obviously the best we will get.

Obviously, Mr Osborne, Mr Rugendyke and the Liberals are playing their games again, at the expense of credible parliamentary processes. We have a proposal from government to sell a major asset and we are denied the right to have a proper process to assess the costs and benefits of the proposal. We see, instead, the Chief Minister and Mr Osborne manipulating the discussion in order to avoid this scrutiny. We see Mr Osborne putting the onus onto Labor to convince him that there are other ways to deal with the super liability; but he does not put the onus onto the Government to prove that the claimed benefits from selling ACTEW outweigh the costs.

It is well played, in a way, if you are into playing games. Unfortunately, this is not a game; it is a very serious decision to be made by elected representatives, and it is in everyone's interests to get it right. The Chief Minister and the Government are determined that they are right, that ACTEW must be sold. As I asked in the abortion debate: Why are the Government and its supporters so afraid of careful scrutiny of their proposals?

The Government's proposals to sell the water pipes, for example, and franchise the water and sewerage treatment operations for 50 years would be a first in Australia. No other government has thought that this is a good approach. It seems perfectly reasonable to look at such a proposal in detail. I know that the stated reason for not having an inquiry is that it would delay proceedings. That will happen anyway with this inquiry, if it gets up. Also, of course, it is a weak argument that a few months would be so critical to the sale price.

Anyway, we are told by the Government that we must get in quickly, before New South Wales, because it is sure to decide to sell its utilities after the election. I do not know that we should be so sure of that, if we look at what happened in Tasmania. The election is in March anyway, and I do not think anyone is suggesting that a sale would occur in a week or two after that. It has been quite interesting watching people, including the Chief Minister, scurrying around this chamber over the last hour, desperately trying to remove anything from the terms of reference of this committee inquiry which actually might bring scrutiny to the broader issues of the sale of ACTEW.

Even if there is a financial risk in delaying the sale, there is also a very serious and worrying risk that selling ACTEW may actually be a bad idea; that it will not serve the long-term financial, social and environmental interests of the ACT; that the three members in this place who will be critical in making the decision about whether or not to sell ACTEW do not understand the issues and will not now, if the terms of reference of this inquiry are limited to the way I understand it is going to happen. There is a very serious risk that the community has not had enough time to have input; that experts in the

community have not had enough time or opportunity to have input; that the government-commissioned reports are inadequate and flawed; and that, basically, political brinkmanship will be the primary motivating factor for the process and, unfortunately, I am sorry to say, the vote.

We have already wasted time anyway. Mr Osborne or Mr Rugendyke could easily have amended my motion and we would have been well under way. Having said that, I do believe that this is better than nothing. It would be a useful inquiry, obviously. But I will conclude by saying that I think it is very disappointing at this point to have seen how, basically, the Government and those who support it have really obstructed a process which would have allowed a much more comprehensive and balanced look at the issues. There is no way you can say that you have looked at these issues if all you have done is focus on the issue of the superannuation commitment and the sale of ACTEW. If you are interested in an actual cost-benefit analysis of this proposal, you must look equally carefully at the other consequences of selling ACTEW. Sure, you will make the money from selling ACTEW, but what will you lose? That is what the community wants members of this place to look at and understand, and I am afraid that we will not have that opportunity.

**MR CORBELL** (6.23): Mr Speaker, I approach this motion with some mixed feelings, and I am sure that my colleagues do as well. We are, of course, pleased that there is finally the opportunity to undertake some examination of the assertions we have heard from the other side of the chamber in relation to the Territory's superannuation commitments and the proposed solution for dealing with those commitments, which is, in the Government's own terms, the sale of ACTEW Corporation. But, Mr Speaker, it is disappointing that we do not have the opportunity to assess the regulatory regime. I see that Mr Osborne has flagged an amendment to remove that from the proposed terms of reference.

Whilst I recognise that these are the conditions that we will have to accept to have this inquiry, they are not the conditions that we believe are the most effective or the most suitable if we are going to effectively address the issue of the Territory's superannuation commitments and the sale of ACTEW as the solution to dealing with those commitments. When it comes down to it, Mr Speaker, the issue of the regulatory regime is central to the Government's justifying its sale of ACTEW.

It is central, because they argue that it is not the ownership model; they argue that it is what sort of regime you have in place to manage the operations of a privately owned energy provider and a franchised water and sewerage provider. They are proposing a world's best practice regime, to use the Chief Minister's words today, which has not been achieved anywhere else within Australia or overseas. They are proposing a regime which is completely untested. They are proposing to draw on other jurisdictions' regimes which are currently under review. They are proposing to sell ACTEW, but they will not allow us to fully scrutinise the regime which will govern the operations of the privatised energy provider.

They are asking us to trust them absolutely, even though nowhere else in the world has an effective regulatory regime of the nature being proposed by the Government been put into place. That, Mr Speaker, I believe is something that this side of the house cannot accept. That is why we proposed to have the regulatory regime in place - so that issues such as consumer protection mechanisms, fair and just price setting mechanisms, adequate service standards and an adequate level of maintenance of system infrastructure could be addressed.

Today in the Assembly the Chief Minister tabled a statement of regulatory intent for utilities in the ACT. This, I believe, would have been the perfect opportunity to have had this document considered by the select committee. At least the Government has been prepared to outline a statement of its intent in relation to regulation. But a select committee, with terms of reference dealing with this statement of regulatory intent, would have been able to look into it more closely, test the assumptions in it, test the assertions in it and see whether it is actually going to do what the Government says it is going to do. Unfortunately, it would appear that we are going to be denied that opportunity.

That, Mr Speaker, is more than unfortunate; I think it is wrong. Nevertheless, at the end of the day, some investigation and some testing through the public light of an inquiry into the Government's claims about superannuation commitments and the solution of selling ACTEW are better than nothing. But I hope that, later on in this Assembly, when we reach a decision on the sale of ACTEW, this investigation will have shown not only that the superannuation commitments question was one which the Government had put forward as a furphy to justify its privatisation decision, but also that a range of other issues have to be taken into account before a member can vote in favour of the sale of ACTEW Corporation. I would hope that that would become evident through this committee's investigations.

So, whilst we do not get the perfect structure, or perhaps even a halfway adequate structure, we at least get that inquiry. We can at least get that inquiry under way and we can start to dispel some of the propositions that we have heard from the other side of the chamber.

**MR OSBORNE** (6.30): Mr Speaker, I seek leave to move together the three amendments circulated in my name.

Leave granted.

**MR OSBORNE**: I move:

(1) Paragraph (1), omit paragraphs 1(e) to 1(f) inclusive.

(2) Paragraph (2), omit "by 3 pm on Thursday, 19 November 1998", substitute "within 10 minutes of the motion to establish the select committee being agreed to".

(3) Paragraph (3), omit the words "in relation to the sale of ACTEW", substitute "on the final ownership aspect of ACTEW".

The one issue that has concerned me more than anything in my time in the Assembly has been the issue of the unfunded superannuation liability. I recall that, when it first came to my attention two or three years ago, I was a little intrigued by the amount. As time went on, I became quite alarmed by the size of the liability that we had. So, in relation to this whole debate about ACTEW, the one issue that is fundamental to me, the one issue that is more black and white than anything else, is the issue of fixing the superannuation liability.

I do not accept that it is not a problem. I do not expect that it is something that we can take care of down the track. On the evidence that has been tabled, especially in the last couple of months, it would appear that the only way to fix the problem is to sell ACTEW. Mr Speaker, I need to make it very clear that, unless there is an alternative brought up by this committee, I will have no alternative but to back the sale of ACTEW. It is not necessarily something that I want to do, Mr Speaker; but in reality it is, in my view, the only alternative. This committee is to focus on the most important issue for me, for Mr Rugendyke and for other members - the unfunded superannuation liability.

My amendments seek to delete paragraphs (1)(e) and (f) of Mr Stanhope's motion. It was very interesting to see Mr Stanhope put this up when he knew quite clearly that he was not going to get it. I accept the reasons for it, and I will leave it at that. The second amendment is in relation to the notification of the members of the committee. That will be done quite quickly at the end of the motion.

The third amendment is in relation to paragraph (3) of Mr Stanhope's motion. There are a number of issues in this whole ACTEW situation which need to be addressed, regardless of whether or not we sell it. There is the issue of the regulatory framework and there are many other things, Mr Speaker. I have to say, though, that I agree with the arguments put up by the Government and by the Treasury that, if we are going to sell ACTEW, we need to do it quickly, before the New South Wales election. So, Mr Speaker, I am more than happy to allow the Government to continue on its path in relation to the framework and the other peripheral things in relation to ACTEW which need to be done regardless and to bring us to the point, on the first sitting day in February, where we will have this report and then we will vote on the sale of ACTEW two days later.

I do not want to see two months wasted, if it is going to slow down the sale. I am hopeful that Mr Quinlan can come up with a credible alternative. I imagine that members of the Government are hopeful that he can come up with something. I am sure that Mr Kaine and Mr Rugendyke, who are undecided on this, hope that Mr Quinlan can come up with something. That was the motivation for putting this committee together. Mr Kaine says no, does he?

In numerous conversations that I had with Mr Quinlan, one of the complaints he expressed in relation to this whole issue was that he was finding it hard to match the resources of the Government to the data they were putting out. I am more than happy to assist him to come up with something. I have to say, Mr Speaker, that I doubt that he can do it. I just do not think he can come up with a credible alternative. So the ball is well and truly in his court. If he does not come up with something, I will have no option. All that we can do is vote for the sale of ACTEW. I would have no problem in doing that.

**Mr Kaine**: There is an alternative. We could sell this place.

**MR OSBORNE**: "We could sell this place", Mr Kaine interjects. The add-ons will be thrown in free. Mr Speaker, the sad thing for me has been to look at the history of the superannuation liability and to realise that when we were granted self-government in 1989 we did not owe a cent. We had zero debt. We had no superannuation liability. It has been accumulated since 1989. I hear Mr Berry interject. I can understand the embarrassment on his part, having been a member of a government which refused to put away enough money to fix this problem. Look, he shakes his head. I shake my head too when I think of what you did. I may be wrong, but I think the only person that ever put enough money away for the superannuation liability was one Trevor Kaine, when he was Chief Minister. Am I correct, Mr Moore?

