



DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

8 December 1998

Tuesday, 8 December 1998

Petition: ACTEW - Sale.....	3175
Mental Health (Treatment and Care) (Amendment) Bill (No. 2) 1998.....	3176
Crimes (Amendment) Bill (No. 8) 1998.....	3177
ACTEW (Transfer Scheme) Bill 1998.....	3178
Questions without notice:	
ACT Hospice site.....	3204
Superannuation liability.....	3206
ACTEW - sale.....	3208
Totalcare incinerator.....	3209
ACTEW - sale.....	3209
Kingston shopping centre.....	3212
Nurses - enterprise bargaining agreement.....	3213
Teacher's explanation of Santa Claus.....	3216
Aboriginal Justice Advisory Committee.....	3218
Mugga Lane tip - scavenging.....	3219
Olympic soccer - drug testing.....	3220
Hospital waiting lists.....	3221
Anti-smoking programs.....	3221
Auditor-General - Report No. 8 of 1998.....	3221
Estimates 1998-99 - select committee.....	3222
Chief Minister's Portfolio - standing committee.....	3231
Financial management report (Ministerial statement).....	3233
Subordinate legislation and commencement provisions.....	3234
Paper.....	3235
Urban Services - standing committee.....	3235
Youth suicide prevention strategy 1998-2001.....	3241
Chief Minister's Portfolio - standing committee.....	3243
Urban Services - standing committee.....	3243
Urban Services - standing committee.....	3244
Energy Efficiency Ratings (Sale of Premises) (Amendment) Bill 1998.....	3244
ACTEW (Transfer Scheme) Bill 1998.....	3245
Justice and Community Safety - standing committee.....	3262
Executive business - postponement of notice No. 1.....	3262
First day of meeting for 1999.....	3263
Land (Planning and Environment) (Amendment) Bill 1998.....	3279
Justice and Community Safety - standing committee.....	3288
Milk Authority (Amendment) Bill (No. 2) 1998.....	3294
Custodial Escorts Bill 1998.....	3295
Custodial Escorts (Consequential Provisions) Bill 1998.....	3299
Domestic Violence (Amendment) Bill (No. 2) 1998.....	3299
Adjournment: Member's title.....	3317

Tuesday, 8 December 1998

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

PETITION

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

By **Mr Corbell**, from 10,679 residents, requesting that the Assembly oppose any sale of the ACTEW Corporation and vote to retain and further develop ACTEW as an effective Territory-owned corporation.

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

ACTEW - Sale

The petition read as follows:

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

The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly: The wishes of the Canberra community to retain ownership of the ACTEW Corporation in public hands and asks that the Assembly recognise:

1. The demonstrated public benefit of retaining ACTEW in public ownership;
2. The need for ACTEW Corporation to provide services to all in the Canberra community effectively, equitably and reliably;
3. The need to address the environmental aspects of water and power management, which is best met through community ownership of ACTEW;

8 December 1998

4. The failure of privatised power and water utilities to deliver essential services to the community or to effectively address environmental issues; and
5. The loss of jobs resulting from privatisation of public assets in Australia and elsewhere.

Your petitioners therefore request the Assembly to: Oppose any sale of the ACTEW Corporation and vote to retain and further develop ACTEW as an effective Territory Owned Corporation.

Petition received.

**MENTAL HEALTH (TREATMENT AND CARE)
(AMENDMENT) BILL (NO. 2) 1998**

MR MOORE (Minister for Health and Community Care) (10.32): Mr Speaker, I ask for leave to present the Mental Health (Treatment and Care) (Amendment) Bill (No. 2) 1998.

Leave granted.

MR MOORE: I present the Mental Health (Treatment and Care) (Amendment) Bill (No. 2) 1998, together with the explanatory memorandum.

Title read by Clerk.

MR MOORE: I move:

That this Bill be agreed to in principle.

This Bill amends the Mental Health (Treatment and Care) Act 1994 by replacing the current section 3 of the Act. At present, section 3 states that the Act expires at a maximum of four years from its commencement. This means that the Act will expire on 5 February 1999. On 26 November this year, I presented a number of amendments to the Mental Health (Treatment and Care) Act which included a repeal of the sunset clause. At that time I explained why the Assembly had included a sunset provision in the 1994 Act.

The Government had expected that the amendments proposed in the Bill I presented in November would be debated and passed before the end of 1998 and before the expiry of the sunset clause. However, as the Assembly has deferred consideration of the substantive amendments until 1999, or has indicated its willingness to do so, it will be necessary to extend the operation of the Mental Health (Treatment and Care) Act, otherwise the ACT will have no effective mental health legislation after 5 February 1999. The Bill extends the operation of the Mental Health (Treatment and Care) Act 1994 until 30 June 1999. I am sure that this will provide sufficient time to consider the substantive amendments.

Mr Speaker, I do so having spoken to Mr Wood and Ms Tucker, who indicated that they would like more time to look at what is a very complex piece of legislation. It has quite an element of controversy about it, as we have seen from a series of responses in the newspapers. The next Bill I will present is attached to the same legislation.

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

CRIMES (AMENDMENT) BILL (NO. 8) 1998

MR MOORE (Minister for Health and Community Care) (10.34): Mr Speaker, I ask for leave to present the Crimes (Amendment) Bill (No. 8) 1998.

Leave granted.

MR MOORE: I present the Crimes (Amendment) Bill (No. 8) 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 amends the Crimes Act 1900 by replacing the current Part XIA of the Act. Section 428A, at present, states that Part XIA of the Act expires a maximum of four years from its commencement. This provision is tied in with the mental health legislation. Mr Speaker, I should have indicated to members that the reason I wanted to introduce these Bills by leave today is that it will be necessary to debate them on Thursday in order to deal with this issue. I understand that members are willing to do that, but it is appropriate to have time to look at what I have actually put down. Part XIA is to expire on 5 February 1999.

On 26 November this year, I presented a number of amendments to the Crimes Act which included a repeal of the sunset clause. At that time, I explained why the Assembly had included a sunset provision in the original Act. The Government had expected the amendments proposed in the Bill I presented in November to be debated and passed before the end of 1998 and before the expiry of the sunset clause. However, as the Assembly has deferred consideration of the substantive amendments until 1999, it will be necessary to extend the operation of Part XIA of the Crimes Act 1900, otherwise that part of the Act will lapse after 5 February 1999.

The Bill extends the operation of the Crimes Act 1900 until 30 June 1999 insofar as it applies to the Mental Health Act. I am sure that this will provide sufficient time to consider the substantive amendments.

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

8 December 1998

ACTEW (TRANSFER SCHEME) BILL 1998

Debate resumed from 26 November 1998, on motion by **Ms Carnell**:

That this Bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with a notice on the notice paper in Ms Carnell's name relating to the disposal of ACTEW Corporation?

Leave not granted.

MR SPEAKER: As leave is not granted for a cognate debate, I would remind members that they may address only order of the day No. 1.

Motion (by **Mr Stanhope**) proposed:

That the debate be adjourned until the first sitting day after the presentation to the Assembly of the report of the Select Committee on the Territory's Superannuation Commitments.

Mr Humphries: Mr Speaker, I rise to a point of order. That is not the usual adjournment motion. Is it possible for members to debate - - -

Mr Berry: Mr Speaker, that is not a point of order; it is debating the issue and this motion is not debatable.

Mr Humphries: No, I am asking a question, if you do not mind, Mr Berry. Just sit down. Mr Speaker - - -

Mr Berry: Mr Speaker - - -

MR SPEAKER: Order, Mr Berry! Sit down.

Mr Berry: Is it out of order or not?

Mr Humphries: Let us find out, shall we? Let me put the point of order. Usually, Mr Speaker, an adjournment motion cannot be debated. This is not the usual adjournment motion. Will you allow debate on this motion?

Mr Berry: No.

MR SPEAKER: I will make that decision, thank you.

Mr Berry: I am just foreshadowing what I think you will say.

MR SPEAKER: I have sought advice from the Clerk. The situation is this: The motion to adjourn the debate cannot be debated. However, in the event that that motion, namely, that the debate be adjourned, is carried, the question then that the resumption of the debate be made an order of the day for the first sitting after the presentation to the Assembly of the report of the select committee can be debated. Is that clear?

Mr Kaine: It is part of the same motion, is it not? There are not two motions.

MR SPEAKER: No, it is not, Mr Kaine. The Clerk's advice is that under standing order 65 the question shall be put forthwith and determined without amendment or debate, that is, that the debate be adjourned. The subsequent debate, namely, when the resumption is to take place, is a debatable motion, so I will put the question. The question is: That the debate be adjourned.

The Assembly voted -

AYES, 8

NOES, 9

Mr Berry
Mr Corbell
Mr Hargreaves
Mr Quinlan
Mr Rugendyke
Mr Stanhope
Ms Tucker
Mr Wood

Ms Carnell
Mr Cornwell
Mr Hird
Mr Humphries
Mr Kaine
Mr Moore
Mr Osborne
Mr Smyth
Mr Stefaniak

Question so resolved in the negative.

MR SPEAKER: I would remind members that we are still debating only order of the day No. 1, the ACTEW (Transfer Scheme) Bill 1998.

MR STANHOPE (Leader of the Opposition) (10.45): This Bill is, of course, an incredibly important piece of legislation. It has been suggested by me and many others in this place that it is perhaps the most significant or important piece of legislation or issue to come before the Assembly since self-government. That is a view that I hold firmly. I think it is a real pity that we are debating this Bill today.

The Chief Minister has consistently disputed any suggestion that she is seeking to ram the sale of ACTEW through the Assembly. She claimed as recently as yesterday that she has made her intentions clear in relation to this matter. It is, of course, the fact that as recently as 1995 the Chief Minister, in correspondence with the workers of ACTEW, stated unequivocally:

I would like to state clearly, once again, that we have no intention of selling ACTEW. It is owned by the people of Canberra, and will remain so.

8 December 1998

In June 1997, Mrs Carnell told the Assembly:

Selling ACTEW is not on the agenda of the Government.

Nor was selling ACTEW on her Government's agenda when she was quizzed about the issue during last February's election campaign. Privatisation was not on the Government's election agenda. The electorate did not have an opportunity to vote on the issue.

This Government went to the last election letting the people of the ACT believe or assume that, if elected, it had no intention to deal with or privatise ACTEW, that it was not something that it was considering. The people of the ACT had no reason to believe that if they voted for the Liberal Party they would, within a couple of months, be dealing with the very real prospect of ACTEW being sold from under them within the first year, within a number of months.

As recently as 20 July this year the sale was not on the Government's agenda. On that day, 20 July this year, the Chief Minister told an Estimates Committee hearing:

I am not aware of any plans to sell ACTEW.

Only five months ago the Chief Minister was repeating the mantra that she had been running for the last four years in writing and in the press:

I am not aware of any plans to sell ACTEW.

But she is aware now and we are all very aware now, just four months later, that the Government wants a fire sale.

What has caused this change of heart? The Government has two reasons, or so it says. First, it has the scoping study it commissioned into the future of ACTEW which, the Government argues, makes the case that ACTEW cannot survive in an increasingly competitive world and will rapidly become worthless. Secondly, the Territory has such an unfunded superannuation liability that it must be addressed immediately by selling our largest asset and paying it off at once.

On the first argument, ABN AMRO, the consultant which the Government relies on, is an international company that makes its profits from financing privatisations. The Government has, in questioning on this matter in the last few months, ruled out that company's further involvement in the ACTEW sale. Thus, it is legitimate for us to question the motives of ABN AMRO. The second argument goes to the superannuation debt. It is a very significant argument, and it is an argument that we need to concentrate on today, having regard to the fact that as recently as 10 days ago this Assembly established a select committee to look at the superannuation liability.

The Assembly did that as a result of a determination by this place just six weeks earlier, or thereabouts, not to proceed with an inquiry into any of the implications of the sale of ACTEW. So, we have a situation in which the Assembly was not prepared to countenance an Assembly inquiry into any of the implications for the people of the ACT

of the sale of ACTEW. It was felt that these were all self-evident, that we did not need to look into it, that we did not need to investigate it, that the people of this place, let alone the people of Canberra, not only did not need to be involved in the debate at that level, but also should not be given the opportunity of being involved in the debate at that level.

The fall-back position we adopted in negotiation with some members of the crossbench was that we would have a select committee, because there are members of the select committee ostensibly insisting that they would make their decision on whether ACTEW should be sold on the basis of whether the ACT could meet its unfunded superannuation liabilities. They are the ostensible reasons that certain members of the Assembly are giving for whether or not they need to continue to consider this matter.

Whilst, of course, that debate turned into something of a farce, the proposal was eventually passed; it was concluded. The membership, I think, has now been concluded. The committee is up and operational. It has met, it is meeting, it is actually developing its work plan and it will not be reporting, pursuant to the resolution of this Assembly, until February. Even that is a very short timeframe. Even that imposes enormous demands on the members of the committee to deal with all the issues relating to our unfunded superannuation liability - an issue completely separate, of course, from whether we should be selling ACTEW, an issue which has absolutely nothing to do with whether we should be selling ACTEW.

The question of whether we can meet our superannuation liabilities has absolutely nothing to do with whether ACTEW should be sold or what the financial, economic or job implications are of selling ACTEW for the people of the ACT. It is a pity that in debating whether we should be selling ACTEW, whether we should be passing this Bill, we are concentrating on whether we can meet our unfunded superannuation liabilities.

Those issues have been dealt with in a very interesting way. We had the circumstance of the Towers Perrin report commissioned by the ACT Government, which reported in April of this year and the report was tabled by the Chief Minister in May of this year. It is very interesting to chronicle the changes in the Chief Minister's attitude to these things. It is very interesting to look at the Chief Minister's statement to the Assembly on the day that she tabled the Towers Perrin report. The Chief Minister said, amongst other things, something initially which we all agree with:

There is clearly no easy solution for these superannuation financing issues.

We all agree with that. It is a difficult issue. The Chief Minister went on to say something which I think she now regrets she ever said, but which is really pertinent to this debate. She went on:

We must look for a proper balance between paying now or paying later.

8 December 1998

It is a challenge. It is not an easy decision, but is one that we have to face. It is one, of course, which we were prepared to face and which the Chief Minister's Department was dealing with, in its own terms, adequately, as reported in its annual report. But there we have the nub of it - the Chief Minister indicating when she tabled the Towers Perrin report that we must look for a proper balance between paying now or paying later.

It is interesting that the unfunded superannuation liability has become the bogey, the only reason now for selling ACTEW, a reason that is actually advanced at the expense of any of the downstream economic implications of the sale of ACTEW. That is irrelevant. We do not need to know what is the potential impact on the ACT economy of selling our largest asset. We are told that we do not need to know that; do not worry about those economic impacts. Do not worry about the jobs; do not worry that international and other national experience indicates that most or a significant proportion of those employees of ACTEW now will not be there once it is sold; they simply will not be there and nor will the jobs. Everybody here knows that if ACTEW is sold the top third of the jobs will go. They will go to wherever it is that the buyers have their headquarters. We all know that. We know that any proposal to sell is kissing goodbye to 300, 400 or more jobs. Yet we do not need to inquire into that. We need no investigation of that. We were actually vetoed - not only the Assembly, but also the people of Canberra.

It is interesting when one looks at the Towers Perrin report to note that they actually advanced six options. It is also of great concern to me that at no stage has the Government ever sought to respond to the Towers Perrin report. We have never seen a detailed or rigorous analysis of each of the six options and why one is to be advantaged over the other. There are six options. There has been no debate, no government response, and no assessment of the implications of each of the six, just this latter-day, convenient embracement of the sale of ACTEW to meet one of the possible options. The others get no guernsey. They get no discussion. There is no rationalisation.

The Chief Minister's desperation in relation to this issue is illustrated incredibly starkly by her fulminations yesterday or her embracement of the KPMG-Bankers Trust report which purports, in the Chief Minister's words, to show additional support for the need to sell ACTEW. It does no such thing, of course. It is the same typical gilding of the lily that we have come to expect from the Chief Minister in relation to this debate, actually putting a spin on things that simply are not substantiated. If one looks at the report one will see that it actually repeats in almost the same words the suggestions made by the Chief Minister when she tabled the Towers Perrin report, that is, that what we want here is a balance. We want a balance between the long-term and the short-term imperatives.

We do not need to rush in and use the sledgehammer of the privatisation of ACTEW to crack the nut that is the difficulty with the superannuation liability. Despite the Chief Minister's selective quoting, as I just said, KPMG-BT concluded - and this is, perhaps, the most significant of the findings in the report from KPMG-BT which the Chief Minister was quoting yesterday:

Some balance is needed between long term cost savings and increased short term outlays.

It is a position supported by the *Canberra Times*. In its editorial on 31 May in response to the Chief Minister's tabling, the *Canberra Times* called the one-off funding option "reckless". According to the *Canberra Times*:

Attempting to clean the slate in one fell swoop is to use an unnecessarily large sledgehammer on a problem nut that can just as easily be cracked many different ways.

They concluded:

The most sensible solution is for the Government to plot a course somewhere between the two extremes.

That, of course, is precisely what the Chief Minister's Department was proceeding to do until this bright idea, this brainwave, came, this ideological fetish which the Chief Minister and the Liberals have, simply to sell off ACTEW and then scrabble around looking for some justification for it. It is, of course, also the position that has been adopted in other jurisdictions. Nobody else in Australia has felt the need to adopt this panic position of the Government, the fact that they have gone weak at the knees, got the wobbles, feel that it is a problem that they cannot handle.

Nobody else in Australia has adopted that attitude. That is, of course, what Labor has been arguing all along in this case. It is an issue that is difficult, that does need some concentrated attention, but it is an issue that we have been dealing with. The Chief Minister's Department in its annual report this year indicates to the people of Canberra that it is an issue in relation to which significant progress has been made. There is no need to inextricably link the two, as the Chief Minister and others seem determined to do. It is the Chief Minister who continues to want to sell the house to pay the mortgage, who wants to sell the farm to fix the fences, and it is the Chief Minister who is choosing to ignore the community that has queued to sign petitions against the sale of its largest asset. It is the Chief Minister who chooses to ignore the people of Canberra, who, I am sure she knows, do not want ACTEW sold.

The most recent polling done on this issue, a Datacol poll by the *Canberra Times*, indicated that over 70 per cent of the people of Canberra were opposed to the sale of the electricity arm and over 80 per cent of the people of Canberra do not want to see us dispose of our water and sewerage utilities. It is the Chief Minister who talks down our capacity to deal with these difficult problems. It is the Chief Minister who keeps suggesting implicitly that the Territory will go broke if we do not sell ACTEW to pay off the superannuation liability. It is now the Chief Minister who seeks to ignore the wishes of this Assembly.

8 December 1998

This Assembly voted only 10 days ago to establish a select committee to look specifically at the superannuation liability question and the efficacy of a one-off solution. The Assembly agreed that the committee should report by the first sitting day next year - that was the agreement that the Assembly came to - and that the Government should take no action in relation to the final ownership aspect of ACTEW until the Assembly has considered the Government's response to the committee's report. Yet here we are today being asked to debate the sale and franchising of ACTEW. An Assembly committee is looking at the issues which the Chief Minister has decided to link inextricably with the sale of ACTEW. We really should allow that process to go on.

This pre-empts the work of that committee. The bringing on of this debate today, to my mind, undermines and pre-empts the work of that committee and makes me wonder whether the Assembly has any commitment to the work that that committee will do. It makes me wonder whether Mr Osborne, a member of that committee, in agreeing to debate this motion today to fruition actually has any commitment to the work of that committee. On the one hand he pleads that the work of the superannuation committee is vital to him and on the other he goes ahead today and chooses to support a debate on this Bill. It is a committee in relation to which he has expressed such significant support and which he has indicated is of importance to him. I hope that Mr Osborne does have a commitment to that committee. I hope that he will take it seriously. I hope that he will value its outcomes and that he will not allow the debate today and the progressing of this Bill to finality to undercut and negate any work that that committee will do.

It does seem bizarre to me in the extreme that the Government has refused to allow Assembly consideration of this issue through its vote on a motion for the establishment of a select committee to investigate the significant implications of privatisation. It does seem bizarre to me that, in an environment where this Assembly has to decide on the sale of ACTEW, our single biggest privately owned institution, an institution that returns consistently significant dividends to the people of the ACT, an Assembly investigation of the implications of that issue is not warranted, is not needed. We do not even have to think about the implications of it, we do not have to think about the financial implications, the job implications, the environmental implications, the implications for sewerage, the implications for our water as such, the implications for our infrastructure, the implications for the dams.

We do not need to think about these things. We have to believe the Government. We have to trust that the Government actually has everybody's best interests at heart. We do not have to worry about whether a purchaser of ACTEW will come in and strip the assets. We do not even have to debate these things. We do not have to investigate them; we do not have to consider them. The only issue to be considered is whether we can pay our unfunded superannuation liability. We had an inquiry into that. The Government paid good money to a consultant, who told us that there were at least six options that it could see for meeting that issue. We are investigating that. We are actually inquiring into whether the options presented to us by Towers Perrin are sustainable. But we are not looking at whether the sale of ACTEW to the private sector, to a profit maker, has any implications for that range of issues for the people of the ACT. It is just a nonsense. This Bill should not be supported. It should not have been brought on today. It should be rejected.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.05): Mr Speaker, the Government has put this legislation forward with one very clear intention in mind, absolutely clear intention in mind. It is not to satisfy some burning desire to sacrifice itself on the altar of public opinion, not to be able to appease or provide succour to rich mates who are out there ready to snap up this public asset of the Territory, and not because we have a fixed view about public ownership or non-public ownership of a major asset like ACTEW. It is not for any of those reasons, Mr Speaker. The Government's decision to put forward legislation today for the sale of ACTEW is based simply on our conviction that this is the only proper and right thing to do to protect a valuable Territory asset and, moreover, the value of that Territory asset in the face of a serious threat to it.

Mr Speaker, as I have said before in this place, I do not pretend for one instant that the sale of ACTEW is a popular decision. I have no doubt at all that members of the Opposition would have some ease in going out into the public places of this Territory and getting people to sign petitions to oppose the sale of ACTEW. It is made somewhat easier by the fact that they have misled the people of the Territory on a number of occasions with respect to the outcomes of a sale. They have misrepresented, for example, that the reliability of services is at risk under privatisation when, in fact, the experience of other places in Australia is that the opposite is true. They have misrepresented that there is likely to be an increase in the cost of electricity and water under privatisation when experience in other places says that the opposite is true.

They have misrepresented on a whole series of areas and issues and it is not surprising that they should have some ease in obtaining signatures in those circumstances. Even if those things were not being said by the Opposition, I would concede that the inherent position people take when they are told, "We want to sell a major public asset in order to meet a major debt" is, understandably, one of concern and caution, even opposition.

Mr Speaker, there is a fundamental rule about politics that you cannot change a deeply ingrained opinion held by the electorate, and that is true. But the Government does not resile from its course of action notwithstanding that fact. Why? Because the Government knows, on the basis of all reasonable assessment of the evidence before it and before this community, that not to make the sale of this asset is grossly irresponsible and an act for which we, in the Fourth Assembly of the ACT, will be blamed if we do not proceed.

Mr Speaker, I have a vested interest in this. I have two small children who, in 20 years' time or thereabouts, will be going out into the work force and obtaining mortgages, starting to pay taxes, raising families and otherwise incurring the responsibilities of life that we in this Assembly are incurring at the moment. They are free of those things at this time, but they will face them in about 20 years' time, or even less.

Mr Speaker, in 20 years' time the huge, at present inadequately funded superannuation liability of the Territory will, if nothing is done about it, hit the Territory and its taxpayers and ratepayers with enormous force. At that point the full effect of that liability will be felt. If this Territory Assembly and those of our age do not face up to the need to address that liability, then those citizens of the Territory who will be paying taxes and rates in 20 years' time will be shouldering the bill. They will be shouldering the bill for our inability to make the hard decisions.

Mr Speaker, I was not elected to this place to pass on the difficult decisions of today to the citizens of tomorrow. I was not elected to this place to avoid my responsibilities. Because I am in government, I have a special responsibility, a responsibility to directly account to the people of the ACT for the expenditure of public moneys and the management of public assets. Mr Speaker, each of us elected to this place has, arguably, the same responsibility to some degree or other. Each of us has responsibility to maximise the use of Territory assets and to protect the value of Territory assets.

Mr Speaker, it is the contention of the Government that if we do not proceed with the sale of ACTEW today or in the very near future we will be eroding that asset seriously. I do not expect members to believe my bald assertion of that fact. I know that members opposite do not believe it and that some members of the crossbench do not believe it. I do not ask them to indulge me and give me that credibility. But, Mr Speaker, I do ask them to accept the weight of evidence which is now before the Assembly.

A succession of reports commissioned by authorities well qualified in the area - indeed, some would say pre-eminent in their fields of expertise - have said in unequivocal terms to the public of the ACT that failure to sell this asset now is a mistake. Mr Speaker, that independent advice to the Government makes it obvious to any fair-minded observer that the proposed sale of the electricity arm of ACTEW and the concession on the water and sewerage arm of ACTEW are not predicated on meeting some objective beyond what is stated in those reports. They are predicated on the desire to make sure that the value of those assets is retained.

Mr Speaker, the point that I think needs to be made in this debate today very clearly is that we always face alternatives, we face choices, in these circumstances. The Government has put on the table, as a result of a great deal of work and a great deal of public expenditure to produce that work, I might point out, its proposed response to a looming crisis. It has put on the table its views about how to deal with a problem of absolutely enormous proportions. I am referring to the unfunded superannuation liability of the Territory. We have placed our views about how that should be dealt with on the table. We have said that it is reasonable to sell an asset to meet a liability. It is very simple. It is the sort of decision that other people might make in similar circumstances on a much smaller scale in their own daily lives. So, Mr Speaker, that is our position.

But the issue facing the Assembly today is not just how adequate the Government's solution to this problem is; it is also how adequate the alternative solutions might be and, indeed, how lacking we are in regard to alternative solutions to this problem. The Opposition has run a campaign over the last three or four months particularly of opposition to the sale of ACTEW and they have pulled every emotional string at their disposal. What they have not done well is face up to the question of where the dollars actually are coming from to meet this liability. They have not done that well. In fact, Mr Speaker, I would argue that they have not done that at all. They have been asked again and again to put on the table their solution to the problem of funding the Territory's unfunded superannuation liability and they have failed on each occasion to produce those alternatives or that alternative.

Mr Speaker, we have come, I would argue, to the crunch point. The Territory has been warned that, with changes in the electricity market imminent in the next few weeks, the situation with electricity in particular will become very fluid in Australia. The security in which ACTEW has operated over the last few decades is about to be seriously eroded, if not disappear altogether. In those circumstances, Mr Speaker, we have to face the need to reorient and replace the context in which ACTEW is operating.

All the information tells us that as of the end of this year there will be an element of risk entering into the marketplace of electricity sales - risk in the way in which sales are made and risk in the way in which competition impacts on those who purchase electricity and, to a lesser degree, other services from ACTEW. What do we do to protect ACTEW from that risk? We would all argue, I assume, that that risk needs to be avoided or at least minimised if we are to ensure that we protect the value of the asset. How do we minimise that risk, Mr Speaker? We can try to make ACTEW more competitive in its particular environment and work more aggressively to be able to capture those now floating clients who are moving away from the orbit of ACTEW, those people who are no longer tied to ACTEW as committed customers. Yes, we can try to do that.

Mr Speaker, even if we assume an extremely high degree of competitiveness on the part of ACTEW, the position is almost certainly going to be the loss of custom to ACTEW because their client base now is virtually 100 per cent of the Territory's residents and businesses. It is almost inconceivable that in the new environment of competition that will soon be upon us they will be able to retain 100 per cent of those customers, almost inconceivable. The potential to lose a large proportion of those customers is very real.

Mr Speaker, it is not a question just of ACTEW being more competitive in that environment. It is not a question of saying, "Look, ACTEW can somehow magically produce this wonderful set of policies that will aggressively go out into the marketplace and capture lots of business into ACTEW's hands and they will be safe and they will be fine". The fact is that ACTEW is the smallest and will be the smallest player in the whole of the new competitive national electricity market, the very smallest player. What are the chances that ACTEW is going to be able to capture those markets, those fluid markets, which are soon to be upon us from that small - indeed, relatively tiny - base? What is more, what are its chances of doing so, constrained as it is by government ownership and the restrictions that go with being responsible to government and having to face government-type restrictions on the way in which it operates? What are their chances of achieving that in that environment?

Mr Speaker, the best we can say is that we do not know. If we do not know, is it responsible of us to take that risk? Is it responsible of us as the custodians of this asset to expose it to that risk which is bearing down upon us and which will become much more real with the changes in the electricity market beginning in just a few days' time? The first of those changes is due to hit in a few days' time. Is that responsible, Mr Speaker? No, it is not. Is there an alternative, Mr Speaker? We do not know what the alternative is. We have explored the alternatives and we cannot see that there is any viable alternative.

The Opposition of this Territory, the alternative government of this Territory, says, "We want to stop the sale of ACTEW", but they cannot or will not tell us how they would protect the position of ACTEW as a trading enterprise in the Territory and how they would fund the unfunded superannuation liability. They sit there smugly, as if they were in a court of law and they were the defendants, saying, "Well, you prove your case. You prove that this is the only thing to do. If you do not prove it, then we get the benefit of the doubt and we have to reject your plan". It does not work like that, Mr Speaker.

We are in the position today where we are facing a choice, and we need to know what the alternative is in that choice. We need to know what it is that is the way to survive into the future. Even delaying by a number of weeks or months produces an exposure to risk which, in my view and the view of the Government, is unacceptable. We do not know what is going to happen to ACTEW when the market is fully or partially opened to competition. We just do not know. In those circumstances, we run a risk of exposing the Territory's asset to erosion and to loss.

Mr Speaker, I do not think that we can walk away from that responsibility. (*Extension of time granted*) I think we have to accept that there is a decision for us to make. No-one else is going to make this decision for us. We are not going to have a Commonwealth government bearing down on us with some sort of fiat or dictum that says, "You must make this decision", and take it out of our hands. No, there is nobody else to make this decision but us, Mr Speaker. We are the custodians of the Territory's assets, including ACTEW, and we need to put on the table how we are going to deal with what has been described to us in powerful terms as a serious approaching problem.

I have said in the past, in previous debates on similar issues, that the Territory from time to time faces situations where imminent decisions are coming towards us, where we are faced with evidence of a problem and it is the duty of a Territory government and, indeed, of a parliament to act quickly. I cited the example of what was happening with the inquest in the Magistrates Court and the question of the evidence government might have, or not have, before it about approaching problems and the way in which a particular exercise is handled.

Mr Speaker, people in this place are quick to criticise a government if it ignores warning signs, even if they are very small or faint warning signs. The signs here are neither small nor faint; they are on the top of a hill in letters 16 feet high - like "Hollywood" - blazoned over the top of Canberra, and they say, "ACTEW is facing trouble". That is what they are saying, Mr Speaker. Nobody in this debate could come to this place and say, "ACTEW is not facing any risk at all. ACTEW is actually sitting quite comfortably where it is. Just sit back and let ACTEW do its bit. Just free the reins a bit, give them a bit more room to manoeuvre, and they will be fine". Nobody with any brains is making that statement in this debate, Mr Speaker. What they do know is that we have to face this particular problem by positioning ourselves well to face it, by manoeuvring ourselves to be able to address the future.

People in this place know what is the Government's position with respect to that. Its position has been recommended to it now by a succession of reports. Those reports are expensive and comprehensive, and thoroughly canvass the issues concerned.

They have been attacked by the Opposition for a variety of reasons, ranging from the credentials of the people doing them to supposed vested interests, having conflict with vested interests, and so on and so forth. But the fact of life remains that the warnings are clear.

Mr Speaker, if you had before you a choice to make, if you could see clearly what choice is being presented by one side and on the other side there was no substance, there was no form and there was no detail to the alternative being proposed when a serious problem was coming up the track, I would say that the only responsible course of action would be to support the alternative which was clearly before you. I do not pretend that it is going to make any of us popular. I do not pretend that it will. It will not be a popular decision. It is counterintuitive to sell a major asset of this kind; there is no doubt about that. But, in the unfortunate way in which politics sometimes works, it also happens to be the right decision to make. Mr Speaker, I urge the house to make the right decision today.

MR KAINÉ (11.25): The decision to sell a public asset as significant as ACTEW is in our economy is a decision that we cannot take lightly. I begin from the premise that I have no philosophical objection to the sale of public assets. I do not come from the school that says that public assets are sacrosanct and cannot be sold. But I must say that I wish I had the absolute certainty, the absolute conviction, that the Government's approach is right, that Mr Humphries has on the question.

Mr Humphries made much of the risk if it stays in public ownership, although he cannot define what the risk is. So, there are some of us in this place who have to be concerned about the risk in disposing of a public asset. Mr Humphries says that it is costing us \$1m a week. We are told the value of ACTEW is of the order of \$1.2 billion. It might be \$1.5 billion; we will not know until we put it on the market. I think that, on balance, I would rather see the loss of \$1m a week for, say, 10 to 12 weeks while we satisfy ourselves that what the Government is proposing to do is the correct one, rather than risking \$1.5 billion at the end of the day by making the wrong decision.

There are some things that I want to see on the table, and I have made no secret of that. The Chief Minister is well aware of my position on this issue. There are some things that I want to see on the table that will satisfy me and, hopefully, the community, especially the rest of the people in this place, that what the Government is proposing to do is clearly the best approach to take in the public interest. One thing I want to see on the table is not a discussion paper, not drafting instructions to the legislative draftsman, but legislation to impose the regulatory regime. It is not good enough, in my view, to sell off an asset worth between \$1 billion and \$1.5 billion, depending on what we can get for it on the day, with no regulatory regime in place when we sell it. So, the regulatory regime has to be in place - not just an idea, not just a concept; it has got to be in place.

We are told that it has to be in place whether it is sold or not. We can probably muddle along for a bit longer without it if it is going to stay in public ownership, because the Government has the obligation at the end of the day to manage it properly anyway. If we are going to allow it to pass into private ownership, we cannot do that without having a proper regulatory regime in place, and that is one that protects the

8 December 1998

public interest. It guarantees that standards of service delivery will be maintained. It guarantees that a fair price will be charged. These are things that the community cannot take at face value on the basis of somebody's promise that they will be taken care of. So, I think that there are some things that have to be done before the sale is put into effect. As I say, those are the things that ensure the public interest.

There has to be some guarantee on employment, something more than simply saying, "We will protect the interests of the employees of ACTEW". I do not know how one sells a public asset of the order of magnitude of ACTEW and the number of staff that it has and, at the same time, guarantees continued employment. You can put what you like in the contract and you can bet that the day after the contract is signed, if the purchaser wishes, he will find a lawyer who will find a loophole in the contract and the tenure of those employees will go right out the window.

Nor can I see a private buyer buying ACTEW as is, with all of the staff that it has, and maintaining that staff indefinitely. What would be the point? They would have no flexibility to make savings, to get a bigger return on their investment, if they were bound to keep all of the staff there, whether they need them in their new corporate structure or not. So, I need something more than a simple assurance from the Government that the interests of ACTEW employees will be taken care of. I want to see the means by which they are going to guarantee it. I am not too certain that that can be done.

I voted against the adjournment of the debate a little while ago because I think the in-principle debate has to take place. There are issues such as this that need to be on the table and the Government needs to know what the rest of the community needs to know to convince them that the Government's course of action is the right one. Mr Humphries may well be right and the Chief Minister may well be right. Their conclusion that the course of action they are proposing is the correct one may well be right. But, I submit, there are a lot of people in this place, let alone in the broader community, who are not so well informed.

I think that adjourning this debate after the in-principle stage so that there will be a two months' lapse of time before the debate continues and is concluded will allow the Government to inform people as to the rectitude and the veracity of what they are proposing, because there has been no public debate yet. I am told that even at meetings of professional people where the Chief Minister and others have gone along, the advice has simply been: "We have looked at the options and nothing other than the one that we have adopted is viable". So, even professional groups who have, on the face of it, been briefed as to what the Government is doing have not been briefed on what other options the Government looked at and why they were rejected. Mr Humphries said, "We have looked at all the options". If they did, what were they and why were they rejected as possible courses of action? The members of the community who own the asset are entitled to know to allow them to make a judgment about whether what the Government intends to do is the right thing.

Mr Speaker, I come back to the point I made at the beginning. I have no philosophical objection to the sale of public assets, but I do need to be convinced before I agree to it that the public interest and the interest of the employees of ACTEW have been properly safeguarded. If the Government can convince me of that, when the vote is taken they will have my support.

MR QUINLAN (11.32): Mr Speaker, in the course of what limited public debate there has been the Government has persisted with the line that Mr Humphries used again today that ACTEW faces substantial risk. That risk is, in fact, based on the market risk that ACTEW faces. Despite repeated objections to the application of that market risk across the rest of the organisation as a justification for the sale of all of that organisation, the Government has persisted with it. I guess that is because, in fact, the arguments of the Government boil down to two things: There is some risk and we want the cash. The risk that applies to ACTEW - the main risk, the only risk; change as a result of market changes in Australia - relates purely to the retailing arm of ACTEW, which just happens to be split. I think some of the functions of retail reside within ACTEW energy and some within ACTEW retail.