**Mr Moore**: I think that is correct.

**Mr Kaine**: This is correct.

**MR OSBORNE**: "This is correct", Mr Kaine says. Mr Speaker, I do not want to slow up the process. Obviously, the sale of ACTEW cannot go ahead without the support of this Assembly. But I think it is vitally important that we allow many of the peripheral things to take place. I have no problem with allowing the Government to do that, as long as it acts in the spirit of this motion, the last bit of which is that the Government not go ahead with the final ownership aspect of ACTEW until we report back. I have laid my cards on the table, Mr Speaker. I have been speaking about superannuation for a number of years. So it is a real problem for me. When you have people like the Auditor-General issuing reports saying that a cash injection is the only way to go, I think that Mr Quinlan does have some hurdles to overcome.

Quite clearly, the Government would like to see the sale proceed and the legislation pass in two weeks' time, Mr Speaker. My colleague Mr Rugendyke, who is not as clear-cut as I am on the issue of the superannuation problem because he has not followed it to the extent that I have, and I have agreed to the request of the Labor Party to hold it off until the first sitting week next year, but I fully expect at that time to be voting for the sale of ACTEW to proceed.

Some time has been lost, Mr Speaker. Perhaps, in hindsight, when Ms Tucker put her motion up, I should have been a little bit quicker on my feet and supported the referral to a committee back then, and perhaps we could have been making a decision at the end of the year. But that is my fault, Mr Speaker. I accept that. So we will now go into the Christmas break with a fair amount of work to do in the next couple of months. I am looking forward to it. I am looking forward to assisting Mr Quinlan in this daunting task. I know that deep down inside he is really looking forward to it.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (6.39): Mr Speaker, I think this motion gives us the chance to face the big issues to do with this particular decision. I have said before, and I repeat today, that our decision on the future of ACTEW is the most significant financial decision that the Assembly will make in this term and one of the biggest it will

ever make. For that reason it is vital that there be a chance to offset against this decision some of the major ramifications in financial terms that flow from it. For that reason I support the amendments which have been put forward by Mr Osborne to ensure that the Assembly focuses on the biggest issue of all, and that is the issue of the Territory's unfunded superannuation liability. Mr Speaker, we have heard a lot of nonsense, a lot of rhetoric, a lot of sheer, unadulterated claptrap in the course of the debate about ACTEW so far.

**Mr Moore**: Some simple mistakes, too.

**MR HUMPHRIES**: We have heard some simple mistakes as well, and that has not helped matters at all. We have heard assertions about how the privatisation of power results in lower levels of reliability for our utilities. That is not borne out by what has happened in other States, mind you, but assertions to that effect have been made. We have heard suggestions that prices will go up - also not borne out by what happens elsewhere. We have heard assertions about loss of quality of service. People have conveniently overlooked some of the disasters that have happened to publicly-owned utilities elsewhere.

Mr Speaker, I think, if we have a debate about those issues in this committee, we will not so much end up with an attempt to find consensus on key issues, which should be the focus and which generally is the focus of the work of most of our committees in this place, but rather we will find a select committee being used simply as a forum whereby the two sides of this debate can slang it out and dredge up ammunition for an all-out brawl, using misinformation against misinformation and all sorts of distortions and propaganda basically to advance the side that that particular cause comes from.

That is not going to be helping anybody in the community make a decision. It will not help this Assembly make a decision. But there is a fundamental issue about which it is not possible to be particularly political, in the sense of projecting a partisan and distorted picture of the issues, and that is superannuation. Either there are alternatives - viable alternatives, reasonable alternatives - to what is before the Assembly at the moment or there are not. This committee gives us the chance to test the issue which has been put before the Assembly by the Government, the proposition that we have asserted, which is that we have a need to sell ACTEW for reasons to do with competition in the Australian electricity and water marketplace, and the other proposition, which is that such a sale would meet a huge unfunded liability facing the ACT community over the next 20 or 30 years, which is the unfunded superannuation.

Mr Speaker, as a member of a government which has put forward that proposition, I welcome the chance for a committee to test that issue of unfunded superannuation. It is a pivotal issue. It is an enormously important issue. It is an issue where, indeed, members who have opposed each other on this issue can go toe to toe. We can have a slug-out in that forum on issues to do with process perhaps and the necessity for it and other things like that. But the fundamental question - whether there is an unfunded liability and whether there are other alternatives to addressing it - is an issue that the committee cannot escape and must address. I think, Mr Speaker, a forum like this would be very useful in addressing it.

I might indicate to the Assembly that the Government will be nominating me as the government representative on that committee. It is not usual to have Ministers on such committees, but I think it is important that there be a level of involvement in that process by a Minister. Mr Berry shakes his head. There is no provision in standing orders, as I understand it, Mr Speaker, which prevents a Minister serving on a committee. There are precedents for that to occur. I think it is appropriate that it should take place. Certainly that is what my party will be doing.

So, Mr Speaker, I welcome this chance. I look forward to the exercise. I hope that we will employ the usual process of empirical analysis of issues with, let me say, hopefully perhaps and touching wood, a minimum of political overlay in that process, because the answer to the question we ask is important and the problem that we are facing is of such enormity that we owe it to our community to find the best possible solution to that problem.

**MS TUCKER** (6.46): I have already expressed my concerns about the way sections of the motion are being deleted, but I am interested in making a comment on Mr Humphries nominating for this committee. He says that there are precedents for this. I would like to hear what they are. I know, of course, that there are precedents for Ministers being on housekeeping and domestic committees. He cannot just say that there are precedents. I would really like to know what they are, because that is very interesting to me.

I am also interested in the principle of it, because my understanding is that the function of committees is to scrutinise and examine what government does. The committee is a creature of the Assembly which scrutinises government, basically. What this committee is doing, basically, is looking at the claim that there is only one way to deal with our super debt, and it is to sell ACTEW. That is the position of this Government. Now we are having a Minister of this Government joining this committee to scrutinise this Government's claim. I find that a bit of a joke actually and very worrying. I do not know what Mr Humphries thinks he is achieving by it, except bringing this parliament into greater dispute than it is in already. It is obviously political. Maybe they do not think that anyone else in that group has the talent to actually go onto that committee.

**Mr Moore**: What has your position been?

**MS TUCKER**: Mr Moore says, "It is your decision". I am making particular points about the role of committees in this Assembly.

**Mr Moore**: I said, "What is your position?".

**MS TUCKER**: What is my position? What are you talking about?

**Mr Moore**: It has been absolutely, implacably opposed.

**MS TUCKER**: So now we are going to have the issue that people cannot go onto committees if they have - - -

**Mr Kaine**: On a point of order, Mr Temporary Deputy Speaker: Does Ms Tucker have to put up with being harassed by a Minister when she is trying to make a point? I do not think we should permit it.

**Mr Moore**: I apologise, Mr Temporary Deputy Speaker.

**MR TEMPORARY DEPUTY SPEAKER** (Mr Hird): I uphold the point of order. Ms Tucker, would you address your remarks to the Chair, please.

**MS TUCKER**: Certainly. What I believe this will do, as I said, is bring this place into greater dispute than it is in at this point in time, because it is obviously a political action by the Liberals and their supporters and it is not in the interests of the parliamentary processes at all. I think it is a very strange thing for them to be doing. It is also strange that you would have a Minister questioning his own public servants on a particular subject. What does that lead to? Where do we get to with this? These are the sorts of questions that I think we should have time to actually discuss and consider as an Assembly.

We have just been given an amendment that says, "Ten minutes, right. We have got 10 minutes, guys. We will work this out". We have 10 minutes to work out the membership of the committee, but we now have an extra issue to address. For the first time since I have been in this Assembly, we have a Minister who is going to join a committee to scrutinise his own Government and question his own public servants. I think it is very odd. I do not like it at all. I think other people should object.

The other issue that I am concerned about here is that we are starting to blur the lines. We have people here who talk about inclusive processes; we had the Pettit inquiry; and we have suggestions made that we should all get warm and fuzzy and work together. But when we see processes being hijacked by the use of numbers in this place, it makes a total joke of talking about inclusive processes.

We are once again seeing an attempt by this Government to muddy the waters of the separation of the Assembly, the Executive and the committees of the Assembly. It is quite clearly of concern, because it can easily be seen to be blurring those lines. I guess the issue for me is that it is challenging those fundamental conventions of our system. When I first came here, interestingly enough, Mr Moore was always so respectful of them and careful about them, but he seems to have changed, and he sits there now happily supporting Mr Humphries. Mr Osborne said that this is about looking at the Government's claim that superannuation can only be paid by selling ACTEW. He said, "This committee has to prove to me that the Government is wrong and there are other ways to pay off this debt. That is what this is about". If we accept that, then for Mr Humphries to come on it is a joke, and I would totally distance myself from the whole process.

**MR KAINE** (6.51): I am afraid I have to agree with Ms Tucker on this matter. Over the last three years or so we have seen some strange propositions coming from the Government that seem to indicate that they have lost sight of some basic things like the separation of the Executive and the legislature. The Executive has a role to play and the legislature has a role to play, and you cannot substitute one for the other. It would be

establishing a precedent. I recall no precedent in the 10-year life of this place where a Minister has sat on a committee of any kind before. For somebody who approaches politics with somewhat of an academic bent as the Minister does, I find it quite strange that he would even propose such a thing. In this particular case, if the Minister really wants to know the figures, I am quite sure that he has access to public servants through the mechanisms of the Cabinet.

**Mr Stanhope**: He directs them.

**MR KAINE**: I am coming to that point in a minute. He is a member of the Cabinet, and the Cabinet can and does get information that it requires from public servants. Of course, the Office of Financial Management is very much a part of that and I am sure has already provided to the Cabinet all the information that it has available on this question. Why then does the Minister need to sit on this committee to have access to that information? The answer is that he does not. The other point, the one that Mr Stanhope just referred to, is that it is even worse in this case, because the Minister happens to be the Minister Assisting the Treasurer. That is one of his portfolios.

**Mr Stanhope**: Is he a shareholder of ACTEW?

**MR KAINE**: As a matter of interest, yes, he does happen to be a shareholder in ACTEW, one of the two voting shareholders. The Minister, first of all, already has access to all of the sources of information that exist, while we as simple members of this legislature do not have access to that information, unless the Government chooses to make it available to us. The Minister does have access by virtue of his privileged position. He also would have a conflict of interest both as the Minister with responsibility, through the Chief Minister, for budgetary and financial matters and as one of the two voting shareholders of ACTEW. Frankly, I think that it would be quite improper, as well as being an innovation in the experiment of self-government in this place, to have a Minister on a committee. It would be quite unusual. I agree with Ms Tucker. I think that the Minister ought to take some advice from somebody who has a good background in constitutional law as to whether or not it would be proper for him to take such a role. If he did that, he would have to seriously reconsider the notion that he can sit on such a committee.

**MR QUINLAN** (6.55): Firstly, let me record that I do not support the exclusion of the wider terms of reference. We will be looking at this question. We will need to take into account the overall impact of the sale of ACTEW in order to present a comprehensive answer to the ACT population. I do not agree with the amendments that would allow the Government to progress the sale and ignore the fact that there is a committee. I do appreciate hearing from Mr Osborne that he has just given his commitment to hold a decision until the committee reports. That is in *Hansard*. I can count around the place, so I know that we are not going to win a vote on Mr Osborne's amendments.

On Mr Humphries' nomination to the committee, we have just heard Mr Kaine. It was as if Mr Kaine was speaking from my hastily drafted speech notes. This does tend to make a mockery of the committee. It does tend to telegraph not just to this place but to the population of the ACT at large that the Government does not approach this in good faith.

It was the will of the people's Assembly to appoint the Minister Assisting the Treasurer a shareholder of ACTEW. I agree entirely with Mr Kaine. It is improper and it looks bad for the Government to have Mr Humphries on the committee. Standing order 224, under the heading "Pecuniary interest", states:

> A Member may not sit on a committee if that Member has any direct pecuniary interest in the inquiry before such committee.

Mr Humphries is a shareholder of ACTEW and carries shareholder responsibilities. As a consequence - I am not a lawyer - it would seem to me he has a direct pecuniary interest in ACTEW. The future of ACTEW is embroiled in the options for addressing the superannuation liability, so I would contend not only that it is a mockery of the committee but also that it may well be outside the bounds of standing orders and Mr Humphries may be disqualified.

**MR RUGENDYKE** (6.58): I have spoken before on the amendments. I am perturbed by the apparent nomination of Mr Humphries for membership of the committee. Mr Kaine spoke very eloquently in expressing exactly my thoughts on the matter. I think Mr Kaine said it extremely well. It also appears to me that the spirit, if nothing else, of the provisions of standing order 224 ought to preclude a shareholder of ACTEW from being on the committee. I disagree that Mr Humphries ought to be a member of the proposed committee.

**MR CORBELL** (7.00): I am amazed at the Government's proposal that a Minister - a member of the Executive and the Cabinet - should sit on a committee which is scrutinising a policy decision of the Executive. That is effectively what the Government is proposing. It is not an acceptable proposition to this side of the house and it should not be an acceptable proposition to any non-Executive member of this place. It would seem to me that it sets a very dangerous precedent. It sets a precedent that Ministers can sit on committees of this Assembly and inquire into their own activity, as Ms Tucker pointed out earlier. Ministers could examine witnesses, many of whom could actually be public servants they are responsible for.

This is an outrageous proposition. It is probably designed for one of two things - either to bring the committee into disrepute by creating a situation where it is seen no longer to be credible or to put a stick in the wheels to make the whole thing fall over, which would suit the Government's agenda very nicely, I would suspect. The Government has a stated position - the sale should be approved or rejected in a fortnight's time. The Government has not renounced that position; it is still the Government's position. The nomination of a Minister serves the political advantage the Government is trying to win here.

I think we have to look beyond the political tactics and manoeuvrings which are occurring in this place at the moment and look at the principle of it. Is the Government seriously proposing that from now on it is all right for a Minister, a member of Cabinet, to sit on a committee of this Assembly and inquire into the various policy directions, and alternatives to policy directions, that are proposed by the same Cabinet

and Executive? If they are, it is unprecedented. It is contrary to the Westminster system of parliament as it is practised in this place and as it is practised, I understand, in the Federal Parliament. It is a proposition that I do not believe members of this Assembly should accept for a moment.

**Ms Carnell**: Would you rather have me?

**MR CORBELL**: The Chief Minister asks whether I would rather have her. No, I would not, because you are a member of the Cabinet too. In fact, I would not have any of you who are in Cabinet. It is not because of your individual personalities; it is not because of how you behave; it is not because of what you think. It is because you are members of the Executive; it is because you are members of Cabinet. The question I would like to ask in this place is: What does this say of you, Mr Temporary Deputy Speaker, and of Mr Cornwell, the Speaker? What is the ministry saying about you and Mr Cornwell? Are they saying you are incapable of sitting on this committee? I certainly hope not. I certainly hope they are not reflecting on your ability - - -

**Ms Carnell**: Mr Hird is on eight committees, and he is supposed to have more time.

**MR CORBELL**: If the Chief Minister wants to speak, I am sure she can stand up. Mr Temporary Deputy Speaker, I certainly hope they are not reflecting on your capability to participate in this inquiry. I certainly hope they are not reflecting on even Mr Cornwell's capability to participate and act as the government member in this inquiry. It would seem to me that that is one conclusion members of this Assembly and members of the community could draw if a Minister was appointed instead of one of the non-Executive members of the Government. I certainly think it would be an entirely valid conclusion to draw if it did occur.

The Government is very keen to have someone on the committee arguing their case. That is an entirely legitimate course of action for the Government to take, but there is a convention in this place which says that a Minister, a member of the Cabinet, should not participate in the deliberative hearings of a committee of this Assembly. This is a dangerous blurring of the line between the Executive and the legislature. It is something which we saw the Chief Minister try to do about a year ago, or a bit earlier, with her Executive committees. Remember the Executive committees, the ones that the Clerk had some very interesting things to say about which were very informative to all members? Remember how they were received? That is exactly the sort of attitude which is leading to the Government proposing that Mr Humphries sit on this committee. I would remind Mr Rugendyke of that, if he is listening to this debate. I hope he is listening to this debate.

**MR TEMPORARY DEPUTY SPEAKER**: Mr Corbell, you will address your remarks to the Chair.

**MR CORBELL**: I am certainly hoping that Mr Rugendyke is listening to this debate. It is important to remember that the Executive committee proposal was completely rejected by this place. It was rejected by people who have expertise in the principles of the separation of powers, the operations of a parliament and the operations

of a legislature. They said that it blurred the line to a dangerous degree, yet this Chief Minister has not learnt her lesson. This Government has not learnt its lesson and is proposing, in this outrageous suggestion, that a Minister perform the role of a non-Executive member in scrutinising and examining a proposal which is essentially that of the Executive. That is what the Government is proposing.

The hypocrisy, particularly of Mr Moore, who would seem to condone this but who was until very recently the champion of the legislature over the Executive and the rights of the legislature over the Executive, is appalling. I certainly hope that Mr Osborne, who is equally a champion of the rights and the privileges of the legislature over the Executive, will also oppose this proposition. If he does not, then he reveals that he does not have that understanding; but I am very hopeful that he does have that understanding. Once we blur the line, it is blurred forever and it is a precedent which this Assembly cannot walk away from - a member of Cabinet on a committee of the Assembly. It is not a proposition that this Assembly should in any way accept.

**MS CARNELL** (Chief Minister and Treasurer) (7.09): Mr Temporary Deputy Speaker, you have another role. *(Quorum formed)* Those opposite say that this is an important debate. An important issue is certainly unfunded superannuation. People seem to be pulling the sale of ACTEW in with that. These are important issues. There is no doubt about that for the people of Canberra. Are those opposite suggesting that the Government should not have a representative on the committee? If that is the case, then the committee is worth nothing. It is worth nothing if there is no government representative on it when you consider that, according to those opposite, this is a direction put on the table by the Government. If that is the case - - -

**Mr Stanhope**: It is not.

**MS CARNELL**: If that is not the case, Mr Stanhope, what you are suggesting is that our one backbencher should be on more than eight committees. It is not humanly possible to go to the meetings, to read the papers and to do the background work for even eight committees.

**Mr Wood**: I did it. I can tell you from personal experience that it can be done.

**MS CARNELL**: Are you going on this committee? No. Spot on.

**Mr Stanhope**: I think we are prepared to prioritise, Chief Minister. I think we are prepared to prioritise and forgive Mr Hird if we just ease off on a couple of other inquiries. We will forgive him.

**MS CARNELL**: But that is not all right. We want to make sure that our representation on all committees is appropriate. When we look at the terms of reference of this committee, there is no reason in the world why Mr Humphries cannot do a very adequate job in representing the views of the Government on this committee. This committee does not scrutinise the Government. This committee is looking at particular issues.

It is not looking at government budgets, government directions or government anything else; it is looking at some very definite issues. Mr Humphries, I am sure you would agree, will do this very adequately. He is going to have trouble with time but he has more time than somebody on eight committees. It will mean that the input into the committee is very good. We would be confident of that. I cannot understand why anybody in this place would have a problem with somebody who is very capable of going onto a committee.

While we have the number of people we have in this Assembly and while we have five ministries, this will not be the first time that this happens. As Professor Pettit made very clear, there are not enough people for a government with six to eight members - that is what we will always have - five of them Ministers and potentially one a Speaker, to have a backbench big enough to be represented on all committees at all times. It will mean that from time to time others will have to represent the Government. Professor Pettit picked up that problem. It is becoming fairly obvious. There is already one Assembly committee that the Government is not represented on. It is not represented at all on the Select Committee on Gambling because we simply do not have the people to do it.