What ACTEW does is it buys and sells electricity. Any value added that ACTEW applies is in the distribution. So, in fact, as you would understand, the buying and selling of electricity by ACTEW raises very little money and is projected to raise very little money in itself. There is a table within the ABN AMRO report which is sourced back to ACTEW and which shows the earnings before interest and taxes of the various elements of ACTEW. It clearly shows that the retail function is barely contributive to ACTEW overall.

So, what we must be clear on first is that this risk and this thing that is used repetitiously applies to only one part of ACTEW, a part of ACTEW that is projected to provide very little of its earnings in the future. The distribution arm of ACTEW, the water and sewerage elements of ACTEW, is a monopoly and whoever owns those elements will retain monopoly ownership, effectively. So, let us keep this element of risk in perspective and let us have the other side of the public debate, which is gaining strength as of today, let me tell you, where we in fact do look at the real need rather than the rather wide claims of the Government.

Further, in the course of the debate, there has been an inference that can be drawn that private operation is better than public operation. To put it another way to all those employees of ACTEW: "You are no good. The private sector can do what you do a whole lot better, so we are going to flog off the enterprise". We have heard some discussion about the capacity of the private sector to grow the business. If there are new owners of ACTEW, they are very likely not to be based in Canberra. They are very likely to be outside Canberra. Their business will grow. It will grow by the size of the business that they just acquired because the Government flogged it to them. Growing the business! How do we grow electricity, water and sewerage for the benefit of the ACT, growth in the ACT? Electricity sales are not going to grow because the owner is going to be elsewhere. He might get a greater share of the market, but it will have nothing, absolutely nothing, to do with the ACT. Water? It is hard to see how you grow that business. I might return to that as to the dangers of even trying. Sewerage? I will leave it to your imagination how you would try to grow a sewerage business.

The equation that we look at in this debate is that, on the one hand, we get the superannuation liability funded, we get some debt paid off and we get a slush fund, a community facilities or development fund, which sounds very much like an election fund to me. But what do we lose? First of all, we have sold the business to somebody for \$1 billion. That will be financed, no doubt, by a mixture of equity and debt and that equity and debt will have to be serviced.

I am naive enough to believe that if someone drops \$1 billion into the ACT they are going to want a return on it. In fact, the current electricity pricing regulation legislation includes a requirement for the regulator to take into account a return on investment. And, just to stay modern, so does the Government's draft regulatory framework. It includes in the principles of regulation that there shall be a fair return on investment.

The utility users of the ACT have a public utility which owes very little through, if I might say so, the good financial management of years gone by. It will not owe very little come privatisation and the returns that are required to service a \$1 billion purchase must, in some way or other, be passed on to the clients. We will forfeit ACTEW dividends, and the table in the ABN AMRO report suggests that the future of ACTEW, despite competition, despite market risks, still offers a considerable flow of profits and a considerable flow of dividends. Add to that the tax equivalents which remain with ACTEW in the main. I think the sales tax flows in cash, a couple of million dollars a year. Those tax equivalents remain with ACTEW. They obviate borrowing by ACTEW. Therefore, they reduce the overall debt of the ACT government sector as a whole and they preserve our AAA rating, that rating then contributing to the interest rate at which we might borrow for other works.

What else do we lose? We lose jobs. They will be exported. This will become, if sold, a branch office of somewhere else. As is freely used in the ABN AMRO report, there will be economies of scale. What does "economies of scale" mean? It means fewer jobs; it means that the head office will be elsewhere. It means the absolute minimum of a footprint in the ACT and an absolute minimum for the flow-on effects of that employment. The Government itself uses a factor of 1.8 whenever it is blowing up jobs. Some initiative that promises 10 jobs immediately turns into 18 jobs with the second-level service jobs that are supposed to flow from job creation. So, I presume that they are happy to accept that for every job lost in ACTEW as a result of privatisation, the Territory will lose 1.8 jobs.

The level of tariff in the ACT will be at risk. There is, under the overall privatisation and the opening of the electricity supply industry to rampant market forces, the elimination of cross-subsidies from the commercial market to the domestic market. Let me say that I still harbour considerable disquiet as to the probability that the pencil will be very sharp at the commercial end and a little bit blunt at the domestic end, even when it comes to putting forward the sums on cross-subsidies, because the big competition is obviously at the big end of town. The temptation will be there and it is going to take a damn good auditor to sort out the actual price allocation. A lot of these numbers are the function of arbitrary cost allocation.

ACTEW at this stage enjoys the lowest tariffs in Australia. If anybody buys it, quite obviously even if we average prices ours must go up. Most importantly, what we lose in this equation is the control over our resources. In water and sewerage, water is quite clearly a, if not the, defining parameter on the growth of the ACT. Our capacity to optimise water catchment, to reduce per capita consumption and to treat and discharge effluent will be, if not the primary parameter, one of the primary parameters in the size of Canberra in the future. We will have to involve ourselves in considerable and quite expensive regulation because a private operator is not going to self-regulate to the same level as a responsible current day ACTEW.

And then we come to the most bizarre of propositions. We have a proposition that we are going to sell the pipe networks for both water and sewerage in the ACT but, in the interests of responsible government, we are going to retain ownership in the dams and the treatment works. It is totally bizarre. It is an absolute loss of control anyway. Add to that the proposition that the franchising of those dams and those treatment works will be for 50 years. That means that we have virtually forfeited control. We have entered into the Spanish contract situation where the development and the real maintenance of our major systems are in the hands of the private sector and at the whim of the profit motive. As I alluded to earlier in relation to electricity, the distribution network, those assets that we own, is not facing the risk that this Government makes so much of. There is no reason to sell any of the hardware of ACTEW under the banner of risk.

We do recognise here that we have a problem with the superannuation liability of the Territory. In fact, this Assembly has responsibly moved to examine that question before we flog off assets to solve it because that, clearly, is the only standing reason to want to sell ACTEW. My experience with business is that a business with a serious financial problem generally, in the first instance, has receivers appointed. You do not go to the wall; you do not flog off the business. The first thing that is done with a business that has a particular problem is that you appoint receivers and you attempt to manage the business out of that financial problem, so that you do in fact retain the assets, you do maximise the asset value of the Territory.

That is where the whole proposition of this Government falls down. There is no evidence whatsoever of any examination of alternatives. (*Extension of time granted*) Even though we have spent a \$1m on studies by consultants of superannuation and ACTEW, we have only an accumulation of consultants' reports where the solution seems to be a predetermined answer to the questions raised. That is quite clear. I think this Assembly owes the public of the ACT a little more public airing of the other side of those arguments.

MR STEFANIAK (Minister for Education) (11.47): Firstly, I will deal with a couple of points other members have raised. Mr Stanhope made a point in relation to ABN AMRO. ABN AMRO has not been ruled out of any further involvement. They have been ruled out of financing the transaction if they are appointed leading adviser. I think I need to make that point quite clear. Mr Kaine made some points in relation to regulatory intent and a regulatory regime. A regulatory regime will be in place before ACTEW is sold, otherwise buyers would not know what they were buying. I think that point should be made and that should be obvious.

8 December 1998

It is very important, I think, that members really think about why we are here. We are here to make decisions that are in the best interests of the ACT community. Mr Humphries is right; this is not an easy decision. The Government does not consider things such as selling assets in a willy-nilly manner. They are very serious decisions to take. However, we are elected to make hard decisions and avoiding those decisions is, in fact, a gross neglect of our duties. It is not appropriate for people to put their heads in the sand.

Today members are being asked to take a decision to ensure that the value of one of the Territory's most valuable assets, if not the most valuable asset, is secured and thereby put the ACT into a position where it can meet its future financial commitments. Or, Mr Speaker, we can simply ignore the problem, wish the problem away, and do absolutely nothing. I do not think that that is the right thing to do. This debate has been around for a number of months and I have not heard anyone opposite come up with any viable alternative to what is being proposed. I look forward to seeing whether anyone will do that in the course of this debate.

Mr Speaker, based on the advice of independent experts and the Government's consideration of the issues, I think it should be obvious to any fair-minded individual that the proposed sale and concession of ACTEW and the enhanced regulatory framework for utilities will result in an improved outcome for the whole ACT community. Our proposed approach is arguably the only way to ensure the provision of efficient and effective services whilst dealing with other pressing financial issues.

It is not that we are Robinson Crusoe in that regard, Mr Speaker. We are not alone. The Auditors-General of New South Wales, South Australia and, more recently, the ACT all recognise the imperatives that are driving governments across Australia to privatise their utilities. In addition, the need for changed ownership arrangements has been supported by the Electricity Supply Association, the Canberra Business Council, the ACT Region Chamber of Commerce, the Victorian Regulator-General, Access Economics, community and business groups, the ACTEW Corporation board and numerous citizens, as shown in letters to the editor published in the *Canberra Times*.

This Government's commitment during the election was to maintain and protect the value of the asset, an asset that independent analysis shows is worth more than \$1 billion at present, and I stress "at present". One thing is certain: If the Government retains ownership, ACTEW will surely lose value. ACTEW itself says that it cannot compete effectively in the newly created competitive electricity market. Maybe it is a real shame that we have a newly created competitive electricity market. However, that is just a fact of life, Mr Speaker. We do. If ACTEW itself says that it cannot compete, it is important for us to do something about it. I think there is a real need for us to do something about it quickly. ACTEW cannot take the commercial risks it needs to take to operate in this market. Nor can the Government and the ACT community afford to inject the funds that would provide the capacity for ACTEW to diversify its operations interstate.

Mr Speaker, the Territory is simply too small for that. We do not have goldmines. We do not have oilwells. This is not the sultanate of Brunei. This is the ACT. We cannot afford to buy ACTEW's way out of its difficulties. Furthermore, ACTEW has little capacity to expand its activities within the ACT, due to forecast modest population growth and increased competition from interstate. Is this a problem for the future? No, Mr Speaker, it is a problem now. ACTEW's retail division made a profit of \$7m last year, and so far this year it has been running at a loss.

How much value will be lost if the Assembly decides to do nothing? The Territory could be up to \$500m worse off. But that is only in the short term. The Canberrans of the future will be left with the burden of the ACT Government's unfunded superannuation liability - over \$700m now and rapidly growing. What is it going to be in about 10 or 15 years' time? About \$2 billion. That is well and truly over the total Territory budget for any one year. That would mean that Canberrans of the future would have to pay more tax and they would have available less essential government services, such as health and education.

Surely that is not what members opposite want. When this Government shows any inkling of decreasing a service or making some rationalisation, members opposite scream. What do they propose to do if they are in government a few years down the track and they are faced with a huge unfunded superannuation bill, if they are faced with a whole lot of competing demands and an ACTEW whose value is rapidly falling and is in real trouble? Failing to take the combined actions advocated by the Government will consign our community to a future of higher taxes and charges and reducing levels of service.

Mr Speaker, we are not locked into an ideological position on ACTEW, unlike those on the other side. We made no decision to sell any part of ACTEW until the outcomes of very rigorous investigations into the risks that ACTEW faced and the pros and cons of the numerous options that were available had been considered. Members opposite might laugh, Mr Speaker, but I have not heard them come up in any of the debates over the last few months with any ideas on how they are going to rectify the situation, how they are going to find the money. They would not have a clue.

Mr Speaker, these studies were concluded well after the election. They were carried out by experts in their field. The first of these studies - by Fay Richwhite - stated:

As a sole shareholder in the ACTEW business the ACT Government is faced with a substantial dilemma in relation to the growth options available to ACTEW. While the pursuit of these growth options is the key to the enhancement of ACTEW's long term commercial value, the pursuit of these growth options carry the risk of investment failure to varying degrees.

More recently, ABN AMRO, who are renowned experts in the field, delivered a scoping study into ACTEW which indicated that ACTEW could be worth about \$500m less in value if the utility remains in public control. The reasons for this, Mr Speaker, are really quite simple. Firstly, governments have unlimited exposure to the full range of

8 December 1998

commercial risks faced by businesses they own, whereas private sector corporations do not. In that context, members may care to reflect on what happened in Victoria and South Australia with the failure of State-owned banks, which saw people's life savings wiped out and the values of homes which people had struggled to buy over many years going down by 30 per cent in many instances. It was not a pretty sight.

Private sector owners will be able to extract additional benefits and efficiencies through economies of scale as ACTEW, which is now one of the smallest utilities in Australia, could become part of a much larger whole. Private sector owners have access to finance to be able to pursue growth and diversification and the willingness to take the associated risks, whereas prudent governments do not. What it means is that ACTEW is worth \$500m more to ACT taxpayers if we sell it now and extract full value from the asset. We have a window of opportunity, but I do not know how long that window is going to stay open.

This premium, as the consultants' report shows, will decline over time if we sit on our hands and do absolutely nothing. In fact, the premium could decline very quickly if New South Wales and South Australia elect to sell or lease out their electricity businesses, which would release about \$30 billion - I repeat \$30 billion - worth of assets onto the market. ACTEW would struggle for recognition in the face of such a huge market for investors' funds and any ACTEW sale would be swamped. The Government's commitment to maintain the value of the asset, our commitment to the people of the ACT, can only be met through the proposed sale and concession of the asset.

What is the Labor Party's plan to maintain the value of ACTEW? Is it to inject enough money into it so that it can generate the economies of scale to compete? Many people, recognising the market risks, would see that as throwing good money after bad. And at what cost? What services would Labor cut to fund ACTEW's expansion? What taxes would they raise? Similarly, what services would they cut and what taxes and charges would they raise to meet the growing superannuation requirement that I have mentioned already? Or would they simply cut existing benefits for current staff? Those are some of the very hard choices that we face. I think those things are quite unpalatable if there is a better way out.

The Labor Party and others have made numerous statements about the evils of privatisation. They refer to the Victorian experience, the Queensland experience or the South Australian experience. The fact is that those statements are misinformed and blatantly wrong. Whether the errors are deliberate or based just on pure ignorance is a matter for conjecture. Either way, I think Labor have been proven wrong in virtually every assertion that they have made.

Let us look at some of the situations that have occurred interstate. In Queensland, power supply has often reached crisis point in times of peak usage. It has been stated that on an unseasonably hot day Queensland's energy reserve could sink to just enough to supply six large office buildings. As a result, people are required to cut back on the use of lights, pool filters, airconditioning units and so forth. Queensland is likely to experience blackouts in the event of further maintenance problems. Queenslanders have had to endure the worst blackouts in a decade in recent months. These problems have all arisen under public ownership, not private.

The New South Wales Government convened an urgent meeting in October following a fatal accident in the electricity industry. Their industrial relations Minister said that there had been a number of serious accidents that had raised serious safety concerns. In the same month, hot water was cut to 7,000 residents at Lake Macquarie after a breakdown at the local energy substation. Power supplies were also cut to some 2,000 affected homes. Again, problems under public ownership.

The cost of the contamination crisis to Sydney Water continues to rise as commercial customers finalise the costs to their operations. Sydney Water has already been ordered to give 1.2 million affected property and business owners a \$16 rebate and to freeze prices. These measures will cost \$25m. It is also facing a multi-million dollar class action. The New South Wales Auditor-General has questioned why the Government has not inserted water quality standards in the licence conditions for Sydney Water. The Auditor-General stated:

... that the Minister for Planning issues a water licence for Sydney Water and he has an auditor to examine the licence conditions including water quality standards. The question is why, if in 1988 Milwaukee had 100 deaths and several thousand illnesses from a cryptosporidium outbreak, 10 years later that was not in the licence conditions.

In her first five months in office the New South Wales Energy Industry Ombudsman has received more than 1,200 complaints. So, let us again ask the question: Who owns these businesses in Queensland and New South Wales? They are government owned. Similarly, in Auckland the electricity distributor, Mercury Power, is a government business enterprise, really no different from what ACTEW is today.

Let us look at what has occurred in Victoria following the privatisation of the electricity industry. In regard to electricity prices in Victoria, the real price of electricity for domestic consumers fell by 9 per cent between July 1993 and June 1996 and the prices are still falling. After June 1996 a further 2 per cent cut to domestic customers was delivered and reductions of one per cent in real terms will be delivered each year up until December 2000. But this is only for domestic customers. Real reductions in prices totalling 22 per cent should be delivered to small and medium size business customers through to the end of December 2000.

In addition to better prices, service levels have also improved in Victoria under that State's electricity privatisation program. The independent Regulator-General in Victoria, Dr Tamblyn, has stated:

Of Victoria's five previously Government owned distribution companies the reliability improved from 510 minutes off supply per annum in 1989-90 to 218 minutes in 1996-97 - a 50 per cent improvement in reliability of power supply to consumers. All private

distribution companies have recorded a reduction in disconnection levels for non-payment, by 47 per cent for residential and 36 per cent for business. This reflects a major commitment to provide a better and more customer focused level of service.

Mr Speaker, it has been suggested that the electricity retail business is the only activity which is facing competition, that all we need to do is sell that part of the business and the problem will be fixed. I think that is simplistic in the extreme. ACTEW's distribution business also faces significant risks. For example, the proportion of households switching to gas for space heating increased from 6 per cent in 1983 to 46 per cent in 1994. Gas has the dominant share for heating, water and cooking in newer suburbs. Once the Longford to Sydney gas pipeline, which will also feed into the Canberra market, brings competition and lower gas prices to the ACT, substantial falls in the amount of electricity sold in the ACT are possible. Lower overall electricity sales could render the distribution business worth even less in government hands. Customers would also suffer as ACTEW's overheads were spread through reduced sales, further driving some customers away and changing household energy mixes.

Private providers would also be able to deliver improved water and sewerage services; but, because of the nature of those businesses, the Government has decided to retain important strategic assets in government ownership. That is something that I think a lot of people do not realise. (*Extension of time granted*) The concession arrangement for the dams and the water and sewerage treatment plants will have built into it rigid standards that will ensure that environmental requirements and health and safety are assured. The concession arrangement will allow the Territory to capture around \$160m in value which flows from keeping ACTEW as a multi-utility, without any detrimental effect on social and environmental outcomes.

As I stated earlier, the Government's proposed course of action in relation to ACTEW achieves the best possible outcome considering all the factors. The new regulatory framework which is being put in place even as I speak will ensure that consumers and the environment get a better deal than they are getting now. Competition will lead to improved services, as has occurred in the telecommunications industry, and efficient service delivery will lead to reduced prices in the long run. As well as these benefits, one of the most significant risks to the Territory will be completely erased. We will be put in a much stronger position to meet our financial obligations and the sale and concession of ACTEW will go some way to reducing this Territory's operating loss.

Those outcomes can only be achieved if this Assembly agrees to the sale and concession of ACTEW. If it does not agree to the disposal of ACTEW and thus facilitate the best solution to the unfunded superannuation liability, ACT taxes and ACT charges will rise dramatically in time and service provision will decline. In those circumstances, how will the Opposition and the crossbench members be able to explain to their children and their grandchildren that they allowed the value of the Territory's biggest asset to decline and consigned them to a high cost and low service provision future or, alternatively, a life away from a declining Canberra? At least members of the Government will be able to say, "We tried".

Mr Speaker, there are certain things that government should not privatise. There are certain things that are better privatised.

Mr Berry: What about hospitals?

MR STEFANIAK: Mr Berry, there are certain things in relation to defence you could never privatise and there are things in relation to the police force, to give you two examples. But there are some activities that can be done better if governments are not necessarily involved. I think your lot really do have an ideological hang-up and are in a time warp in relation to that. I think you really do need to look at reality.

I urge all members of the Assembly not to abrogate their responsibilities. This issue really does have to be determined on its merits, not on ill-informed scaremongering or ideology. Determining the issue on its merits can only lead to a yes vote. Yes, time is crucial, Mr Speaker, because of what is happening around Australia. We have a window of opportunity at present, but if we do not act quickly that window will close and that will cause some real problems for future generations of Canberrans. I commend this Bill to the Assembly.

MR CORBELL (12.05): Mr Speaker, from listening to the debate this morning it has become very clear that the Government, in asking the Assembly to sell ACTEW, does not talk about the benefits of privatisation, except insofar as those benefits relate to the amount of money it will get to deal with the superannuation liability. The Government does not talk about how privatisation will mean better service or better reliability. They do not talk about what benefits will accrue to the company, to the organisation. That is not their central argument. That is not the argument they have put in the strongest and most clear terms to this Assembly. Instead, this Government has chosen to argue that the privatisation of ACTEW must occur because we have a superannuation liability which must be addressed. That is the Government's core argument. That is the Government's central argument, Mr Speaker. That is what, time and again, we have heard in this place. Indeed, we heard Mr Humphries say earlier today, "I have children. I don't want those children to be encumbered with a debt".

Mr Humphries: That was one of two arguments. There were two arguments.

MR CORBELL: Mr Humphries, I was polite enough to hear you in silence. Perhaps you could do me the same courtesy.

Mr Speaker, we have heard Mr Humphries stand up in this place and say, "I do not want to see my children burdened with a debt". We have heard the Government say that the responsibility of members of this place is to take the tough decisions, to make the hard decisions; but, they argue, decisions in the best interests of the Territory. Interestingly, those decisions are entirely financial. As far as the Government is concerned, the only responsibility we have in this place is to manage the Territory's economy and its finances in an effective and responsible way. Mr Speaker, I do not dispute that for a moment.

8 December 1998

I do not dispute that we have that responsibility. But I argue that we have another responsibility which is equally important, that is, a responsibility to protect the social interests of the people of the Australian Capital Territory, the environmental interests of the people of the Australian Capital Territory, and a notion which is somewhat outdated these days called the public good. I want to protect that, too. We must weigh up all of these factors in our decisions.

Mr Speaker, earlier today I was very pleased to present a petition in this place on behalf of 10,600 residents of the Territory opposed to the sale of ACTEW. When I presented it, Mr Moore interjected across the chamber that they had signed it only because they had been misled. What a patronising comment! It was a patronising comment from a government which is arrogant and out of touch, because what those 10,600 petitioners were saying, if they were not saying anything else, was: "We do not accept an argument about privatisation just because it is about managing the Territory's economy effectively and responsibly. We want a government that listens to the concerns of people, not just the bottom line. We want a government that will understand that there are social costs associated with privatisation which we are very concerned about. We want a government that understands that there are environmental costs associated with privatisation which the Government does not seem to care about".

That is why those people signed that petition. It is intuitive, contrary to what Mr Humphries argues, that if the Government wants to sell something for an amount of money someone is not going to buy it unless it is a good proposition. People in the community understand that, too. I will return to that later in the debate.

Mr Speaker, let us look at the ACTEW story. Let us look at how the Government has presented its argument on ACTEW over the past 12 to 18 months. I go back to a letter that the Chief Minister sent to Mr Jeremy Pyner, who is the secretary of the ACT Trades and Labour Council, on 25 May 1995. I would like to quote from that letter. The Chief Minister wrote to Mr Pyner and said:

I would like to state clearly, once again, that we have no intention of selling ACTEW. It is owned by the people of Canberra, and will remain so.

That is what Kate Carnell said on 25 May 1995. The Government may argue, "We did not rule it out during the election campaign. Therefore, we are relieved of any comment or commitment we gave to the TLC on 25 May in 1995". But let me give you another quote from the Chief Minister. On 20 July 1998, this year, she said:

I am not aware of any plans to sell ACTEW.

That is what the Chief Minister said, and she said it to an Estimates Committee hearing on 20 July this year.

Mr Speaker, time and again we have heard in this place and in the community: "It is not on our agenda. We have no plans to sell ACTEW". Is it any wonder that 10,600 residents say that they want to sign a petition opposing the sale? They know, and every member in this place knows, that it was not an issue that the Government went

to the community on at the last election. It was not an issue that most of us in this place went to the community on at the last election. We did not go in and say, "I would just like to warn you that the sale of ACTEW might be coming up and we might need to make a very important decision about it". We did not say that. We said, "It is not on the agenda". Of course, it was not on the agenda because members of this Government know that if it had been on the agenda they might have been in a bit of difficulty.

Let me cite one example. The State election campaign in Tasmania was fought on the issue of the privatisation of the Hydro-Electric Corporation. The Government there had some guts, unlike this mob opposite, because they put a proposition to the electorate which was the same as the proposition this Government is putting now. In Tasmania, the former Liberal Government put the proposition that they needed to sell the corporation to retire the State's debt. That is what the former Liberal Government in Tasmania did. They were honest. They put it on the table. They asked the people to decide in an election, and guess what? They lost, Mr Speaker. So let us reflect on that when we think about the Government's motives and the way they have approached this whole debate about ACTEW.

Moving on, we knew that there was a real problem coming towards us in relation to privatisation. That is why the Labor Party in this place moved amendments to the Territory Owned Corporations Act that would require the Assembly to specifically approve a sale of a Territory-owned corporation. Those amendments were supported by the Assembly. But when we move to this Bill, the ACTEW (Transfer Scheme) Bill, what do we see? We see clauses in that Bill that specifically override those amendments that we made to the Territory Owned Corporations Act. They specifically override them. Instead, what the Government proposes as an alternative is an offer whereby the Chief Minister says, "Trust me, I'll make sure you guys have the final say. Don't worry that I am legislating away your rights under the Territory Owned Corporations Act to require a resolution to sell. Trust me". That is what the Government is saying.

Ms Carnell: Garbage.

MR CORBELL: The Chief Minister can yell "garbage" across the chamber if she likes, but she knows that at the end of the day, if this Bill is passed with that clause in it removing and overriding the right in the Territory Owned Corporations Act of the Assembly to decide the sale, she can do what she likes, that there is no legislative requirement for this Assembly to approve the sale. She knows that, Mr Speaker. They know that. They may feign mock surprise over there, but the reality is that that is their agenda.

Mr Speaker, let us move to the issue of the study that the Government has used to justify the sale. The Chief Minister said that the scoping study would look at the question of ACTEW's potential privatisation and other options objectively and openly and then the Government would look at all the options. That is what the Chief Minister said.

8 December 1998

Instead, Mr Speaker, we got something quite different. Instead, we got a report which is not transparent, where assumptions about efficiency and future value are based on secret documents. We have a report whose recommendations concentrate almost exclusively on sale and which dismisses the wider implications by claiming that they are too hard - for example, the economic impact of the sale on the Territory - or are covered by regulatory frameworks which have failed everywhere else in the world. That is the report we have got.

This Government has talked about being open and accountable. This Government has talked about all the evidence being there. The ABN AMRO report makes assumptions about the efficiencies that can accrue to ACTEW through privatisation. It makes those assumptions based on a report which is called the UMS report. This is the document, Mr Speaker, that ABN AMRO themselves use to justify the potential for efficiency gains if ACTEW is privatised. This report is not available to this Assembly.

Mr Stanhope: It is a secret.

MR CORBELL: It is a secret report. It has not been released by the Government or by ACTEW. We are asked to assume on faith that what ABN AMRO say in the report is accurate. We are asked to trust the Government. After their behaviour in relation to the election and after the election - remember that?: "We don't have any plans" - how can we trust them now? How can we trust a report where one of the underpinning parts of it in relation to efficiencies that can be gained through privatisation is secret and cannot be revealed even to the members of this place who will be asked to make this most important decision? What disdain and arrogance are displayed by this Government when they do something like that!

The Government, following the release of the ABN AMRO report, began their campaign of scare tactics. As I said at the beginning of this debate, they were scare tactics based on the superannuation liability, not based on the benefits of privatisation. They know, Mr Speaker, that the issue of privatisation is deeply unpopular in this electorate and they know that the evidence that privatisation leads to a better standard of service is very unclear. Studies internationally and in Australia have highlighted the fact that it is not the ownership model that affects the efficiency of an organisation; it is the way the organisation is managed. (*Extension of time granted*)

I cite as a source for that not some left-wing think tank that the Government might choose to deride, if that is the way they want to portray it, but a very credible source, the Industry Commission. The Industry Commission said a few years ago that the evidence showed that it was not whether an organisation was privately or publicly owned that made the difference on whether it could be run efficiently and effectively. Instead, it was the way that the organisation was managed. It was the way that it was managed, not the way that it was owned. What does that say about the arguments on the other side of the house in relation to privatisation? Again and again we have heard in this place the Government say that privatisation will lead to greater efficiencies. ABN AMRO used that argument to justify privatisation. They say that privatisation must occur because there will be greater efficiencies in the organisation, we will have a more effective organisation.

But we have had an organisation like the Industry Commission come out and say, "It's not the ownership model that matters; it's how you manage it". Mr Speaker, that is what the Labor Party has been arguing all along: It is how you manage ACTEW, not who owns it.

Having dismissed that, Mr Speaker, let us look at the reasons why it is important to retain an organisation like ACTEW in public ownership. I come here to the point Mr Kaine made earlier in the debate about the regulatory structure. Nowhere in the world has there been developed a regulatory structure which will achieve what the Chief Minister is proposing to achieve with her structure. There is no model anywhere in the world that achieves what she wants to achieve. Yet again we are hearing the Government say, "Trust me, I'll get it right. Let me sell it. I'll get it right". That is what Jeff Kennett said in Victoria, Mr Speaker. He said that he would have the world's best practice regulatory regime and it did not happen. It did not happen, Mr Speaker.

There have been lots of articles written about the problems with privatisation, corporatisation and franchising of electricity and water operations. I will just put a couple of questions on the table. The first is: Why are we transferring a public monopoly to a private monopoly when we are talking about the electricity distribution network? Why are we shifting a public monopoly, where there are the controls and the accountability mechanisms of a parliament and a range of other devices to fix any potential problems, to a private operator? Why are we doing that, Mr Speaker? I am yet to see an argument about why it is a good idea to shift a public monopoly into a private monopoly. The Government has not answered that question.

Mr Speaker, a range of other issues have been raised in relation to the privatisation and corporatisation of water and electricity. I am sure that members are aware of all that detail, so I will not go into it at this stage. But I do want to address some points made by Mr Stefaniak in his contribution to the debate. Mr Stefaniak said that the benefits of competition and privatisation of electricity operations in Victoria had resulted in, I think he said, a 4 per cent reduction over a period of years in electricity prices for domestic customers.

Ms Carnell: Nine per cent.

MR CORBELL: Nine per cent. There we go; 9 per cent for domestic customers. Mr Speaker, if that is the case, if there has been a 9 per cent reduction, as the Chief Minister says, in prices to domestic electricity users, is it really a consequence of privatisation and greater competition? Mr Speaker, the answer is no, because in Victoria, as far as I am aware, from 1995 to the present date there has been a 4 per cent reduction in electricity prices and it has been legislated, it has been a requirement of the Victorian Parliament. It has not been as a consequence of privatisation or greater competition or efficiency in the electricity market.

Mr Speaker, they are not to do with market pressures. They are not to do with the discipline of the market. They are not to do with any of those wonderful things which those opposite argue are the great things to do with privatisation. Instead, they are the action of a parliament that has said, "We want to reduce electricity prices". You do not

8 December 1998

need a privatised electricity operation to do that, and we all understand that. So, when we hear claims from the Government like that, that electricity prices fall because the Victorian Parliament legislates for them to fall and therefore that is the benefit of competition, let us just take it with a weeny grain of salt, shall we. Let us do that, because it is just nonsense.

To conclude, this Bill is far-reaching and powerful. It should not be passed in any rush, certainly not without due consideration and consultation on the detail. We say that the Assembly has already expressed its view on this issue, that is, that there must be a more effective and closer examination of the issues, particularly in relation to superannuation and the regulatory regime. Mr Speaker, if this Assembly agrees today to pass the Bill, even in principle, we will have sold ACTEW. It is that simple. If we pass the Bill in principle, the Chief Minister will walk out of this place this afternoon and say, "I have in-principle support for the sale of ACTEW".

Ms Carnell: Yes.

MR CORBELL: She is nodding and saying yes. Mr Speaker, if we pass the Bill in principle, we will have sold ACTEW; it is that simple. For all the reasons that I have outlined and for all the concerns that I have outlined, we must not do that today.

Debate interrupted.

Sitting suspended from 12.28 to 2.30 pm

QUESTIONS WITHOUT NOTICE

ACT Hospice Site

MR STANHOPE: My question is to Minister for Health and Community Care. In a media release dated 30 October, Senator Ian Macdonald, the Commonwealth Minister for Regional Services, Territories and Local Government, said that once work begins on the National Museum the environment on Acton Peninsula "will become increasingly unsuitable for the Hospice operations". Given Senator Macdonald's comments, can the Minister tell the Assembly whether the Government has received any reply from the Federal Government to the ACT Government's request of 17 August for information about how construction of the National Museum would impact on the ACT hospice?

MR MOORE: A number of things have happened. I have sought a combined meeting with the Chief Minister and Senator Macdonald, but the Chief Minister also had an opportunity to speak to Senator Macdonald in the context of another meeting, as I understand it. At that time the Chief Minister raised the issue of the hospice because we are particularly concerned about the situation with the hospice. As you would be aware, I have written a number of times to the Federal Government trying to resolve the particular issue.

The Government's position remains as I have indicated it to this Assembly. Our preference, the same as the preference of Sister Berenice, who runs the hospice, is that it should remain on Acton Peninsula. We are working as hard as we possibly can to keep it on Acton Peninsula. It is possible, Mr Stanhope, to have a range of options running at a particular time, so we are also looking at a number of sites. If the Federal Government says, "No, we will not renew your lease on the hospice on Acton Peninsula", we will have some other options. I understand, Mr Stanhope, that you have been out looking at some sites yourself, to throw in your twopenny bit's worth as to which you prefer. Generally, I think we are aware of some sites on the shores of Lake Ginninderra and near the Calvary Hospital, but no decision will be made about those. The most important thing, as far as we are concerned, is to support Sister Berenice in her stance that the hospice remain on Acton Peninsula. That is the view of the Government, that is what we want to do and that is what we are working on. That is why we have sought a joint appointment by the Chief Minister and me with the Federal Minister for Territories. We will make sure that we put our view as strongly as possible. I think it is fair to say that in the Chief Minister's meeting with Senator Macdonald he was not fully apprised of the full range of issues, so the proposed meeting becomes even more important.

MR STANHOPE: I preface my supplementary question by saying that it is my preference that the hospice remain on Acton Peninsula too. Can the Minister say whether the ACT Government, in its negotiations over the Acton-Kingston land swap, put to the Commonwealth that it should finance the relocation of the hospice should that be necessary, and can he say whether the relocation costs could be up to \$5m?

MR MOORE: There have been some suggestions from within the department about relocation, but we have concentrated primarily on making sure we meet with the Minister, Senator Macdonald. When I have asked Sister Berenice - and I understand that when the Chief Minister asked about her preference during the reconstruction period she said the same thing - she has said that she wants to stay on Acton Peninsula. That is what she is interested in.

The figures I have heard, Mr Stanhope, are not as high as \$5m, but certainly relocation would cost substantial sums of money. I think Mr Berry was aware of some of those costs when he made the decision to put it on the best site - I do not mind saying this to Mr Berry - in Canberra. There is no doubt that that is the best site in Canberra.

I would ask that while we continue to lobby Senator Macdonald on this issue you also lobby your Labor colleagues in the Federal Parliament - I am certainly happy to work on some of the crossbench members as well and I hope Ms Tucker will talk to the Greens members - so that they understand that we are as keen as mustard to have the hospice remain in its location on Acton Peninsula.

Superannuation Liability

MR HIRD: My question is to the Chief Minister. A report released by the Australia Institute today suggests that the Territory can fully fund its superannuation liabilities over 12 to 21 years through a one-off capital injection of \$4m and then repayments of \$25m per year. How is it that the Government has missed this seemingly simple option in its own assessment of the superannuation problem?

MS CARNELL: Thank you very much, Mr Hird. Mr Speaker, the short answer to the question is that, as with most simple solutions, this one is no solution at all. I would appreciate it if particularly the crossbenchers and maybe Mr Quinlan listened to this too. The Australia Institute report, released at the eleventh hour today in order to avoid detailed scrutiny, is in fact fatally flawed in a number of areas, but the most glaring error is the so-called solution to the Territory's superannuation liabilities. The authors of the report have chosen, essentially, to assume away the problem. They have in fact assumed away \$1 billion worth of superannuation liability in a single sentence in their report. In one breathtaking sentence - for those who are interested, it is on page 45 - the report says:

The simplest policy is for the government to fully fund liabilities accruing in the future ...

In other words, we will assume full funding of the accruing liability from this point onwards. In that way we have to deal only with the existing unfunded liability of about \$700m. It is a breathtaking assumption, because it deals with only half of the superannuation problem - the unfunded liability that has accumulated between the time of self-government and today. It takes no account of the fact that the superannuation liability is increasing at a rate of more than \$100m per year - this year, next year, the year after that and on into the future. Towers Perrin estimated that the unfunded superannuation liability will increase from its current level of about \$700m to \$1.7 billion in about 15 years' time.