The committee we are debating now is a very important committee, as is the Select Committee on Gambling, and it is essential that there be government representation. That representation, we decided, should be Mr Humphries because we did not think you would be too keen on me as the Minister, and I fully agree that the Minister being on a committee could cause some degree of, I suppose, angst from some members. I am sure that if I was on the committee I would represent the Government's interests well, but I can understand that that would cause some discomfort for members. Mr Humphries is not the Minister. He is very capable of getting on top of the documentation and the data and putting the Government's position.

I have no idea why members are so worried about this particular scenario and why some of them believe that somehow this will cause some fundamental problem. All I can imagine is that those members are hopeful that the Government will not have representation or that they expect Mr Hird to go on nine or 10 committees so that his capacity to read the document - - -

**Mr Hargreaves**: What about Mr Cornwell?

**MS CARNELL**: That is what I am talking about. For the life of me, I do not understand why this is a problem. If this is an important committee, then what we want is the best input that we can possibly have. The Government believes that Mr Humphries will represent the Government's interests well. No-one has argued against that point. If we want a committee that will do the best job possible, why on earth would you argue with Mr Humphries being the government representative? Governments in the future will have the same problem as we do - one backbencher and an enormous number of committees. When there is a special committee like this one with a short timeframe, then I think the Government must be allowed to have a representative who will do the job well. This is not something that would happen regularly, but in this particular case members seem to want to have another committee that will run over the Christmas period. Mr Humphries is the government representative we have nominated.

**MR BERRY** (7.16): During his contribution to the debate Mr Osborne made the comment that the previous Labor Government had not made a contribution to the Superannuation Provision Trust. He did acknowledge that it was set up by Mr Kaine and that $71,000 was introduced into the account by Mr Kaine. In the next three years the Follett Government put in about $90,000 and in the following three years about $40,000 was contributed by the Carnell Government. So Labor contributed almost twice as much to the Superannuation Provision Trust.

**MR STANHOPE** (Leader of the Opposition) (7.18): I rise just to reiterate the points that have been made. They have been made well. It is late and we are all tired. I will not labour the point, although it is important, I think, just to get these things on the record in terms of this proposal and the amendments. The Labor Party has been engaged in negotiations, as have other members of the Assembly, with Mr Osborne and Mr Rugendyke about the desirability and the good sense of an inquiry into certain of the issues that are most current in the ACT at the moment - the question of ACTEW and the question of the superannuation liability and the attempts which the Government has made to join the two in its endeavours to convince the people of the ACT that selling ACTEW is a good and sensible thing to do.

It is in that context that the terms of reference for the select committee that I propose are in the form they are. Mr Osborne did make some comment about our desire in the Labor Party to see the terms of reference broad enough to include aspects other than just superannuation, and I stand by that. I know that in our negotiations Mr Osborne was never keen on that, but the Labor Party always was and it was always the position we took in those negotiations. I do not think Mr Osborne is surprised that that is the position we have held. In that sense, I am disappointed that Mr Osborne and Mr Rugendyke are not inclined to proceed with the terms of reference as proposed. I take the point that my colleague Mr Quinlan has made. I will see how the cookie crumbles. We are, despite our disappointment, prepared to proceed with an inquiry such as this because it is such an important matter and the people of the ACT deserve an opportunity to have the issues properly investigated and probed.

There are a couple of other aspects of the comments Mr Osborne made that do actually cause me to make some comment. The suggestion that it is up to Mr Quinlan and the Labor Party really does undercut the basis and purpose of any select or standing committee inquiry of the Assembly. These are committees of the Assembly. These are not committees established for the purpose of allowing a particular grouping within the Assembly to progress a particular view. We are proposing here a committee of four.

I think it is unfair and really does undercut the nature and purpose of the Assembly committees and the basis of their operation to suggest that it is all up to Mr Quinlan, particularly if the Government actually succeeds in its stunt to have one of the shareholders, a Cabinet Minister, participate on this committee and then to maintain the fiction that this is all about Mr Quinlan's inquiry, Mr Quinlan's attempts at convincing a sceptical member about the existence of other options for dealing with the superannuation liability - a suggestion made, of course, by Towers Perrin that there are other possibilities. There are going to be three other people on that committee who will play a very significant role in its conduct and its outcomes.

There are a number of other things that I would say. As I have said, I am disappointed that the terms of reference are to be truncated. Nevertheless, I am pleased that Mr Osborne and Mr Rugendyke have seen their way clear to support an inquiry of sorts. I think it will serve a very useful purpose. The Labor Party, through our nominee, Mr Quinlan, looks forward to working with Mr Osborne, who I understand is nominating, and whoever else is successfully appointed to the committee.

I will make just a couple of brief comments on the proposal which we have been debating, that there be a Cabinet Minister on the committee. I will restrict my point simply to endorsing absolutely everything that my colleague Mr Corbell and everything that Mr Kaine said about this. I think it is just an appalling stunt by the Government. It is a spoiling action. The prospect of any member of the Cabinet being on this committee is completely unacceptable to the rest of the Assembly. For the Chief Minister, too, to quote Pettit as in some way justifying the need to utilise - - -

**Ms Carnell**: He made the comment that there is a problem.

**MR STANHOPE**: I would be careful about what Pettit said. He did; but, Chief Minister, he also made comments about the desirability of members of the Executive serving on committees. I think you will find, Chief Minister, when you look at it a little bit more deeply, that Pettit was not prepared to accept the prospect of members of the Executive serving on - - -

**Ms Carnell**: That is not what I said. I said that Pettit acknowledged the problem of not enough backbenchers for governments, and that is why he went to more members.

**MR STANHOPE**: We all acknowledge that. We have all noted that the Liberal Party and the Government endorse an increase in the size of the Assembly to 21. I will conclude my remarks on the amendments there. We are all tired, and I think that we are perhaps - - -

**Ms Carnell**: I am not.

**MR STANHOPE**: I could keep going, too, Chief Minister; but I am being sensible.

Amendments agreed to.

**MR BERRY** (7.24): I seek leave to move an amendment which has been circulated in my name.

Leave granted.

**MR BERRY**: I move:

Paragraph (2)(a), after "one", insert "backbench".

Mr Temporary Deputy Speaker, this is a straightforward amendment, which requires that the government nominee be a backbench member. I need say no more to that, because there has been much said about it already.

Question put:

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

*A call of the Assembly having concluded -*

**Mr Berry**: Mr Temporary Deputy Speaker, a mistake has been made here.

**MR TEMPORARY DEPUTY SPEAKER**: The member concerned has not indicated that there was any mistake.

**Mr Berry**: The member should indicate.

**Mr Rugendyke**: I think my vote ought to have been yes in that case.

**MR TEMPORARY DEPUTY SPEAKER**: You did not hear the call; is that what you are saying, Mr Rugendyke?

**Mr Rugendyke**: I think I said no instead of yes, which was a mistake.

**MR TEMPORARY DEPUTY SPEAKER**: Under standing order 165, in the case of confusion or error, the Assembly can proceed to another vote.

The Assembly voted -

| *AYES, 7* | *NOES, 6* |
|---|---|
| Mr Berry | Ms Carnell |
| Mr Kaine | Mr Hird |
| Mr Quinlan | Mr Humphries |
| Mr Rugendyke | Mr Moore |
| Mr Stanhope | Mr Osborne |
| Ms Tucker | Mr Smyth |
| Mr Wood | |

Question so resolved in the affirmative.

**Mr Berry**: Mr Temporary Deputy Speaker, I wish to inform the Assembly that Mr Corbell and Mr Hargreaves are paired with Mr Cornwell and Mr Stefaniak.

**MR OSBORNE** (7.31): I am of a mind to vote against this whole motion because I cannot for the life of me understand what the Labor Party is scared of. The appointment of this superannuation committee is a very serious matter.

**Mr Kaine**: It sure is, and you should have been here to listen to the debate.

**MR OSBORNE**: I have been listening to the debate out there, Mr Kaine, in that room. I cannot for the life of me work out what you are afraid of. I can understand Mrs Carnell not going on the committee, but I cannot work out why we should exclude Mr Humphries or any other Minister.

**Mr Kaine**: On a point of order, Mr Temporary Deputy Speaker: I think the member is reflecting on a vote that we just took.

**MR TEMPORARY DEPUTY SPEAKER**: On the point of order, I will listen very attentively to Mr Osborne's address to the house.

**Mr Kaine**: If you suspect that he is reflecting on a vote, you will stop him, won't you?

**MR TEMPORARY DEPUTY SPEAKER**: Yes. You have made your point of order, Mr Kaine.

**MR STANHOPE** (Leader of the Opposition) (7.33), in reply: Mr Temporary Deputy Speaker, this has been a long and tortuous debate. I am not quite sure why Mr Osborne feels so aggrieved or aggravated by the views of the Opposition on this matter. Mr Osborne is, as always, of course, quite free to do whatever he wants - to cast his vote in whatever way he wants - and I am quite happy for him to do so. In relation to the debate that we just had, or endured, concerning the membership of this committee, I have to tell you, Mr Osborne, that I disagree with you absolutely. I think the attitude of the Government and the Liberal Party to the representation on this committee exhibited utter contempt.

**MR TEMPORARY DEPUTY SPEAKER**: The Leader of the Opposition will address his remarks to the question before the house.

**MR STANHOPE**: I will, Mr Temporary Deputy Speaker.

**Ms Carnell**: Also, he cannot reflect on a vote of the Assembly.

**MR TEMPORARY DEPUTY SPEAKER**: That is why I said that, Chief Minister. It is late, and I know that the Leader of the Opposition is not going to take much time.

**MR STANHOPE**: I am not, Mr Temporary Deputy Speaker, although I would like to speak at length about the issues here, the issues we have covered in the debate. As I said before, I think this inquiry will be incredibly useful. I share the sentiment that Mr Osborne expressed before. I think it is a pity that, when Ms Tucker moved a motion some month or so ago, it was not taken up. That, of course, was the genesis of this proposal. I think it is a shame that we did not proceed at that stage. But let us get over that.

We now have an inquiry of sorts. The Labor Party is willing to work genuinely with other members of the Assembly on that committee to investigate issues around the superannuation liability. It is not our preferred position, but we are prepared to do it, in the interests of the debate and in the interests of the future of ACTEW and the ACT. We are prepared to be constructive about it. We have got nothing to be afraid of. We are prepared to tackle the issue head on, and we will.

I look forward to Mr Quinlan's participation in the committee. It will be constructive. We will show that there are many other ways of meeting the issue facing us in relation to the superannuation liability, as pointed out to us by Towers Perrin. It is there. We simply need to look at it, not to be afraid to go forward, and to put the best interests of the ACT first. I commend this motion to members of the Assembly. I am truly dismayed that it has taken this level of conflict to get us to the point that we are at now.

Motion, as amended, agreed to.

## TERRITORY'S SUPERANNUATION COMMITMENTS - SELECT COMMITTEE
### Membership

**MR TEMPORARY DEPUTY SPEAKER**: Pursuant to the resolution of the Assembly of today, 26 November 1998, I have been notified in writing by Mr Humphries, the leader of the house, of the nominations of Mr Hird, Mr Osborne, Ms Tucker, Mr Kaine and Mr Quinlan to be members of the Select Committee on the Territory's Superannuation Commitments.

**Mr Osborne**: I think you should read the motion and count the nominees.

**Ms Carnell**: I think there are only supposed to be two crossbenchers, and you have got three. So we have got to vote.

**Ms Tucker**: We have all nominated. So we have to vote.

**Mr Moore**: Yes, we have to vote now. We have to have a ballot.

**MR TEMPORARY DEPUTY SPEAKER**: There being more nominations than there are places, the Assembly shall proceed to a ballot.

**Mr Moore**: Unless somebody wants to withdraw. You realise how much time ballots take.

**MR TEMPORARY DEPUTY SPEAKER**: Order! I draw members' attention to standing order 267 which deals with the manner of taking a ballot, which we will undertake shortly. It states:

> Unless otherwise expressly provided, a ballot shall be taken in the following manner: Each Member present shall give to the Clerk a list of the names of such Members as the Member thinks fit and proper to be chosen at such ballot; and if any list contains a larger or lesser number of names than are to be chosen it shall be void and rejected.

**MR KAINE** (7.38): Mr Temporary Deputy Speaker, I had always understood from the outset that Ms Tucker wished to be on this committee, and I had indicated to her that, if my nomination had the result of excluding her from being a member, I would withdraw from nomination, and I seek leave to do so now.

Leave granted.

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

> That the Members so nominated be appointed as members of the Select Committee on the Territory's Superannuation Commitments.

## TERRITORY'S SUPERANNUATION COMMITMENTS - SELECT COMMITTEE
### Proposed Membership

**MR OSBORNE** (7.39): I seek leave to withdraw my nomination from that committee as well.

**Mr Berry**: You will have to resign from the committee. I am not giving you leave.

**MR OSBORNE**: I will look forward to the report when it comes out.

**MR TEMPORARY DEPUTY SPEAKER**: I am taking advice, Mr Osborne. You have just been appointed to the committee and, technically, you will now have to move that you be discharged.

**MR OSBORNE**: I will do that, Mr Temporary Deputy Speaker. I move:

> That Mr Osborne be discharged from the Select Committee on the Territory's Superannuation Commitments.

The thing that has annoyed me most about this is that this committee was set up to try to influence the members of the crossbench who were having trouble with the issue of ACTEW. That is why I nominated Mr Kaine, that is why I went on it and that is why we put this whole process up. If the Labor Party and Ms Tucker want to unravel the whole thing, fine. I will withdraw from it, someone else can go on the committee, and I will sit back and wait for the report to be tabled, and then make my decision on the superannuation options.

**MS TUCKER** (7.41): If I just heard correctly, on what Mr Osborne sees as the most important issue that he needs to be across and on which he needs to work with Labor and understand Labor's position, he has just walked out because I am going to be a member of that committee. If that is the case, I wonder exactly what Mr Osborne is afraid of in my membership of this committee. He has just accused me of wanting to unravel it. I am actually as interested as anyone else in superannuation liability. I do not have a set position on superannuation liability.

Members interjected.

**MS TUCKER:** Can you bring the house to order, Mr Temporary Deputy Speaker? I am having trouble speaking.

I do not have any fixed position on superannuation liability. I am interested in the issue and I have an open mind on whether or not there are different ways of dealing with that liability. What I have expressed strong opinions on, of course, is the need for us to understand the downside of ACTEW being sold to pay this debt. That is what many people in the community have asked for.

We have asked for a full inquiry into this issue of ACTEW so that we have a proper cost-benefit analysis of the whole sale of ACTEW, not just an inquiry into whether or not superannuation could be paid off in a different way. We have seen, obviously, an incredible, desperate reluctance from the government side and from Mr Osborne and others to actually allow that scrutiny to occur. So I have to accept Mr Osborne's sulkily walking out of the committee; but I think it would be useful, if there is a space vacant, for Mr Kaine to join the committee, because I know that he too is interested in producing a report. So I move that the following amendment be made to Mr Osborne's motion:

> Add the following words "and appoint Mr Kaine in his place".

**MR DEPUTY SPEAKER**: Ms Tucker has moved as an amendment to Mr Osborne's motion that Mr Kaine be appointed in his place. We are now discussing the amendment to appoint Mr Kaine. It seems strange that we will consider that amendment before Mr Osborne is discharged.

**Mr Stanhope**: I assumed that he had already been discharged and that there was a vacancy.

**MR DEPUTY SPEAKER**: No; I have not put that question.

**Mr Hird**: I will also move to be discharged from the committee.

**MR DEPUTY SPEAKER**: Mr Hird, I am advised that you need to wait until we have dispensed with the current motion. You have certainly indicated what you propose.

**Mr Hird**: I have foreshadowed it.

**MR KAINE** (7.45): I just want to fill a hiatus in the debate and say that I am happy to accept the nomination. I indicated earlier that I had undertaken to Ms Tucker that, should my nomination exclude her from the committee, I would withdraw my nomination. I was happy to do that. By the same token, I am also happy to do the work that is required as a member of this committee. If that is necessary now to fill a vacancy, I will accept the nomination. But I must say while I am on my feet that, in all my years in this place, I have never seen such childishness and pettiness from people who are supposed to be adult persons. This would have to be the ultimate dummy-spit in 10 years of self-government. I find it, frankly, quite offensive that people can behave in this way.

This is not a frivolous matter. It is a very serious matter. I am astonished at the way people have behaved. I just reiterate that I am, as always, prepared to do some work in this place, and I wish that everybody else here was prepared to take up the burden and do a bit as well, without having conditions attached to it and having the opportunity to opt out when it does not suit them and when things do not run the way they want them to. We have obligations here as elected members, and we are not free to have little fits of petulance and childishness and to let that govern the way that we do business here.

Amendment agreed to.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (7.47): Mr Deputy Speaker, I have to say that the process that has been employed here is entirely unsatisfactory. Mr Berry over there smirks wildly, like a Cheshire cat. He thinks it is funny that the process of the Assembly has reached the point where he is able to get the sort of committee on this that he wants.

**Mr Berry**: I am not smiling. I am laughing at you.

**MR DEPUTY SPEAKER**: Let us not add to the unsatisfactory situation. Let us just get this done.

**MR HUMPHRIES**: Mr Deputy Speaker, I think that what we have here is an entirely unsatisfactory situation.

**Mr Berry**: On a point of order, Mr Deputy Speaker: What is the Minister up to?

**MR DEPUTY SPEAKER**: The Minister is speaking to the motion.

**Mr Berry**: I thought we were past that point.

**MR DEPUTY SPEAKER**: No. The Minister is speaking to the motion.

**MR HUMPHRIES**: I know that you are tired, Mr Berry, and the feeling is mutual; but the fact is that, as I say, this is an entirely unsatisfactory process. We will not end up with a balanced committee under the present proposals, and Mr Berry's laughter indicates quite clearly that that was exactly his intention. You people have been playing games all afternoon on this question. Now you say, "This is a perfectly satisfactory outcome.

This is fine". I do not think that we can afford to consider this issue except with good minds, sound members and balanced views around the table of this committee, and we will not achieve that under the present scenario.

I support the motion that has been put forward. Mr Osborne clearly feels that he is going to be unable to discharge that obligation to consider the matter in a balanced way, given the composition of the committee. I think it is appropriate to discharge him on that basis. The Assembly has amended the motion to appoint Mr Kaine in his place. That is fine, except that it does not address the question which is clearly going to come forward in a moment. The situation, clearly, is unsatisfactory. I think the Assembly puts this important issue into the wrong perspective by not dealing with it with a more balanced committee than is available at the moment.

**MR OSBORNE** (7.49), in reply: I acted in good faith in my negotiations with the Labor Party on this, Mr Deputy Speaker. What I wanted was a balanced committee so that we could look seriously at the issue of superannuation. They have stuffed around and stuffed around, and Ms Tucker has stuffed around. That is fine. I accept that.

**MR DEPUTY SPEAKER**: Order! Mr Osborne, I have been advised that you are closing the debate, because you moved the motion. That is right. We will pass by that for the moment.

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

> That the debate be adjourned.

Question put.

The Assembly voted -

| *AYES, 7* | *NOES, 6* |
|---|---|
| Ms Carnell | Mr Berry |
| Mr Hird | Mr Kaine |
| Mr Humphries | Mr Quinlan |
| Mr Moore | Mr Stanhope |
| Mr Osborne | Ms Tucker |
| Mr Rugendyke | Mr Wood |
| Mr Smyth | |

Question so resolved in the affirmative.

Debate adjourned.

## ADJOURNMENT

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

That the Assembly do now adjourn.

## Pinochet - Extradition : Abortion Debate

**MR BERRY** (7.54): Mr Deputy Speaker, I want to report a rather significant event which has occurred in the last couple of days, and it relates to a motion which was moved in this Assembly. I refer to the motion on Pinochet. Some of you who were travelling home early this morning would have heard news that the House of Lords ended up with a three to two decision by a panel of judges in the House and the position now is that it is up to the Home Secretary, Britain's Interior Minister, to make a decision by 2 December on whether or not extradition proceedings can proceed. I hope that those extradition proceedings occur.