Finding a way to fund the current unfunded liability of \$700m is only part of the solution. To assume that this is the extent of the problem is to assume away \$1 billion worth of liability that will have to be paid for by future generations of Canberrans. Just think for a moment what this assumption means in real dollar terms, not in the theoretical world of academia. I am not surprised that those opposite are embarrassed, Mr Speaker. I would be embarrassed if every time I had come up with figures on anything I had got them wrong. It has happened again.

Mr Corbell: It is a good report.

MS CARNELL: Mr Corbell thinks it is a good report. It is a good report that forgets about a minor problem of \$1 billion!

MR SPEAKER: You will have your chance shortly, Mr Corbell. I suggest that you stop interrupting.

Mr Corbell: Ms Carnell knows better than the head of economics at the ANU. Ms Carnell knows better than the head of EPAC. She knows better.

MR SPEAKER: Mr Corbell, on the next interjection you will be warned.

Mr Humphries: Mr Speaker, I raise a point of order. We have had a barrage of interjections. I think it is fair to ask members to hear the Chief Minister in silence.

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

MS CARNELL: Thank you very much, Mr Speaker. The assumption that from this point in time onwards the Government will fully fund the accruing liabilities means finding more than \$100m a year. In the report - I am not making this up; it is actually there on page 45 - they have simply assumed it away or assumed that we can fund it every year. True, the Government has made a commendable start towards funding its accruing liabilities in the budget with the decision to allocate an additional \$40m this year and next year, rising to \$50m and \$70m in following years, but that is only half the accruing liability. We would have to double that to meet the Australia Institute assumption.

When you look at this in real terms, \$100m a year is equivalent to doubling everybody's rates. We get about \$100m in rates from people in Canberra. According to this report, we should double rates. We should find another \$100m a year so that we can follow the assumption quite clearly there on page 45. Mr Speaker, this is a recipe for massive tax increases or possibly savage spending cuts. Are those opposite suggesting that we get \$100m out of health, education, police and those sorts of areas? That simply is a ridiculous statement.

Right here in the report the unfunded superannuation liability has been funded on the basis of only funding the \$700m, not the \$100m accruing liability. We still have to find that. Here it says, quite simply, that the simplest policy - it certainly is the simplest policy - is for the Government to fully fund liabilities accruing in the future. Finding \$100m a year is no problem according to this wonderful report, as those opposite describe it, into the privatisation of ACTEW. The fact that we have had this report for not much more than two hours and found a \$1 billion hole shows that they cannot manage the unfunded superannuation issue. In fact, all of the little tags on my copy mark things that, at a very quick look, are wrong with the report. I think they had better go back to the drawing board.

MR HIRD: I ask a supplementary question. These geniuses opposite should do their sums. Divide \$700m by 309,000 people. It does not take much to work it out.

Mr Corbell: What is the answer, Harold?

MR HIRD: You told me, Mr Speaker, you were going to throw him out next time he opened his mouth, yet he has interjected again. Can the Chief Minister confirm that under the model proposed by the Australia Institute more than \$1 billion will have to be found out of the ACT budget in the coming years?

8 December 1998

MS CARNELL: Mr Speaker, that is exactly what the report says. It lays out quite simply the approach they have taken. What you do is take \$400m out of ACTEW. Remember that those opposite last year said that if we took \$100m out of ACTEW we would totally destroy the company as we knew it. The then Leader of the ALP said:

... the money from ACTEW will undermine ACTEW as a corporation and its ability to do business.

We now know we can take \$400m out and pay \$25m a year out of the dividend. Unfortunately, Mr Speaker, we would also have to pay \$100m a year, on top of the \$25m, to fund the accruing liability. Double rates - that is what those opposite want to do. They want to put up taxes by \$100m a year. I think that says it all to the crossbenchers with regard to the arguments that those opposite have been running on ACTEW.

ACTEW - Sale

MR QUINLAN: Mr Speaker, my question to the Chief Minister relates to ACTEW. In the eventuality of a sale of ACTEW, what will be the fate of the organisation's buildings - head office and depots - given the high probability that they will be superfluous to the operation of a purchaser from outside town and in light of the experience in the UK, where many utilities were bought for the purposes of asset stripping more than for operation?

MS CARNELL: Mr Speaker, the basis of the sale that I hope we will be able to enter into at some stage, hopefully sooner rather than later, will be to ensure that the successful bidder sets up its operations in Canberra. In fact, the basis of the arrangements will be that all staff will move over to the new operator. Already in the ABN AMRO report there is an indication of at least 12 months in job security. As I have said before, I think that can be negotiated up in many circumstances.

Mr Speaker, we will be looking at adding value to Canberra industry, requiring the successful bidder to set up new businesses here in Canberra so that we can have new jobs and end up with growth. On that basis, a new operator will not be contractually able to asset strip, as we have spoken about, and of course will need many of the current assets that ACTEW has.

MR QUINLAN: I ask a supplementary question. Can the Chief Minister confirm on record that there have been no discussions at any level on propositions for leaseback of ACT assets should they be redundant after sale?

MS CARNELL: Mr Speaker, how could I answer a question on discussions at any level? Sorry, I cannot answer that question. I do not know what everyone in the whole organisation talks about.

Totalcare Incinerator

MS TUCKER: My question, directed to the Minister for Urban Services, relates to the Totalcare incinerator in Mitchell. Minister, you will know that Greenpeace have just issued a report on toxic hot spots in Australia which includes the Totalcare incinerator at Mitchell. You may also be aware that there was a debate in this Assembly about the incinerator in the early part of last year after Greenpeace and the Conservation Council raised concerns about the burning of pesticides at the incinerator and the potential for toxic fumes to be emitted from this burning. A motion was passed in the Assembly on 14 May 1997 calling on the Government to implement a range of new procedures at the incinerator. I am not sure whether these procedures were actually implemented. Could you therefore tell us what improvements to the monitoring of gas emissions from the incinerator have been made since that motion was passed and what the results have been?

MR SMYTH: Mr Speaker, I thank Ms Tucker for her question. I have met with Greenpeace twice in the last couple of months. For the information of members, as I have indicated to Greenpeace, ACTEW and Totalcare have been granted environmental authorisations under the Environment Protection Act 1997 to operate incinerators in strict accordance with specific authorisation conditions. One of the authorisation conditions requires both ACTEW and Totalcare to conduct annual testing of emissions, including dioxins, from their facilities and to report the results of such testing to the Environment Management Authority. My understanding is that ACTEW and Totalcare conducted emission testing in May 1998 and in October 1998 and that we are still awaiting the results for the Totalcare incinerator. I understand that they are due shortly.

Ms Tucker: You do not have the results?

MR SMYTH: No, not yet.

MS TUCKER: I ask a supplementary question. The motion passed in May 1997 also called for the Commissioner for the Environment to prepare a report on the appropriateness of incineration of pesticides and agricultural chemicals at the incinerator. Could you inform the Assembly where that work of the commissioner is up to at the moment?

MR SMYTH: Ms Tucker, I will have to find out where that report has gone. I am not aware of the progress on it, but I will get back to you as quickly as I can.

ACTEW - Sale

MR CORBELL: Mr Speaker, my question is to the Chief Minister. Does the Chief Minister still hold the view that she has the support of Canberra small businesses in her ideological headlong rush towards the privatisation of ACTEW, and does she still agree that privatisation will deliver more efficient electricity and water services to

8 December 1998

small business customers? Also, is the Chief Minister aware of the latest *Yellow Pages* small business index findings, which show that 68 per cent of small businesses surveyed in the ACT are opposed to the privatisation of electricity and water services, which is the highest level of opposition in Australia, and that only 18 per cent are in favour, the lowest level of support in the country?

MS CARNELL: Mr Speaker, the *Yellow Pages* small business index is a monthly survey of small businesses employing 19 or fewer people. Every month only 100 ACT businesses are surveyed. Due to the very small sample, the results tend to - - -

Mr Corbell: They are wrong too?

MS CARNELL: Have you read the rest of that report? I am very happy to go into the rest of the report. Due to the very small sample size, the results tend to fluctuate significantly from month to month. It is also important to note that the survey does not mention ACTEW as such.

A more accurate indication of the business community's support for the sale of ACTEW could be found in statements made by the two major business peak bodies in the ACT.

Mr Quinlan: What a surprise.

MR SPEAKER: Stop anticipating please and be quiet. Someone is going to get warned very shortly and then the next step of course will be for me to name them. I will be happy to do that. It will be most unfortunate for any votes coming up.

Mr Humphries: Mr Speaker, I have to press the point. It really is very rude to be jumping in, quite apart from being a serious breach of parliamentary standing orders.

MR SPEAKER: I cannot enforce courtesy, Mr Humphries, only standing orders.

Mr Humphries: I do not ask you to, Mr Speaker, but there are standing orders which cover this comprehensively.

MR SPEAKER: Indeed. I can do it with standing orders.

MS CARNELL: Mr Speaker, as I said, it would be significantly more sensible to look at the statements made by two major business peak bodies in the ACT with significantly greater membership than 100. The chief executive of the ACT and Region Chamber of Commerce and Industry, Mr Peters, was asked on ABC radio, "Are you saying that from your point of view the only answer to the survival of ACTEW and to ensure that domestic users are not paying higher electricity prices is the privatisation and sale of ACTEW?". Mr Peters' response was quite simply: "Yes, I am saying that". The Chamber of Commerce represents 1,400 businesses in the ACT. The Canberra Business Council has also supported the sale. In a media release issued by the council on 10 November 1998 the council says:

The Canberra Business Council endorses the proposed sale of ACTEW on the basis that it is sensible financial management to maximise the value of this declining asset for the future of the Territory. The Council believes this sale should occur as soon as reasonably possible.

The Canberra Business Council represents over 250 businesses and major business organisations in Canberra. These organisations would not be prepared to issue such strong statements in favour of the sale if they did not believe they had the support of their membership.

While I am on the subject of the *Yellow Pages* Small Business Index, the Assembly may be interested to hear about some of the other figures in the same report. Confidence about the year ahead amongst Australian Capital Territory small business proprietors has reached its highest level for three years. This positive result is second only to that in South Australia. For the August to October quarter a net 41 per cent of small business operators reported sales growth, compared to a net 28 per cent in the August index.

Mr Berry: Mr Speaker, I take a point of order. Answers must be confined to the subject matter.

MR SPEAKER: I uphold the point of order. Mr Corbell was asking a specific question, Chief Minister.

MS CARNELL: Mr Speaker, that is certainly true but Mr Corbell was suggesting that this report was a credible document and something that he believed should be touted around in the Assembly. I was suggesting that if it is a credible document then the fact that 41 per cent of small business operators reported sales growth compared with the 28 per cent in the - - -

Mr Corbell: I raise a point of order.

MR SPEAKER: Do you have a supplementary question, Mr Corbell?

MR CORBELL: Yes, I do, thank you, Mr Speaker. How can the Chief Minister remain confident that her Government's plan to privatise ACTEW does have the support of Canberra small businesses, in light of these recent findings by this major national survey? I should highlight the fact that the Chief Minister herself issued a press release on this survey when the August figures came out. Recognising that the support small business had for her Government's policies on small business, how can she say the report is not credible when she herself uses it to proclaim her own Government's alleged successes in small business activity? Will she withdraw public statements she made in October on this issue now that the results show that among Canberra small business opposition to privatisation is even stronger than opposition in the rest of the country and that the national average is 55 per cent opposed, compared to 68 per cent in the ACT?

8 December 1998

MR SPEAKER: Chief Minister, you will have to sort that out yourself, I am afraid.

MS CARNELL: Mr Speaker, something I think we should sort out is whether you can have a supplementary question of 10 parts that have very little relevance to the first question. If they did have relevance, why was I ruled out of order for answering part of the supplementary question?

MR SPEAKER: Because the supplementary question was not part of the major question, Chief Minister.

MS CARNELL: Sorry, Mr Speaker, the two do not go together. If I was ruled out of order for my answer to the first question, then the supplementary is out of order for not being related to the first question.

Mr Berry: I raise a point of order, Mr Speaker. I do not think it is open to the Chief Minister to ask you questions.

MR SPEAKER: Sit down.

MS CARNELL: Mr Speaker, I am very happy to answer.

MR SPEAKER: I was totally confused by that supplementary question, Chief Minister. If you were, I suggest that Mr Corbell put it on notice.

MS CARNELL: Mr Speaker, I am happy to answer it, because it is silly, as is normally the case. I made the point in my answer to the first question that this index each month surveys 100 ACT businesses. Already two organisations that represent some 1,650 businesses have supported the sale of ACTEW. The question asked was: "Do you support the sale of public utilities?". There was no information about extra legislation to guarantee things like price or environment, no regulatory reform, no backup, no other information. I think the fact that when other information was provided to bodies such as the Chamber of Commerce and the Business Council they were in favour indicates the level of support.

Kingston Shopping Centre

MR KAINE: My question is to the Minister for Urban Services. Minister, in October last year the Government announced a master plan for the refurbishment of our oldest shopping centre, the Kingston shopping centre. That plan was the result of a good deal of hard work done by the Kingston Precinct Community Group, which had been established a year-and-a-half before to identify community priorities - I emphasise "community priorities" - for public places around the shopping centre. The Government budgeted \$535,000 for the first stage of a two-stage upgrade of the Kingston shopping centre. That focused on improvements to the landscaping, lighting, street furniture and parking in the Green Square area. The second stage was to extend the improvements to Eyre and Jardine streets and construct linkages between the shopping centre and the proposed Kingston foreshore development. Minister, I was somewhat concerned

therefore to read in yesterday's *Canberra Times* that the Government now apparently intends to spend much of this money not on upgrading Green Square and adjacent streets but on drainage works for which, incidentally, an additional budgetary provision of \$200,000 has already been made separately. Minister, did the *Canberra Times* get it wrong? If so, has the Urban Services Department officer who was quoted misunderstood the Government's funding arrangements for this project?

MR SMYTH: I thank Mr Kaine for his question. Unfortunately, I have not seen that article in the *Canberra Times*, but the Government is certainly committed to the upgrade of Kingston.

Mr Kaine: I will give you a copy of it.

MR SMYTH: I will come and get it from you in a moment. Like Mr Kaine, I appreciate Kingston's part in Canberra's retailing history. There have been some delays with the project, partly because as it has evolved the tenants have come back with more and more suggestions. Some of the paving and the grassing works were to commence in January, but following a meeting last week and some further consultation they will now be put off till March. As to the drainage issue, Mr Kaine, I will get you some further information. I am not aware of that particular change. I will find out for you and get back to you as I can.

MR KAINE: I ask a supplementary question, Mr Speaker. While you are looking at it, Minister, you will note that on pages 134 and 135 of this year's Budget Paper No. 4 the budgetary provisions are quite clearly stated, and they do not coincide with what is reported in the *Canberra Times*. My supplementary question is: Has there been some fiddling of the budget? If there has been, has that been done with the Government's knowledge or is it just a reordering of priorities by the bureaucrats involved?

MR SMYTH: Mr Kaine, I will check on that and get back to you as quickly as I can.

Nurses - Enterprise Bargaining Agreement

MR BERRY: My question is to the Minister for Health. Minister, clause 11.2 of the nurses agreement, in relation to the review and renewal of agreement, states:

The parties undertake to re-open negotiations at least six (6) months prior to the expiration of this agreement with a view to negotiating and settling a replacement collective agreement. The review of rates of pay envisaged under Clause 17 will be undertaken as part of these negotiations.

Clause 17 states:

The parties will review agreed relevant external markets when negotiating a replacement agreement pursuant to Clause 11.2.

8 December 1998

I ask the Minister whether it is true also that the Industrial Relations Commission said:

In negotiating the replacement agreement the parties were obliged by the terms of clause 17 of the Nurses Agreement to conduct a review of rates of pay. This obligation has not been met.

Is it not true, Minister, that the Canberra Hospital has failed to meet this obligation under the nurses agreement, as noted by the industrial relations commissioner? Therefore, why has the Minister decided to proceed towards certification of the replacement agreement, contrary to the strong recommendations of the industrial relations commissioner?

MR MOORE: Thank you, Mr Berry, for that question. Indeed, the Canberra Hospital had not met its obligation, nor had the Australian Nursing Federation met their similar obligation, on this particular matter, and it was drawn to their attention by the industrial relations commissioner yesterday in a very strong recommendation. The Canberra Hospital immediately responded and said, "Of course we need to meet that obligation before the agreement expires". My recollection is that it expires on 23 February next year. The Canberra Hospital, in its response, immediately invited the Nursing Federation to join them to meet the conditions of that EBA and to make sure that that matter is resolved before an agreement is finally signed off. Parallel to that process, the Canberra Hospital has decided to proceed with the request of nurses - - -

Mr Berry: Ignore the commissioner.

MR MOORE: Ignore the request of nurses? No, we are not going to do that, Mr Berry. The hospital has decided to proceed with the request of nurses to be part of a salary packaging mechanism. Mr Berry, I think it is important for you to understand this. The Canberra Hospital found a way to provide its staff with something in the order of a 10 per cent - it depends on the circumstances - - -

Mr Berry: That is good.

MR MOORE: Do you not want to hear this, Mr Berry?

Mr Berry: I said that that is good.

MR MOORE: Exactly. It is something in the order of a 10 per cent agreement. When they put out the information to members in the hospital, quite a number of nurses, in the order of 100, contacted the hotline and said, "Why can we not be part of this as well? We want to be in on this as well because it looks like a great deal". They asked a series of questions. The hospital responded by saying, "That is a reasonable thing to do and this will set up a framework".

A series of things happened. First of all, in the agreement that is proposed, the nurses and all other staff at the hospital will get something in the order of a 10 per cent increase in their take-home salary through salary packaging. Secondly, they will get guaranteed security of tenure. Plenty of nurses would like that. Thirdly, they will agree to a framework to be established as to how they will make productivity gains and how they will share in those productivity gains. These are all very positive things.

How are we going to decide on them? A ballot is to be conducted by the Australian Electoral Commission by 17 December to see whether nurses themselves and the other staff at the hospital think this is a good idea. I cannot for the life of me understand why a union would oppose this, with the exception of one thing. I know that the ANF have been very keen - and they have spoken to me about it - to have a single agreement across Canberra.

Mr Berry: That is really not the question I asked. I take a point of order, Mr Speaker.

MR SPEAKER: No, there is no point of order.

Mr Berry: I have not said what it is yet. Can I raise it with you first before you decide?

MR SPEAKER: You said that that was not the question that you asked. Mr Moore is answering.

Mr Berry: Let me complete my point of order. I asked why the Minister has decided to proceed towards the certification of a replacement agreement, contrary to the strong recommendations of the Industrial Relations Commission.

MR SPEAKER: There is no point of order.

MR MOORE: The ANF, I knew, wanted to have a broad agreement across Canberra, the same for every nurse. If we were made of money, I would say that that would be a terrific way to go, but in fact we have the opportunity instead to deliver a salary packaging system that will mean for nurses at the Canberra Hospital, should they decide in a democratic ballot to take it, a 10 per cent increase in their salary.

Mr Speaker, I wrote to the secretary of the ANF, Ms Colleen Duff, earlier today to explain that position to her. To be very specific about Mr Berry's question, it is interesting that he should talk about a strong recommendation and seemingly not be able to distinguish between an order of the Industrial Relations Commission and a strong recommendation. I think, Mr Berry, you do know the difference. The ANF went to the Industrial Relations Commission and requested an order to prevent the ballot. The outcome, Mr Berry, was that the Industrial Relations Commission did not give that order. Instead, they made a strong recommendation that the hospital and the ANF meet their obligations under their previous enterprise bargaining agreement. The hospital accepted immediately that that is a sensible thing to do and invited the ANF to join them as equal partners in carrying out a comparative review of salaries.

The reason that I think it is appropriate to proceed down the path the hospital has chosen is that we have the opportunity to provide nurses with a benefit, if they want it, that they would not otherwise be able to get. Nobody is forcing it on them. It is just if they want it. It is a great opportunity for nurses. I know it is not the way the Nursing Federation wanted to do things, but we have an opportunity for them, and it is something that I am keen to pursue.

8 December 1998

MR BERRY: I ask a supplementary question. Is your endorsement of the Canberra Hospital's display of arrogance in respect of the Industrial Relations Commission's strong recommendation merely a cynical strategy to manufacture a dispute with the nurses union and the nurses to assist you in making savings in your hard-pressed health budget?

MR MOORE: Mr Berry, you got some of that right and much of it very wrong. No, it is not a cynical attempt. The part you got right is that we have a very hard-pressed budget. In a hard-pressed budget it is very difficult, nigh impossible, to find a 10 per cent salary increase for staff. We think we have found a way, but it is not a cynical attempt, nor is it an attempt to force industrial dispute. Mr Speaker, I would like to avoid industrial dispute. I mentioned that I wrote to Colleen Duff earlier today. Amongst other things, I wrote the following in reply to her letter of last night:

In regard to your comment that you would consider industrial action on the basis that the ballot is proceeding, can I suggest that it is very odd to talk of industrial action over an issue of staff having a direct say in their affairs. Industrial action is not warranted and only causes patients to suffer. I urge you to choose dialogue above disruption, as you and the management have been doing successfully over recent months.

Mr Speaker, that is not the language of somebody who is keen on industrial disputation. Indeed, I went on:

I note your comment that you would consider running a "vote no" campaign over the Agreement. I think that it would be very regrettable for the staff, including your members, for you to do that. I urge you to consider carefully the value of this agreement (not only jobs security but also the significant increases in take-home pay) for your members.

This is a matter that I think we need to resolve together if we possibly can. The only interest I have in doing this is making sure the hospital works as effectively as it can, that the nurses get an improved security of tenure, that they get improved take-home salary and that they get a framework in which they can negotiate for later productivity. Some people have been saying that this is just a system that will mean there are no more pay rises in the future. On the contrary, it provides a framework for those very things to happen. This is a good deal for the nurses, who are working very hard in the hospital to support the ill in the ACT. I am very keen to see what I can do to support them, even if it means that I do things differently from the Australian Nursing Federation in the ACT.

Teacher's Explanation of Santa Claus

MR OSBORNE: My question is to the Education Minister, Mr Stefaniak. Minister, my office has been contacted by some distressed parents of children from a Year 2 Tuggeranong primary school class. Apparently last week, during a discussion on Christmas, a teacher felt it was her moral duty to regale the class on the fact that there was no such thing as Santa Claus. Believe it or not, Mr Stefaniak, some parents took exception to this. Apparently the teacher's explanation for her action was that she wanted

to enlighten the children on the fact that there were differing points of view on the topic of Santa. Not surprisingly, Minister, the parents are not exactly thrilled by this explanation. Mr Stefaniak, is it government policy for teachers to explode the harmless beliefs of seven- and eight-year-olds just before Christmas, and do you believe the teacher's answer is adequate?

MR STEFANIAK: That is absolutely amazing. I do not think I have ever heard of a teacher who has tried to persuade a class that there is not such a thing as Santa Claus. Certainly, it is not government policy. The parents may well have a point. Children at various ages probably might start thinking to themselves that maybe there is not such a thing as Santa Claus. There are a lot of people opposite who believe in Santa Claus still - and they are long out of primary school - in their attitude to economic management.

Mr Moore: I take a point of order, Mr Speaker. I am concerned that the Education Minister may get himself into deep water here and it will be in *Hansard* that there is or there is not a Santa Claus. I would hate that to happen. He may mislead the house, so I would ask him to be careful.

MR STEFANIAK: I do not know that that is a point of order, but it is an interesting point.

Mr Rugendyke: On that point of order, Mr Speaker, I can confirm that there is a Santa Claus.

MR STEFANIAK: I thank Mr Rugendyke for that observation. Quite clearly, I am not going to comment one way or the another on whether there is or there is not. My five-year-old and four-year-old certainly believe that there is a Santa Claus.

MR SPEAKER: Order! If this noise keeps up, none of you will have your stockings filled at Christmas time.

MR STEFANIAK: Ms Tucker, Mr Berry and other members opposite might well think there is a Santa Claus too. I do not know. I would be interested in their views. Far be it for me to say whether there is or not. Obviously, parents are concerned. It may well be sensible, Mr Osborne, if suitable members of the Assembly such as you, Mr Hird and I dress up and go to the school and put the alternative point of view. If parents are generally concerned, you might like to give me the name of the school and I will make sure that the point you raise is taken up in a proper fashion.

MR OSBORNE: I ask a supplementary question. What is the Government's position on the Easter bunny? Can we expect a repeat performance? What about explaining some government myths, like the story about how competition policy came and everyone lived happily ever after? Can we get your teacher to come and put paid to that one, Minister?

MR STEFANIAK: On the Easter bunny, Mr Osborne, I think the Government's position has been quite clear for many years. We will neither confirm nor deny that there is an Easter bunny.

8 December 1998

Mr Smyth: I raise a point of order, Mr Speaker. I can confirm that police records will show that the Easter bunny was booked outside the Lodge at Easter in 1976 or 1977. That confirms that he does exist.

MR SPEAKER: What a wealth of information we are getting from this question time.

Aboriginal Justice Advisory Committee

MR HARGREAVES: Mr Speaker, my question is to the Chief Minister. At Estimates Committee hearings in July the Commissioner for Public Administration noted that the Department of Justice and Community Safety had responsibility for the Aboriginal Justice Advisory Committee, which she went on to add that they were in the throes of setting up. As I understand it, the committee still has not been established, although last sitting week, in answer to a question from my colleague Mr Wood, the Chief Minister said Mr Humphries' department was "currently establishing an Aboriginal Justice Advisory Committee". My question to the Chief Minister is: When do you expect these appointments to be finalised?

MS CARNELL: When Mr Humphries signs them. I do not know.

MR HUMPHRIES: Mr Speaker, I think I answered this question in some detail at the Estimates Committee. I think I was asked about it at that committee. I indicated, I think, that I would like to move to appoint an Aboriginal Justice Advisory Committee as soon as possible, but I feel that there needs to be some acceptable mechanism to be able to do so. I could nominate five or six, or a dozen, people right now to occupy places on that committee, but I think it somewhat defeats the purpose to have at least a wholly appointed ministerial committee if there is the alternative prospect of having representatives chosen in some way by Aboriginal people themselves. That is always the difficult question in the case of the ACT, as members will be aware.

Of course, all jurisdictions are looking at the establishment of Aboriginal justice advisory committees. It is our view that we should consult with some appropriate representative body of Aboriginal people. I would like to do so with the Aboriginal Advisory Council, therefore working with the Chief Minister to see the conclusion of that process. I think it is the necessary precursor to the appointment of an AJAC for the ACT.

MR HARGREAVES: I ask a supplementary question. I thank the Minister for the response. I seek some further expansion on it if he would not mind. Has the Government approached anyone from the Ngunnawal people to sit on the committee? Has the Government approached anyone to represent the Torres Strait Islander people? How has the Government engaged in consultation with the Aboriginal community during the period of creating that committee?

MR HUMPHRIES: Mr Speaker, I have not approached anybody yet about serving on the committee, because I do not believe it is appropriate to do so until I have consulted with the peak Aboriginal advisory body for the ACT Government. If I, for example, were to approach members of the Ngunnawal community, I would run a risk of missing out on

somebody who may consider themselves more appropriate or more representative of the views of the Ngunnawal people. I am sure I do not need to tell Mr Hargreaves that there are a range of family groupings within the ACT that have different views about the claims of other family groupings to represent the Ngunnawal people. It is a very sensitive matter and I think the Government must be careful not to attempt to play on or exploit those differences as it sets about establishing representative bodies. We have succeeded in the past in being able to tread through that minefield and will attempt to do so again in this case, even if it takes a little bit of time to do that properly.

Mugga Lane Tip - Scavenging

MR WOOD: My question is to the Minister for Urban Services. Minister, in recent court actions concerning scavenging at Mugga Lane tip the Government - or is it the Department of Urban Services? - has suffered a number of significant failures. Whatever the merits or otherwise of the department trying to impose a policy to keep scavengers out of the tip, I ask: First, is the Minister aware of the possibly exaggerated claims behind several questionable interim restraining orders against one person which will have the effect of denying him access to the tip until the matter of the restraining orders is heard in May? Secondly and particularly, bearing in mind the implications behind restraining orders and their ramifications, is this not a most unsatisfactory way of defending the department's position?

MR SMYTH: Many areas of this are still sub judice. There have been several decisions. On 8 July Mr Justice Higgins confirmed the Territory's right to impose conditions on access to the tip and activities therein. Since then other actions have been taken. I thank Mr Wood for raising this matter with me before so that I could try to garner as much knowledge as I could, but I do not believe I am in a position to say much more than that I am aware and that my understanding is that the review is to be held on 12 January. If that is acceptable to Mr Wood, he might prefer to leave it at that.

Mr Stanhope: I rise on a point of order. The Minister raises the sub judice rule, as I understand it, to not answer that question. I would be interested in a ruling on whether or not matters relating to restraining orders fall within the sub judice rule. Perhaps that is an unnecessarily broad expansion of the sub judice rule.

Mr Humphries: Mr Speaker, I can assist the Assembly in that regard. I understand that in this case a restraining order has been issued on an interim basis and the substance of the matters behind the restraining orders is to be heard by the Magistrates Court in May next year. In the sense that the order has been issued on an interim basis, then I would say to the Assembly that it is a matter that is sub judice.

Mr Stanhope: Yes, I am prepared to concede on that basis.

MR SPEAKER: Thank you.

8 December 1998

MR WOOD: Mr Speaker, I have a supplementary question. I guess that there was not an answer to the question on whether restraining orders are a desirable way to maintain departmental policy. Given that in my belief, and I think it is sustainable, that this person has unresolved and legitimate grievances in a whole range of matters but particularly in the case of the incidents at the tip, will the Minister intervene - I think he has been generous in what he has said so far - to try to ease the tension that exists?

MR SMYTH: Mr Speaker, I am not sure how much I can intervene once it gets to the court. I am certainly not in favour of imposing policy through restraining orders, but if individuals wish to take out restraining orders or take action against the department, the department certainly has the right to defend itself. This is a very complicated matter. There is not just one order. There are a couple of cases here and some countercases. It is very complex. I do not seek to hide, as it were, behind the subjudice rule, but the advice to me from the Attorney-General is that this is something that should be left at this stage to the court to handle. In a general sense, I certainly do not believe that we should be resorting to restraining orders and court orders and taking to court matters that should be resolved sensibly, but on some days in certain cases you may well get to a position where this is the only way for them to travel. Unfortunately, this one is travelling that path.

Olympic Soccer - Drug Testing

MR RUGENDYKE: My question is to the Chief Minister. Chief Minister, there have been reports in the media that soccer is one of the sports yet to comply with the IOC's drug testing regulations for the Sydney 2000 Olympics. The IOC has made it clear that if soccer does not comply it will be cut from the Olympic program. I would like to know whether the Government is aware of this situation and, if it is, what response has been undertaken to ensure that the ACT's investment in Bruce Stadium to acquire Olympic soccer is not wasted.

MS CARNELL: I am very confident that the negotiations that are going on between FIFA and SOCOG and the Olympic organisation generally will come to fruition. I think it is important to remember that of all Olympic sports soccer attracts most television viewers worldwide. I do not think anybody, including SOCOG or FIFA, can afford for these negotiations not to be successful. Soccer is a major Olympic sport. Bruce Stadium, from their perspective, might be one of the smallest issues, but from our perspective it is a very major issue. We will certainly be doing everything in our power to ensure that it is a drugs-free games.

MR RUGENDYKE: Mr Speaker, as a supplementary question, I ask the Chief Minister: Could you confirm or deny the rumour that the redevelopment of Bruce Stadium is now projected to blow out from \$27m to \$40m?

MS CARNELL: I will deny that rumour.

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

Hospital Waiting Lists

MR MOORE: In question time on 24 November Mr Stanhope asked whether the Department of Health and Community Care performance report for September revealed that a third of patients on elective surgery were waiting beyond desired timeframes and I undertook to check some specifics. Having reread the *Hansard* for 24 November, I find that I may have misunderstood Mr Stanhope's statement about the number of persons waiting longer than clinically desirable for elective surgery as a percentage of total waiting lists, so I would like to clarify the position and get it right. I seek leave to incorporate a response in *Hansard*.

Leave granted.

Document incorporated at Appendix 1.

Anti-smoking Programs

MR MOORE: Mr Speaker, on 25 November I took on notice a question from Mr Osborne about drug education programs currently running in the ACT. He asked how much money is being spent on programs with an emphasis on encouraging people not to smoke and what the success rate of these programs over the years was. He asked whether there were any figures. I have an answer to that question, which I now table. If Mr Osborne is comfortable with my doing so, I seek leave to have it incorporated in *Hansard*.

Leave granted.

Document incorporated at Appendix 2.

AUDITOR-GENERAL - REPORT NO. 8 OF 1998 Territory Operating Losses and Financial Position

MR SPEAKER: I present, for the information of members, the Auditor-General's Report No. 8 of 1998, entitled "Territory Operating Losses and Financial Position".

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (3.30): I seek leave to move a motion authorising the publication of the Auditor-General's report.

Leave granted.

8 December 1998

MR HUMPHRIES: I move:

That the Assembly authorises the publication of the Auditor-General's Report No. 8 of 1998.

Question resolved in the affirmative.

ESTIMATES 1998-99 - SELECT COMMITTEE
Report on Annual and Financial Reports for 1997-98 - Government Response

MS CARNELL (Chief Minister and Treasurer) (3.30): Mr Speaker, for the information of members, I present the Government's response to the Select Committee on Estimates 1998-99 report, entitled "Annual and Financial Reports for 1997-98", which was presented to the Assembly on 24 November. I move:

That the Assembly takes note of the paper.

Mr Speaker, I present the Government's response to the report of the Select Committee on Estimates following its examination of annual and financial reports for the year 1997-98. The Government regards the committee's report as extremely disappointing, for a number of reasons. There were thousands of performance indicators upon which agencies and the Government could be judged, yet barely any of them rated a mention in this report. Instead, we were treated to another episode in a long-running series of personal attacks on individual public servants by the chair of the committee and also by his Labor Party colleague.

Mr Speaker, the less said about this, I have to say, the better. Those of us who have been members of the Assembly for several terms, with the exception of Mr Berry perhaps, would agree that this report is a far cry from the more thorough examinations carried out by previous estimates committees. The credibility of the estimates process has, in my view, been all but demolished in the eyes of the Assembly and the community by the actions of the current chairman. In this regard, the Government strongly endorses the views expressed in the two dissenting reports - one by Mr Hird and the other by Mr Hird and Mr Rugendyke.

The Estimates Committee is an important part of our system of government. That is why I have already stated publicly that I believe that the Assembly should consider reviewing the value and effectiveness of the current estimates process. Members should be aware that the approximate cost to agencies of preparing for and attending estimates hearings is about \$280,000 - over a quarter of a million dollars, Mr Speaker. It also consumes thousands of hours of public servants' time. And I have to ask: Is the taxpayer getting value for money? I do not think so, Mr Speaker.

Perhaps the best example I can use is a recommendation by the committee that Mr Moore should not introduce private members Bills. Apart from the fact that, as Chief Minister, I also introduced a private members Bill in the last Assembly as a member of the Executive, what on earth does that have to do with estimates and the scrutiny of annual

and financial reports? The short answer, Mr Speaker, is “nothing”. Without wishing to canvass in any detail possible alternatives to the current system, I can say in passing that maybe this Assembly should consider whether each portfolio committee could conduct its own examinations of annual reports in the future. Nevertheless, despite the Government’s reservations about the tone and substance of the report, we have agreed, either in full or in part, to 13 of the committee’s 19 recommendations. Details of the individual responses by the Government are contained in the report I have just tabled.

Mr Speaker, the 1997-98 financial year was the second in which the Territory reported in both accrual and outputs-based budgeting formats. The Government believes that there has been a dramatic improvement both in the monitoring and in the reporting of outputs and performance during the past 12 months. Indeed, the financial management reforms we introduced ahead of any government in Australia have bedded down very successfully. It is regrettable, Mr Speaker, that there does not appear to be a corresponding improvement in the level of understanding among at least some members of the Estimates Committee about what their task is meant to be.

Mr Speaker, I commend the Government’s response to the Assembly and state again that the Estimates Committee is a very important part of our system of government.

MR BERRY (3.34): Mr Speaker, that was a disingenuous response to a committee report if ever I heard one. First of all, the Chief Minister denigrated the report and, in particular, the chair of that committee - me - but never noted once the endorsement of the report by the overwhelming majority of the committee’s membership. She then went on to mislead people who might be listening to this debate by saying that the committee had said that Mr Moore should not introduce private members Bills. But you should read the recommendation, Chief Minister:

The committee recommends that the diversion of ministers from their portfolio responsibilities to promote and deal with their insignificant executive private member’s business be avoided.

The very point that we made, I think very clearly, during the committee’s inquiry was that the issue of private members business had no precedents other than in this place. You would not ever regard this place as the standard setter for the rest of the world, but there is no precedent in Australia for this sort of thing to occur. There are very different circumstances in the Northern Territory, where the Minister sought leave. But that is not the point. If there are issues where Ministers want to do something of a private nature for which they cannot get Cabinet’s endorsement, that might be an appropriate course, by leave of the Assembly. But in this case the Government agreed. That was the very point we made. The Government agreed with the proposal put forward by the Minister. But why could they not agree in the Cabinet context and why could the Minister not deal with it accordingly, as was appropriate? That was the point we were making.