Mr Deputy Speaker, the Chilean community in the ACT is over 2,000 strong. Many of them have been affected by this regime in one way or another in the past. They have been actively campaigning to ensure that this result was achieved. I would like to be able to say that our motion had something to do with it, but I know that our motion would not have affected the judgment of the courts. Nevertheless, I think it was an appropriate gesture in response to the reaction from the Chilean community to this issue as it unfolded in the United Kingdom.

I note also that members of the Chilean community were again outside the British High Commission around midday today thanking them for their support in the matter. It is now up to Britain's Interior Minister, and I trust that a result which pleases the Chilean community will occur.

Mr Deputy Speaker, this week has been a very busy week. It has been a distressing one for many. It has been particularly distressing for women in the ACT. I hope that at some time in the future the members opposite who were responsible for the activities of this week will be brought to book for it.

## Abortion Debate

**MR OSBORNE** (7.57): Last night I attempted to speak in the adjournment debate at the end of that long, tortuous process, Mr Deputy Speaker. I would just like to take the opportunity now to thank my supporters from many quarters. I thank my staff for the effort they put in in relation to the Bill yesterday and the other people who were involved. It is also important for me to take the opportunity to note, but not in detail, some of the fraudulent claims by a small, fanatical splinter group which has attempted, unsuccessfully, to divert attention from their own inadequate claims. This group, which out of courtesy

to its hardworking members I will not name, pretends to be part of the pro-life community. Indeed, many of its members are fine people and work very hard for the pro-life cause. Unfortunately, a few self-proclaimed, unelected leaders of this group in Sydney have let their own desire for attention cloud their judgment. Perhaps it is a case of an attention deficit problem, which can be treated medically. For their sake, I hope so.

Regrettably, their pathetic legal advice is deficient. It is as deficient as its understanding of politics and many other matters. It has the sophistication, subtlety and incredibility of the Flat Earth Society, or perhaps it is better to say that they live in Fantasyland. Some of the propositions advanced by their sole legal adviser - and I use the term very loosely, Mr Deputy Speaker - would not pass muster with any student in any discipline. He would not dare run any such arguments before any lawyer, and certainly not before any court. He would be laughed out of it. Indeed, if he actually practised law - and it appears that he does not, because he is too busy telling porkies about anyone who disagrees with him - he might have the benefit of instruction from genuine practitioners and not the fawning affection of groupies.

This group demand justice from everyone but give it to no-one. They selectively quote documents, knowingly provide false information and vilify anyone who dares to take a different view of the world from their own. They have especially attacked me and my family and my friends and their families. The few who claim to be leaders have divided and confused many in the pro-life family. Their actions are those of schoolyard bullies. People act as bullies only when they have no arguments of substance to advance. This is the case with these unelected and unaccountable, self-proclaimed leaders. This splinter group effectively seeks to set up its own church, in which only the most perfect persons can participate.

## Ecowise

**MS CARNELL** (Chief Minister and Treasurer) (7.59): Mr Deputy Speaker, today at lunchtime Mr Rugendyke and I had the great pleasure of going to the opening of Ecowise, the new private sector operated company owned by the staff. Mr Rugendyke and I were pleased to see the level of enthusiasm and the positive approach of the staff. The owners, who are the staff, tell me that they are really busy and that things are going really well. I am sure that Mr Rugendyke would join with me in wishing them all the best.

It is wonderful to see a group of people who are so positive about the future of their company and the future of Canberra, and who are so pleased to be small business owners. Mr Deputy Speaker, I wish that all members of the Assembly had had the opportunity to see the result of what was a vote in this house. I am sure that the people who did not vote for it would have felt that maybe they should have. But that is another issue. The fact is that it was a vote in this house that produced a situation where there are a lot of very proud people - proud of their company, proud of Canberra and proud that they are now owning their own business.

Question resolved in the affirmative.

**Assembly adjourned at 8.01 pm until Tuesday, 8 December 1998, at 10.30 am**

Contents

**ANSWERS TO QUESTIONS**

**CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY**

**LEGISLATIVE ASSEMBLY QUESTION**

**Question No 48**

**ACTEW - Water and Sewerage Systems**

**MS TUCKER** - Asked the Chief Minister upon notice on 28 October 1998:

In relation to the operations of ACTEW -

(1) For the financial years ending 30 June (a) 1996, (b) 1997 and (c) 1998 -

(i) what was the total cost of operation of the Lower Molonglo Water Quality Control Centre (LMWQCC); and

(ii) what was the cost per megalitre of sewerage processed.

(2) What impact does stormwater influx into the sewerage system have on the costs of operating the LMWQCC.

(3) What bypasses or overflows into the Molonglo River from the LMWQCC have occurred since 1 July 1995.

(4) What are the (a) current capabilities of the LMWQCC and (b) are there any plans or requirements to upgrade or supplement the facility in the foreseeable future.

(5) What (a) action did ACTEW take and (b) correspondence occurred between ACTEW and the ACT Department of Health regarding the repair of:

(i) a broken water main and sewer at Adam Place, Farrer between 1 and 15 July 1998; and

(ii) a sewerage discharge at 107 O'Halloran Circuit, Kambah on or about 14 July 1998.

(6 What (a) policy documents, manuals or internal instructions does ACTEW have in relation to the assessment of risk to public health and safety and (b) the required response by ACTEW work crews for:

(i) discharge from sewer pipes; and

(ii) broken water mains.

(7) What instances of negative pressure occurred in water mains between 30 June 1996 and 30 June 998

(8) What policy documents or management reports has ACTEW prepared regarding the influx of storm water into the sewerage system.

**MS CARNELL** - The answer to the Member's question is as follows:

(1) (i) The total cost of operation of the Lower Molonglo Water Quality Control Centre (LMWQCC) was (a) for the year ending 30 June 1996, $10,969,404, (b) for the year ending 30 June 1997, $10,844,343 and (c) for the year ending 30 June 1998, $9,888,382.

(1) (ii) The cost per megalitre of sewerage treatment was (a) for the year ending 30 June 1996, $340.72, (b) for the year ending 30 June 1997, $321.75 and (c) for the year ending 30 June 1998, $322.46.

(2) Rainwater inflow to the sewerage system impacts on the variable costs of fuel and chemicals used at the LMWQCC. The extra cost attributable to rainwater inflow is approximately $200,000 per annum.

(3) There have been 2 bypasses to the Molonglo river since 1 July 1995. There was a secondary bypass during 29-30 November 1995 because of heavy rain. This bypass effluent was not raw sewerage. It had received primary treatment. Another bypass occurred on 27 June 1996 when a volume of secondary treated waste water overflowed before the filters.

(4) (a) LMWQCC was designed in the early 1970's for a population of 250,000. Per capita flow has not increased as forecasted at the time of the plant's construction. The LMWQCC is currently treating the flow from approximately 310,000 people and for over two years has achieved 100% compliance with the Discharge licence/Authorisation issued by the Environmental Management Authority.

(4) (b) With population growth, the Territory will eventually require additional treatment capacity. This can be achieved by increasing the capacity of the LMWQCC and / or the use of distributed treatment plants around Canberra.

A major Environmental Audit carried out in 1992 identified works which would enhance the LMWQCC. Some of these works have since been completed, for example a new storage dam and inflow regulation facility have been built, several other projects have commenced and the feasibility of others is currently being evaluated.

(5) (a) (i) ACTEW attended to a broken sewer tie from a single house at Adams Place, Farrer in early July 1998. Several days later ACTEW received a call advising of a possible cross connection between a water main and a sewer in Farrer but no location was given by the caller.

On Monday 13 July 1998, ACTEW received a call advising that there was a cross connection in Adams Place. An inspection of the site revealed no obvious surface evidence of a water main leak.

On Tuesday 14 July 1998, maintenance staff spent several hours excavating at several locations along the water main in Adams Place. Eventually a leak was located. It was repaired by 6 pm.

(5) (a) (ii) A maintenance crew responded to a request to clear a blocked sewer main in O'Halloran Circuit. After a discussion with the people at 107 O'Halloran Circuit they were satisfied that the sewer had been successfully repaired.

A maintenance crew was again called to 107 O'Halloran Circuit when sewage overflow was found in a gully trap under shrubs at the rear of the block. Investigation found that the overflow was related to the original problem. It had gone unnoticed by both the residents and the maintenance crew at the time of the repair. The necessary action was taken to clean and disinfect the area immediately. No repairs were needed.

A subsequent call to deal with an overflowing manhole in a nearby lane turned out to be a leaking water service from inside 107 O'Halloran Circuit which needed to be dealt with by a licenced plumber. This was not a water main or sewer problem.

(5) (b) (i) ACTEW notified the Department of Health regarding the incident in Farrer.

(5) (b) (ii) There was no correspondence between the Department of Health and ACTEW regarding the incident at 107 O'Halloran Circuit, Kambah.

(6) The NATA accredited ISO 9002 ACTEW Quality System for Network Services contains work procedures for the maintenance of sewer pipes and water supply mains. ACTEW work crews follow these procedures.

(7) There are no recorded instances of negative pressures in water mains between 30 June 1996 and 30 June 1998.

(8) The sewerage system is constructed in accordance with design guidelines set out in the "ACT Electricity and Water Supply and Sewerage Standards" August 1993. The standards aim to minimise inflow and infiltration to the sewerage system. Design flow formulae in the standards are based on extensive flow gauging records and take into account daily diurnal and peak wet weather flow variations.

CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION
Question No. 50

**ACT Government Employees - Under 21 Years of Age**

**MR STANHOPE** - Asked the Chief Minister upon notice on 29 October 1998:

(1) In absolute and percentage terms, how many (a) permanent officers and (b) temporary officers or casuals in the ACT Government Service are under 21 years of age.

(2) Does the Government have in place specific policies for the creation of positions within the ACT Government Service suitable for people under the age of 21.