Ms Carnell: You are just proving that it has got nothing to do with estimates.

8 December 1998

Mr Hargreaves: On a point of order, Mr Speaker: I have sat here in silence, and I propose to do so for the rest of the day. You made a ruling recently about heckling and cajoling of speakers. Could I ask you to uphold that.

MR SPEAKER: I uphold the point of order.

MR BERRY: Do not try to mislead us on this. The fact of the matter is that leaflets under windscreens are not as important as waiting lists.

Mr Moore: On the point of order, Mr Speaker: No member can lightly raise the issue of misleading. It is quite clear that Mr Berry's envy, his jealousy, is leading him down this particular path where he is being disingenuous. He ought to be careful about using the word "mislead" and he ought to withdraw it.

MR SPEAKER: Mr Berry, I would ask you to please restrict yourself to the Government's response to the report.

MR BERRY: Thank you, Mr Speaker. Indeed, that is what I am doing. Mr Speaker, the point we were making was that it is more important to worry about waiting lists and access to the methadone program than it is to worry about leaflets under windscreens. That was a very clear point that we were making. The committee said that the diversion of Ministers from their portfolio responsibilities to promote and deal with their insignificant Executive private members business should be avoided. That is a fair point. It was not taking a shot at anyone. In fact, I do not think the leaflet matter was mentioned in the report that was presented to the Assembly. It may have been, but I just cannot see it for the moment. I think it was a fairly straight point. It was a silly move, and it is universally understood to be so.

Mr Speaker, I heard the Chief Minister say, through gritted teeth, that the Government had agreed, in full or in part, to 13 of the committee's recommendations. That is not bad, considering that there are only 19. It is quite interesting that the Chief Minister was strident in her criticism of the committee yet the Government agreed to 13 of the recommendations. I will turn to some of them. Mr Speaker, one thing which does bother me is the Government's response to the following recommendation:

The committee recommends that the Government:

- (i) quarantine funding for extraordinarily costly court cases from 'average' cases when formulating the next budget;
- (ii) designate separate funding for extraordinary cases; and
- (iii) provide supplementary funding where the appropriation for extraordinary cases is insufficient.

It is said here that the Government has not agreed. I have not had time to read through all of the Government's response; but it strikes me as odd that the Government would not be able to make extra appropriation, say from the Chief Minister's area, to fund extraordinary cases such as the hospital implosion inquiry. That is soaking up at

a continuing rate an enormous amount of legal aid funding. The end result is that, on average, hundreds of people will miss out on legal aid funding as a result of that extraordinary case. It strikes me that there ought to be an attempt by a fair-minded government to address itself to those extraordinary costs, to ensure that they do not impact on other people who are using legal aid, which is supplied by the Government.

Ms Carnell: You know, if you put something extraordinary into a budget, it's not extraordinary. It is ordinary.

MR BERRY: You have had your go, Chief Minister.

Mr Speaker, overall I was quite pleased with the Estimates Committee involvement. I notice that the Government was squealing in relation to it. I am happy that they are, because you can usually tell when you are getting pretty close to the mark by the volume of the squeals from the Government when you are involved in scrutiny. This Government has from the outset tried to avoid scrutiny in the development of the committee processes here in the ACT Legislative Assembly. I recall that, when this Chief Minister was sitting on the Estimates Committee, you could not stay there long enough to please her. I tried to total up the number of hours I sat in as Health Minister before this member, and it went on for hours and hours and hours. It was, as I recall, a strident scrutiny, which she now seeks to deny others. None of us would try on that sort of a stunt, I would not think, because it was not that productive; but at the end of the day it strikes me as quite odd and ironic that she would criticise others for being careful about their examination of government. Governments squeal when they are scrutinised. As I said earlier, you know that you are getting close to the mark when the volume goes up.

Mr Speaker, I have not had time, at this point, to look at all of the details of the Government's response but it is clear that this was a report endorsed by the overwhelming majority of members on an overwhelming majority of issues. I look forward to participating in the estimates process in the future to ensure that this Government and in particular this Chief Minister and her array of additional Ministers are held accountable. I know that they do not like being accountable, but they will get used to it in time.

MR MOORE (Minister for Health and Community Care) (3.43): Actually, Mr Speaker, some of us enjoy being accountable, and it is a pity that Mr Berry misunderstood the strident criticism that was levelled at the Estimates Committee. The strident criticism was not about the 13 of the 19 recommendations that were agreed to by the Government; the strident criticism was about all the things that the Estimates Committee did not do that Estimates Committees normally do. For example, the Chief Minister mentioned the thousands of performance indicators upon which agencies and the Government could be judged; but where did they appear in the Assembly committee's report? I think it is close enough to say that they did not appear. They were occasionally, but barely, mentioned.

On the specific issue of my role as a private member, Mr Berry gave two examples to illustrate his point that Mr Moore should be concentrating just on his ministerial duties. The two examples were the methadone program and leaflets on windscreens. As to the windscreen leaflets, Mr Berry, everywhere I go people say to me, "Thank goodness you did that. That was a great idea. We really appreciate it". Just rarely, just on

8 December 1998

odd occasions, I get somebody who says, "That was a silly idea. You are interfering with civil liberties". Invariably, when somebody does that at a party or wherever, other people around them howl them down. So, I must say, Mr Speaker, I feel very comfortable about it.

The other issue that Mr Berry raised was the methadone program. He said that I should not be doing that because I cannot manage a methadone program. Let me tell you a little bit about the methadone program, Mr Speaker. At the end of last month there were 21 people on the waiting list - a three- to four-week waiting period - for methadone treatment. In contrast, a month before, the list stood at 53, with a six- to seven-week waiting period. In other words, Mr Berry, so far we have cut it in half. That is not good enough.

So, what am I doing about it? There is a whole process of reform going on with both the public and the community programs in response to the recommendations from Dr James Bell from the Langton Centre in Sydney. In other words, Mr Speaker, I have not just been sitting around, doing nothing. I have continued to do my portfolio work, and I will continue to do my portfolio work. Indeed, Mr Berry, you and others ask me questions here at every question time. You will notice that I am always happy to answer them and happy to be held accountable, because that is the democratic process.

Mr Quinlan: How many thousands of public service hours go into preparing you for that, Michael?

MR MOORE: Indeed, Mr Quinlan asks me - and I think it really illustrates the point - how many thousands of public service hours go into preparing me for this? I have to tell you, Mr Quinlan, that a heck of a lot of my hours go into it, in terms of my reading, and a heck of a lot of hours of my senior adviser go into this as well. It would seem reasonable for me to set aside a staff member, or even an equivalent staff member to somebody who is on the crossbench, to do private members business and to do constituency work, if, indeed, I was going to do that. But I am not. What I do instead, Mr Speaker, is just work a little bit harder so that I can do the work of my portfolio and also manage the constituency work that I do and the private and Executive members business that I introduce.

I think the more important thing, Mr Speaker, is that I was prepared to introduce a legislative program in recognition of the recommendations of the Pettit committee, and, indeed, in the Government's response - - -

Mr Corbell: You keep mentioning that, but no-one has reported it yet.

MR MOORE: Mr Corbell interjects, "And nobody has reported it yet". It is not about being reported. It is about making sure that the Assembly understands what is going on, so that the Parliamentary Counsel can have a chance to prioritise and allow people to do the work. If, indeed, I had wanted it reported, I would have put out press release after press release. I chose to just allow the issue to run.

Mr Speaker, it seems to me that the real issue here is not how sensitive I am about this minor issue but how important it is to the Labor Party. They keep raising it - it was their recommendation 1 - but there were so many important things that they did not do. It is not what they did do that the Government responded to. It was the opportunities that they had which they missed. That is the bit that they ought to be embarrassed about.

MR CORBELL (3.49): Mr Speaker, I want to respond to some of the comments in the Government's response and some of the Chief Minister's comments in tabling her response. I notice that in the Chief Minister's tabling speaking notes she mentions me as engaging in a series of personal attacks on individual public servants.

Ms Carnell: I did not mention your name once.

MR CORBELL: I will read it:

Instead, we were treated to another episode in a long-running series of personal attacks on individual public servants by the committee chairman and his Labor Party colleague.

I assume that is me, Mr Speaker. If the Labor Party had had three members on it, it would have been an even tougher report. I want to respond to those comments because, clearly, the Government has failed to understand something here. The first thing it has failed to understand is that this is a majority report. Far from being simply a Labor Party report, it is endorsed without comment or qualification by one member of the crossbench. So, when the Chief Minister stands up in this place and attempts to denigrate the process and to use it as a political tool to denigrate the Labor Opposition, she should perhaps be reminded that it is a majority report. Mr Paul Osborne has endorsed it without qualification.

I should add, Mr Speaker, that, with the exception of, I think, two or three recommendations, it is endorsed by all members and, with the exception of one recommendation, it is endorsed by four of the five members. So let us have that very clear in our minds and perhaps then we can really understand what the Chief Minister is doing here. She is doing what she always does, which is to take party political advantage of denigrating the Labor Opposition because she got her fingers burnt. That is what is going on in this case.

Mr Speaker, there are a couple of other comments in relation to the Government's response that I want to address. One is about the role of the Estimates Committee itself. The Estimates Committee has been attacked again by the Chief Minister - both now and previously when it was first tabled - for, according to her, allegedly failing to address the thousands of performance indicators which agencies and the Government use to measure their performance. The Chief Minister, of course, is applying a very narrow definition to the role of the Estimates Committee. It is not just about performance indicators; it is about the activities and the program of the Government over the previous year and how the Government has spent money in implementing that program.

The definition is very broad, Mr Speaker, and deliberately so, because the committee process is the only thorough opportunity that this Assembly has to scrutinise the activities of the Executive in whatever form they may take. The Government may feel uncomfortable with that. The Government may feel that that is something that they would really rather not happen. But that is just bad luck. That is why parliaments exist. Perhaps the Chief Minister should think about that before she starts citing herself as perhaps some expert on parliamentary history and procedure, as she does on other matters such as economics.

Mr Speaker, the final point I want to make is that the Government's response to this report was disappointing, for many reasons. The most disappointing one was that the Government's response did not address in detail the many serious concerns that the committee raised about the accountability of public administration in Canberra. Instead, its response was to say, "It is time to change the system". That is what the Chief Minister said when the Government first responded, when the report was tabled, and here in her written comments. I notice that she backs away from that, because it was obviously a silly comment at the time. But she still says that maybe there is another way of doing it.

Mr Speaker, I think that all of us in this place are always open to looking at different ways by which the Assembly can conduct its business in a more effective way; but to simply suggest that the way to do that is to change the system because you disagree with it, because you disagree with the outcomes it produces, ranks as an act which belongs to absolute governments, in places where they have a majority, in single-chamber parliaments - Queensland being a very good example.

So perhaps those are things that the Chief Minister should have reflected on in her response and then we might have got a better response to this select committee report. But, as my chairman, Mr Berry, points out, there is still at least some attempt to address the range of very serious issues that have been raised. On a number of them we have got agreement. That shows that the system is working, and working effectively, Mr Speaker.

MR STANHOPE (Leader of the Opposition) (3.55): I wish to speak very briefly on a couple of issues, because I have not really had time to flick through the entire report. I rise with some concern at the Government's response to recommendation 6 - a recommendation and a response touched on by my colleague Mr Corbell - in terms of the responsibility of officers of the Public Service appearing before committees. I think it was a very serious recommendation which the committee made in relation to the role and responsibility of departmental officers appearing before committees. There were some instances of evidence given by senior members of the Public Service that was quite clearly unsatisfactory.

Ms Carnell: I do not agree with you.

MR STANHOPE: The Chief Minister says that she does not agree. Where there are shortcomings within the Public Service - and I have to say that I think we all have enormous respect for the ACT Public Service and ACT public servants - it is reasonable for a committee such as the Estimates Committee to raise questions of its concern about

the understanding of public servants appearing before Assembly committees. It is a very important question and a very important issue, and it deserves some considered and rigorous debate and response.

The Estimates Committee sought to raise concerns about some evidence given. There is no doubt that there is some very real and grave concern within this place about evidence given in relation to Hall/Kinlyside and the fact that the Under Treasurer had in his hand, in terms of the first estimates round, three leases and it was three or four months later that he recanted and said that, on reflection, he was wrong; that he did not have three leases at all. It is a worry that one of the documents that he claimed to have actually mistaken for a lease was a so-called power of attorney, which was a rough bit of paper with a few lines of writing on it, the size of a single sheet of A5 paper. The Under Treasurer had confused it with the lease of a block, on the basis of which the Government entered into an exclusive arrangement with a land developer. How did the Under Treasurer make that sort of mistake?

Ms Carnell: That is not true.

MR STANHOPE: It is. That is precisely what the Under Treasurer has told us. When Mr Corbell asked him whether he was absolutely certain that he had been handed three leases by Mr Whitcombe, he said that, yes, he was positive.

Ms Carnell: On a point of order, Mr Speaker: You have ruled on getting stuck into public servants in this place.

MR SPEAKER: Yes.

MR STANHOPE: I am simply reporting on recommendation 6, which the Government has chosen basically not to endorse. They are the facts of the matter. It was on the basis of those facts that the committee recommended that members of the Public Service be reminded of their responsibilities. We have a situation where the Under Treasurer, at estimates in July, said that he had taken possession of three separate sets of lease documents. In later estimates, he actually said that, no, that was not the case. He recanted. He withdrew his evidence. But he did not actually do it between-time. He waited for four months. He came back to the secondary set of estimates and said, "No; I was mistaken".

He was asked, "Well, what were the three sets of documents you took delivery of?". I am still not sure that he has identified the third set, but he identified the second set as, in fact, the power of attorney. I have seen it. It is a single A5 sheet of paper, a scrappy little sheet of paper. How anybody could possibly mistake that for a lease over a block of land, in relation to which the Government entered into a major contract, is just beyond me.

8 December 1998

Ms Carnell: On a point of order, Mr Speaker: No matter how anybody looks at this, Mr Stanhope is getting stuck into a public servant who has no capacity to stand up in this place and defend himself.

Mr Moore: On the point of order, Mr Speaker: We have a resolution agreed to by the Assembly on 4 May 1995.

MR SPEAKER: We most certainly do.

Mr Moore: You drew it to our attention not so long ago - in fact, on this very issue, Mr Speaker. I think Mr Stanhope is getting to the point where he ought to be named.

Mr Berry: On the point of order, Mr Speaker: This report is quite specific in relation to the matter at hand. There is a motion before this chamber: That the Assembly takes note of the paper. The paper reports in some detail in relation to the performance of public servants, and it is open to members to debate that. It is the subject of a substantive debate before this chamber. The motion has been moved and it is under the scrutiny of members. So, Mr Speaker, to try to prevent members from entertaining arguments which gave rise to the recommendation, by means of a point of order, would be frivolous.

MR SPEAKER: It does not, however, allow members to enter into debate to attack public servants who are not able to defend themselves. I remind members of the statement I made earlier in relation to this very matter.

Mr Corbell: On the point of order, Mr Speaker: I think it is wrong for you and also for the Chief Minister to say that there is no avenue available because, as members would be aware, there is an avenue available to any citizen who believes that he or she has been maligned inappropriately in this place. That avenue does exist. I will remind members of that. It has been used once in this place already. In light of that avenue existing, Mr Speaker, along with Mr Berry's point that Mr Stanhope is addressing a substantive matter raised in the Government's response to the Estimates Committee's report, he is entirely in order in raising an issue of grave concern about effective public administration in this city.

MR SPEAKER: Mr Corbell, I have read the Government's response to recommendation 6. There is no problem about members referring to the recommendations. They can criticise the recommendations or the comments made by the Government if they wish; but I cannot allow them to attack public servants who, despite what you may say, Mr Corbell, are in no position to defend themselves in this house. I would hate to think that we had got a stage here where there was a free go in the Assembly to simply criticise anybody here with impunity, on the basis that somehow they might have had some opportunity to take action. We have a long day ahead of us. I would ask members if they could confine themselves - and I am sure Mr Stanhope is capable of doing that - to the criticism of the report.

MR STANHOPE: Mr Speaker, very briefly, if I may address your ruling and direction there, I would point out that the very issue that I am discussing here was actually mentioned in the report. I just say that. It is not as if I have just dreamt it up. It is actually in the report. It may not be specifically mentioned in the response, but the specific matter I talk about is in the report.

I did have one other issue I wanted to speak about very briefly anyway. I am minded to do it now. There are many other matters that I think do warrant response. But I notice that the Government's response does deal with the question of the location of the hospice. It is quite coincidental, or fortuitous perhaps, that it is a matter that I raised with the Minister in question time today.

Mr Moore: And my responses are consistent.

MR STANHOPE: Not 100 per cent, Minister; but on track, perhaps. I just take the opportunity to support the recommendation which the committee made on the hospice. I do detect in the Minister's responses to me on this subject a tad of irritation or frustration, the basis of which I do not quite understand. This is a serious matter. The licence for the hospice runs out in June. We rise on Thursday until the middle of February. This matter has not yet been appropriately dealt with. As things stand, the licence expires in June. We come back in February, which leaves us only four months.

We have a most significant facility on Acton Peninsula, which the relevant Federal Minister, in his latest billet-doux on this, suggests cannot appropriately remain there once the museum is operational. It is not in the interests of the provision of hospice services in the ACT for the hospice to be temporarily relocated, should that be the decision that is taken. It seems to me not to be in anybody's interest that the hospice move to a temporary location, subsequently to be relocated anywhere. There is the question of the money and whether or not, in the swap that was done of the Acton Peninsula for the Kingston foreshore, arrangements were made with the Commonwealth for the Commonwealth to fund the fact that we are going to lose a multi-million-dollar facility. These are all legitimate questions, questions that should be asked and should be answered, and I do not detect a willingness on the part of the Government to actually grasp this issue and be as forthright as it should be about what the future of the hospice is. The fudging that is going on is extremely concerning.

Question resolved in the affirmative.

CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 9 of 1997 -
Government Response

MS CARNELL (Chief Minister and Treasurer) (4.06): Mr Speaker, for the information of members, I present the Government's response to the Standing Committee for the Chief Minister's Portfolio Public Accounts Committee Report No. 7, entitled "Review of Auditor-General's Report No. 9, 1997 - Fleet Leasing Arrangements", which was presented to the Assembly on 24 September 1998. I move:

That the Assembly takes note of the paper.

8 December 1998

In presenting this response, I am pleased to note that the Auditor-General commented favourably on the tender evaluation process for the vehicle fleet leasing arrangements. However, the Auditor-General raised some issues of a highly technical nature relating to the evaluation of risks, benefits and the accounting treatment of the transactions.

In reviewing the Auditor-General's report, the committee made only the one general recommendation - that the Government take note of the audit concerns expressed in this case. The general nature of this recommendation, I believe, reflects the highly technical nature of the issues covered in the Auditor-General's report, issues for which even the experts differ in opinion as to the correct treatment.

The committee commented on two specific issues - the assessment of risk in relation to the leasing arrangements, and the decision to not undertake an open tender process for the provision of comprehensive insurance for the fleet. The Government's response addresses the issues. The response acknowledges that there is always room for improvement in operations and procedures.

Notwithstanding the high-quality analysis undertaken for the fleet lease arrangements, it is recognised that the importance of comprehensive analysis cannot be underestimated. The Government will seek continual improvement in the standard of evaluation and analysis in respect of arrangements of this nature.

The Government is also acutely aware of taking all possible steps to ensure that it obtains the best value for money under the circumstances. Consequently, the advice of the Auditor-General is noted for similar arrangements in the future. Mr Speaker, I thank the members of the committee for their contribution to this review.

MR QUINLAN (4.09): Let me say for the record that there was some technical argument in this particular report; but, in fact, there was more controversy than technical argument. When the committee did recommend that the Government take note of the recommendations, that was not just saying, "We are satisfied with the way things were". Quite to the contrary, the recommendations showed that this particular exercise ended with little or no financial benefit to the people of the ACT, even though the light fleet was sold off, and that the accounting treatment of it was certainly controversial, to the point where it made a significant difference to how this particular exercise was presented to the people of Canberra. On both counts, I think, the Government stood condemned. I would reiterate on behalf of the committee that the Government should take note of this particular audit report, particularly in light of what we have been debating of recent times - that we have sold off here an asset for little or no financial benefit whatsoever, we have increased our financial exposure and we tended to sell it as something that it was not.

Question resolved in the affirmative.

**FINANCIAL MANAGEMENT REPORT
Paper and Ministerial Statement**

MS CARNELL (Chief Minister and Treasurer): For the information of members, I present, pursuant to section 25 of the Financial Management Act 1996, the consolidated annual financial statements for the 1997-98 financial year, together with the audit opinion. I ask for leave to make a short statement.

Leave granted.

MS CARNELL: Mr Speaker, I am pleased to present to the Assembly the ACT Government's consolidated financial statements for the year ended 30 June 1998. The statements have been audited by the Auditor-General, who has given an unqualified opinion. The statements are also in full compliance with the reporting and tabling deadlines set by the Financial Management Act 1996.

In accordance with generally accepted accounting principles, the Territory's consolidated operating result for 1997-98 includes all departments, statutory authorities and corporations owned by the ACT, as well as entities controlled by the ACT Government. To accurately reflect the financial performance of the Territory as a whole, internal transactions and balances between ACT agencies are eliminated so that only external trading of the Territory entity remains.

The ACT Government's consolidated operating loss for 1997-98 was \$170m. Whilst this loss is \$17m greater than that recorded last year, it is still a \$66m improvement on the 1997-98 budgeted expectations. The general government sector recorded a loss of \$129m, which is a significant improvement of \$41m on last year's loss and an \$82m improvement on the budgeted result. Mr Speaker, these results speak for themselves - an \$82m, or 39 per cent, improvement from budget. The public trading enterprise sector also recorded an improved result after tax of \$8m from budget and a \$12m improvement from last year's result.

The Territory held net assets of \$6.8 billion at the end of 1997-98. This includes \$7.89 billion of fixed assets and \$620m in cash and financial investments. The strong balance sheet of the Territory means that the Territory's credit risk rating remains at AAA, the highest available in the country.

Mr Speaker, this Government was elected on a platform of sound financial management. Prior to this Government, the Territory was being burdened with general government sector losses of nearly \$300m. A decrease from a \$300m loss to a \$129m loss during a time of unprecedented reductions in funding from the Commonwealth is an achievement that we certainly are proud of. It is, Mr Speaker, an ongoing commitment of this Government to ensuring that the operating loss of the Territory is addressed and systematically reduced.

SUBORDINATE LEGISLATION AND COMMENCEMENT PROVISIONS
Papers

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

The schedule read as follows:

Ambulance Service Levy Act - Determination of fees and charges for aero-medical services - No. 240 of 1998 (No. 46, dated 18 November 1998).

Birth (Equality of Status) (Amendment) Act 1998 - Notice of commencement (1 January 1999) of remaining provisions (No. 47, dated 25 November 1998).

Consumer Credit (Administration) Act - Instruments of appointment of -

Member/Chairperson of the Credit Tribunal - No. 246 of 1998 (No. 47, dated 25 November 1998).

Member/Chairperson of the Credit Tribunal - No. 247 of 1998 (No. 47, dated 25 November 1998).

Environment Protection Act - Accreditation of the ACT Commercial Waste Industry Code of Practice - No. 238 of 1998 (No. 46, dated 18 November 1998).

Health and Community Care Services Act - Determination of fees and charges - No. 249 of 1998 (No. 47, dated 25 November 1998).

Health Professions Boards (Procedures) Act and Optometrists Act -

Instrument of appointment of Chairperson to the Optometrists Board - No. 236 of 1998 (No. 46, dated 18 November 1998).

Instrument of appointment of Member to the Optometrists Board - No. 237 of 1998 (No. 46, dated 18 November 1998).

Land (Planning and Environment) Act - Instrument of appointment of Chairperson of the ACT Heritage Council - No. 248 of 1998 (No. 47, dated 25 November 1998).

Liquor Act - Liquor Regulations (Amendment) - Subordinate Law No. 34 of 1998 (No. 46, dated 18 November 1998).

Optometrists Act. *See* "Health Professions Boards (Procedures) Act".

Public Place Names Act -

Determination of street nomenclature in the Division of Nicholls -
No. 243 of 1998 (No. 47, dated 25 November 1998).

Omission and determination of street nomenclature in Ngunnawal -
No. 241 of 1998 (No. 46, dated 18 November 1998).

Residential Tenancies Act -

Instrument of appointment of President of the Residential Tenancies
Tribunal - No. 251 of 1998 (S208, dated 25 November 1998).

Instrument of appointment of Acting President of the Residential
Tenancies Tribunal - No. 252 of 1998 (S208, dated
25 November 1998).

Instrument of appointment of members of the Residential Tenancies
Tribunal - No. 253 of 1998 (S208, dated 25 November 1998).

Tenancy Tribunal Act - Instruments of appointment of Acting Presidents of
the Tenancy Tribunal - Nos 244 and 245 of 1998 (No. 47, dated
25 November 1998).

PAPER

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): I present the statement of Corporate Intent for Totalcare Ltd for 1 July 1998 to 30 June 2002, pursuant to subsection 19(3) of the Territory Owned Corporations Act 1990.

URBAN SERVICES - STANDING COMMITTEE Report on ACTION Bus Services for Schoolchildren - Government Response

MR SMYTH (Minister for Urban Services) (4.14): Mr Speaker, for the information of members, I present the Government's response to Report No. 11 of the Standing Committee on Urban Services, entitled "ACTION Bus Services for School-children", which was presented to the Assembly on 29 October 1998. I move:

That the Assembly takes note of the paper.

8 December 1998

Mr Speaker, I thank the Standing Committee on Urban Services and its chair, Mr Hird, for the report on its inquiry into ACTION bus services for schoolchildren. The inquiry has provided students, schools and parents and citizens and school associations with the opportunity to express their views on the provision of these important services.

Mr Speaker, the report makes some sensible suggestions, and the Government has responded positively to many of them. I believe that the report shows that ACT students are well served by ACTION. On the whole, there are few problems with the current school services. Where problems have been identified, such as overcrowding on some services at the commencement of the school year, when student numbers are uncertain, ACTION has moved to resolve them quickly.

Mr Speaker, I have responded to the committee's report quickly because we need to have a number of issues settled well in advance of the new school year in order to provide certainty to parents, students, schools and ACTION as the provider of the school transport services.

Mr Speaker, ACTION, in consultation with Urban Services, the Department of Education and Community Services and the school transport liaison committee, will review school services to ensure that they continue to accommodate the needs of students.

The report has set out some interesting suggestions for student fares. You will see from the response that the Government has also addressed the Assembly's motion of 2 September 1998 that called on the Government to develop and introduce a new fare structure for students which removes the arbitrary zoning and applies the current one-zone student fare to student travel throughout Canberra until the Standing Committee on Urban Services has reported on the inquiry into school bus services and that report has been considered by the Assembly.

Mr Speaker, the Government has considered a number of student fare options in formulating its response. The Government is not able to support the committee's recommendation that fares for students travelling on dedicated school services should be phased in over three years while those students travelling across two zones on route services will have to pay the full fare. This would be discriminatory, and is therefore not acceptable to the Government.

Mr Speaker, the Government believes that the new student fares are fair and should be implemented at the beginning of the 1999 school year, in conjunction with the implementation of the new network. Additional concessions will be made available to existing students who travel by bus over two zones and whose families would be financially pressed by the increased fares.

The new student fares have been set at 35 per cent of the adult fare. This fare level is reasonable and compares favourably with that charged in most other jurisdictions. Fares recover less than 25 per cent of the cost of the services. In line with the Government's obligations under the competition principles agreements, the Independent Pricing and Regulatory Commission will in the future determine ACTION fares.

The Government also does not intend, as recommended by the committee, to charge a fare to students who need specialised schooling, such as those with disabilities. These students will continue to receive free of charge the benefit of special transport services provided by ACTION to specialist schools.

Mr Speaker, the Government recognises that there are traffic congestion problems at some schools because of the large number of buses setting down and picking up students in the morning and afternoon. The Government will continue to work with the affected schools to improve road traffic arrangements and reduce congestion. A representative from the roads and traffic area of Urban Services is now a member of the school transport liaison committee, as recommended by the standing committee.

Mr Speaker, I now table the Government's response to the report of the Standing Committee on Urban Services on its inquiry into ACTION bus services for schoolchildren. I welcome an early debate of these issues.

MR CORBELL (4.18): Mr Speaker, I would like to respond very briefly to the Government's response to the committee's report. Obviously, I have not had an opportunity to read it in great detail, but there are a number of issues that I see immediately which, I must say, I am concerned about. They relate to a number of the recommendations of the committee. The one that concerns me greatly is the issue of giving further consideration to the needs of students in the Gungahlin area for bus travel services. The Government's response is "Agreed". You would think on reading it that the Government agrees that the Government should give further consideration to the bus travel needs of students in the Gungahlin area; but, when you actually read what they say, you find that they are agreeing to the status quo. That is not an agreement, Mr Speaker. That is ignoring the recommendation.

Mr Speaker, what the committee was saying in its recommendation was that currently there is a problem with school bus services for students in the Gungahlin area and that those services need to be improved - not stay the same, Minister, but be improved. But, instead, what we have got is a response from the Government which says that the existing structure is basically okay; that the process they have in place at the moment is satisfactory. The committee in its inquiry heard that the process that is in place at the moment and proposed as part of the new zone structure is not satisfactory. It is not satisfactory in regard to the students who are wanting to attend Copland College. It is not satisfactory from Copland College's point of view, in terms of maintaining a viable level of enrolments. It is certainly not satisfactory for those students who attend Dickson College, which is also in the priority enrolment area for Gungahlin.

The situation remains unchanged. Students at Dickson will have to pay to cross a zone to get from Gungahlin to their college every day, if they choose to catch a bus. That is the issue that we were raising, Mr Speaker - that the Government should give further consideration to the bus travel needs of students in the Gungahlin area. The Government will be very well aware of that, because they had representatives present throughout the hearings. They heard the issues raised. It is disingenuous for the Government to stand up and present this response which says that they agree with that recommendation and then to ignore a number of the key issues that led to that recommendation coming about. That is not a good response from the Government or from the Minister.

Mr Speaker, another issue relates to the school transport liaison committee. The standing committee heard a wide range of evidence that this liaison committee is not working well, in terms of how the Government responds to its concerns, how its concerns are communicated to the Government, and also how the Government feeds information to the committee. What we recommended was that there be a very close look at ensuring that there were sufficient resources to operate the committee on a regular basis, with prompt follow-up of issues raised in the committee. What we were saying was that this committee needed additional resources to do its job properly.

The Minister, time and again in this place, refers to the school transport liaison committee as the body that he consults with. But, if it is not adequately resourced, then it is not a very effective consultation mechanism. That is why we made the recommendations. Again we got the same response as we got from the Government on Gungahlin, which was "Agreed". It is not agreed, because they go on again to say that they are doing everything as they have currently done it. They say that the status quo is fine. That is not an agreement with the committee's recommendations. That is saying, "We don't agree with you. The situation is normal. The situation is fine". That is not satisfactory. That is not what the committee was asking for. If the Government does not agree with the recommendation, it should say so. It should not say "Agreed". That is the point I make.

Mr Speaker, the final point I make is in relation to the cost of school bus fares, which is No. 3 in the Government's response, and it relates to my dissenting report in the committee's report. This is in relation to proposed fare structures for students. I made the point that I did not believe that it was appropriate for the committee to try to develop a new fare structure when, clearly, the information available to the Government was not adequate for it to make a proper assessment about what sort of fare structure should be in place for students using school buses.

The Government has come back - at least it has been honest this time - and has said that it does not agree with me. That is fine. The Government is entitled not to agree with me. But I would make the point, Mr Speaker, that it is an unsatisfactory response, because we received a wide range of evidence that clearly demonstrated that there were conflicting sets of data used by the Government in developing its fare structure for school bus services - conflicting sets of data, widely variable in the number of students who travel each day. I said, "Until you can get consistent data on which to make a judgment about what the bus fare structure for school students should be, you should not be putting in place a fare structure. Go back to basics".

This concern was also raised by the Independent Schools Association and other non-government schools association bodies. They raised the point that they could not, in all honesty, adequately assess the Government's proposal for fare structures because the data the Government had used in developing that fare structure was inadequate. The Government has come back and said that it does not agree with that. All I can say, Mr Speaker, is that that is a very disappointing response, because we will continue to have a problem where there is gross inequity for students who choose to use non-government schools for their education, in terms of their ability to travel to those schools on public transport.

What we will see as a result of the Government's failure to address that issue is a reduction in the number of students who use school bus services and an increase in the number of parents who instead choose to drive their children to school. That is not the sort of outcome the Government should be promoting. Unfortunately, it is a consequence of their failure to address this recommendation.

MR HARGREAVES (4.26): Mr Speaker, I shall not take very long. I thank the Minister for making a speedy response to this review, because a lot of people have been anxiously awaiting the Government's response to the report. What the Government's response does not provide, to my mind, is some timelines for when the Government proposes to get off its backside and do something about these things.

Mr Speaker, recommendation 1(a), which talks about school bus routes, addresses the issue of overcrowding. We are about to have the year finish, in most cases. In some cases, it has finished. Now is the time to start talking about the sorts of buses that we should be providing for the students at the beginning of next year - not in the middle of next year, after somebody has reviewed it. What this actual response does is put off the answers to the questions for a further 12 months. That is clearly not acceptable.

Mr Speaker, I ask these questions, and I shall be asking them at other opportunities: When does the Government propose to do this review of school services? Is it going to be a public review of school services, in terms of getting input from concerned parents to this particular review mechanism? How long is that review going to take? I address my questions to the Minister's back, because he is not listening to me.

Mr Smyth: Yes, I am, John.

MR HARGREAVES: Thank you, Minister. The Government's response does say that the school transport liaison committee will review school services at the start of the year. That is true - about six weeks in. It also looks at school numbers in October or thereabouts. I could be a month out. Hopefully, because of what has been put in here, they will meet twice more during the year as well. That is great, because that allows us to respond to the ups and downs there.

Mr Smyth: They will meet several times.

MR HARGREAVES: It appears as though the minimum that they will be required to meet is four times a year. I fully support that. However, I would suggest, Mr Speaker, that we have got enough data to know what the ups and downs, the peaks and troughs, of schoolkids' travel are at the beginning of the year. We know, for example, that in the first week of term there is overcrowding on the buses. Every year it is the same. Every year we say, "Oh, dear; look at that", but we do not actually do something about it, on the information given to ACTION. I suspect that it is not ACTION's fault that this is the case. I suspect that it is the Department of Education which is at fault here. The Department of Education tells the Minister that the number of students is X, because they know that the Minister is dishing out the money to the schools on a per capita basis under the infamous school-based management system; also, the schools give the transport liaison committee a lower set of figures. Therefore, we have got a problem.

8 December 1998

Perhaps what is needed here is a little bit more sophistication in the provision of numbers, or at least the same number, whichever is the right one. I know from my own experience over the last 15 or 20 years in this town that they have not got it right yet. I suspect that that is the case, because the schools are providing two sets of numbers. They make guesstimates on the one hand, but they make overestimates on the other because of resources. So it is not, in a sense, the liaison committee's fault; it is not, in a sense, ACTION's fault, because the ACTION route managers do a reasonably good job, I think, but they are given incorrect information. We know that. Why on earth they trust the figures, I will never know.

Mr Speaker, I am not going to discuss the issue of school bus fares. I think members on both sides of the chamber and the crossbenches know our opposition to these things. I would like to take this opportunity to congratulate the Government on its approach to special needs transport. I disagree with the committee's recommendation about special needs kids. I do not think they should pay anything for their bus transport. They and their families have got a hard enough row to hoe as it is, without having to do that. In fact, \$2 means an awful lot to them.

Mr Speaker, I am a little concerned about the Government's response on the pick-up and drop-off points for school buses. I accept that it would take a mega-bucketful of money to address all of the drop-off and pick-up zones across town. I think it is an excellent idea to fold that in as a sort of expected entry in the capital works program. I fully support that. However, there are some hot spots. We alluded to hot spots at Daramalan College, St Clare's College and St Edmund's College. The one that I know only too well is the bottleneck at St Edmund's College and St Clare's College. Mr Speaker, I think it would be a reasonable thing for the Government to accelerate the addressing of that particular problem.

We are talking about two Catholic schools. There needs to be a combined approach by the Catholic education system and the Government to address the issue. I am quite happy about that. However, if it involves a fairly major cost factor, the Catholic Education Office is going to have to find the money somewhere. Passing the plate around might not work. There might have to be some other sort of fundraising exercise. So it may take a considerable amount of time. In the meantime, as it is a quite dangerous situation for those kids catching buses, the Minister might consider closing the streets between certain hours.

If we drive through any school zone during the week we have to drop our speed to 40 kilometres per hour. We know the hours of pick-up and drop-off in McMillan Crescent. Perhaps we could introduce temporary closure or one-way status for McMillan Crescent just for the period between now and when the problem is permanently addressed. If we make it difficult for people to actually take their cars down there, most people will avoid it and go somewhere else. All I really want them to do is avoid the area while we have got buses parked on both sides of the road.