**MS CARNELL** - The answer to the Member's question is as follows:

(1) Information on age distribution of staff is not collected in the form requested, however I can provide the following information. These figures are based upon a total staff number of 17,006 as reported in the 4th Quarter Workforce Statistical Report 1997/98 which I tabled in the Legislative Assembly on 2 September 1998 867 people or 5.10% are aged 24 or under.

Details by age and permanent/temporary status is only available for agencies on the Perspect Human Resource Management System. These Agencies cover 15,118 staff.

There are 710 staff under 25 on that system of which 313 were permanent, making up 2.67% of all permanent staff, with 397 temporary or 11.86% of temporary staff.

(2) In the last financial year, 21 % of the nearly 200 comrnencing ACT Government trainees and apprentices were under 21 and 62% were under 25. Some were temporary trainees in a 12-month program designed to help young long-term unemployed people gain experience and break into permanent work.

This year's budget includes funding for several programs targeted at young people including Selfstart, Pathways Into Non-Traditional Occupations, the Accelerated Data Capture Program, the Trainee Ranger Program, the Graffiti Reduction Program, a contribution towards the Commonwealth's Youth Business Initiative, the expansion of the Graduate Administrative Assistant Program and the Sports Enhancement Program.

In addition, all agencies will be formulating plans to address youth employment initiatives, apprentices, trainees and Graduate Administrative Assistants in the 1999-2000 Ownership Agreements as part of their Human Resource Plans, an initiative introduced by the Government to address such issues.

**MINISTER FOR URBAN SERVICES**

**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION NO. 56**

**ACT Leagues Clubs - Payment of Rates and Land Tax**

**Mr Quinlan** - asked the Minister for Urban Services -

In relation to the Canberra District Rugby Leagues Club (CDRL) and the ACT Leagues Club - Can you provide advice on the position of these clubs with regards to (1) the payment of rates and (2) other land related charges both (a) now (post Deed of Settlement) and (b) over the last 12 months.

**Mr Smyth - the answer to the member's question is as follows:**

Both the ACT Leagues Club Limited and the CDRL are separately liable for the payment of rates and land tax charges from 30 September 1998 when their respective new leases commenced.

Rates and land tax charges of $9,108 and land rent of $39,931.34, that had accrued under the previous lease and remained unpaid by the now defunct ACT Rugby League Incorporated, have been written off as irrecoverable.

The amount of $9,108 written off for rates and land tax represents approximately two years of charges for the former consolidated lease. The $39,931.34 written off for rent, represents outstanding rent on that lease since 1 January 1995.

Charges owed by the previous lessee of the entire Rugby League Park site, ACT Rugby League Incorporated, were written-off as irrecoverable on the basis that the previous lessee is a defunct organisation with no funds available to meet unpaid debts.

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CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION
Question No. 60

**Business Incentive Scheme**

**Mr Stanhope** - Asked the Chief Minister upon notice on 17 November 1998:

In relation to the ACT Business Incentive Scheme -

(1) Under the scheme, is it the case that successful applicants are required to submit audited financial statements within three months of the end of the financial year and if so, could copies of these audited financial statements be made available to Members.

(2) Did successful applicants receiving financial assistance meet their specified employment growth targets, if not

(a) which businesses failed to meet their targets;

(b) by how much were they out; and

(c) will any of these businesses be required to repay cash incentives.

(3) What are the penalties for businesses receiving 'non-cash' incentives that fail to meet their employment growth targets.

**MS CARNELL** - The answer to the Member's question is as follows:

(1) In most cases, it is a condition of contract that audited financial statements are submitted on an annual basis over the duration of the contract period. In some cases recipients are only required to provide evidence that the funding has been used for the purpose for which it has been supplied. The purpose of these conditions is to ensure that ACTBIS assistance has been utilised in accordance with the terms of the contract.

Furthermore, some companies use accounting periods other than the traditional financial year. Reporting requirements, therefore, are tailored to meet the individual circumstances of agreement recipients and the nature of the assistance package itself.

The Office of Business Development and Tourism is currently ensuring that all funding recipients who are required to report on a financial year basis have met their 1997-98 obligations. However, given the commercial nature of audited statements, it would not be appropriate for them to be released to Members of the Assembly.

(2) A fundamental aspect of this type of assistance scheme is that employment targets are based on projected outcomes that are, of course, subject to a range of outside influences. It would not be appropriate for the ACT Government to impose binding employment targets in Assistance Agreements or to publicly

canvas individual achievements against projections as these would act as a deterrent to businesses that want to invest in the ACT.

In addition, in the past some ACTBIS grants have been for feasibility studies while others have been to attract certain industries to the ACT without agreed employment targets.

Furthermore, some ACTBIS incentive packages have been in the form of payroll tax waivers which allows the level of assistance to move with actual employment levels experienced during the agreement period. No employment growth means no payroll tax waiver.

In the case of ACTBIS cash grants, these are not loans and are, therefore, provided on an unsecured basis. There are default provisions in agreements which provide for the repayment of assistance should an applicant not meet its obligations. However, in the event that a business fails there is a risk that the funds will not be returned to the Territory, particularly if these funds have been expended in accordance with the terms of the agreement.

(3) Non-cash incentives are usually offered in the form of a waiver of tax, duty, rent, fee or charge. A small number of agreements may involve the offer of a direct grant of land at or below market value.

The safest, and therefore most common, form of assistance offered through ACTBIS is a waiver of payroll tax. By its very nature, payroll tax is directly related to employment levels and, by specifically linking the waivers to new employees, the amount of payroll tax waived depends on the number of new jobs created.

Where possible, other concessions are linked to employment growth and normally include a provision for repayment or ‘discounting’. On those occasions where this is impractical, for example in the case of a direct grant of land, an applicant must meet more stringent requirements to satisfy the Government of the project’s viability.

Contents

**APPENDIX 1**: Incorporated in Hansard on 24 November 1998 at page 2801

**CONFIDENTIAL**

## QUESTION TAKEN ON NOTICE WITHOUT NOTICE:

## STAFF SALARIES ALLOCATIONS FOR CROSS-BENCH MEMBERS

**Question** (from Mr Kaine): Chief Minister, about eight months ago, you issued a determination, I presume, increasing the staff salary allowances of the then four cross benchers, to the tune of $10,000 each; $40,000. That was two-thirds of the way through the fiscal year. Obviously, no budgetary provision had been made. What were the financial arrangements made to accommodate that $40,000?

**The Chief Minister's response is:**

. Following the election in March of this year, I agreed to increase the staff salary allocations to cross bench members and the Speaker to equal the average of allocations available to the Opposition Members. The increased allocations became effective from 19 March 1998.

. This decision increased the allocations for each cross bench Member, and the Speaker, by $10,607 per annum. The total increase in allocations for the five Members was $53,035. However, since the increase occurred toward the end of the financial year, the additional expenditure in 1997-98 was only about a third of this figure.

**CONFIDENTIAL**

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- Employee expenses of MLAs, and their immediate support staff are met from the Territorial account of the Legislative Assembly. Out of this Territorial account, MLAs are each allotted a lump sum allocation to employ their immediate support staff.

- Since 1994-95, it has been practice to provide an additional amount of $588,000 for the Territorial account in any election year (i.e. every third year), primarily for the purpose of funding the superannuation payouts due to those MLAs who do not seek, or obtain, re-election. The figure of $588,000 was derived in 1994-95, following a study conducted by a consulting actuary.

- Fiscal year 1997-98 was an election year. In the 1997-98 Budget, the Territorial account was appropriated $3.076 million. This amount included the $0.588 million provision.

- In 1997-98, the result was that there were more than sufficient funds in the Territorial account to meet the expected call in superannuation payouts arising from the February 1998 election results. The total final superannuation payout to the five Members who did not return to the Assembly after the February 1998 election was $333,639.12.

- For this reason, funding for the increase in staff salary allocations for the cross-bench MLAs and the Speaker was able to be accommodated within the existing 1997-98 appropriation for the Territorial account.

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**CONFIDENTIAL**

**Supplementary Question (from Mr Kaine)**

A supplementary question, Mr Speaker. I can assure the Chief Minister that the Treasurer's Advance was not used eight months ago. I can inform her, if she is uniformed, as to what the process was. But I would like the Chief Minister's assurance that the same arrangements can be set in place today, to accommodate this new change in the determination, as applied eight months ago.

**The Chief Minister's response is:**

- The increase in MLA staff salary allocations was able to be accommodated in the funding available to the Territorial account in 1997-98. Subsequently, there was no call on the Treasurer's Advance for this purpose in 1997-98.

- The increase in salary allocations allowed in 1997-98 was incorporated into the Assembly's base funding for subsequent years, as part of the 1998-99 Budget.

Contact: Derek Russell
Telephone: 6207 0299

**CONFIDENTIAL**

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**APPENDIX 2**: Incorporated in Hansard on 25 November 1998 at page 2875

## QUESTION WITHOUT NOTICE TAKEN ON NOTICE

## TUESDAY, 24 NOVEMBER 1998

## MOTOR VEHICLES FOR MEMBERS

**Question from Mr Kaine to the Chief Minister**:

With regard to Remuneration Tribunal Determination Number 30, sections 3.1 and 3.2 relate to the provision of motor vehicles to Members. In part, it says that cars must be Australian-made and have private plates except in special circumstances with the agreement of the Chief Minister.

(1) Has the Chief Minister exercised discretionary power in relation to this and under what circumstances?

(2) Can the Chief Minister give details on the additional cost for each case?

(3) What budgetary arrangements were made to cover the costs?

**Suggested answer:**

(1) The discretionary power granted to the Chief Minister by clause 3.2 of Schedule C to Remuneration Tribunal Determination No. 30 has been exercised by me on four occasions.

. In January 1997 1 agreed to a request by Mr Osborne that he be allocated a Toyota Tarago. Mr Osborne's request was based on his family circumstances.

- In June 1997 1 agreed to a request by Mr Moore that he be allocated a Toyota Tarago. Mr Moore's request was based on his family circumstances.