I know, from my own visits down there on a couple of occasions, that we have had to have school kids escorted across the road. These kids are not particularly young ones. These are teenagers. But they will bolt across the road, and I think we are only waiting for an accident to happen. I understand that there have been a couple of kids cleaned up on that road before. So I would urge the Government to do that.

Mr Speaker, again I congratulate the Government for a speedy response to the report. No doubt some of the lobby groups around town will have their say, and I wish the Minister the very best of luck in responding to those. But I also urge the Minister to consider some timetabling for some of the recommendations that he has picked up. We look forward to receiving details of that timetabling in due course.

MR HIRD (4.34): Mr Speaker, as Chairman of the Urban Services Committee, I thank the Minister and the Government for their quick response to the committee's report. As the Minister pointed out, a number of families have to make arrangements for their children for the 1999 period, and it is good that the Government has given us that quick turnaround.

The other aspect I would touch on briefly is that, although I am disappointed with some aspects of the Government's response to my committee's report, they have identified, and I take it that they are going to give urgent consideration to, the very problems that Mr Hargreaves alluded to - in particular, the dangerous situation of pick-up and set-down points. The three that the committee was very concerned with, and evidence was given to this effect, were the St Clare's, St Edmund's and Daramalan hot spots.

Governments over the years should be condemned for not having addressed these problems. How a serious accident or fatality has not occurred is beyond me. I can assure the Minister that, while he has brought a member from Transport and Traffic onto the transport liaison committee - I commend him and the Government for that - my committee also will hold a continual monitoring brief and will be looking at the forward estimates to see the roadworks program.

Mr Speaker, I will close on another issue. I was in Victoria last week, looking at a matter, and I noticed that at school crossings and also at bus set-down points they had a paddle-pop person, who stood out. It may assist the Government to look at a similar system here in the ACT - in particular, at those three hot spots. I thank the Government.

Question resolved in the affirmative.

YOUTH SUICIDE PREVENTION STRATEGY 1998-2001

Paper

MR MOORE (Minister for Health and Community Care) (4.37): Mr Speaker, for the information of members, I present the youth suicide prevention strategy, and I move:

That the Assembly takes note of the paper.

Mr Speaker, I am pleased to present this first ACT youth suicide prevention strategy. The original draft ACT youth suicide prevention strategy was produced by the ACT Youth Suicide Prevention Taskforce which was convened in late 1997 when Mrs Carnell was the Minister. The task force researched the issue of youth suicide and conducted targeted consultations. The initial recommendations were collated to form the draft ACT youth suicide prevention strategy, which was released on 30 January 1998. The draft strategy was then distributed to the ACT community for comment. More consultations were held, and comments were received in verbal and written form. The strategy was then redrafted in light of those comments.

The primary issues that arose from all of the consultation undertaken are summarised in Part 8 of the strategy. At the conclusion of this consultation process, the ACT Youth Suicide Prevention Taskforce was disbanded. The ACT Youth Suicide Prevention Group, formed in August 1998, was convened to oversee the finalisation and implementation of the strategy. As you can see, the strategy went through a thorough consultation process and is now ready to be distributed to the ACT community.

The strategy describes the national and local policy context, describes the epidemiology of the ACT, and outlines a series of strategies and actions for the future. The strategies and actions section of the document outlines what we will do under the strategy. Each action has a list of agencies whose participation in and commitment to the action will be necessary for successful implementation.

To ensure that there is accountability, each action also has a lead agency which will be responsible for ensuring the action is implemented. Each agency will report to the ACT Youth Suicide Prevention Group, which will be broadly responsible for coordinating the implementation of the strategy. This group will report to the Interdepartmental Standing Committee on Mental Health on a regular basis to ensure progress is made.

One of the actions in the strategy is to support the provision of education and training for professionals in youth suicide prevention that is affordable and accessible to a wide range of professionals working with young people. As part of the completion of this action, the Department of Health and Community Care has been considering options for expenditure of Commonwealth funding of \$100,000 for education and training for professionals in youth suicide prevention.

The department has considered a wide variety of options within the parameters and principles identified by the Youth Suicide Prevention Group and its predecessor, the Youth Suicide Prevention Taskforce. A decision has been made to allocate the funds to Calvary Hospital to run a 12-month trial project called the youth suicide awareness and prevention education and training program for professionals. The program meets the needs identified by a mapping exercise on the availability of training in the ACT.

The focus of the program will be on providing outreach education, developing professional networks and providing a central ACT resource for youth suicide awareness, prevention and intervention. Professionals to be trained by the program include teachers, school counsellors, school support workers, youth and community workers,

family support workers, general practitioners and health practitioners, juvenile justice workers and the police force. As you can see, these funds will be used to assist a wide variety of professionals to better meet the needs of young people at risk. I commend the strategy to members and I look forward to working with the Youth Suicide Prevention Group and key agencies in its implementation.

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

CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 4 of 1998

MR QUINLAN (4.41): I present Public Accounts Committee Report No. 12 of the Standing Committee for the Chief Minister's Portfolio entitled "Review of the Auditor-General's Report No. 4 of 1998 - Annual Management Report for the Year ended 30 June 1998", together with a copy of the extracts of the minutes of proceedings. I move:

That the report be noted.

Mr Speaker, this is a very basic report. We have received the Auditor-General's annual report. This matter was discussed at an estimates hearing which I attended. The Auditor-General gave concise, full and frank answers and was congratulated by the Estimates Committee on the quality of the reports that he has produced for the Assembly over time.

Question resolved in the affirmative.

URBAN SERVICES - STANDING COMMITTEE
Interim Report on Draft Variation to the Territory Plan: Murrumbidgee and Lower Molonglo Rivers - River Corridors Land Use Policy - Public Land Categories

MR HIRD (4.42): Mr Speaker, I present Report No. 15 of the Standing Committee on Urban Services entitled "Draft Variation to the Territory Plan No. 89: Murrumbidgee and Lower Molonglo Rivers - River Corridors Land Use Policy - Public Land Categories; and Other Minor Changes", together with a copy of the extracts of the minutes of the proceedings. I move:

That the report be noted.

Mr Speaker, this report by the Standing Committee on Urban Services is a unanimous one. It sets out why the committee has come to the view that the draft variation should not be endorsed at this stage. Quite simply, there are too many unresolved issues with this draft variation to enable it to proceed at this time. We outline these issues in our report. We are concerned about the effect of the draft variation on some rural lessees in the Lower Molonglo. We are also concerned about the absence of direct consultation with rural lessees, and we are concerned about the management plan which is now being prepared for public land in the Lower Molonglo.

8 December 1998

We stated in our report that we will reconsider the draft variation once we are advised of the outcome of further liaison with rural lessees and the officers in the department who are concerned with these matters. We hope that these further discussions will resolve the outstanding areas of dispute. I commend the report to the house.

Question resolved in the affirmative.

URBAN SERVICES - STANDING COMMITTEE
Inquiry into Taxi (Multicab) Plates - Alteration to Reporting Date

MR HIRD (4.44): Mr Speaker, I ask for leave to move a motion to alter the reporting date for the Standing Committee on Urban Services' inquiry into the number of restricted taxi (multicab) plates.

Leave granted.

MR HIRD: Mr Speaker, this motion is straightforward. On 24 September this year this parliament directed the Urban Services Committee to inquire into and report on the need to increase the number of restricted taxi plates. We were asked to report by the last sitting day this year. Due to the committee's many other activities and also due to the absence of members interstate on parliamentary business, it has proved impossible to report by this date. Therefore my committee seeks to delete the reporting deadline. Mr Speaker, I should add that the committee intends to progress this matter quickly once it resumes its normal schedule of activities in February next year. I move:

That the resolution of the Assembly of 24 September 1998, referring the number of restricted taxi (multicab) plates to the Standing Committee on Urban Services for inquiry and report, be amended by omitting "by the last sitting day in 1998".

Question resolved in the affirmative.

ENERGY EFFICIENCY RATINGS (SALE OF PREMISES)
(AMENDMENT) BILL 1998

MR SMYTH (Minister for Urban Services) (4.46): Mr Speaker, I ask for leave to present the Energy Efficiency Ratings (Sale of Premises) (Amendment) Bill 1998.

Leave granted.

MR SMYTH: Mr Speaker, I present the Energy Efficiency Ratings (Sale of Premises) (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, the Government is proposing an amendment to the energy efficiency ratings (sale of premises) legislation to postpone its commencement until 31 March 1999. Members will be aware that there has been a high level of concern expressed by industry and the community over the time people have been given to prepare for this new legislation. The Government's amendment acknowledges the positive nature of the legislation. We simply want to give the community time to prepare for it.

Buying and selling houses can be a time-consuming and costly exercise for Canberrans. Many of us have to budget carefully for the many costs involved, both foreseen and unforeseen. The real estate industry also needs time to prepare and to work this new requirement into its systems and selling plans. Energy efficiency ratings will be a positive selling point in the real estate industry. There are no other changes to the legislation. The Government believes a short three-month extension of time will enable home owners and the real estate industry to plan more effectively. This additional time will also permit the Government to advertise the value of energy efficiency ratings to our community. I commend the Bill to the Assembly.

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

ACTEW (TRANSFER SCHEME) BILL 1998

Debate resumed.

MS CARNELL (Chief Minister and Treasurer): Mr Speaker, I ask for leave to speak again in this debate without closing the debate.

Leave granted.

MS CARNELL: Thank you. Mr Speaker, we have heard a lot of claims today on both sides of this debate about the views of independent authorities on the proposed sale of ACTEW. We on this side of the house have quoted from reports prepared by people whose expertise in the commercial sphere is unchallenged. On the other side of the house, the Labor Party has claimed that the Australia Institute report commissioned by the Trades and Labour Council is an independent authority.

Mr Berry: We have not said anything.

Mr Stanhope: When have we said that?

MS CARNELL: So they are not independent?

8 December 1998

Mr Berry: No, we have not said anything.

Mr Stanhope: When did we say it?

MS CARNELL: Okay, that is fine. Mr Speaker, this is despite the glaring errors in the Australia Institute's analysis, such as the claim that the Government can take \$180m per year in dividends out of ACTEW, or the \$1 billion hole in their superannuation solution. This afternoon I want to throw the views of another independent authority into the debate, an authority who was not commissioned by either the Government or the Labor Party's backers; someone who everyone in this chamber would acknowledge is independent of either the Government or the Opposition. The person I refer to, Mr Speaker, is the Auditor-General. Everyone would have on their tables at the moment the latest Auditor-General's report.

The Auditor-General's report tabled this afternoon is somewhat timely. It deals with the Territory's operating loss and its financial position, and in that context it comments directly on the proposed sale of ACTEW. I would like to quote directly from the Auditor-General's report. It says:

The unfunded superannuation liabilities at 30 June 1998 were estimated to be \$770m; this equates to around \$7,700 for every household in the ACT ...

The Auditor-General goes through the options of dealing with the Territory's operating loss, namely, cutting costs, increasing taxes, borrowing and asset sales. I suggest that members might like to read pages 5, 6 and 7 of the report. Mr Speaker, with regard to cost cutting, the Auditor-General said this:

Past history does not provide much support for believing that reducing costs by reducing the quantity and/or quality of services currently enjoyed by the ACT community is likely to be a major contributor to converting the Territory's operating losses into surpluses.

With regard to tax increases, the Auditor-General says:

... the potential for increasing revenue through significantly increased charges to the general community does not seem to be a political reality unless there is a change in community attitudes.

Mr Speaker, we know that our levels of taxation are very similar to those over the border in New South Wales. With regard to borrowing, the Auditor-General said:

Meeting liabilities as they fall due by borrowing is simply eliminating one liability by creating another ... Borrowing only further defers the time when taxpayers will have to eventually meet the liabilities.

The Auditor-General goes on and speaks about the other option. He talked about cost cutting, tax increases and borrowing. Now he talks about asset sales, something that we should be very interested in during this debate. He said:

If available operating revenue and cost reduction measures are not capable of providing funds to meet liabilities as they fall due, the Territory's next option would appear to be asset sales.

With regard to the ACTEW sale, he went on:

The major benefit from selling ACTEW would be the conversion of physical assets into financial assets thereby providing funds to meet the Territory's financial liabilities as they fall due. As previously explained it seems there is little possibility of funds to meet the liabilities becoming available through surpluses generated from normal operations.

He goes on:

The proceeds of an ACTEW sale should be sufficiently large to solve the present unfunded liabilities problem if the proceeds are in the order of the estimates prepared by the Government's consultants.

Mr Speaker, with regard to the timing, the Auditor-General says:

The timing of any ACTEW sale is relevant. Obviously if ACTEW was significantly growing in value the financially sensible course would be to delay the sale as long as practicable. If the value of ACTEW was growing, and since a large proportion of the Territory's unfunded liabilities do not have to be met for some years, delaying the sale of ACTEW until the sale proceeds are required to meet the liabilities would be the financially sensible approach.

The Auditor-General goes on:

Unfortunately because of the introduction of the National Electricity Market, Competition Policy and regulation of the prices ACTEW may charge to its non contestable customers all responsible projections are that ACTEW, in its current form, will not grow in value, and in fact its value is most likely to fall significantly.

On the basis that ACTEW's sale value is likely to reduce over time the most financially appropriate course would be to sell earlier rather than later.

I will state that again. The Auditor-General said:

On the basis that ACTEW's sale value is likely to reduce over time the most financially appropriate course would be to sell earlier rather than later.

8 December 1998

Mr Speaker, that was stated by somebody who I do not think anybody would doubt is independent. In summary, the Auditor-General says:

In view of the seeming inevitability of having to sell significant assets, ACTEW is an appropriate asset to consider for sale because of its estimated potential current sale price and the existence of a ready market. If ACTEW is to be sold it is suggested that an early sale is desirable because of likely future falls in the value of ACTEW in its current form.

Mr Speaker, those are not my words, they are the Auditor-General's words. In the Auditor-General's report brought down today the Auditor-General makes significant comments and criticisms with regard to the unfunded superannuation liability and the operating losses for the Territory. The Auditor-General says on page 3:

The size of the losses are sufficient to significantly affect the future standard of living of ACT residents.

Again, they are not my words, they are the Auditor-General's. The Auditor-General has said quite definitely in this report that the ACT does not have the capacity to generate the sorts of surpluses that will be needed to pay off the unfunded superannuation. It is simply not going to happen, or he does not believe it is realistic. The Auditor-General goes on to make the point that if we are to sell ACTEW it is better that we do it quickly. He also suggests that asset sales are the only way that the ACT can address these really important issues. We have finally got on the table a report by somebody who is independent, and this person says quite definitely that the only way forward, more than likely, is asset sales and that if we are going to sell ACTEW we need to do it quickly. I think that really puts the whole debate in a nutshell.

Those opposite have said, time and time again, "Spend more on health, spend more on education". I have just heard them say, "Spend more on buses. Spend more on everything". The Auditor-General rightly says that the capacity to significantly reduce expenditure in the ACT is limited. He says that the capacity to significantly increase taxes is limited. Unless we can produce an operating surplus we cannot address our unfunded liability. We cannot do that unless we go down the path of asset sales.

Mr Speaker, I will finish by again using the Auditor-General's words in his summary:

In view of the seeming inevitability of having to sell significant assets, ACTEW is an appropriate asset to consider for sale because of its estimated potential current sale price and the existence of a ready market. If ACTEW is to be sold it is suggested that an early sale is desirable because of likely future falls in the value of ACTEW in its current form.

Mr Speaker, that summarises the debate. It puts it on the table. It makes it clear for everybody. It is a simple concept. We have no other way forward if we are to avoid the comment on page 3:

The size of the losses are sufficient to significantly affect the future standard of living of ACT residents.

I have to say, Mr Speaker, that I am not willing to accept that.

MS TUCKER (4.59): Well, that was an interesting performance, actually. For me, that takes the whole debate on ACTEW and puts it into just one small speech in which the Chief Minister quotes this document from the Auditor-General, with great flair, as usual. She throws it down and says, "Yes, this is it. This is the statement". So I looked to see, quickly, because I have only just got it, how much work the Auditor-General has done on looking at the other implications of the sale of this asset. There is a paragraph, one paragraph, headed "Other Considerations". That is the problem with how this debate has been run in this Assembly, Mr Speaker.

The "Other Considerations" actually matter a lot to the ACT community. The "Other Considerations" are what people have been asking this Assembly to have an opportunity to look at. The reason why I proposed that there be a select committee to look at the issues around the sale of ACTEW and what the long-term implications are for the ACT is that people do not know and people are concerned about it, and with just cause. Mrs Carnell just said, again, that we are going to see, possibly, the quality of life of the people of the ACT negatively affected if we do not sell ACTEW. The very concern that is coming from people in the community and members of this Assembly is that the quality of life of the people of the ACT may indeed be negatively affected if we do sell ACTEW. There are two different points of view on this.

Mr Humphries: That is not what the Auditor-General says.

MS TUCKER: And what has been - - -

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

ACTEW (TRANSFER SCHEME) BILL 1998

Debate resumed.

MS TUCKER: I will pick up the interjection from Mr Humphries. He said, "That is not what the Auditor-General says". I think I had better read this paragraph aloud and make it clear for the *Hansard* record. There is one paragraph headed "Other Considerations", and it says:

There are of course many other factors to be taken into account in considerations of a sale of ACTEW. These include the impacts on overall employment in the ACT, the gross Territory product, disposable household incomes, et cetera. Effective regulatory regimes and other relevant policies need to be developed and implemented including ensuring that the new owners protect the environment, continue services at least at present levels and also meet community service obligations.

He has referred to those other broader public interest issues in his report and the point is - - -

Mr Humphries: And he still finds that we should sell ACTEW. He still says we should sell it.

MS TUCKER: Mr Humphries interjects that we should still sell ACTEW. Well, I am sorry - - -

Mr Humphries: No, he says it. He says it.

MS TUCKER: Yes, the Auditor-General says - - -

Mr Hargreaves: I take a point of order, Mr Speaker. Ms Tucker is being badgered. Would you like to step in, please?

MR SPEAKER: Thank you. I do not think we have any badgers here.

MS TUCKER: Okay, thank you for your protection, Mr Hargreaves and Mr Speaker. The Auditor-General may have come to a particular conclusion on this when looking at the finances of it. That is his job. Fine. What I am trying to make clear in this speech right now, Mr Speaker, is that there are other points of view in the world other than those of the Auditor-General, and they are views that are of the community, a large percentage of the community. The Australian community generally, in fact, and also other countries now are questioning the efficacy of this tendency to sell off assets and always reduce things to the bare minimum in terms of government responsibilities and handovers to the private sector. This Government is basically expecting the Assembly to make a decision affecting a billion dollars of the ACT people's assets, despite the fact that they have not allowed this rigorous analysis and assessment of this other side of the question.

If the Government has not understood it yet, I will say it again. They have not done the work. They have not shown the Assembly or the community that the sale of ACTEW is in the long-term interest of the ACT, taking into account these broader issues. That is why, as I said, I did propose a committee that would be looking at the social, environmental and economic impacts of the sale, issues not covered adequately by the couple of consultants' reports produced for the Government.

We get statements from the Government that we need not worry because a regulatory framework is all that is necessary; that who owns ACTEW is irrelevant. That is a controversial statement and it needs supporting arguments which have never been given. In fact, David Hughes made that comment, even when looking at the Government's reports. We do have serious concerns about the broader public interest questions, such as the impact of a sale on consumer protection, service standards, environmental protection, safety standards, infrastructure, maintenance and overall net benefit to the community. These issues were poorly dealt with in the consultants' reports and are not dealt with in the Auditor-General's report, obviously.

Mr Humphries claims it is inappropriate to call on them to prove that it is a suitable option. Well, I do not think we are even asking for proof necessarily, but we would like to see some information. We would like to have seen the Government support attempts by this Assembly to have a committee inquiry so that members could be informed. We would have liked that; not proof, just an opportunity to hear different points of view.

We have had a report today, released by the Australia Institute, which has been treated with the usual sort of shoot the messenger response from the Government. I do not recall that the reports that the Government produced were totally fault free. I have heard an explanation for the issue that Mrs Carnell raised, but I will not get into that now because this piece of legislation is actually about ACTEW, and, believe it or not, some of us care enough about ACTEW to want to talk about that in debate. As I said, we even thought it might be worth having a committee inquiry, but we were not fortunate enough to have support to do that.

I am also concerned by the processes in this Assembly because I have seen political shenanigans going on that really, as far as I am concerned, are solely addressed at the outcome that the Government wants, which is to sell ACTEW. It is not taking into account good parliamentary process at all. I have heard today about an attempt to have a special day of sitting apparently so that we can deal with this Bill once again before the committee on superannuation has reported. That is another example of how the Government seems to hold this Assembly and the will of the members of this Assembly in contempt.

Everyone in this place knows well and truly that Mr Osborne is going to make his decision on selling ACTEW dependent on the result of the committee into the superannuation liability. He has made that quite clear in this place. I do not know how the Government dare say, "No, we are so sure we are right. If we can we will overrule this committee of the Assembly and its report being allowed to be made before people in this place are asked to make a decision". I sincerely hope that Mr Osborne and

8 December 1998

Mr Rugendyke will not support this extra day of sitting and will wait until this committee has reported. It is a short enough period of time. It is almost a ridiculous length of time when you look at the work involved in coming up with this modelling for other ways of dealing with the superannuation liability, but we are committed to trying to do that by February. It is no credit at all to the Government if they try to pre-empt the work of that committee.

On the issue of a regulatory framework, which does come up a lot in the Government's arguments, my concern is that we are being told by the Government that they have the ability to create a regulatory framework which will address all the concerns that people have been raising and which I have listed already. Why on earth would we have confidence in the Government's ability to do that? They have not shown that they have the ability to implement a purchaser-provider model in the ACT. They are all over the shop with it. They produced finally, after discontent in the community, a report on how to actually implement purchaser-provider which is basically around these issues. It is about how you specify quality of service in a contract, how you specify particular services that used to be delivered by government or the community sector, and how you turn that into economic output successfully, still taking into account the quality issue which is so important to the delivery of those services. They do not know how to do it. They produced a report. The report's recommendations were not taken on seriously by the Government and now we have Mr Quinlan's committee looking at that. They have not been able to do that with the purchaser-provider split. But still we are told, "It's fine; we will get this right". So we look around Australia and we think, "Has anyone else got it right?". No.

We did ask the consultants what they thought the problem was there. "Why do you think no-one has got it right?", we asked. The consultants said, "Because people did it too fast". Well, we are getting this done in two months or something. We are supposed to pass legislation and have faith that this Government will produce a regulatory framework that will deal with all the issues. If they want to have the support of this Assembly to sell ACTEW they need to produce a regulatory framework first, and they need us to look at it and say, "Okay, we are reassured. Now let's have the debate on whether or not to sell ACTEW". But no, of course, we do not get that respect from this Government.

There are other issues particularly around this proposal, of course, which are to do with the fact that they are putting water issues into it. These raise particular and different concerns. The ABN AMRO report did not separate the issues. If the Government had gone to the public discussions that I have gone to they would realise that it is of particular concern to the community that water is being dumped in like that with this general sale proposal. I was interested to see that there are comments on that in this Australia Institute report which support the various experts who have spoken about water at those forums.

There are other concerns about the Bill as well. I have proposed amendments which I will certainly be putting to this Bill if it gets to that point, although I understand the debate is going to be adjourned today. There is a certain arrogance that is obvious in this Bill in terms of the lack of any disallowance mechanisms. It is also interesting how the Bill

basically is handing over to the private sector exemptions to laws of the ACT. We are certainly not happy with that and would want to take that out. It does seem rather strange to be handing over to a private sector organisation the right to be exempt from laws of the ACT.

I would like to outline again the sorts of concerns that have come up in the public meetings that I have been to. I want to make quite clear to members of this place the issues that people think need to be addressed and that have not been addressed. No Auditor-General's report has addressed them and none of the consultants reports have addressed them. The Australia Institute's report is highlighting them and raising them in a way that is, I believe, useful to the debate, although I still think there needs to be more work done on that.

Interestingly, the Australia Institute report does question the efficacy of the accounting of the Government in their estimates about what we would actually be making. I think there are some very interesting comments made in this report about the Government's or the consultants' estimation of what will be lost and gained by the sale of ACTEW. The issues that continually have come up are the long-term consequences of the privatisation of essential services such as power, water and sewerage. That is where the quality of life in the long term will be affected. We must take onto the other side of the debate the same challenge, which is whether we can guarantee that future generations of the ACT will benefit from whichever position we take on this, and that has not been addressed by the Government.

Can government regulation control the activity of a private company in the long term to ensure best practice management of these essential services? With increasing pressure on the budget, can we have confidence that government will adequately fund community service obligations, or even know how to do it? Will the tension between the profit motive of the private sector and the responsibilities of government lead to a diminution of standards? How does the principle of energy conservation and protection of the environment fit into a mission statement of a private company whose main goal is always profit? Can we have confidence under this model that there will be a concerted effort to fund research and development into alternative energy and environmental management?

How will the interests of a local community be served by having their essential services controlled by a private company not based in the region, and possibly not in the country? What will be the impact on local jobs? Why do we want to apply the market model to water and sewerage when it is a natural monopoly? Will the sale of an asset actually deliver long-term economic gains to the region? These questions have to be answered. They have to be given a good, strong, rigorous analysis. That has not happened. We need more time to do it.

I ask members to support an adjournment of this debate, and to certainly not support coming back in January, even though I am pre-empting a debate I suppose.

8 December 1998

MR QUINLAN: I seek leave to speak again.

Leave granted.

MR QUINLAN: Mr Speaker, I rise to respond to the Chief Minister's second contribution to this debate. She said that this summarised the debate in a nutshell. It certainly summarised the style of the Government in a nutshell. It is one of the great coincidences of life that this audit report should land in this place on this day, halfway through the debate on ACTEW. This is poor treatment of the Assembly as a parliamentary chamber. It is the grossest of insults to all the other members of this place.

I noticed when the Chief Minister was making her commentary on this report that she had pre-prepared notes. So what we have is a contribution to the debate, an extra angle, an extra layer on their argument, for which she is prepared and this place has no opportunity to prepare for. Coincidence? No way. It is a commentary on the way this Government operates. It is a commentary on the way this Chief Minister operates, particularly in this debate.

The Chief Minister, in answering her standard dorothy dixer for the day from Mr Hird, selectively read from the report by the Australia Institute. She read a second sentence of a paragraph and accused the Australia Institute of leaving out a whole contribution to the superannuation fund. The first sentence says:

To complete the proposal, it is necessary to consider the contribution from consolidated revenue to the government's superannuation liability.

This report is saying this is how we address the accrued liability and that sentence says that is how you continue to meet the growing liability. That is a similar process to the \$70m a year contribution by OFM which is included in papers used by the Government. That was a very selective use of information. Now we have this unbelievable coincidence of getting this report on this day. While we are looking at this report, let me quote from it. At page 40, under the heading "Selling Physical Assets to Provide Cash to Meet Unfunded Liabilities", it says:

The Territory has a wide range of physical assets. These include a public hospital, schools, roads, public housing, parks, electricity, water and sewerage ...

So we have a list. We heard the Chief Minister say, on reading through this: "We are never going to balance the books; we are just going to keep selling assets". The Auditor-General also said this:

Arguments against selling assets ... are generally similar to those against reducing services. There is an additional argument in the few cases where the assets being considered for sale are income producing assets ...

When you read those two pages together, what do you get? The Auditor-General is saying do not sell ACTEW; it makes money. Sell the hospital. Sell the roads. Sell public housing. Sell the parks. You have got to be kidding.

The last contribution by the Chief Minister to this debate was appalling. It was obviously a contrivance. It was the grossest of insults to members of this place who have not had the chance to read this report, to absorb it and to put this in perspective. She sought leave to speak again in the debate in order to try to influence those members who are still considering today's question. I suggest that we all take time to examine this properly. When we start talking about selling public hospitals, schools and roads, all our alarm bells should be ringing.

MR WOOD (5.20): Mr Speaker, when I was a school leaver aged 16, quite some years ago, my first job was in the remnants of a privately owned electricity authority. My memory is not the best, going back that far - - -

Mr Humphries: It must be 50 years, at least.

MR WOOD: It is getting on to that, Mr Humphries. I did not stay long, but there was very little culture of service and the business was pretty apathetic towards consumers. I do not think I would have used those words in those days but those are the two memories I have of those times. Those remnants of the private company were about to be incorporated into a government system and all the people in the company were very keen for that to happen. All the workers were very keen for that to happen because they expected a much better workplace, a much more constructive place, focused on what it was supposed to be doing. I do not raise that as any more than an interesting point, except, of course, that those were the days long before the words "economic rationalism", and all that they carry, came into our vocabulary. In today's standards, businesses are run with harsh, ruthless efficiency, or so-called efficiency.

I want to make a couple of comments on this from the perspective of a member of this Assembly as well as a consumer. I believe that ACTEW has accepted its community responsibilities and its environmental obligations, perhaps not always to the extent that it claims. Nevertheless, ACTEW is responsive to the community and has been increasingly so since self-government came to the Territory. It is a part of ACTEW's culture of service. If ACTEW is tardy, as I think it has been from time to time, this Assembly can prompt it. This Assembly can have a role in the way ACTEW delivers some of the most vital services in our community. This responsiveness, this ability to respond, I believe, is of enormous importance. I do not believe that a privatised company would be so inclined, even noting what is in the regulatory regime that we have been looking at.

Let me give an example of how we need an Assembly to ensure that ACTEW can be responsive. When I was Minister for the Environment, quite some years ago now, we had a frequent series of bypasses at the Lower Molonglo Treatment Works, and they seemed to persist, no matter what stories the Minister for Urban Services and I, as Environment Minister, were being given. I remain of the view, even today, that we were not being told everything about what was happening, but we were able to require an environmental audit, a very comprehensive one. Arising from that a number of measures were taken,

8 December 1998

the most notable of which, I suppose, is the dam that you see out there now. We have not had persistent bypasses, that is, overflowing of the sewerage treatment works, in recent times because this Assembly was able to ensure that ACTEW was responsive to what the community needed, not just the Canberra community but also the community downstream.

Let me go to the other end of the extreme about responsiveness. Like most members, I expect, I get calls from time to time from people who say, "The streetlights are out in my street", or, "There is one light gone and I've been ringing ACTEW and they haven't come yet". I have to say, and I am grateful for it, Minister, that on any occasion I have rung up about streetlights they have invariably been fixed very rapidly. That is small-scale stuff, you might say, but it is indicative of what we want in terms of the responsiveness that I have been talking about. Do you think we will get that if I cannot make those phone calls or other members cannot make those phone calls in the future? There are other times, of course, when I make approaches concerning ACTEW matters and they are dealt with.

I believe there has been a campaign of fear to sell ACTEW; fear that if we do not we are going to go down the tube and it will be worth nothing in the future. There has been unremitting propaganda about it. From first to last it has been a deception. We were told over and over again before the last election, going back quite some time, "We don't plan to sell ACTEW; we are not going to sell it". But what happened in the end? Suddenly, there it is, as we suspected all along. Given that history, I do not give any credibility to the propaganda that has been put forward. The Government will come up with anything it wants in order to justify its sale. The deception continues.

Mr Humphries, in his speech, said that he, with his colleagues, was the custodian of the Territory's assets. I believe that we all, in this Assembly, ultimately are the custodians. I hope that is what we are. I hope that we are not the disposers of the Territory assets, or the despoilers of them. I believe that if we support open and accountable government we cannot support this legislation. Among other things, typical of the way things have been developed, the process is not a good process. This Bill effectively takes all decisions about ACTEW's future out of the scrutiny of the Assembly and puts it into the hands of the Executive. It is typical of the approach of this Government to rule by Executive first rather than democratic scrutiny. With the use of the words "commercial-in-confidence", the Bill effectively allows this Government to sell off the major asset with no limits to what they may do, and aren't they keen to sell? I wonder what potential buyers are thinking. Sellers should not appear too keen, should they, in the marketplace? That is the rule. But every buyer out there would know that this Government is keen to sell.

Mr Berry: At any price.

MR WOOD: At any price. We will have to see, will we not? The Bill provides power for the Minister to declare ACTEW assets as public assets. In the presentation speech the Minister tells us that these assets will be the dams and water and sewerage treatment plants, but, as I read the Bill, clause 4 is entirely discretionary and the Minister is

not obliged to make these or any other ACTEW assets public assets. If it is the intention of the Government that these items should remain public assets, the Bill ought to state which of the items will remain public assets rather than leaving it, as it appears to me, entirely to the discretion of the Minister.

Clause 5 provides that the Minister can, by means of a declaration, transfer any existing ACTEW assets to any other person without even requiring proper transfer contracts or appropriate documentation. That is not a desirable way to go. The Minister can also declare assets, rights, obligations, and even liabilities, without any scrutiny by the Assembly. The Minister, in the end, can give away assets on whatever terms he or she likes.

The transfer of staff provision has flaws. Although clauses 8 to 12 provide guarantees, they are nevertheless subject to ministerial discretion. A current employee who is declared a transferred worker will enjoy the benefits of clauses 8 to 12, but there is absolute discretion given to the Minister as to which, if any, employees he or she decides to transfer, and those not transferred have no guarantee regarding their future conditions. In addition, there are no guarantees to staff as to what will occur after this brave new-world transfer to the new owners. I note that superannuation and workers compensation aspects are not dealt with in these provisions. They should, surely, be specifically addressed.

I believe that the approach adopted by the Carnell Government is radically different from the approach to asset sales adopted by the Commonwealth or the other States. To cite a recent example, the New South Wales TAB privatisation Act provides a procedure for the public float and a legislative role for the Auditor-General to scrutinise the process. A more appropriate way of proceeding is for the Government to advise this Assembly as to what it proposes to do in respect of electricity, water and sewerage, and then to obtain support for these specific plans through the Assembly. Legislation could then be drafted to deal with the proposed scheme as to how this might be put into effect rather than giving the Executive free rein.

Effectively, the Bill gives the Executive carte blanche to deal with ACTEW as it likes, with no answerability or accountability to the Assembly. That is entirely unsatisfactory. It is oft said that this is our major asset. This Assembly is the body that determines the future of assets. It is going to be taken out of our hands. We do not like the sale and we do not like the way that it is being sold. It is eminently unsatisfactory and I urge all members to oppose this Bill.

MR HARGREAVES (5.31): I have an undertaking, Mr Rugendyke, to speak for no longer than three minutes, otherwise Mr Osborne is going to give me a signal. Mr Speaker, we have spoken long and hard about numbers and everybody is throwing them around everywhere. What we have not said is what the public feel about this. Mr Corbell tabled a petition which was fairly indicative of how people felt about it.

8 December 1998

Mr Corbell: There were 10,600 signatures.

MR HARGREAVES: How many?

Mr Corbell: There were 10,600.

MR HARGREAVES: Bucket loads of people everywhere I go in my electorate say to me, "What can we do to stop it?". I keep telling them, "I don't know; it's up to you". Mr Speaker, one of my concerns about all this stuff here is that we have an emerging liability, the superannuation one, but it is not the only emerging liability we have. There is a whole bucket load of them as well. What we are doing by selling ACTEW is drying up a revenue stream which will take care of those. Ultimately, at the end of the day, the liability will be satisfied. We will have more public servants to pay for this superannuation and all that sort of stuff. We will not have a revenue stream other than taxing our citizens to pay for it.

Mr Osborne: Two minutes to go.

MR HARGREAVES: Thanks very much. That cost you 30 seconds. Mr Speaker, there is one thing I have noticed in reading these books. I must say it is pretty difficult when we get both of these reports on the day we are asked to make a decision. I am grateful for the leaping ability of Mr Osborne in the very near future. I am grateful for what he is going to do because I have to say it is too complicated for me to do it. It is far too complicated for me to vote on this now. A very famous man, one of my heroes, once said about the old GST, "If you don't understand it, don't vote for it".

Mr Speaker, one of the things that have not been mentioned concerning the sale of ACTEW is whether it can compete with the private sector or not. At page x of the Australia Institute report it says:

The efficiency of an enterprise is determined by the management and operating environment, not by its ownership.

Well, Mr Speaker, if this utility is not able to compete in the private sector environment, whose fault is that? It is the fault of the people to whom it is responsible. It is the fault of the two shareholders, and the ACT Government in particular. They are not allowing it the opportunity to trade out of what is their imposed difficulty. We need to consider that.

Mr Speaker, I think this decision needs to be delayed while the principal tenet upon which the sale is based is looked into. One thing that Mr Rugendyke and I both share is information overload at this point. It is beyond my capabilities to digest the rather timely Auditor-General's report. It was just squeezed in before we had to vote. I congratulate the Chief Minister's speech writers on being able to write up the notes just so that this could be considered before we vote on it. I think that was excellent work. I wish my speech writers were able to do things that quickly.