- In March 1998 I agreed to a request by Mr Rugendyke that he be allocated a Toyota Tarago. Mr Rugendyke's request was based on his family circumstances.

- In June 1998 I agreed to a request by Ms Tucker that she be allocated a Falcon Futura converted to operate on natural gas or petrol. Ms Tucker's request was based on environmental concerns.

(2) The average cost of a standard vehicle allocated to Members is $714.98 per month. The additional cost of the vehicle allocated to Mr Osborne is $416.89 per month; Mr Moore's is $464.49 per month; Mr Rugendyke's is $286.36 per month. The cost of the vehicle allocated to Ms Tucker has not been established to date.

The Energy Research and Development Fund has agreed to pay the costs of converting Ms Tucker's vehicle to the dual fuel system, and the AGL Company has agreed to decommission and remove the natural gas system at the end of the lease period at no cost to the Territory. It should also be noted that fuel savings of up to $1,400 may be achieved over the lease period.

(3) The costs are met from the Assembly Budget and the Government is not involved in decisions about how those funds are allocated. Please note that the costs of Mr Moore are now met from the Executive Budget.

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**APPENDIX 3:** Incorporated in Hansard on 26 November 1998 at page 3080

**MINISTER FOR HEALTH AND COMMUNITY CARE**

**LEGISLATIVE ASSEMBLY QUESTION TAKEN ON NOTICE**

**24 NOVEMBER 1998**

**Mr Rugendyke asked the Minister for Health:**

During question time last week the Member answered questions relating to Annabelles' care for 4-13 mental health patients under the Workers Resource Centre (WRC). Is this the same Annabelles in the Yellow Pages which provides a pet grooming and wheelie bin service. How much of the grant to the WRC went to Annabelles. How was the money acquitted by the Government. Is it appropriate that a business which walks your dog and services wheelie bins should have responsibility to care for mentally ill patients in the ACT?

**My answer is as follows:**

Annabelle's is the same business as listed in the Yellow Pages. My understanding is that this aspect of Annabelle's business activities has recently been sold off and the new owner is still trading under the Annabelle's name. The original Annabelle's service, which is currently contracted with WRC has reduced its activities to the provision of home and respite care.

The Department's contract for services is with the WRC. WRC has chosen to broker these services with Annabelle's rather than employing staff to provide the services itself. This is not an unusual arrangement.

Payment to Annabelle's by WRC depends on the number of clients WRC is supporting at the time, and the type of support care required. Support staff are employed on a casual basis to match specific needs of individual clients. WRC budgets for $9860 for client services each month. This is based on an average of 10 hours per week and $18 per hour with penalty rates for weekends and nights. In the first quarter of the current WRC contract provision, a total of 10 clients received an average of 10 hours per week of supported services ranging from, help with daily living activities, assisted contact with social and recreational activities, development of links with health, welfare and other services and transport needs. This equates to the purchase of $13,111.00 of direct support services for the 3 month period. In terms of operating costs WRC charges the program $1,083 per month to cover:

- payment of accounts;
- budget preparation and monitoring, report generating;
- program management ie liaison with the Department and Mental Health Service, housing negotiation etc;
- financial and written reports to the Department; and
- individual client plan monitoring.

Payment to Annabelles by WRC is made on invoice which details date, employee service provided and to whom, hours, cost per hour, total cost of service.

The Department does not seek acquittal of funding from Anabelle's as it has no contractual arrangement with that agency.

The funds are acquitted by WRC in quarterly output reports as well as quarterly financial statements (as direct purchase costs), as mandatory requirements of WRC current purchaser/provider contract with the Department

Besides these standard contractual obligations which are attached to all non-government purchaser provider contracts, an independent audit report which acquits financial expenditure against the contract of services, is required annually.

To answer the last part of Mr Rugendyke's question, yes it would be fair to question the appropriateness of a business that walks your dog etc., being responsible for the care of mentally ill patients, if this was the case. What Annabelle's support workers provide is day to day living skills assistance to mentally ill patients in order to maintain independence within the community, and improve their quality of life. In the majority of cases, provision of support care prevents these patients from being institutionalised if not hospitalised. Support accommodation is just one aspect of a coordinated approach to managing mental health patients in the community. The overall responsibility for each individual patients' care management lies with the Case Manager from the Mental Health Services. In consultation with the patient and the facilitating agency (WRC), the case manager develops an individual support plan. Annabelles is responsible for the day to day administration and ensuring support workers are implementing the Individual Support Plans. They do not provide clinical mental health treatment.

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**APPENDIX 4**: Incorporated in Hansard on 26 November 1998 at page 3082

**MINISTER FOR URBAN SERVICES**
**LEGISLATIVE ASSEMBLY QUESTION**

**QUESTION Taken on Notice on 24 November 1998 from Ms Tucker**

**Ms Tucker** - asked the Minister for Urban Services:

1. With the first anniversary of the greenhouse gas reduction targets for 10 measures to reduce greenhouse gas emissions, most of the measures have not yet been implemented - including the 'Green' fleet program, and cash back for water saving shower heads. Can the Minister inform the Assembly why they haven't implemented the measures one year later?

**Mr Smyth** - the answer to the Member's question is as follows:

In November 1997, the Government announced that it would stabilise the ACT's greenhouse gas emissions at 1990 levels by the year 2008 and reduce these emissions by 20% by 2018.

The Government remains committed to these targets and to ensuring that the necessary emissions reductions measures are achieved in a cost effective manner. This task is by its very nature a long term endeavour requiring extensive input from the community and industry. However, I believe that we have made significant progress in the period since Minister Humphries' announcement.

The Government released the draft ACT Greenhouse Strategy in September 1998 based on an up-to-date and exhaustive greenhouse gas inventory and is currently consulting with community and business organisations to ensure that responsibility for planned reductions is shared equitably by Government, business and the community

As you would be aware, in November 1997 the Government also announced a range of measures that would be introduced as a first step in the reduction of greenhouse measures.

Progress made to date on each of the measures is as follows:

**Phasing in a requirement for all new homes to contain roof insulation**
Implemented.
Amendments to the Building Code of Australia (ACT Appendix) came into effect on 1 July 1998.

**Mandatory disclosure of energy rating of all homes at time of sale**
Implemented.
The *Energy Efficiency Ratings (Sale of Premises) Act 1997* will come into operation on 24 December 1998.

**Opening Home Energy Rating Inspections to existing home owners**
Implemented.

1

Independent accredited energy rating assessors will undertake inspections for all ACT home owners upon request. A list of accredited assessors is available from the Energy Advisory Service and the Planning and Land Management Shopfront.

**Investigation into significant energy efficiency in Government buildings**
A review of the Eco Workplace program has been completed and recommendations arising from the review are currently being prepared.

**Cash back or subsidy programmes for installation of low flow shower heads or other incentives to offset the high capital cost of some energy efficiency measures around the home**
A decision on the most appropriate rebate or incentive mechanisms will be made in the context of finalisation of the Draft ACT Greenhouse Strategy. This will ensure that greenhouse gas emissions reductions resulting from the measures are maximised in a cost-effective manner.

**Energy Advisory Service**
The Energy Advisory Service was launched on 11 September 1998 The Service will be reviewed after 9 months to measure the effectiveness of the current service. The Government is committed to providing this service on an ongoing basis.

The Service provides a range of services including face to face, telephone and email advice on energy efficiency issues related to new and existing houses and domestic appliances.

More than 130 enquiries have been received thus far, including many detailed consultations about house plans. A TV advertising campaign will commence in the new year along with a publication program targeted at home energy efficiency.

**Establish 'Greenfleet' program in the ACT**
There have been significant difficulties in implementing a cost effective Greenfleet program in the ACT. Other jurisdictions and ourselves are examining the Victorian model where the expected emissions reductions have been disappointing due to the poor take up rate and administrative difficulties. Further discussions are underway with the Foster Foundation and Greening Australia to investigate ways to ensure that emissions reductions resulting from the measure are maximised in a cost-effective manner.

**Inclusion of environmental criteria scheme in the ACT Business Incentive Scheme Guidelines**
Chief Minister's Department are currently reviewing the existing ACT Business Incentive Scheme Guidelines. Greenhouse issues will be addressed in these new guidelines which will be released early in 1999.

**Release the Integrated Transport and Land Use Strategy Status Report** (PALM)

The document “An Integrated Approach to Transport and Land Use Planning” was released in December 1997. Considerable work and consultation has taken place since and a new document will be brought forward as soon as possible.

Following extensive public consultation Canberra Bicycle 2000 was released in late 1997. The ACT Bicycle Liaison Group was established in August this year with representatives from user groups, the Conservation Council and industry. The Liaison Group’s key task is to implement this strategy. The Government is taking a very pro-active role in promoting this strategy and I believe that we will see a real increase in bicycle commuting in Canberra.

A new ACTION bus network and timetable will be introduced shortly which will see more through routing and less changing of buses and lead to significantly improved bus patronage. This strategy should reduce private vehicle use and lead to significant reductions in greenhouse gas emissions.

**The Government has implemented other greenhouse gas reduction emissions measures including:**

Reducing emissions from our landfills. We have installed methane capture facilities and electricity generation systems at both our landfills.

Motor vehicle registration charges have been changed so they are now based on weight. This will favour vehicles with lower gas emissions.

ACTEW has also announced its commitment to reducing greenhouse gas emissions. Mini-hydro schemes have been announced and the GreenChoice Program is being revamped.

The ACT has also led the way in its public housing retrofitting program. Innovative projects such as the Condamine Court redevelopment and the environmental efficiency design for the first housing development at Gungahlin Town Centre lead in the way in Australian public housing.

I reiterate the Government’s commitment to continuing to pursue soundly based greenhouse measures. This requires a considered and strategic approach.

It is my understanding that the public consultation process on the draft Strategy is going well. We are involving Drs Andrew Blakers and Hugh Saddler, experts from the Government’s Environment Advisory Committee in the preparation of the final strategy. I believe that in the new year, we will be able to finalise the strategy in a way that allows us to achieve our reduction targets with the support of the community and industry.

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