Mr Speaker, we cannot allow this Bill to go through. There is no justification whatever for selling this asset. I have 30 seconds, Mr Osborne. All we are doing is selling the house to pay for our housing insurance. This is absolute garbage. When you see the conflicting statements in three reports, ABN AMRO has been discredited. The Auditor-General, in fact, talks about selling public hospitals, while the Government says they are not going to do it. The Australia Institute says it is worth a whole lot more than anybody thinks it is. I think we should take Paul Keating's advice; do not vote for it when we do not understand it. We should just chuck this whole lot out and revisit it again some other time, perhaps in the year 2050.

MR RUGENDYKE (5.36): Mr Speaker, my position in this debate is simple. There are too many unanswered questions for my liking. For this reason I cannot support agreeing to this Bill in principle today. Earlier today I voted to support the adjournment of this debate. Quite frankly, that is what I would still like to see occur. If push comes to shove and we have to complete the debate, I would not be in a position to offer a valid, well-considered vote. I am mindful of the urgency the Government is placing on the proposed sale. I am aware of the emerging changes to the competitive energy market and the questions this raises about ACTEW's ability to compete in this environment. While the Government is placing emphasis on time, we also have to consider the emphasis the Government has placed on the unfunded superannuation liability.

From the outset, I must say that it is an indictment on this Government that it has not conveyed its message to the community. It is clear that the Government wants to sell ACTEW, but it has not been successful in explaining to the community why and how our city will benefit. There are far too many unknowns for the community, and therefore there are too many unknowns for me to support a hurried decision today.

In explaining its position to the people of the ACT, the Government has leaned on the unfunded superannuation liability. Most of my constituency are trying to get their heads around this situation. They are asking how this happened. Are there other ways to tackle the problem? While the Government is presently pressing urgency throughout this debate, it has also pressed the superannuation debt just as heavily, so it is only reasonable and sensible that we put it to the test and subject the superannuation liability to the full inquiry of the recently formed committee. An inquiry can clearly reveal to the community the exact nature of the debt and what it means to the Territory. Community responsibility is a key element in my considerations.

One of the reasons the community is struggling to accept the sale of ACTEW is that ACTEW is serving us so well. Its service is second to none and its standing in the community is beyond question. For example, there are no doubts that we have the best drinking water in Australia. It is understandable that the community does not want to lose this. The community does not want to compromise the standards, reliability or quality of a service which is valued in Canberra. ACTEW has upheld its commitment to community responsibilities. The community wants to see this preserved. We need to be sure that the environment is taken care of. We need to be sure that community service obligations are taken care of.

8 December 1998

The Government has recognised that its proposed sale must go hand in hand with appropriate consumer and environmental protection measures. The Government has tabled the statement of regulatory intent for utilities in the ACT, but I am not sure it includes enough detail. I cannot say today that I agree in principle to selling ACTEW when we do not have a clearer picture of the regulations that will go with it. Also, Mr Speaker, if ACTEW were to be sold, how would the value of the sale be preserved? The worst result would be selling ACTEW today only to see the proceeds raided or frittered away in the future. I would like to see ironclad evidence of how the Government intends to protect the Territory from this danger.

In closing, Mr Speaker, I would like to compare this biggest single issue that this Government has raised with the biggest single issue its Federal colleagues have raised in recent times. Federally, the Liberal Party took the GST campaign to the Federal election. The GST was something that people feared and the Liberal Party had to embark on a concerted education process in the community in an effort to gain acceptance of the GST package. We can now see how much difficulty the Federal Government is having in getting its GST package passed. Mr Speaker, I have an open mind on what is best for the future of ACTEW, but I feel that we would be best served by deferring a decision until after the superannuation inquiry has reported in February and after we have had a chance to analyse the Auditor-General's report and the Australia Institute's report.

MR OSBORNE (5.42): I move:

That the debate be adjourned.

I seek leave to make a short statement on that motion.

Leave granted.

MR OSBORNE: I will try to be 3½ minutes, Mr Speaker, unlike Mr Hargreaves who misled the Assembly and spoke for four minutes. Mr Speaker, before the election in February, a group of independent candidates, of which I was one, predicted that ACTEW would be sold irrespective of whether the Government ended up Liberal or Labor. We did so because we believed that both parties would take the easy option - the option of selling the family silver, the option of privatising ACTEW, if elected, to deal with the financial problems of the Territory. We thought the public had a right to know what the next term of the Assembly was going to bring.

I remember very clearly the speed with which the Chief Minister, back in those closing days of the election campaign, went into her damage control mode. She could not get before the television cameras quickly enough to dismiss the outrageous predictions of the Osborne Independents. The sale of ACTEW, she declared, while putting on her honest Kate face, was not on the Liberal Party agenda.

Mr Speaker, I am not making these references to events of the last election campaign simply to say that I told you so. I should, but I will not. Rather, I am doing so to remind the Assembly that this minority Liberal Government has no mandate from the people of Canberra for the Bill that is before us today. On the contrary, Mr Speaker, the mandate, such as it is, is for ACTEW to continue in public ownership. If the transfer of electricity, water and sewerage from public to private ownership was some minor matter, a matter of little concern to the majority of voters, then the absence of truthful political discussions before an election need not overly concern us. All members will agree that ACTEW is a major asset of the Australian Capital Territory, and the future of the services it provides is of major concern to people who live here.

At the very least, the people deserve an adequate explanation of why Mrs Carnell wants something that was not even on her agenda 10 months ago to be effectively off the agenda by the end of today. I do not believe that she has given such an explanation. The constituents I speak to, overwhelmingly, are confused and angry at the prospect of ACTEW being sold by this Government. They do not understand the reasoning behind it and are distrustful of a future in which their water and electricity will be delivered by an organisation with profit as its sole motive. I have no doubt that if members of this place decided today to seek the opinion of the public by way of a referendum, there would be an overwhelming majority against any form of privatisation of ACTEW. Perhaps, Mr Speaker, given the dishonesty of concealing a real Liberal agenda, such a referendum would not be a bad idea.

A good starting point for an adequate explanation by Mrs Carnell would be to spell out clearly what the consequences would be of this Assembly not approving the sale that she wants. Without the expected billion dollars in the kitty, by how much would she put up the water and sewerage rates, and electricity rates? How much more would we pay for those services? How many workers would ACTEW be forced to sack? Surely the Government has made such calculations in reaching the conclusion that ACTEW must go. The people of Canberra have a right to know the answers so that they can make an informed judgment.

Most importantly, they have a right to know, as well, whether there is an alternative solution to the problem of funding future superannuation payments to retired public servants other than by selling off ACTEW, which is why I support the inquiry by the committee. It is madness to have an inquiry into alternatives after making the decision to fund the superannuation shortfall by selling ACTEW. If there is to be an inquiry, Mr Speaker, and there is, I think it is sensible that it be held before the Assembly takes that irrevocable step of voting on Mrs Carnell's legislation. That is why I have moved the adjournment of the debate, and I hope that the committee will come back with a report that will provide members who are undecided with the information they need when deciding on this very important issue.

8 December 1998

Question put:

That the debate be adjourned.

The Assembly voted -

AYES, 9

Mr Berry
Mr Corbell
Mr Hargreaves
Mr Kaine
Mr Osborne
Mr Quinlan
Mr Rugendyke
Mr Stanhope
Ms Tucker

NOES, 6

Ms Carnell
Mr Cornwell
Mr Humphries
Mr Moore
Mr Smyth
Mr Stefaniak

Question so resolved in the affirmative.

**JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Scrutiny Report No. 13 of 1998 and Statement**

MR OSBORNE: Mr Speaker, I present Scrutiny Report No. 13 of 1998 of the Standing Committee on Justice and Community Safety performing the duties of a scrutiny of Bills and subordinate legislation committee. I ask for leave to make a brief statement on the report.

Leave granted.

MR OSBORNE: Scrutiny Report No. 13 of 1998 contains the committee's comments on 12 Bills and 19 pieces of subordinate legislation. I commend the report to the Assembly.

Sitting suspended from 5.51 to 7.30 pm

EXECUTIVE BUSINESS - POSTPONEMENT OF NOTICE NO. 1

MR SPEAKER: I wish to inform members that the Clerk has received notification in writing from Ms Carnell, pursuant to standing order 109, setting the next day of sitting for the moving of the motion listed as notice No. 1, Executive business.

FIRST DAY OF MEETING FOR 1999

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (7.32): Mr Speaker, I ask for leave to move a motion relating to the first day of sitting for 1999.

Leave granted.

MR HUMPHRIES: I thank members. I move:

That, at its rising from the sitting of Thursday, 10 December 1998, the next meeting of this Assembly be fixed for Tuesday, 2 February 1999 at 10.30 a.m.

This motion sets the first sitting date for 1999 as 2 February rather than a date two weeks after that, 16 February. The Government is proposing this because of its announced concern about the delay which would be effected by waiting until 16 February before the Assembly is able to deal with the motion and the legislation concerning the sale of ACTEW. Mr Speaker, the Government has made it very clear that its advice is that each week that goes past after this coming Sunday represents - - -

Mr Corbell: You have lost that debate, Gary.

MR HUMPHRIES: I know. I realise that but the point I am still making in respect of this date is that each week that passes after this coming Sunday - - -

Mr Berry: I raise a point of order, Mr Speaker. I think Mr Humphries is reflecting on an earlier debate.

MR SPEAKER: There is no point of order. I remind members that this is an important motion that affects everybody. I would suggest that you listen to the leader of government business.

MR HUMPHRIES: Mr Speaker, the Government's argument is that, as each week goes past, the risk which the Territory is exposed to by not having a decision on ACTEW is a risk that we should attempt to minimise. Indeed, we would argue that it is our duty to minimise that risk. The Government has been in negotiation with parties in this place about a suitable time to return, a time earlier than 16 February. It appears, from the best of my observations, that a date in January was not attainable. I therefore ask members to support the motion, which would fix 2 February as the sitting date. That is two weeks earlier than the date set down in the resolution from the last sitting of the Assembly. It is proposed that there be a single day of sitting - that is, that we sit only for that one day and return to sit again on 16 February and resume the pattern which has already been agreed to.

I know that members, particularly those who are opposed to the sale of ACTEW, will argue that two weeks' further delay will not be an inconvenience to anybody. I put on the table very unequivocally that it is the Government's view that we need to make this decision sooner rather than later because of the risk that we pose to the

8 December 1998

Territory and the Territory's assets by not proceeding in that appropriate timeframe. It does reduce by 14 days the time in which the Assembly's select committee on superannuation has to work. I regret that. It would be nice to have a further 14 days. At the end of the day, though, the choice is between two things. It is a choice between the extra benefit and precision that may be embedded in the Assembly committee's report by having a further two weeks to consider its report and the possible risk we put the Territory's asset to by delay. It may well be that by early February there will not be any imminent changes in the marketplace that will impact - - -

Mr Corbell: Mr Speaker, I take a point of order. The Minister is reflecting on a vote of the Assembly. The Assembly has already resolved on the issue of when the select committee should report and also on when a decision on the sale of ACTEW should be made. I would argue, Mr Speaker, that this whole motion is reflecting on a vote of the Assembly. The Assembly has made a decision on when this chamber should vote on the sale of ACTEW - - -

MR SPEAKER: When was that, Mr Corbell?

Mr Corbell: Mr Speaker, that was when the Assembly approved the select committee inquiry into superannuation liability. That is when that occurred, Mr Speaker. The first sitting - - -

MR SPEAKER: What dates are you talking about, Mr Corbell?

Mr Corbell: We were talking about the first sitting day in 1999. It was premised not on some sneaky changing of the day but on the first sitting day as agreed by the Assembly earlier that week, which was 16 February.

MR SPEAKER: Mr Corbell, there is no point of order. The Assembly has agreed on the first sitting day of 1999. What date that might be is entirely up to the Assembly. What is being put forward by the leader of the house is an alternative date to that agreed. There is nothing out of order at all in what Mr Humphries is doing. Proceed, Mr Humphries.

MR HUMPHRIES: I thank you, Mr Speaker. I have to say for the benefit of those opposite that this is the opposite of being sneaky. This is being up front and open with you. We have made it clear that we want to deal with this within a reasonable timeframe.

Mr Corbell: This is a deliberate attempt to undermine the decision of the Assembly two hours ago.

MR HUMPHRIES: Mr Speaker, I am trying to do the right thing by members by telling them as soon as we can that we want to fix a date which is capable of accommodating the concerns the Government has about this matter. I ask members to say to me what is so critical about those further 14 days. I have put on the table a reason for wanting to bring that date forward, namely, the allegation that there is serious exposure by the Territory to loss by having a sale - - -

Mr Corbell: Come on, you have been arguing that for three months.

Mr Berry: The Assembly rejected that idea.

MR SPEAKER: Order, please! You will have the opportunity to speak, provided of course that you are in the chamber and have not been removed.

MR HUMPHRIES: Mr Speaker, what I am asking the Assembly to do is support a date for sitting which is going to accommodate both the Government's concerns and the wishes of the Assembly to have a committee report commissioned over the summer which will still be comprehensive and complete and capable of canvassing the issues more than adequately. On my calculation, very approximately, the committee would originally have had something like 10 weeks from its inception in which to produce a report. It will now have something like eight weeks. If members feel the committee will do a wonderful job in 10 weeks but will fail utterly to do that job within eight, then they have a very poor view of the people who form that committee. I do not have that view. I think the committee should be allowed to bring down its report. I think it can do the best circumstances permit within that period. We should therefore choose a date which is capable of accommodating that concern.

If members are absolutely sure that they will not put the Territory's assets at risk, they should feel free to vote against this motion. But I do not think anybody can vote with that confidence. In those circumstances I ask members to accept that this is a reasonable compromise which both allows the Assembly committee's report to be produced and allows for the Government's concerns about delay and the risk to its major asset, ACTEW, to be accommodated.

MR QUINLAN (7.40): Mr Speaker, not for a moment does anyone in this house believe that the Government is not proceeding apace towards the sale of ACTEW. Dogs in the street have the word as the merchant bankers and the interested parties come and go in this town. It is a relatively small town. Not for a moment does anybody in this house accept the reason given that this early calling of the Assembly together will inhibit progress on the sale of ACTEW. In fact, it would be very responsible of members of this Assembly to be certain that the draft regulatory framework and the framework that is to be drawn from it were reasonably settled before they re-entered the debate on the sale of ACTEW. That and only that will represent the protection of the consumers of ACTEW services and, in particular, the domestic consumers, who do stand to lose, and lose heavily, in this deal.

This motion is purely a contrivance to squeeze the superannuation committee. So thinly veiled a contrivance is it that it is absolutely transparent. I would have thought, Mr Humphries, that you might have been honest enough to have admitted that. You got close.

8 December 1998

Mr Humphries: I am always honest, Mr Quinlan.

MR QUINLAN: Yes, of course you are. The majority of this house decided to set up this committee and for it to report on the first sitting day in February, in the knowledge that we had agreed on a sitting program. This motion flies in the face of that decision. In fact, the majority of this house made the decision to give the committee sufficient time. You can trot out the number of days that are available between then and now, but the number of working days and the number of people who might be able to assist this committee but are otherwise engaged during the holiday season - - -

Mr Hird: Ted, I have full confidence in you, mate.

MR QUINLAN: I think you have, Harold. I think that is what this is about. This is about trying to limit what the committee does. This is about saying, "Whoops, we got the Australia Institute report. Whoops, it looks like there is an alternative. Whoops, she has misquoted it".

MR SPEAKER: We are speaking too loudly.

MR QUINLAN: Whoops, we are excited. This is purely a contrivance to squeeze the time available to that committee.

Mr Smyth: What is it - \$1m a week, \$10m a week? What do we lose? Who cares? It is only money. It is only taxpayers' money.

MR QUINLAN: You know that is nonsense. That it is costing \$1m a week is the same rhetoric and cant that you have come out with when you have said the organisation is at risk. Most of the organisation ain't at risk, sonny. Today's events and the exquisite timing of the tabling of the Auditor-General's report demonstrate that this Government does not wish to live within the spirit of decisions of this Assembly. In my time in this place, this Government has had very few setbacks, and to some extent I have grudging admiration for your capacity to fight and scratch to get what you want. I would not respect you otherwise. This is exactly part of it. This has nothing to do with holding up the sale. This has to do with inhibiting two things - the time the committee has to work and any public debate that might have taken place between now and the originally planned first sitting day. The originally planned first sitting day was after everybody would be back from holidays. The whole idea of the push today was to try to get most of the decision taken before Christmas so we would all forget about it. It is all contrived to ensure that we do not have public debate.

If this Assembly is going to have a select committee examine the superannuation position, that committee must be given reasonable time. The time it has now, given the Christmas break and the holiday season, is very limited, as is the availability of the expert assistance that we need so that the committee can come back with objective results - not my results, but objectively tested results, just like those the Australia Institute came in with today. I believe the Government fears that and this motion is purely a tactic. I return to what I said in the first place. Most people in Canberra know that you are proceeding with the sale now anyway. There is no way that any delay till February is going to inhibit anything you are doing.

MR KAINÉ (7.48): When this proposal that we meet at an earlier day than originally scheduled was put forward it did present some difficulty for me and I knew that it presented some difficulty for other people. However, 2 February does not present a problem. Perhaps members of the Opposition are losing sight of the fact that when the Assembly meets a little earlier than might otherwise have been the case to look at this matter again it will be entirely in the hands of this Assembly whether on 2 February it approves what the Chief Minister and the Government wish to do or whether it sees fit not to. The fact that we are meeting to look at the matter does not mean that there is any finality to the debate, so long as it is of no inconvenience to the members to be here on that day and to resume the debate. Early in the debate I indicated to the Government that I would like to see some conditions met before I would agree to their going ahead. They were pretty specific and fairly substantial conditions. If the Government can meet those requirements by 2 February and satisfy me that they are taking care of all of the things that are of concern to me, then I have no objection to debating the issue and proceeding on that day. But, if I come here on 2 February and I am not satisfied that the Government has met the preconditions, then I am free to move a further adjournment of the debate and any member of this place is free to do the same. I do not see why there is such concern that somehow or other the Government is pre-empting the debate.

I acknowledge, and I always have done, the genuine concern on the part of the Government that the longer the sale is delayed, if it is to go ahead, then the greater the financial penalty we may pay at the end of the day. I think that is a reasonable cause for concern on the part of the Government. They have the responsibility and they have to live with the result. If there is a substantial financial loss, then they are the people, not the Opposition, not the crossbenchers, who have to live with the consequences, so I can understand from their viewpoint why they want to get this thing over and done with quickly.

I have no objection to coming back here on 2 February to continue the debate, but with the reservation that if the Government has not satisfied what I believe to be the necessary preconditions then I or any other member can move a further adjournment. I do not believe that that is at all unreasonable.

MS TUCKER (7.51): I find what Mr Kaine said quite extraordinary. He can speak for himself and say that he has set particular conditions that he wants met by government before he makes his decision, but what everyone in this Assembly knows is that there is a member on the crossbench who actually required the committee to be set up to look at alternative ways to deal with the superannuation liability before he voted on the sale of ACTEW and that Mr Osborne said clearly in this place that if he cannot be shown another way of dealing with the superannuation liability he will vote to sell ACTEW. This is pre-empting the work of that committee unless - and I have not understood this - the Government require that we as a committee also report on this date or before.

Ms Carnell: Yes.

MS TUCKER: Do I hear a yes from Mrs Carnell?

Ms Carnell: Yes.

MS TUCKER: Now we have the Government and the Assembly telling the committee that we are not going to be able to report on the date that the Assembly agreed on; that the work of that committee is going to be curtailed and shortened by two weeks. In fact, the committee would have less time then to look at the matter. That is a total insult. The Chief Minister and everyone on that side know the complexity of the issues. I do not know how long it took the consultants they employed to come up with other options, but I am sure it was a lot longer than we will be given to come up with them. It is totally disrespectful of the work of the committee. It is about winning. It is always about winning. It is not about respecting process, and it is not about respecting this parliament in any way.

If the Government is supported in this motion, then once again this Assembly is looking like a farce. Why on earth would we be having this committee and shutting it down two weeks early, when we already know it is going to be a damn hard job to get the work done? Taxpayers' money has been allocated to do the job. We have had permission to get expert advisers in. All that will go down the drain because the Government wants a vote two weeks earlier. They amended the motion from "no more action on the sale of ACTEW" to "the final ownership". As Mr Quinlan said, the Government is probably very busy right now proceeding with their agenda, confident in the knowledge that they will get the support ultimately. No doubt, they will continue to do that.

The Government wants to make the time two weeks shorter. I do not know what the reason behind that is. Maybe someone is pulling the strings and saying, "We are not going to buy ACTEW if you do not give us an extra two weeks". I do not think it is in the public interest and I do not think it is in the interest of this Assembly to once again allow this Government to be so contemptuous of the Assembly's will.

MR CORBELL (7.54): Mr Speaker, this is an underhanded and sneaky move and, if it is not against the letter of the Assembly resolution, it is most certainly against the spirit.

Mr Moore: The Assembly can overturn its own resolution.

MR CORBELL: Mr Moore interjects that the Assembly can overturn its own decision. Of course it can, on a substantive motion. That is not what this motion is doing. What the Government is attempting to do here is shorten the amount of time available to the select committee on superannuation liabilities to inquire into that very important issue. This Assembly has already made a decision that, in the interests of those members of this place who are undecided on the sale of ACTEW, this question of superannuation liability must be investigated. The Assembly, at the time that it debated that motion, considered what timeframe should be in place for the committee to do its work and then report.

This Assembly decided that the suitable timeframe was 16 February 1999. Why did the Assembly do that? The Assembly did that on the basis of the sitting calendar that was presented to the Assembly earlier that week. Earlier that week the Assembly resolved when the first sitting day would be. We looked at the first sitting day. We knew it was going to be 16 February 1999. We looked at the period of time between the establishment of the committee and the first sitting day and we saw that as an acceptable period of time for the select committee to do its work. You cannot interpret the decision of the Assembly in that regard in any other way if you are being honest and truthful with yourself. That is the basis on which this Assembly came to its decision.

What the Government is now proposing to do is shorten that time by a period of two weeks. The Government may say that we need a decision sooner because of the money that they allege we will lose if we do not sell. Mr Speaker, the Government has lost that debate. The Government lost that debate when the select committee was established. What they are trying to do now is recover and claw back a bit of ground by bringing the first sitting day next year forward by two weeks. That is what they are endeavouring to do now, but in the process of doing that they are shortening the period of time that this committee has available to complete its deliberation.

Mr Moore: Quite right, deliberately, and a very good idea it is too.

MR CORBELL: Mr Moore says, "Quite right, deliberately". He admits that they are doing it deliberately. That is because, as Mr Moore and the other members of the Government would probably freely acknowledge, they are not interested in the outcome of this inquiry. They just want to get on and sell ACTEW. That is their agenda. The Labor Party has decided that if there are members of this place who are undecided on the sale of ACTEW they should be given every opportunity to make the assessment on the issues they believe are important in relation to the sale. That is why we have established a select committee, for no other reason. That is the purpose. The terms of reference were agreed by this Assembly, Mr Moore.

The Government probably has a few sour grapes about this, and it is trying to claw back a bit of ground desperately by sneakily and underhandedly interpreting the standing orders in such a way as to change the first sitting day next year. They cannot present it in any other way. I put it to members that shortening the period of time available for the committee inquiry will result in a report which the committee will not have had as much time to consider and prepare as it would have had if the original date had been abided by. That is a regrettable occurrence if it is going to come about.

Mr Speaker, this motion is against the spirit of the resolution of the Assembly two weeks ago, if not against the letter. We all understand that shortening the period of time for the select committee's inquiry will result in a situation which suits the Government's agenda but certainly not the agenda of this Assembly.

MR SPEAKER: I am going to call on Mr Berry because he has an amendment. I think it would be useful, Mr Berry, to move it at this point to open up the debate so that the matter can be more broadly discussed.

8 December 1998

MR BERRY (7.59): I did not want to do it right now, but I will come to that in a minute. Mr Speaker, I think the first thing that needs to be acknowledged here - and everybody basically understands this - is that the Government will leave no stone unturned to have its way. They will behave like spoilt brats if they cannot have their way. This is just another example of that. I note Mr Moore's interjections, which suggest that he is rusted onto the agenda of the Right when it comes to economic matters. He seems very comfortable with that. I would not be if I were Mr Moore.

Mr Speaker, noting that the Government has adopted this position that they are going to try to use every tactic to delay or interfere with the will of the Assembly, I think it is important to go to another issue. Let us forget the Government for a minute. We know what their game is. Let us go to the position of consistency. Labor understood the position of the crossbenchers, particularly Mr Osborne and Mr Rugendyke, to be that they would support the establishment of a committee which would report on 16 February. That was the date which Mr Osborne and Mr Rugendyke had agreed to. That was the agreement reached with the Labor Party. I want them to be consistent with the agreement they reached with the Labor Party - 16 February.

Our preferred position was to have a reporting date sometime in March, because we believed that it would take that sort of time. We do not regard this matter lightly. It is an important issue for the future of the Territory and it needs to be inquired into with accuracy and some depth. Mr Quinlan, in accepting the chair of the committee to deal with this matter, has taken on a fairly grave responsibility, because our largest asset is the subject of attempts by some economic rationalists to sell it. If Mr Quinlan's committee is to have a fair go, they ought to have the time that was agreed to, until 16 February. It is only a couple of weeks more.

There is no excuse for our colleagues on the crossbenches to change their minds away from the position which was agreed to with us in relation to the committee's reporting date in the first place. It was not anticipated in the motion because it did not need to be. The sitting pattern was set down and the first sitting day in 1999 was 16 February. We agreed with Mr Osborne, Mr Rugendyke and others that an appropriate date for the report to be presented was 16 February.

It is well understood that the Government will do everything they can to drag this process out to try to get a point out of it somewhere when they are on the backfoot. They would try anything. This is merely another example of the gyrations that you can expect from a government which is in a bit of trouble on this issue. Today a timely report shattered some of the imagery that the Government has attempted to create. That of course would cause some panic amongst their ranks and those who think they might profit by this sale in some way.

For our part, we have a broader and deeper social interest in ACTEW. We do not just concern ourselves with the dollars. We concern ourselves with broader and more important things. That is why, in the first place, we took the view that we needed some time to consider it. We thought that until about the beginning of March was the minimum that we could profitably use to adequately examine the matters of great importance which are guiding those who are considering voting one way or another in relation to the sale of ACTEW.

I agree with Mr Quinlan's point that every dog in the street knows that the Government intends to sell ACTEW and that the deal has been done, so to speak; but we are agreed that there will be a committee, and there was an agreement between us, the crossbenchers and others that the reporting date for the committee would be the first sitting day in 1999, then set at 16 February. There has not been a proposition advanced that would cause us to change our view in relation to the agreement that we reached. We will stick to the agreement. We think it is the right thing to do. We would have preferred the committee to report later because we thought the committee needed more time to consider the issues which it had to consider in the context of the proposed sale of ACTEW.

Mr Speaker, to confirm that proposition, I have circulated an amendment which might be considered curious by some. If my amendment is passed, then the extra sitting day would be superfluous, because the committee would not have reported. I am proposing that members support this amendment and then defeat the amended motion. Then we would go back to the original agreement that we had with the crossbenchers that the committee report by 16 February. I seek leave to move the amendment which I have circulated in my name.

Leave granted.

MR BERRY: I move:

Add "and that the Select Committee on the Territory's Superannuation Commitments not be required to report before 16 February".

I need to say no more on the matter. I think the points that I have made are fairly well known.

MR MOORE (Minister for Health and Community Care) (8.06): Mr Speaker, I will speak to both the amendment and the motion. It seems to me that the most important part of the debate on this motion is the concern that members are addressing about the Select Committee on the Territory's Superannuation Commitments not having enough time, but of course the committee's work has largely been done for it already. Contrary to the comment from Mr Berry, that work has not been done by the Australia Institute, although of course the committee ought to take the Australia Institute report into account, recognising the \$1 billion error in that report.

Mr Stanhope: That is defamatory, Mr Moore.

MR MOORE: I hear people jumping to its defence, but do not forget that the Labor Party, through Mr Berry, distributed a stack of leaflets right across Belconnen with a major error in them. The work has been done.

8 December 1998

Mr Stanhope: You are always moralising about attacking people who cannot defend themselves.

MR MOORE: You cannot say to me that I am attacking people who cannot defend themselves. The Australia Institute put out a statement, published it, put it in the media and supposedly had a press conference, and supposedly we are not able to criticise it. What a ridiculous notion! If they put something out publicly, of course we can criticise it. I can also criticise Mr Berry for distributing thousands of leaflets that carried a fundamental financial error and then blaming his colleague because he put something out without double-checking it.

The point about shortening the time for the committee's work by two weeks is that the Auditor-General, in a report presented today, has addressed in detail the very issues that this committee will look at. It would be reasonable and rational for this Assembly to say, "This work has already been done. We really do not need this committee, because we can read the Auditor-General's report. It has been done completely independently". Instead of that, the Government has proposed that we shorten the committee's time by two weeks, a perfectly reasonable thing to do.

Mr Corbell said that the committee has set its direction and is well under way. I believe that the first full meeting of the committee with all its members was today at lunchtime. I may be corrected on that but I do believe that that is the case. Mr Corbell went on to say, "This is terrible, because the Government has lost the debate". No, Mr Corbell. The Government lost a vote at the last sitting and we have brought on a modification to that resolution. I do not disagree with you about losing the debate on the last round, but it is a perfectly reasonable thing to modify a motion or the way we are going to respond. It is not sneaky and underhand. Being sneaky and underhand is not putting a motion up in the Assembly for the Assembly to consider. In no way can that be considered sneaky and underhand.

I would also like to take issue with Mr Corbell on this idea that the only reason for establishing this select committee was to make sure that members were more informed. No, Mr Corbell, that is not the only reason. You and I both know that in dealing with policy and implementation of policy there are three ways to operate. One is that you go for it; two is that you oppose it; three is that you find ways to delay. These are all valid and normal ways of dealing with policy and are tools that we as members of the Assembly use. Of course, the establishment of the committee is part of the delaying process. As I say, it is a perfectly valid policy methodology. I do not suggest that delay is the only thing you are trying to achieve, but it is not fair to say that the only reason for the select committee was to inform undecided members. If that was the only reason, members could read the Auditor-General's report and they would be informed. They could also read the Australia Institute report, with its \$1 billion error, a fundamental error on which this whole debate hinges.

What we have here is a clear agenda by the Government to sell ACTEW. Why do we have that clear agenda, and why do we want to sell ACTEW reasonably quickly? It is not just to do with being conservative. In fact, contrary to what Mr Berry says, for me it is exactly the opposite. I want to be sure that I can have adequate funding as the Minister for Health to be able to do the things that I think are important in health and

community care and achieve the goals that this Assembly saw when I tabled "Setting the Agenda". The only way I see of being able to achieve this is in exactly the way the Auditor-General set it out today, and that is for us to be able to resolve our operating loss and to resolve our unfunded superannuation liability. As the Auditor-General put it, if you are going to do it, then the obvious method is to sell an asset that is likely to devalue. That is the clear agenda for me. Politically, it is much easier to go down a different path and it is easier to take the short term - - -

Mr Corbell: Mr Speaker, I take a point of order on relevance.

MR MOORE: I take the point, Mr Speaker. There is an issue of timing. As far I am concerned, when the asset is devaluing fairly rapidly, then time becomes a critical issue. It is that critical issue that we need to deal with today. That critical issue is about a devaluing asset that we need to sell, if we are going to go down this path. If the Assembly should decide not to sell ACTEW, we should also make that decision quickly, lift the shadow, then work as hard as we can to manage it in the best possible way. That is the choice. The shadow is there.

Mr Kaine: Will you put the motion on the table tonight?

MR MOORE: The cards are on the table for you to see, Mr Kaine. I am happy to explain them in more detail to you personally, as is always a delight. A bottle of scotch would be a good idea. Will it be yours or will it be mine? We do not necessarily have to polish the whole lot off at once; we can take some time.

It seems to me, Mr Speaker, that the Government has put up a very sensible proposal here. The idiotic amendment put up by Mr Berry needs to be dismissed out of hand because it simply undoes the purpose of the motion. It reverses the motion. As such, it is questionable under standing orders, but it is probably easier just to deal with it and knock it off.

MR SPEAKER: I think it is important that I point out to members that Mr Berry did have leave to move the amendment, whether members regard it as idiotic or not.

MR HARGREAVES (8.16): Mr Speaker, when I was a manager within the Public Service and I needed to fill a job without anybody knowing about it, I generally put the advertisement in the *Gazette* just before the Christmas period so that nobody would spot it because everybody was out of town. When the appeal period turned up, which was in January, no-one was in town then either, so the person of my choice just sailed straight through. One applicant, and away we went. What we are seeing at the moment is a similar approach. I congratulate the Government on its sneakiness. I used to do it myself, and I think it is a reasonably good move. The only thing is that they have been sprung.

One of the difficulties for the superannuation committee is to consider the arguments about how we are going to satisfy the superannuation liability within the environment of the sale of ACTEW. Of course, we are looking at it with a couple of reports to hand. One of them is the ABN AMRO report. That says that the asset is worth a certain amount of money. The Australia Institute says that ABN AMRO got it wrong.

8 December 1998

One thing we have to understand in this chamber is that the ABN AMRO report, as I understand it - and I am happy to be corrected - was commissioned by the Government. The Australia Institute report was commissioned by the Trades and Labour Council. It was not commissioned by the Opposition. We have had a hands-off approach to this report.

Mr Corbell: We did not get it until after the crossbenchers did.

MR HARGREAVES: As my colleague Mr Corbell quite rightly points out, we did not get the Australia Institute report until after the crossbenchers, indeed. I did not see it myself until during question time.

Mr Kaine: I got it before you did, John.

MR HARGREAVES: Mr Kaine indeed got it before I did. The two documents have figures at odds with each other. I must admit to having a little suspicion about the timing of the Auditor-General's report. I do not think I could have ever commissioned something with such impeccable timing, particularly when there are passages in it which can be taken out and used selectively. When the good committee members sit down and consider the superannuation option, they are going to have three smelly reports. We would argue that the Australia Institute report is the correct one. The Government would argue the ABN AMRO is the correct one. The Auditor-General's report is the smelliest one I have seen come out of an Auditor-General for many a long time.

The purpose of having a committee instead of just having all of the reports sitting side by side on people's tables is that it affords us the opportunity to get additional witnesses in or even the authors of those reports and have them explain in a little bit more depth what on earth they are talking about. Mr Speaker, as I understand it, 50 per cent of our committee are qualified accountants and can wade their way through this information.

What concerns me about what this Government is doing is the time members of the committee will have to consider the information that is given to them. We are hoping of course that the witnesses will be available. Even expert witnesses are entitled to a break over the Christmas period. I am concerned that we are imposing upon a great number of other people the constraints that the Government would impose upon people like Mr Rugendyke and me.

Mr Speaker, I am also concerned that the committee's report will be tabled on the same day that the debate will be called on. One would hope that the committee would have made up its mind along the way. However, that is not a guarantee. We are talking about substantial information, really significant information. We are asking the committee to come in here and then instantly engage in debate on the matter. I think that is a tad unfair.

The month of January is notorious in this town for the exodus of people. We have absolutely no news in the paper. If you want to wrap up your vegetables in the *Canberra Times*, you want to use some plastic around the outside at the same time because it is not thick enough to keep the juices in. There will be very few people in this town to listen to the criticisms that will be levelled at any conclusions which may come out, particularly if the whole thing is rushed. That, I suspect, has a lot to do with the timing of the Government's agenda.

The Government is putting pressure on committee members to consider a very complicated matter. Our major financial liability and our major asset are the two biggest things that this town has to face. There is no sense in rushing. I do not see any sense in rushing. We are not suggesting that this inquiry go on for months and months. Committee members and others who have arranged their holidays will have to rearrange things so that they have time to do things properly. Again, I say there is no sense in rushing. We need until 16 February so that when the committee meets to write up its final report members of the committee who have an open mind on the issue have time to digest the information that has been given to the committee and be convinced on the arguments and not be rushed into making a decision through intense lobbying and incredible pressure.

That sort of pressure and that sort of rush are counterproductive. I do not think that the committee will be allowed to give the very serious and vexed question of superannuation liability the consideration that it needs. I think it is unfair of the Government to expect the people who would provide information to the committee to be available over the Christmas period to compile that information, if indeed the committee requires additional information, and present it to the committee.

The rest of us also need to be convinced. Some of us have the luxury of being able to vote along party lines but that does not mean that we are not interested in the matter. Mr Osborne has the luxury of voting along party lines. He always does. Mr Kaine has no problem with his caucus at all. I am happy to go along with the party line but I need to be able to sleep at night when we are talking about the two most serious issues facing us today. I need time for people like Mr Quinlan and hopefully Mr Kaine, who do know about these things, to explain them to me so that I am comfortable that we have made the right decision. I do not have enough time to consider these things so I would urge very seriously that the Assembly consider that this bringing forward of the date is grossly unfair. It is merely timed to take advantage of the festive season. I think it is just a gigantic con trick. We ought to say no. I urge the Assembly to support Mr Berry's amendment and to reject this gigantic con trick on the part of the Government.

MR OSBORNE (8.25): I cannot see the point in Mr Berry's amendment. What a waste of time the amendment is. I think we either knock Mr Humphries' motion off or we support it. Being a member of the committee, obviously I would like as much time as possible. It is going to be an interesting couple of months. I would like to make a decision sooner rather than later, especially in light of the letter circulated from the chief executive of ACTEW encouraging us to make a decision sooner rather than later, given that this matter has been back on the agenda for eight months now. He writes to the Chief Minister:

8 December 1998

1. Despite your assurances of job guarantees, fully retained entitlements and a three-year enterprise agreement, staff morale has seriously declined;
2. There is increasing evidence that customer confidence is also declining quite rapidly; and
3. There are an increasing number of necessary long term strategic decisions that have been put on hold.

I think all members would like to see this issue decided one way or the other sooner rather than later. Like Mr Kaine, I reserve the right to seek some more time in February if we need it, but I am hopeful that we can have a look at all the different reports that have come in and come up with something sensible.

Mr Quinlan: Ask the staff why their morale is low.

MR OSBORNE: My staff?

Mr Quinlan: No, the staff mentioned in that letter. Ask them why.

MR OSBORNE: I can imagine why it is low, Mr Quinlan. They are worried about their jobs. I appreciate that. That is why I think we need to make a decision one way or the other sooner rather than later. If we need more time in February, I reserve the right to seek a longer period, but I am hopeful that we can put in the work over the next two months and have something to come back to the Assembly with. I think Mr Hargreaves made a valid point. It would be very hard to receive the report and on the same day vote on it. If we can get the work done, I hope that we can circulate the report a few days beforehand.

I have no problem with Mr Humphries' motion. I would like to correct what Mr Berry said. In negotiations with the Labor Party on this matter I was not aware of when in February the first sitting day was to be. I assumed it was earlier rather than later. I am on the committee. I will be involved in the workload. For the sake of the organisation, we need to put this to bed sooner rather than later. I will be voting against the stupid amendment and supporting Mr Humphries, with the right to seek some sort of extension if it is absolutely required.

MR STANHOPE (Leader of the Opposition) (8.29): I think we have probably just about exhausted the topic, Mr Speaker. There are just a couple of things I would like to say briefly. One relates to the negotiations that were undertaken in relation to the motion that was passed just 10 or so days ago in relation to the Select Committee on the Territory's Superannuation Commitments. In my discussions with Mr Osborne and Mr Rugendyke it was always quite clear in my mind that the intention was that the committee report on the first sitting day in 1999, which, as Mr Humphries had very kindly circulated a sitting pattern for next year, I quite clearly knew was to be 16 February.

I would like to make the point to Mr Osborne and Mr Rugendyke that in my discussions it was quite clear to me that that was our intention. I believe that when we debated that motion there was an expectation by everybody that the select committee would be reporting on 16 February. That was in our minds and that was the arrangement when we made our decision just 10 days ago. The Government is now renegeing on that and winding it back, and there is absolutely no need to do that.

The other point I would make is to re-emphasise the seriousness of this issue and the complexity of it. Today there have appeared in the debate two significant reports. I am aware of the coincidence of the one from the Auditor-General appearing today. On the day that the Bill that we spent an entire day debating was listed for debate, that report appeared two-thirds of the way through the day, after most of us had spoken to the Bill. Two-thirds of the way through the debate on the most important piece of legislation to come before the Assembly this year, after the majority of us had spoken to it, a significant document was tabled. I note from the appendix that the document was the subject of discussions between the Chief Minister's Department and the Auditor-General at least as early as 11 November. A draft was probably provided to the Government.

Ms Carnell: As they all are.

MR STANHOPE: Yes, as they all are, as the Chief Minister says. But I did not have the benefit of it. I made my contribution to the debate today in ignorance of the existence of that report, as did many of us. It is an unfortunate coincidence that it happened that way. I think it is extremely unfortunate.

Ms Carnell: What are you saying? Are you suggesting that the Auditor-General did something?

MR STANHOPE: What I am suggesting is that we spent the day debating a matter in relation to which there was a most significant report which most of us contributing to the debate did not know about so could not have regard to in our contributions.

Mr Moore: You do now.

MR STANHOPE: Yes, after we have spent the day debating it. That is my very point. We have established a committee that is charged with a very difficult responsibility. We have heard some suggestions made today in relation to the other report which became public today, the report of the Australia Institute. We have seen the readiness with which members of the Government see fit to damn and defame it and the authors. I am most disturbed by Mr Moore's suggestion that it somehow contains a \$1 billion error.

Ms Carnell: It does.

MR STANHOPE: We will see about that. This is a report refereed by Professor John Nevile, Mr Fred Argy and Professor Steve Dowrick, three of the most senior and respected economists in Australia.

8 December 1998

Ms Carnell: I take a point of order, Mr Speaker. The first two names mentioned there, Mr Argy and Professor Nevile, are directors of the Australia Institute, not exactly at arm's length.

MR SPEAKER: There is no point of order, Chief Minister.

MR STANHOPE: What are you suggesting, Chief Minister?

MR SPEAKER: Order! There is no point of order, so we do not have to follow the point of order. I have ruled it out of order.

MR STANHOPE: What I am saying is that there are very significant issues here.

Mr Moore: Yes, like a referee not being independent. If a referee is not independent, what kind of academic standard is that?

MR STANHOPE: What are you suggesting, Mr Moore? Mr Moore is the person who earlier today suggested that I should be named for criticising public servants. What an amazing double standard, Mr Moore. The only point I was seeking to make is that this is a very difficult issue and that an additional two weeks would have been invaluable to the committee. There is no need to drag the time back two weeks. It flies in the face of the decision which the Assembly made 10 days ago. We all had in our minds that the committee would report on 16 February. This motion seeks to wind back a decision that this Assembly has made.

Amendment negatived.

Question put:

That the motion (**Mr Humphries'**) be agreed to.

The Assembly voted -

AYES, 9

Ms Carnell
Mr Cornwell
Mr Hird
Mr Humphries
Mr Kaine
Mr Moore
Mr Osborne
Mr Smyth
Mr Stefaniak

NOES, 8

Mr Berry
Mr Corbell
Mr Hargreaves
Mr Quinlan
Mr Rugendyke
Mr Stanhope
Ms Tucker
Mr Wood

Question so resolved in the affirmative.

LAND (PLANNING AND ENVIRONMENT) (AMENDMENT) BILL 1998

Debate resumed from 19 November 1998, on motion by **Mr Smyth**:

That this Bill be agreed to in principle.

MR CORBELL (8.37): Mr Speaker, I must say at the outset of this debate that the Labor Party was perhaps not entirely surprised that the Government came forward with this Bill to amend the Land (Planning and Environment) Act to extend the sunset clause or the change of use charge. Indeed, we were actually starting to get a bit worried because the sunset date was creeping closer and closer and we had not seen the Government do any work to review the issue of change of use or betterment, as it used to be known. They knew that the sunset clause was coming along, that on 31 December it would take effect, and that under the Act we would revert to a 100 per cent betterment. So it was a bit of a relief in some ways when the Minister finally woke up to the issue and said, "We are going to extend the sunset clause by a year".

Now, on the face of it, this seems a very reasonable and sensible proposition. But I think it is important that members, when considering this Bill, reflect on how much time the Government has had available to it to deal with the issue of change of use charge. To do that I want to reflect on some of the history of this debate. Back in 1996 there was a significant debate in relation to the Land Act. That was in response to the Stein report which had been commissioned by the Government in the previous year and which had been presented to the Government and the Assembly.

Mr Moore: A very good report it was too.

MR CORBELL: As Mr Moore said, it was a very good report. We agree that it was a very good report. It is a pity that some of the most significant recommendations were not accepted by the Liberal Government at the time. The issue of betterment was one of the issues raised. In fact, betterment was one of the reasons that provoked the whole Stein inquiry. Issues to do with the Yowani golf course redevelopment, I think, provoked the Stein inquiry in the first place. It is interesting that we have now come full circle.

In proposing the 75 per cent level for change of use charge, the Government argued that that was an appropriate level of betterment because of the significant economic downturn that was occurring in the Territory at that time.

They went on to say, however, that they would be prepared to consider the issue of whether or not to return to 100 per cent betterment on the conclusion of an inquiry and an investigation by a professor of statistics at the ANU, Professor Des Nicholls. His name was mentioned in the *Hansard* of the debate. The Labor Party, in 1996, was prepared to support that proposition. The Labor Party has a policy of 100 per cent betterment. We believe that that is the only appropriate way to gain a return for the Territory for improvements that are made as part of a lease or a lease change. But we were prepared to accept that that 75 per cent rate should be in place for two years pending the outcome of the inquiry by Professor Nicholls.

8 December 1998

Mr Speaker, we did that because we understood that there was a wide range of concern in the community, particularly amongst the business sector and people involved in the development - people employed in the construction industry and associated industries - about the impact of betterment on development in the Territory. So we said, "Fine, we'll give you two years at a 75 per cent rate of betterment and that will give you enough time to instigate the inquiry by Professor Des Nicholls, have a report to the Assembly, have it considered by the Assembly and the community and then this Assembly will be in a position before December 1998 to make a decision on whether or not the rate of betterment should be 50 per cent, 75 per cent, 100 per cent or some other figure". That was the basis of our support.

What have the Government done, Mr Speaker, in the past two years? What have the Government done to get that inquiry under way? They have done nothing, Mr Speaker. Indeed, I became so concerned about this issue that about four or five weeks ago I sought some information from the Minister's office. The Minister's staff, I must admit, were very helpful and they gave me some advice on the matter. They told me that they still had not reached an agreement with Professor Nicholls on when the inquiry should commence, but they had at least started to talk to him.

That was on 29 October, Mr Speaker. The Government had had two years, yet it was only on 29 October that they were starting to work out when Professor Nicholls could do the study. I ask members: What is going on in the Minister's office? What is going on in PALM? Why has this issue not been canvassed and dealt with earlier? I would have thought this was a very important issue. I would have thought that the Assembly's wishes on the matter were very clear. Why has the Government not dealt with this issue?

I would be interested to hear the Minister's response on this because he is responsible for planning and development in the Territory. This is perhaps one of the most important issues to do with development in the Territory. On 29 October this year, less than three months before the sunset clause runs out, the Government had not even started the investigation by Professor Nicholls. That, I think, is a fairly poor state of affairs.

Mr Speaker, the Minister's office very kindly assisted me by providing me with some terms of reference that were being proposed for Professor Nicholls' inquiry. On my first reading of them, they certainly seem to be quite sensible terms of reference. They also provided me with a copy of the letter from Professor Nicholls to an officer in PALM which outlined how long Professor Nicholls needed to conduct his investigation, and that was a period of 20 weeks. Professor Nicholls has said he needs 20 weeks, not including a four-week break over Christmas, to complete his examination. Obviously this takes us past the sunset clause date. Even the date of that letter, which is 26 October this year, clearly takes us past the sunset date.

The Government has now come into this house and suggested that the Assembly support an extension of the sunset clause. Mr Speaker, it is unfortunate that we are placed in this position. The Government has not provided any reason why we should extend this sunset clause. Labor's view is that this study needs to be done. We said that back in 1996 and our position remains unchanged. We do need a study and an investigation of the impact

of betterment. We are interested in those findings because it has been such a contentious issue. Whilst we have a policy position of 100 per cent betterment, that does not mean that we are not interested in seeing the outcome of that examination and the alleged impacts or otherwise on development in the ACT.

But, Mr Speaker, we are not interested in simply giving the Government another year and then being in a position where, after maybe another six months or so, the Government will come back to us saying, "We still need more time". Our fear is that the Government has been deliberately dragging its heels on this issue. It has not been interested in dealing with the issue of betterment in any serious way. Had it been it would have got Professor Nicholls to do the study. It is quite possible, Mr Speaker, that the Government is happy with the rate of 75 per cent betterment and the extension of another year would suit its purposes just fine. I hope that is not the case, but I cannot help but raise the question.

Mr Speaker, I have proposed a series of amendments and I understand they will be dealt with in the detail stage. Just to quickly foreshadow them, I have proposed a series of amendments that will give the Government time to complete the study but not the 12 months that they are asking because, quite frankly, they do not need it. Professor Nicholls has said that he needs 20 weeks to complete his investigation. That is in his own letter to parliament. That brings the commencement date to 4 June next year. So he can complete his report and present it to government by 4 June next year. I have then provided for three months for consultation on the issue - one month for a government response, one month for Assembly consideration, and one month for community consultation. That gives everyone who has a clear and obvious interest in these issues time to respond in a considered and reasonable way. I should add, perhaps, that it is more time than the Government are prepared to give on ACTEW. This proposal provides for a reasonable and sufficient period of time.

Mr Speaker, at the conclusion of that period, 31 August, which is my proposed cut-off date, we can vote on the issue. We can then resolve the issue of whether or not betterment should remain at 75 per cent or go to 100 per cent, 50 per cent or some number in between, and any other issues that Professor Nicholls raises. I think that is a sensible approach, Mr Speaker. The Government cannot expect this Assembly to simply say, "Well, just because you didn't get your act together, we're going to give you another year". I do not think that is an appropriate way to go. The Government knew how much time they had. They knew when they needed to get this done, they knew how long it would take and they did not do anything about it.

The Government may stand up and say that there were other factors that constrained them that were beyond their control. I would be interested to hear whether those factors constrained them for a period of two years, a period of two full years, which is what they have had. I would argue to members that we do need this inquiry by Professor Nicholls. We do need that issue of betterment to be investigated, but we should not be giving the Government more than they need because they have had some time already and it is time for them to get on with the job. The Labor Party will be supporting this Bill, but we do so on the proviso that the Bill be amended so that the Government will have time to get the job done but not to drag their heels like they have over the past two years.

MS TUCKER (8.50): On the surface, this Bill seems straightforward, extending the sunset clause for the 75 per cent rate for the change of use charge on lease variation to allow time for further study of its effects. But knowing a bit about the chequered history of betterment charges in the ACT, there is a slightly uncomfortable feeling around this Bill.

The history of betterment in the ACT has seen a succession of policy changes in how betterment should be calculated, reflecting an ongoing conflict between those who believe that the windfall financial gains that can arise to landowners whose land is rezoned from one land use to another should be returned to the community and those who believe that these speculative gains are a necessary encouragement and reward to developers.

The Stein report into the administration of the ACT leasehold system which was released at the end of 1995 recommended that the betterment, or change of use charge, be the same across Canberra and that a rate of 100 per cent without remissions should be phased in. The Stein report noted that a general remission system provides a subsidy for development to existing lessees irrespective of its merit and also at the expense of new lessees in the ACT who cannot access such capital gains. It also promotes development in established areas at the expense of locations where unleased land is available, such as around town centres.

The Government in its response to Stein in early 1996 agreed that the change of use charge should be 100 per cent but wanted to allow for remissions in particular cases where it was thought necessary to provide an incentive for redevelopment. However, very soon after the Government's 1996-97 budget, in September 1996, it announced that the change of use charge would be reduced from 100 to 75 per cent as a general encouragement to the building industry. The industry must have done some hard lobbying to get such a quick change in government policy, Mr Speaker. The Planning Minister at the time, Mr Humphries, also announced in a budget press release that the Government had commissioned Professor Des Nicholls, a senior ANU academic, to study the impact of the change of use charge on investment. Note the past tense, implying the study was under way.

The 75 per cent change of use charge was included in the Government's amendments to the Land Act that were tabled in the Assembly in late 1996. When the Bill was debated in detail in December 1996, Mr Humphries let slip that the study had not yet commenced. He referred to the study that Professor Nicholls at the ANU was to undertake. It was at that time that the sunset clause was inserted in the Land Act by Mr Moore. This provided for the 75 per cent change of use charge to apply only for 18 months from the commencement of these amendments because Labor MLAs were not prepared to support a return to the 100 per cent change of use charge, even though former MLA Roberta McRae told the Assembly that it was ALP policy. However, we are now told in the explanatory memorandum to this Bill that the change of use charge impact study was commissioned by the Government, and I quote, "in late 1998". This is about two years after the Government said it had commissioned the study.

To add insult to injury, I noticed in the *Canberra Times* last Saturday an advertisement for this study calling for public submissions to be submitted before 15 January 1999, right over the Christmas period. I am sure there are going to be lots of people preparing submissions for this study in between the Christmas parties and having a few days holiday with the family. If we are lucky, we might see the results of this study next June. The Government has got itself into a bind now because the sunset period finishes on 25 December 1998.

I wonder, however, just how serious the Government is about reviewing the 75 per cent change of use charge when it has been messing around for two years with getting this study under way. I do not particularly feel like helping the Government out of the hole it has dug itself into over the betterment issue so I will not be supporting this Bill. The Greens believe that the change of use charge should be set at 100 per cent, so I do not see why I should support the continuation of the 75 per cent charge any longer than necessary.

MR MOORE (Minister for Health and Community Care) (8.54): Mr Speaker, it is fantastic to be in this Assembly discussing planning issues and to be preceded by two eloquent speakers who put the issues right where they should be. Mr Speaker, it might be embarrassing for Mr Smyth to bring this piece of legislation to the table. It should be embarrassing for him to do so, as indeed it should be embarrassing for Mr Humphries in view of his role in this affair as well. It was quite clear that the legislation was to take effect for a period during which there was to be a sensible academic review into the whole issue of optimising the return to the community from the change of use charge. At the time it was referred to as betterment.

Mr Speaker, it may well be that, in optimising the return to the community, the strong notion that I have held for many many years of 100 per cent betterment all the time will be challenged. I would be happy for it to be challenged. It may be that in times of downturn there is some logic in reducing that rate of 100 per cent. Now, I have to tell you that I am not convinced of that. I think that 100 per cent betterment will give us our most optimal return to the community in the way we deal with change of use charge. It works in Hong Kong. There are no exceptions as have occurred here.

The rate is 100 per cent in Hong Kong. Hong Kong has not had a terrible problem with not being able to get development going. It works extremely well. Mr Speaker, I spoke to the lease administrator in Hong Kong about 18 months ago when I was in Hong Kong. Indeed, I commented on the matter in a report I tabled in the Assembly. There are a series of things that they do in Hong Kong which deal with the problems that we have had with the leasehold system. They take a much harder line. That having been said, that is my view now.

The Government was to commission a study which was to report back to the Assembly. Instead, the Government comes back to us and says, "What we want to do instead is extend the time for this inquiry to take place". In the meantime, of course, the concessions in terms of the change of use charge continue. It is those concessions that I simply believe we ought not be giving. By giving those concessions, we are simply giving away community money.

8 December 1998

Mr Deputy Speaker, the debate we have had during the day has been about the sale of ACTEW. It has been about how we protect the community assets. How do we deliver in the best way for the community? How do we raise revenue to be able to do the things that we need to do in government? How do we get that balance right?

This legislation ought to be an embarrassment to the Government. It is something that the Liberals hold dear to their hearts, but it is something the Liberal Party simply has wrong. It is something it has an opportunity to resolve by ensuring that the impact study commissioned by the Government in late 1998 will manage to examine the effectiveness of the current charging system. I am referring to the explanatory memorandum. When this matter was originally resolved, Professor Nicholls was actually named by the Government. We knew who was doing the inquiry, yet it is only now being commissioned. That is a serious omission and I cannot help wonder whether or not it is deliberate.

The Minister is new to the portfolio and maybe he does not know. Mr Humphries might be tempted to say that it was a matter of being incredibly busy or something to that effect. It seems to me that we have a chance to maximise our revenue to allow development to continue full-on as it does in Hong Kong. That is what we should be doing.

Mr Deputy Speaker, I will be opposing the Bill because I believe that what we should be doing is allowing the system to go back to 100 per cent betterment while the matter is reviewed. The Government has had its chance to do this review. I should point out to you, Mr Deputy Speaker, and members of the house that when the Cabinet considered this matter - it will not surprise you to learn this - I stood aside from Cabinet, as I do from time to time.

MR SMYTH (Minister for Urban Services) (9.00), in reply: Mr Deputy Speaker, I too have to say that I am somewhat disappointed it has taken this long.

Mr Kaine: You are not embarrassed?

MR SMYTH: No, I am not embarrassed about it because, as Mr Corbell has acknowledged, in working towards getting a set of terms of reference that work and cover all the issues, and taking some time in which to speak with Professor Nicholls, what we have now set in train will be a very valuable exercise for the Territory. I have some disappointment, but I would rather be a little disappointed and a bit slow off the mark in this regard than get it wrong again. As all have said here tonight, it is very important that we get this right. In our discussions with Professor Nicholls, he suggested some amendments to the terms of reference that would allow him to look at the matter in totality, so that what we can come up with is a clear position for the way forward for property development in the ACT.

The Government is asking for a 12-month extension, not in expectation that it will take 12 months, as Mr Corbell has already rightly pointed out. Professor Nicholls' own timelines say that he will have the report to me in early June. The Government will take a short time to consider it and go through the process, but then it will need to go back to the community. One of the ways that it may well go back to the community is through the Urban Services Committee for discussion and further public input. I note what

Mr Corbell is doing in saying that two months would be adequate for that from the end of June, or three months from the beginning of June. I believe that this will be an issue in which the community will want to have a large amount of participation. I believe that we need to leave the way clear to allow the committee to gather as much information as it would require, should it get to the committee.

In leaving it for the 12 months rather than coming back and perhaps extending Mr Corbell's amendment, were it necessary, Mr Deputy Speaker, what we should do is extend it for the 12-month period. That it could be finished well within that time is quite likely. I will certainly have a very personal interest in ensuring that there is nothing tardy in the progress of this in the future. There has been a delay for a variety of reasons. When I became the Minister, I had to get across the portfolio, find out what was going on and get up to speed. We then had discussions on the terms of reference and we tried to find time that Professor Nicholls could do the inquiry. A combination of factors has led to its starting much later than I would have hoped, but that is the way that it has turned out.

I would now simply ask that the Assembly say that yes, it is an important issue and it needs to be discussed in a reasonable timeframe. The way to do that initially is to allow the Government a 12-month extension of the sunset clause and work very quickly in that next year to ensure that we have adequate consultation on this. Across the consultation period we will have a budget and the estimates committees and members will be taking time off during the winter recess. I just do not want it to be pushed up against a timetable that I think may end up being too short. It may not necessarily end up being too short, but by leaving it open-ended to the end of December we do have that time to have those discussions. Mr Deputy Speaker, I commend the Bill to the house.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR CORBELL (9.05): Mr Deputy Speaker, I seek leave to move amendments Nos 1 to 4 together.

Leave granted.

MR CORBELL: I move:

Page 2, line 4, clause 4, paragraph (a), omit "On 25 December 1999", substitute "On 31 August 1999".

Page 2, line 7, clause 4, paragraph (b), omit "25 December 1999", substitute "31 August 1999".

Page 2, line 11, clause 5, paragraph (a), omit "On 25 December 1999", substitute "On 31 August 1999".

Page 2, line 14, clause 5, paragraph (b), omit "25 December 1999", substitute "31 August 1999".

These amendments deal with the timeline on the enactment of the sunset clause. I understand that the Government is proposing to extend the sunset clause to 25 December. I propose, instead, that the sunset clause take effect on 31 August next year. I am disappointed that all the Minister could say in response to concerns expressed by the Labor Party, the Greens and Mr Moore as to why they had not got their act together was: "Well, it took a bit of time to get across the portfolio and then we had to talk to Professor Nicholls".

I do not think that that is a very satisfactory answer. In fact, I think it is a completely unsatisfactory answer. This is the Minister for planning. He has responsibility for the efficient and good planning of Canberra. He has responsibility for ensuring that issues to do with betterment are dealt with in an appropriate fashion. And all he can say in response to the concern and criticism raised by other members in this place about why it has taken them so long to get this study under way is: "It took me a while to get across my portfolio". What about the preceding 12 to 16 months when he was not the Minister? What happened then? What was Mr Humphries doing? He was the Minister for Planning. What was going on? Was he doing anything on it? Now, I do not expect Mr Humphries necessarily to stand up here and explain that, because he is not the Minister for Planning anymore. Mr Smyth is the Minister for planning. He is the Minister for planning in this Government.

Mr Kaine: You know what happens on that. It was at the bottom of Mr Humphries' in-tray.

MR CORBELL: It was at the bottom of Mr Humphries' in-tray? You mean he forgot, Trevor? He was not interested.

Mr Berry: No, no, no; he did not get around to it.

MR CORBELL: He did not get around to it; that is different. Mr Berry is quite right. There is a big difference between forgetting and just not getting around to it.

Mr Berry: He just could not get past the one on top of his in-tray.

MR CORBELL: Maybe that was what was going on. But seriously, Mr Deputy Speaker, it is just not a good enough answer. It is not good enough for the Minister to say, "I was not across my portfolio, and that is the reason we have not done it". What does that say about his capacity as Minister in a whole range of other areas?

What does that say about the Minister for planning in the current Government of the Territory? Is he across everything else now? Can we be absolutely sure that he is across all those other issues, that he is not going to forget something else, that he has not got around to something else and is going to have to introduce another Bill to get himself out of a spot of bother?

Mr Deputy Speaker, this says a lot about planning in Canberra at the moment, and it says a hell of a lot about the current Minister. The current Minister, clearly, is not across his brief. He is not across his brief in any way. Had he been, he would perhaps have been approaching other members of the Assembly six months ago and saying, "I think we might have a bit of a problem here. My predecessor has left me in the lurch and I have to get myself out of it. This is what I think we need to do". But he did not even do that. Instead, he simply shoots the Bill in, in the second-last sitting week of the year, and says, "This is the way to get myself out of this problem". It is just not good enough.

I return to my amendments. What we are saying to the Government is this: You have made a big mistake in your handling of this issue. You have demonstrated a level of incompetence which I think is very worrying in the administration of planning this Territory. But we believe that this investigation into betterment needs to be done. We said it in 1996 and we are saying it again now. But we are not prepared to give you the time where you might start dragging your heels again, because your record is not good. You have got form on this. You have got form on not delivering a good result when we give you sunset clauses.

What we are saying is this: We will give you a sunset clause. We will give you enough time to do it properly and to consult properly, but no more. That is why I am proposing the date 31 August. Professor Nicholls has said that he needs 20 weeks. That brings us to 4 June 1999. We then have a month for the Government to prepare its response to that report, which is a reasonable period of time, a month, potentially, for the Assembly to consider the issue, and a month for community consultation.

Indeed, the Assembly and the community consultation process can potentially overlap. In fact, they fit quite well together, if the Urban Services Committee is investigating the matter.

Clearly, that is a reasonable period for the Government to have the study completed and presented to it and for the Assembly, the community and the Government to respond to it. At the end of that time there will be an opportunity to deal with the sunset clause and the issue of betterment from then on. That is an appropriate course of action, Mr Deputy Speaker. That is a responsible course of action because it lays down very clearly on the table for the Government an understanding that this Assembly will be lenient but no more than that. This Assembly will not allow the Government to drag its heels anymore on the issue. This Assembly will say, "Get the study done and let us deal with the issue". That is what we are asking the Government to do. I urge members to support the amendments, giving the Government eight months. It is a sensible period of time and one that I hope members are prepared to support.

8 December 1998

Question put:

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

The Assembly voted -

AYES, 9

Mr Berry
Mr Corbell
Mr Hargreaves
Mr Moore
Mr Osborne
Mr Quinlan
Mr Stanhope
Ms Tucker
Mr Wood

NOES, 8

Ms Carnell
Mr Cornwell
Mr Hird
Mr Humphries
Mr Kaine
Mr Rugendyke
Mr Smyth
Mr Stefaniak

Question so resolved in the affirmative.

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

Bill, as amended, agreed to.

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Victims of Crime (Financial Assistance) (Amendment) Bill 1998

MR STANHOPE (Leader of the Opposition) (9.16): Mr Deputy Speaker, I ask for leave to move a motion to refer the Victims of Crime (Financial Assistance) (Amendment) Bill 1998 to the Standing Committee on Justice and Community Safety for inquiry and report.

Leave granted.

MR STANHOPE: Mr Deputy Speaker, I move:

That, notwithstanding the provisions of standing order 174:

- (1) the Victims of Crime (Financial Assistance) (Amendment) Bill 1998 be referred to the Standing Committee on Justice and Community Safety for inquiry and report by the last sitting day of June 1999; and
- (2) on the Committee presenting its report on the Bill to the Assembly the resumption of the debate on the question "That this Bill be agreed to in principle" be set down as an order of the day for the next sitting.

The Victims of Crime (Financial Assistance) (Amendment) Bill is a very important piece of legislation. The Labor Party and I have some sympathy for most aspects of the Bill. I respect much of the Minister's state of motivation in seeking to review and reform the way in which victims of crime are dealt with in the ACT. My reason for seeking to refer the Bill to a committee is motivated by two primary factors. The first is that, in relation to a matter of this significance and in the development of good law around this issue, I think we must be directed by good policy.

I, and I think, every other member of the Assembly have received some fairly significant representations and lobbying from a range of individuals and organisations potentially affected by the legislation. Many of the representations that we have received raise quite serious policy issues. It is to our advantage as an Assembly to have an opportunity to review some of those significant policy questions. They go to issues such as the scope and appropriateness of supporting victims of crime through this legislation; questions about whether or not we should be looking to workers compensation and insurance as sources for compensation; questions about whether or not financial assistance through victims of crime legislation reduces the pressure on employers to provide for the safety of staff; the most appropriate form of compensation; and - this is, perhaps the crux of much of the debate that has been going on - should compensation of victims be by way of prescribed or court determined lump sum payments? Should it be provided through referral to counselling and other support services? What choice, if any, should the victim have in deciding on the counselling to be used? Should we create a victim support agency? What is the most cost-effective way of delivering compensation to victims?

These are the range of questions that have been raised with me and, I am sure, with other members. I have had a number of very constructive discussions with VOCAL. I have welcomed the opportunity to talk through the range of issues. I am aware that VOCAL is generally very supportive of this legislation. Conversely, others have indicated to me quite strong opposition to the Bill. These others include representatives of the legal profession and the police association which, as everybody knows, represents a significant proportion of claimants. They have quite serious concerns about the Bill.

I have also received representations from individuals who have been victims, including shopkeepers that have been robbed and people that have been seriously assaulted, all of whom have serious concerns about the philosophy underlying the Bill. I think almost everybody that I have spoken to in relation to the legislation has quite direct concerns about the retrospectivity proposed by the Minister in relation to the issue. We need to consider carefully all these issues and we need to get the policy right. Reference to an Assembly committee, the Justice Committee, is an appropriate thing to do.

I think this proposal is an ideal example of those matters that should be given the opportunity of being aired through the committee process. It also overcomes the problem - and I have heard the Attorney speaking on this - of the lack of time which members have to consider legislation. I am aware of the very good discussion paper that was prepared by the working party. I am aware of the broad representation of community organisations on the working party and that, to some extent, the basic philosophy underlying the Minister's proposals has been on the table.

8 December 1998

There is a significant difference, however, between a working paper, or a discussion paper, and a piece of legislation. In relation to this proposal, it is certainly the case that the legislation does not in all respects reflect the recommendations of the working party. To say that the discussion paper may have been available for some period does not address the fact that we have had this piece of legislation available for perusal for just 10 days.

I have to say that this problem of lack of opportunity to consider legislation in detail has been exacerbated this week as a result of the very limited time that has been available to members to get across a raft of other legislation. There may be no other reason for referring this particular piece of legislation to a committee than the fact that the other legislation that has been delivered has imposed such pressure on the Assembly, and it is not necessarily specifically relevant just to victims of crime. There is a concerning issue involved here. When one looks at the range of legislation that has been tabled in the last couple of weeks and which is scheduled for debate this week, one sees it is simply not possible for this place to get across this legislation in the detail required.

The ACTEW (Transfer Scheme) Bill was introduced on 26 November and debated today. The Land (Planning and Environment) (Amendment) Bill was introduced on 19 November and debated today. The Milk Authority (Amendment) Bill (No. 2) was introduced on 24 November and is to be debated today. The Custodial Escorts Bill was introduced on 26 November and is to be debated today. This coming Thursday we are to debate the Supreme Court (Amendment) Bill (No. 3) which was introduced on 19 November. On Thursday we are to debate the Rates and Land Tax (Amendment) Bill (No. 2) which was introduced on 19 November. I think two pieces of legislation were introduced today which we are to debate on Thursday.

All in all, we have eight pieces of legislation, some of it very significant legislation, that have been available to this Assembly for less than two weeks. It really is a big ask of members to get across issues of this substance and complexity in a couple of weeks and for us to make good law and be confident that the law is based on good policy. It is of concern to me that the Executive, through the ministry in this place, and through the resources available from the Public Service to the Executive, is undermining the capacity of this legislature to do its job properly. There are real issues of process here that we as an Assembly need to address. Because of the complexity of these issues, the resources available to the Executive and its control of the timing of the introduction and debate of these Bills, I am concerned that some of this legislation is not getting the attention that it deserves.

We are at serious risk of skewing the relationship between the Executive and the legislature. That is of real concern to me. For those reasons, and not because the Opposition at this stage has any in-principle concerns with the proposals that are ensconced within this Bill, we seek the Assembly's support in referring the Bill to the Justice Committee for inquiry and report. I understand from discussions that members of that committee are quite amenable to an inquiry into the particular Bill. I welcome their willingness to do the work and I commend the motion to the Assembly.

MS TUCKER (9.25): The Greens will be supporting the referral of this legislation to committee. I think the argument was well put by Mr Stanhope, so I will not go over all the issues. Just briefly, the period for consideration has not been long enough. Consultation was inadequate and not comprehensive at all. There are issues of serious concern and that is where I might differ from Mr Stanhope. I think there are issues that we would have a problem with. There are certainly very controversial and significant changes coming through in this legislation. The retrospectivity of it, of course, is very controversial. The removal of “pain and suffering” is also very controversial.

I have also been lobbied by a number of groups in the community - not just by lawyers, by the way, but by victims of crime as well - who are very concerned about the removal of the pain and suffering component and who believe that this is a significant shift from compensation to financial assistance, a philosophical shift which certainly does deserve greater scrutiny and more time. So I am very pleased that this motion for referral to a committee has been moved. It looks as though the numbers will be there to support that referral. I would have to agree totally with Mr Stanhope’s comments that the Executive is acting in a most arrogant manner in this Assembly and has been doing so for some time.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (9.27): Mr Deputy Speaker, I appreciate that the Assembly does wish to refer this matter to a committee. Obviously, the Government will work with the committee once this reference begins to advance the issues which this package of reforms in the Victims of Crime (Financial Assistance) (Amendment) Bill actually argues for. But I have to put on the record, first of all, the Government’s reluctance to have this matter referred in this way and, secondly, why it is that we feel that there is a risk involved in this proposal.

Mr Deputy Speaker, when the Government announced that it was going to engineer reforms to the criminal injuries system, it appreciated that one immediate effect would be that on announcing changes to the system there would be potential claimants who would attempt to rush the gate before the gate was closed. Any change to a system carries with it that risk. That is why the Government, in announcing the changes to this scheme, did what has often happened in the past when governments in other jurisdictions have announced changes of this kind, that is, it announced that the changes would take effect as of the date on which the budget in which the measure was announced was brought down. In this case, that was the ACT budget brought down on 24 June. So, we announced at that stage that we were going to change the criminal injuries compensation system, that we were going to reduce the emphasis on cash payments instead of a victims support service, and we announced the cut-off of claims under the old scheme from that point.

Obviously, claims have continued to come in from that point because some claimants, particularly their solicitors, have operated in the hope that the changes would not take effect and that their claims would therefore be accepted or, if it did take effect, it would only take effect as from the date that the Assembly passed the legislation or it was gazetted rather than from some earlier point, so their claims would still get in under the door, as it were. The effect that that is having on the budget for criminal injuries compensation for this year is quite extraordinary. Last year we had a budget expenditure

8 December 1998

of about \$4.8m on criminal injuries compensation. The volume of claims which have come in already so far this financial year is such that we would confidently predict that the scheme would pay out at least \$9m this financial year if the reforms we have proposed were not effected from the date on which we announced that they should be effected.

Mr Deputy Speaker, what is going to happen here is that the matter is going to go to a committee. The committee will report, according to this motion, by the middle of next year, by which stage there will be claims in the pipeline, some of them not dealt with but many of them dealt with, which will add up to a bill, on our estimation, of over \$9m for that financial year. The report of the committee, presumably, has to be acted upon by the Government and even if the changes are, in fact, followed through and implemented by the Assembly at the end of that time, there will still be 12 months of people who have slipped through the net after the Government announced that it was going to make those changes.

That, I think, is quite unfortunate. What will happen is that either the deadline we have imposed in our announcement will be effective, so that anybody whose claim has not been dealt with by the time the legislation actually comes into effect will lose out on their right to get a cash payment in terms of the old scheme, or, if the government scheme is bounced altogether and, for example, the Assembly decides to stay with the present scheme, that \$9m burden will have flowed through the system, presumably with people continuing their claims, and that very serious burden will fall back on the taxpayers.

We are not alone in Australia in proposing reform to the criminal injuries compensation system. Such reforms have already been effected in Victoria. Recently, New South Wales announced major changes to its criminal injuries compensation scheme. Mr Deputy Speaker, even the former Labor Government of which you were a member announced significant reform to the criminal injuries compensation scheme during the last 12 or so months of its life. Everybody has acknowledged that the scheme is growing to be a much different beast from the one it was originally conceived to be. They are also acknowledging that there is considerable rotting going on of the present criminal injuries compensation scheme. New South Wales recently drew attention to a large number of rorts that go on in that jurisdiction which they want to crack down on in changes to the scheme there. So, we cannot avoid the need to reform this system.

We also need to be sure that this process of referring it to a committee will not lead to a whole succession of special pleadings going on by people who want to preserve a particular area of their own which they benefit from under the present scheme. I note particularly that the main pleaders in the present debate have been lawyers, particularly those lawyers who have a lucrative practice in criminal injuries compensation claims, an area, I might point out, for which costs are not generally awarded by the court, which means that the level of scrutiny by the court over the process of taxation of costs, that is, assessment by the court of the fairness and adequacy of costs, is not as for other matters. I understand that people can be charged between \$1,500 and \$10,000 to have criminal injuries cases handled through the courts. I am concerned about that. One of the reasons we have proposed change is to make sure that the emphasis on the role of lawyers is decreased and we move more towards a system where people receive appropriate care and counselling for the harm they might receive from a criminal act.

Mr Deputy Speaker, the other point I want to make is in response to what Ms Tucker has said about consultation on this Bill. I have to refute very strongly the suggestion that consultation on this Bill has been inadequate. The Government, in fact, has gone through a very long process to bring this legislation forward to the house. In the middle, I think, of last year - or even earlier - the Government put on the table a discussion paper on reform to the criminal injuries compensation system which outlined virtually all of reforms which now appear in this Bill. It followed through with a working party chaired by the Victims of Crime Coordinator, which reported on victims services earlier this year, I think, and which recommended, again, some modification of the scheme but supported the scheme which has now come before the Assembly. That party consisted of all the peak groups involved in providing services to victims and assisting them. I think that it was a fair and comprehensive review of the situation.

Ms Tucker: Did you talk to the lawyers?

MR HUMPHRIES: Lawyers were involved with that process, yes. As far as the lawyers were concerned, I, at the request of the Law Society, gave them a copy of the legislation. Certainly, they saw the previous papers and were invited to comment on those papers. Some groups of lawyers, such as the Bar Association, did not comment at all on the process, chose not to contribute at all to the debate that we generated by issuing the two previous documents. The Law Society in particular had a copy of the legislation a little while before it was introduced and remained opposed to the matter.

Ms Tucker: How long?

MR HUMPHRIES: Not very long, I concede, but the legislation was only available a short time before it was introduced, so it was not available for a long time before that. The fact of the matter is that it is very hard to construct an alternative course of action. If we decided to introduce the legislation and leave it on the table for six months, that six months' window in which people would be rushing the gate, as I said before, to put changes through before the gate came down would be extended and the uncertainty would be increased in that process.

Ms Tucker: Nothing much is getting pushed through the whole system, from what I hear, Mr Humphries.

MR HUMPHRIES: That is not true, Ms Tucker, I have to say. The court is processing criminal injuries compensation matters at about the same rate as it always has. There have been more claims lodged in the last five months because of the announcement of changes, but the court is still dealing with the changes at much the same rate as it was before. I would suggest to you that you should not believe everything that you hear about that from people who have a vested interest in stopping those changes from taking place.

Mr Deputy Speaker, I have to say that I am concerned about the process of delay with this Bill. I think that we have engaged in a very creditable consultation process throughout this matter. (*Extension of time granted*) This is a process which is going to be difficult to resolve. There will be lots of special pleading before the Justice and Community Safety Committee. I ask members to bear in mind when they listen to all that special pleading before that committee that it may appear that there are very good cases

8 December 1998

for not proceeding with some aspects of the legislation, but at the end of the day we have to reform this system or resign ourselves to escalating payouts, in some cases in extremely dubious circumstances, when the responsibility we all have to the taxpayers of this Territory to reduce that operating loss is a serious concern. I hate to keep coming back to the operating loss. I know it is very awkward and a bit of a nuisance to keep claiming it as an important factor, but it is an important factor in the way in which we run the Territory. We, like every other jurisdiction in Australia, are trying to face up to the problems with the present scheme and reduce outlays on it. I would urge the Assembly not to stand in the way of reform, particularly given that the Opposition itself tried to reform this scheme before the 1995 election and would, no doubt, have been proceeding with reform of some sort had it been returned to office at that election.

MR RUGENDYKE (9.38): I rise briefly to support the motion to have the Justice and Community Safety Committee look at these amendments to the legislation. I have heard concerns expressed in some areas that I believe should have an airing. The people from VOCAL see some problems with the CIC legislation. Also, my ex-colleagues, the Australian Federal Police, have expressed concerns that they may be disadvantaged by these amendments. I believe that they should have the opportunity to be heard and I believe that this is an appropriate way for that to happen. So, I support the motion.

MR STANHOPE (Leader of the Opposition) (9.40), in reply: I think the case for reference to the committee has been made. I take some of the points that the Minister has made and do not dismiss them, but I think that, on balance, this issue should be given the benefit of review by a committee.

Question resolved in the affirmative.

MILK AUTHORITY (AMENDMENT) BILL (NO. 2) 1998

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

That this Bill be agreed to in principle.

MR RUGENDYKE (9.41): Mr Deputy Speaker, I move:

That the debate be adjourned and the resumption of the debate be made the first order of the day for Thursday, 10 December 1998.

MR DEPUTY SPEAKER: Let us break that up. The question is: That the debate be adjourned. We will do that first.

Question resolved in the affirmative.

MR DEPUTY SPEAKER: The question now is: That the resumption of the debate be made the first order of the day for Thursday, 10 December 1998.

Question resolved in the affirmative.

CUSTODIAL ESCORTS BILL 1998

[COGNATE BILL:

CUSTODIAL ESCORTS (CONSEQUENTIAL PROVISIONS) BILL 1998]

Debate resumed from 26 November 1998, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR DEPUTY SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with order of the day No. 6, Custodial Escorts (Consequential Provisions) Bill 1998? There being no objection, that course will be followed. I remind members that in debating order of the day No. 5 they may also address their remarks to order of the day No. 6.

MR STANHOPE (Leader of the Opposition) (9.42): Mr Deputy Speaker, this legislation is a matter of housekeeping, to some extent, but with some significant changes to the escorting of prisoners and detainees. The Custodial Escorts Bill provides for the appointment of escort officers - referred to in the Bill as "escorts", and not to be confused with others. The duties of escorts are to take custody from the police of arrested persons for the purpose of taking them to court; to take responsibility for the custody, welfare and behaviour of those persons during proceedings; and to escort detainees and prisoners to and from the courts, the Belconnen Remand Centre, Quamby and other places in the Territory and interstate.

Escort officers are authorised to use necessary and reasonable force to maintain the security of those escorted and to search them. The police have been responsible for these duties. We are advised that it is the Government's policy to transfer the work to custodial officers and to release the police for their core work of prevention and detection of crime.

The Bill gives legislative effect to an arrangement that is already in place. We understand that, since early this year, custodial officers have been escorting prisoners under authority given to them by appointment as special members of the AFP. These appointments actually expire at the end of the month. The Bill provides for the appointment of escort officers and removes the need for appointment as AFP members. It is intended that for some prisoners the escort officers will be armed. Under the present arrangements, custodial officers do not carry arms, although they are licensed to do so.

The Custodial Escorts (Consequential Provisions) Bill amends a number of Acts to reflect the introduction of escort officers. There are two amendments that I do think warrant comment. The first is clause 17, which amends section 21 of the Firearms Act to allow a firearms licence to be issued to a person who has a reason to use a firearm in the lawful course of business or employment in the Territory. The amendment will have a wider application than just for custodial officers. It will extend to others, including workers in the private security industry. These applicants will still have to satisfy the usual requirements, such as character, training, training in the use of firearms and demonstrating a genuine work-related reason for a licence.

8 December 1998

The other clause that I would mention is clause 18, which amends section 82 of the Firearms Act. As it stands, this section prohibits carrying or using a firearm in or on premises without regard to the safety of others. The Bill amends this section by introducing a “without reasonable excuse” provision to allow what we might call the legitimate use of firearms by, among others, escort officers.

So there are some very significant provisions in this legislation. It is legislation that does, I think, reflect a present reality. I am one of those that actually are very comfortable with members of the police force carrying out these roles; but I realise that the world has changed, that we do these days strive to actually squeeze as much as we can from the police or the enforcement dollar, and that perhaps there are more effective roles for our shrinking number of active policemen and policewomen than the escorting of prisoners and detainees.

There is for me always some quivering in relation to broadening the class of people to whom firearms licences are granted. Of course, in relation to the issuing of these licences, we will be looking at, and we are placing some faith in, the training and the character assessments that are undertaken of people that actually will be escort officers or that otherwise will avail themselves of the capacity to carry firearms as a result of these amendments. So I think there is a significant expression of faith in us as a legislature in actually allowing this sort of extension; but I think it does reflect a modern-day reality. To that extent, the Labor Party will be supporting these two pieces of legislation.

I note that the legislation has been supported by the Australian Law and Justice Association, which represents the court transport unit. I note also that, in our discussions, the AFP Association has indicated to the Labor Party that the AFP Association is supportive of the two pieces of legislation.

There is one comment which I would like to make. I will mention it now to the Attorney and I will perhaps write to the Attorney. I am a member that takes very seriously the reports of the scrutiny of Bills committee. I support the work of the scrutiny of Bills committee. I think it is quite vital. We have had this legislation for only a couple of weeks. This goes back to the point that I made in my comments in relation to the victims of crime Bill. The question of the timeframes available to members to give active consideration to all the implications of this legislation does come home when one is actually presented with a report at 4 o'clock - as we were today with the scrutiny of Bills committee report relevant to these two pieces of legislation.

It does highlight the difficulties which we as a legislature have in dealing with legislation in these timeframes. For the record, I will repeat my concerns that this is an unacceptable way of doing business and that we are not doing the people of the ACT the justice they deserve by actually having to deal with legislation in such tight timeframes. To be now debating, within a few hours of its receipt, the scrutiny of Bills committee report on this particular Bill really is a tough ask.

The scrutiny of Bills committee does make one very pertinent point in relation to these proposals, particularly in relation to the Custodial Escorts Bill. The scrutiny of Bills committee actually records the following comment:

Clause 10 of the Bill enables regulations to be made in relation to the search by an escort of a person in custody. Given the intrusion on personal liberty which a personal search entails, and the possible consequences in terms of criminal liability of the person searched, the Committee raises the question whether the extent of a power to make a personal search should be provided for in the Act, and not in regulations.

For myself, I believe that that sort of invasion of personal liberties really should be the subject of substantive legislation. Whilst, as I have indicated, the Labor Party supports these two Bills, I accept the comment which the scrutiny of Bills committee is making, that in relation to those significant invasions of personal liberties we really should be dealing with those as substantive matters and not in regulations. I am concerned - and perhaps it is a debate for another day when we do an audit of some of the legislation that has been introduced and passed this year - at the extent to which we have wound back a range of personal rights and liberties. I think, from time to time, we really do need to audit our attitude to these things.

The Minister, of course, also only received the scrutiny of Bills committee report today. He did not have available to him that particular comment and has not had a chance yet to respond to it. Recognising that this legislation does need to be passed before the end of the month, I am suggesting to the Minister that he take that particular suggestion to heart and introduce amendments next year to actually remove the power of search from the regulations and place it within the Act, perhaps with some conditions. I do not object to the power of search. I just do not think it should be in the regulations. I have always felt in relation to the power of search that perhaps there should be some indication of the circumstances in which it will be used and how it will be recorded, et cetera - those sorts of checks and balances in relation to its use. So I do not object to it; I just believe that, in the regulations, it is in the wrong place.

I agree with the scrutiny of Bills committee, to the extent that I think that is what they are suggesting to us. I make the suggestion to the Minister now. I have just foreshadowed that I will actually write to him about it, with a view to his perhaps considering that sort of amendment. As I say, I think there are some trends in relation to the arming of other than police and the extension of police duties that, on balance, leave us with perhaps some feelings of unease. But, on balance, we accept them in the interests of broadening the range of functions that our police can concentrate on, and the Labor Party is happy to support these two Bills.

MR RUGENDYKE (9.52): These two Bills are commonsense pieces of legislation, which enable custodial officers to perform their full range of duties in relation to the escort of prisoners. The need for the legislation has obviously come about since police were relieved of the duty to operate the court cells and, hence, of the responsibility for the custody of persons due to appear in court. The legislation essentially allows police to be released from this task and, of course, it enables custodial officers escorting arrested persons to do the job safely and effectively.

Concerns were raised by Mr Stanhope regarding searches and the like. My personal experience is that in this sort of work the ability to search prisoners or remandees is an important consideration. There have been many occasions when dangerous implements have been located during searches of prisoners. Whilst I understand Mr Stanhope's concerns regarding the liberties of arrested people, I do lean towards the need to take into consideration the safety of custodial officers in their work. So, whilst the powers of search pose a difficult and vexing question, I do believe that they are necessary to carry out effectively the entire functions of the custodial officers. It is also the case that police will not have to babysit custodial officers on escorts. So, Mr Speaker, I applaud the Government for this commonsense legislation.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (9.55), in reply: I want to thank members of the Opposition and the crossbenchers for their support for the package. It is important, as Mr Stanhope said, that we use the resources available to us in the most effective way. It seems to me to be a matter of little doubt that it is inefficient to use a fully trained police officer as a custodial escort. Members of the Australian Federal Police these days have a very high degree of training, much higher than might have been the case 20 or 30 years ago. Very often these people have university degrees. They are trained in a whole series of negotiation techniques and in the management of increasingly sophisticated equipment. They are not the Mr Plods of years gone by. It seems quite silly to have people with such high degrees of training basically acting as prison warders and shuffling people from cells into paddy wagons, taking them out of the paddy wagons and putting them into cells at the remand centre, back and forward, and so on. That is not an efficient use of a very valuable resource.

What this legislation does is permit a regime to be set up to allow our custodial officers to now focus on the task of doing that job and that job alone, and doing it well, in a framework which allows them to get both job satisfaction and appropriate protection for the work they do. Mr Speaker, I think it is important to acknowledge that this is not just about downsizing some area, taking away officers because they are needed somewhere else. Even if we had enough police officers to be able to afford to shovel some into the area of custodial escorts, I would say that that would be a poor use of their time and a poor way of being able to give them a high degree of job satisfaction. Mr Speaker, I think it is appropriate that we focus on this kind of regime to achieve a better outcome in both respects.

Let me respond to the suggestion made by Mr Stanhope that we should incorporate search powers in the legislation rather than in regulations. I did see the comment in the scrutiny of Bills committee report and I agree with what Mr Rugendyke has had to say about that. The fact is that search powers are extremely important. They need to be available to officers. They obviously also need to be flexible enough to be changed as the circumstances require, to deal with emerging problems and issues within the context of our remand centre, our periodic detention centre and so on. Mr Speaker, if they are built into the legislation, with the time that it takes to get legislation before this house, the time that has to be found to pass it, gazette it, enact it and so on, you may lose time in an environment where you need to be flexible and able to move quickly to address some emerging problem. So I do not support the contention that they should be in the legislation.

I also note that the model we have used here for search powers is actually picked up from the powers that were incorporated into the periodic detention legislation, where the question of search is also left to the regulations - which, I might point out, was originally drafted by the former Labor Government. So, with respect, I would say that we should stick to that model rather than change to some other model because of the requirement to be flexible about what is contained in those regulations. I thank members for their support for the package.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

CUSTODIAL ESCORTS (CONSEQUENTIAL PROVISIONS) BILL 1998

Debate resumed from 26 November 1998, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

DOMESTIC VIOLENCE (AMENDMENT) BILL (NO. 2) 1998

Debate resumed from 27 October 1998, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR STANHOPE (Leader of the Opposition) (10.00): Mr Speaker, this is an important piece of legislation and it has caused me some very significant difficulty in terms of developing an attitude to it. The Bill provides a procedure for out-of-hours applications for emergency protection orders. The procedure is meant to be only a bridging mechanism to give protection to a person who has been subjected to violence until an application for a full order is made to a court. The Bill is posited on a situation in which a police officer attending an incident believes that without a protection order there is potential for a party to be physically injured. If they are satisfied that there is a potential for a party to be physically injured they can apply, by phone, to a magistrate, a registrar or an authorised deputy registrar for an emergency protection order.

8 December 1998

The significant part of the Bill, and the extent to which this Bill does break new ground, I believe, in the ACT, is that if an application for an emergency order is to be made the police will be able to take a person to a police station and detain the person for up to four hours. The argument is that this allows the police to ensure the safety of any potential victim of violence. In the discussions that my office has had with court officers it was suggested that the four-hour period is probably the minimum practical period needed to obtain such an order.

The Attorney has been quite specific, I understand. In situations in which the police believe that a criminal offence has occurred the police will, as now, be expected to arrest and charge the alleged offender. We are dealing here with a civil response of applying for an emergency protection order when there is apparently insufficient evidence for arrest but a party has good grounds to fear another person. An example that has been offered to my office by the Attorney's department is offensive or harassing behaviour by a person with a past history of violence.

I think we all understand the difficulties which those sorts of situations create not only for people who fear for their safety but also for the police. I think we are all very sensitive to difficulties in circumstances where human relationships have broken down or have come to the stage where people fear for their personal safety or are concerned about children's safety. These situations present real difficulties to the police, and this is the issue which we as a legislature have to deal with. How do we ensure that we provide every available protection to people within the community who are subjected to violence while at the same time remain true to values which we traditionally have accepted in this community and which we, as a member of the international community, have committed ourselves to in terms of a range of human rights instruments, not only the international human rights instruments but those to which we have committed ourselves here in Australia?

So there are two issues that one has to grapple with in considering this proposal. Is there any circumstance in which a member of the Canberra community should be detained or deprived of their liberty otherwise than through some lawful process, otherwise than through arrest? The argument is that a person should be arrested for whatever the alleged offence is. These are serious questions of balance that we have to deal with. They really are difficult issues.

The difficulties inherent in this Bill have been well summarised by the scrutiny of Bills committee. The scrutiny of Bills committee has focused my concern in relation to this piece of legislation. It is undoubtedly the most significant of all the reports prepared by the scrutiny of Bills committee this year in terms of the depth of the issues that are being dealt with and the rigour with which the committee has dealt with this issue. It has been the subject of two major reports by the scrutiny of Bills committee.

The scrutiny of Bills committee made an initial report. The Attorney responded in detail to the committee's initial report. The scrutiny of Bills committee then had regard to the Attorney's response to its concerns and prepared a further major report on the implications of this Bill. I think it is relevant to go to some of the concerns expressed

by the scrutiny of Bills committee. They do cause me some real concern. I think they are issues which the Assembly should take note of in terms of our commitment to this process so that if we are to support this Bill we do so with open eyes.

It is significant to me that the scrutiny of Bills committee has not resiled in its second report from its real concerns about the extent to which this piece of legislation does trammel personal rights and liberties and the extent to which it conflicts with our international human rights obligations. If we are to pass this Bill I think it is important that we do it with our eyes open. If we as legislators are prepared to say, "Yes, I will vote for that law", we will do so knowing that the scrutiny of Bills committee, a committee which I respect greatly, has said in its report - a legal adviser drafted the report but it is a report of the scrutiny of Bills committee of this Assembly - that this Bill is in breach of the ICCPR. The scrutiny of Bills committee, I think because of the force of the response from the Attorney, stated its reasons and said:

The Committee reiterates that it sees its function as one of drawing to the attention of the Assembly aspects of Bills which may be seen as raising the issue of whether there has been an "undue trespass on personal rights and liberties". It is for the Assembly to take a view on whether there has been any such "trespass".

Looking at laws from a rights perspective is not a straightforward task.

1. There is first the issue of just what rights are to be taken into account. To put this another way, what are the sources of these rights? There is a strong tradition of rights protection in Australian law, and the rights which our courts have protected are a source. (The obligation of decision-makers to give natural justice to persons affected by the exercise of administrative or judicial power is one such common law right.)

In recent years, the High Court of Australia has said that it will look to international law as a source of the rights of persons in Australia. In particular, it will look at those international conventions and treaties to which Australia is a party. The International Covenant on Civil and Political Rights (ICCPR) is regarded as of particular significance, for Australia is a party to the Optional Protocol of the ICCPR, which has the effect of enabling Australians to make a complaint to the Human Rights committee of the UN in respect of some law of an Australian legislature.

The scrutiny of Bills committee then gave quite rigorous consideration to a range of provisions of the ICCPR. It went on and paid particular regard to article 9.1 of the ICCPR. Article 9.1 says:

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

8 December 1998

There is always, in relation to these sorts of international conventions, a whole range of interpretations that one can make. The scrutiny of Bills committee went on:

There may, however, be a question here as to whether the “security of person” to which Article 9 refers is tied to the rights of a person subject to pre-trial criminal processes. A clearer basis for an argument that the “security of person” is a right independent of these processes is Article 3 of the Universal Declaration of Rights, which provides simply that “Everyone has the right to life, liberty and security of person”.

That becomes complicated because the scrutiny of Bills committee goes on and says this:

There are, then, several lines of justification for a domestic violence law. This is not in question. But when attention is paid to the precise detail of a domestic violence law, and in particular to the ways in which such a law bears upon the respondent to an order made under such a law, other rights come into focus. And, so far as concerns the particular provisions of the Domestic Violence (Amendment) Bill (No. 2) 1998, there are some provisions which, it may be argued, are in conflict with Article 9.1 of the ICCPR. The most troubling provision is clause 19J(1) of the Bill.

That is the provision which allows for the detention of a person for up to four hours. The point is that the procedure for making an emergency protection order can be commenced even though there are no grounds to arrest the proposed respondent. The question which is asked, and which we must all ask ourselves, is this:

Is a power to detain a person in police custody which is divorced from pre-trial criminal processes justified at all under the ICCPR?

The scrutiny of Bills committee concludes:

On the face of it, Clause 19J(1) is not justified by Article 9.1.

There is then further detailed consideration of why the scrutiny of Bills committee concluded that clause 19J(1) is in breach of article 9.1. I know that the Attorney does not accept that argument. I am interested in the Attorney’s reasons for rejecting that analysis. I think it is important in this debate that the Attorney indicate, for the record, why he believes that the passage of this Bill will not offend against international obligations which Australia takes very seriously and which this legislature should take very seriously. I will listen with interest to the Attorney’s arguments.

There are arguments which allow us, on balance, to come to a view that we can support this Bill. As I say, I think there are issues of balance that we must weigh up carefully. I think the Attorney's continued justification for proceeding with the Bill in light of the quite vigorous views of the scrutiny of Bills committee is very important for the record because it reflects the concerns which the Labor Party has about arriving at the appropriate balance. On balance our view is that, in the interests of protecting, primarily, women and children from situations of violence and assisting the police in their role, we are prepared to take this further step, but with a rider.

I have indicated that I will be moving an amendment to impose a sunset of two years for this, basically to allow a rigorous investigation of the proposal to be undertaken, say, in 18 months' time. Then we will know how it is being implemented, whether or not any of the concerns that have been so vigorously expressed to us by the scrutiny of Bills committee have come to fruition, and whether some of the other issues which have been raised by the committee are reflected in practice. I refer to issues around the rights of a person detained. Does a person who is detained but not arrested have the same rights as an arrested person? Will that person be guaranteed a right to phone a friend or a lawyer? Will all other protections available to arrested people apply to that person? Will that person be subjected to questioning by police while in detention and not charged in relation to a range of other matters? There are protections which an arrested person has. Whilst we can accept assurances that the AFP in Canberra do adopt best practice, we actually are taking them on faith. I am not sure, in relation to a piece of legislation of this ilk, that it is up to us to take those promises on faith.

I would like to see the legislation rigorously reviewed in 18 months' time. In order to ensure that that happens, I think support by this Assembly of my proposed amendment, that there be a sunset of two years, is appropriate because of the serious extension of rights to detain that we are taking here in this Bill. I foreshadow that I will move that way. There was one other matter which now escapes me. I should have mentioned it when I thought of it.

Mr Humphries: How much you admire the Attorney-General?

MR STANHOPE: Yes, that goes without saying. There was one other issue which I will also place on the record. A concern was expressed to me and my office by some people I have consulted about this Bill. This is something which might be reviewed as well if the Assembly accepts the wisdom of reviewing this legislation. Some organisations involved in the care and protection of people subjected to violence are concerned that this Bill, to the extent that it will allow the detention and the resolution of an issue without the arrest of somebody reasonably suspected of being violent, will further reduce the range of incidents in which the police will arrest a violent person. This has been represented to me as a potential problem with this Bill; that the police, when confronted by situations of violence where perhaps they should be arresting a perpetrator, in fact will take this option and persons will not be arrested and subjected to the criminal law to the extent that they should be. That has been a concern and I think it is the sort of issue that we really do need to monitor.

MS TUCKER (10.18): The Greens will be supporting this Bill. I appreciate Mr Stanhope's pointing out of the issues that were highlighted in the scrutiny of Bills committee report because I think it is very important that members of this place are aware of those concerns. I equally found this quite difficult to make a decision on, even though I am absolutely clear on the need to protect people who are victims of domestic violence and feel very passionately that we should do that. I also feel equally strongly about the rights of individuals, and undue trespass on rights is not something that we take lightly.

I note in the scrutiny of Bills committee report No. 9 the concern that the position of a person detained under clause 19J compares unfavourably with a person charged with a criminal offence. I think Mr Stanhope's proposal to have a sunset clause on this and some kind of review is very sensible. I hope members support that so that we can get an understanding of what the implications are of this sort of legislation.

I also note that in the ACT Domestic Violence Prevention Council's "Strategic Priorities 1997-99" it states as part of its policy definition of domestic violence that the safety and wellbeing of those subjected to domestic violence must be the first priority of any response. Further, in its criminal justice definition, it says:

The primary objective of all interventions by all criminal justice and related agencies is to ensure the safety of the victim and any children involved in a family violence incident. A secondary, but no less important objective, is to hold the perpetrator responsible for his/her abusive and violent conduct.

I guess that is the bottom line here. This is about protecting women and children from potential violence. We know that many victims of domestic violence are subjected to further violence, and in some cases are killed when under protection orders. It is a very serious issue and that is why we will support this Bill. I think it is so important that we enable officers who have a responsibility to deal with these difficult and violent situations to be able to deal with them appropriately and to protect those women and children.

I have to say that I do not know why four hours is necessary. That is the other side of it. I guess it is about resources. I know that this is probably only about weekends but if we - - -

Mr Humphries: It is not about resources, Kerrie.

MS TUCKER: It is not about resources, says Mr Humphries. My understanding was that this was because it may be difficult to get an interim order quickly on a weekend.

Mr Humphries: That is not about resources. That is about finding a magistrate.

MS TUCKER: That is about finding a magistrate, Mr Humphries said; that is not about resources. I would have thought a magistrate to do the work is a resource. That is the point I am making. If you cannot find a magistrate for four hours - - -

Mr Humphries: It is not a question of resources, Kerrie.

MS TUCKER: Well, a magistrate is a resource.

Mr Humphries: Yes, but it is not a question of a shortage of resources. They are there already. There is always a magistrate there.

MS TUCKER: Well, why does it take four hours to find a magistrate?

Mr Humphries: Because sometimes it takes time to get the person to the station to get in touch with the magistrate who is on duty. There is a magistrate rostered all the time to be on duty. To obtain the order from the magistrate, the magistrate requires further information to get back to the person.

MS TUCKER: All right.

Mr Humphries: It is not a question of resources. It is a question of organising it.

MS TUCKER: So Mr Humphries says it is not a matter of resources; it is a matter of just going through the procedures. I was under the impression that this was more necessary for weekends. Maybe I have misunderstood.

Mr Humphries: That is right.

MS TUCKER: So it is. So it is not a problem during the week?

Mr Humphries: No. They go to court during the week.

MR SPEAKER: Order!

MS TUCKER: All right, so they go to court.

MR SPEAKER: Ms Tucker, make your address, please.

MS TUCKER: I am sorry; I know that was not normal process. I apologise, Mr Speaker.

MR SPEAKER: Mr Humphries will respond in due course.

MS TUCKER: It was interesting to get clarification from Mr Humphries on that. Okay. The point is, still, if this is a really worrying infringement of the rights of people, that systems could be put in place to address those concerns so that we are not put in this difficult situation where we are trying to balance the rights of an individual, the alleged perpetrator or possible perpetrator of further violence, as the scrutiny of Bills committee has done, against these really critical issues of protection of, mostly, women and children in the houses. That is the point I am making and I think it is still relevant.

There is a general point I always want to make in these sorts of debates. I want to remind members that domestic violence is a broad societal problem and it can be traced to other pressures such as poverty, unemployment, lack of family support services, substance abuse, and addictive behaviour such as gambling. I would always want to see a more holistic approach coming from government to these sorts of issues and a much greater emphasis on resourcing of the preventative measures. It is interesting that in the last week we have had a major report come out from the Federal Government. I believe there is \$8m in a package to fund preventative responses to societal issues. In this case, with the Federal Government's money, they are looking at youth crime, delinquency and so on.

All these things are related. Obviously, if a young person is brought up in a family where there is violence they would only be unhappy, and there is more likely to be issues in their lives that cause them to act out in different ways. This is all very well researched and it is not new to anybody here.

What is always necessary to point out, I believe, is that we do not see from governments anywhere in Australia, or probably in many other countries, a long-term approach to these sorts of issues. It is always the three-year electoral cycle. It is always said that we cannot afford to do that because it is just too much money to get into prevention and intervention. Then we end up having to deal with crisis management at the end and the law and order responses which we so often see from conservative government which cost huge amounts of money anyway in the long run, not to mention the human tragedy and social fragmentation which comes with not focusing on prevention and intervention. I will conclude with those points.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (10.25), in reply: Mr Speaker, I thank members for their support for this Bill. It is a very important Bill. I have to express some surprise, quite frankly, at the reticence about some aspects of this legislation. Following my study of the provisions which have been put forward here and of consideration of documents like the International Covenant on Civil and Political Rights and other sources of supposed problem with this legislation, I have to say I am left completely bewildered as to what really is the problem with this sort of approach.

I can see that there is a question of balance here between the rights of a person who is being restrained or detained for the purposes of serving an order and, on the other hand, the rights of a person who alleges some form of domestic violence or some form of violence which needs to be addressed by way of a protection order. In those circumstances it is always a very difficult matter to balance those two considerations. But, having accepted that we need to go to the stage on occasions of giving a person access to a protection order on the basis of an application when they say, "Look, I fear for my safety or that of my children or my family or my property or whatever, and I believe I need to get protection", it makes absolutely no sense to make that protection available only during times when the court happens to be open.

Ms Tucker - I am sorry she is not here - showed a quite breathtaking lack of understanding of what is going on in this area. The fact is that it will not be all that often that people will be in the position of requiring protection orders during times when the court is open. These things tend to take place - this is a matter of statistics - in the evenings and on weekends when spouses, often partners, husbands, wives, or whatever, are at home together in the family home or in some environment where they are going to come in contact with people who are likely to be the subject of such orders. It is just bizarre, frankly, to suggest that there should be any problem with focusing this system on a mechanism which allows you to take out those orders after hours. Of course that is going to be the necessary emphasis of this scheme.

It also follows, Mr Speaker, from the fact that we have to make orders available on an after-hours basis, that some mechanism needs to be put in place to ensure that people are able to get the orders after hours and are able to ensure that they are served on the proposed respondent.

I think we must bear in mind one very important matter. A protection order or an interim protection order is of little or no value whatsoever if it is not served on the person against whom it is directed. If you are a woman and you are, for example, subject to domestic violence or threat of domestic violence from your spouse and you go to the court and you get a protection order, the order is of no use to you until you have it served on the party who is threatening you. This is why the legislation says quite explicitly that a capacity should exist for a person to be taken into detention for up to four hours - not for four hours in all cases but up to four hours - to permit a protection order to be served.

With great respect to those who have posed all sorts of problems with this, I ask them to seriously address the question of what the alternative might be in this circumstance. We could take out the provision about detention altogether but, Mr Speaker, what we do when we do that is expose many people to the lack of protection by this form of order of the court at all, because, as I say, if an order is not served it is not of much value.

Mr Speaker, members have made reference to international obligations Australia has signed which acknowledge the rights of people. Of course, in this week in which we are celebrating the fiftieth anniversary of the Universal Declaration of Human Rights the Government would be the last party to want to come forward and start to erode the rights of people in these circumstances. But I think members should go back and have a look at what those particular covenants and international agreements say before they adopt or support suggestions that in some way this legislation represents a departure from those responsibilities at international level. Quite clearly, on any reading, they do not. For example, the International Covenant on Civil and Political Rights states at article 9.1:

Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

8 December 1998

Mr Speaker, this Bill does not provide for arbitrary arrest or detention. It does not provide for the deprivation of liberty without reference to criteria in the law. The law is quite explicit about the way in which a person's liberty is to be deprived. The grounds for detention are established by the law. The provisions are intended to enhance the security of a person. In other words, the object of the legislation is quite clear. The detention is limited in time. It is quite clear what the purpose of the detention is for. Articles 9.4 and 9.5 talk about the right of a person to be able to seek redress from a court and to claim compensation in circumstances where they might be subject to arrest or detention which is unlawful.

First of all, Mr Speaker, this is not unlawful arrest or detention. It is clearly authorised by law and the criteria allowed in law. Secondly, there is nothing in the legislation to prevent a person making an application to a court or seeking compensation for unlawful application of those provisions - nothing whatsoever.

I am being very careful not to criticise the legal adviser to the scrutiny of Bills committee because I was chastised the other day for doing that, so I will direct my criticism very squarely at the committee itself. The committee, with great respect, I think has not addressed its mind adequately to these issues. If it is suggesting that there is some breach of that covenant concerning the right to application to a court for review of a detention or the right to compensation in the event of an unlawful application of the power to arrest and detain, then is it suggesting that a capacity ought to exist during the four hours of detention for a person to make application to a court? If it is, is it not missing the very point of what this is all about?

The only reason why that person has been detained in the first place, at least in most circumstances, is that the court is not sitting and is not available to make an application to, because an order has to have been obtained out of hours by telephone contact with a magistrate who is probably at home or off at the shops or at the golf course or something of that kind, and it has not been possible to make an application, unless the person concerned wants to instruct a solicitor to hunt down a magistrate at home or at the shopping centre or at the golf course. So it quite bewilders me that these sorts of comments should have been made by the scrutiny of Bills committee - that is, the Justice and Community Safety Committee.

Mr Speaker, you would gather, from looking at the provisions and these comments as well - that is, the comments of the Justice and Community Safety Committee, Mr Stanhope's comments and Ms Tucker's - that this is some sort of trailblazing exercise; that we are advancing into uncharted territory and we have to be careful about setting accepted principles on their heads. Mr Speaker, the fact is that what we are doing is not new. In fact, it picks up what is already the case in, as far as I can tell, most or all other jurisdictions in Australia at the present time.

In Queensland, Tasmania and the Northern Territory a prospective respondent can already be detained for up to four hours for the purpose of serving an order in similar circumstances to the case here. In New South Wales and South Australia, detention is possible for up to two hours. When we came to draft this legislation we had to decide whether it was appropriate to pick up the majority model of four hours or the model of two hours.

I address these comments particularly to Ms Tucker, who is not here. The advice from the Australian Federal Police and from my department is that in a two-hour period it may not be possible to comply with the provisions of the law. Do not forget that in that two-hour period it is necessary to get from the scene of an incident to a police station with a person who is detained; to have a sufficiently senior officer or competent officer to make the application; to brief that person, as the Bill is currently drafted, him or her, on the application being made; to then locate the judicial officer that you want to get to make the order itself; to satisfy any concerns which that officer may have in respect of that particular application; to convey the necessary information back to the officer; to obtain the order; to write the paperwork and then to serve the order on the person concerned. It may not be possible to do that within two hours.

If it is possible to do it within some lesser period than four hours, obviously the order is made in that time and the person is released, because the legislation does not require that a person be detained for a total of four hours come what may. They are to be detained for four hours if that is necessary for the order to be served. On that last point, the Standing Committee of Attorneys-General has put forward a model for draft domestic violence laws for national application, and in the case of that model no upper limit on the period of detention was proposed. In other words, it was proposed that a person should be detained for as long as it takes to be able to obtain an order from a magistrate or judge and then have it served on the person who is in detention. There is a case for that as well.

Mr Speaker, I think it would have served members opposite well to have gone and consulted with some of the groups who are working at the coalface in this area to see what they thought about the efficacy and fairness of provisions of that kind. The police are strongly supportive of these measures, as one might expect. They have to deal on a day-to-day basis with domestic violence matters and they want to make sure they have the power to offer real protection to people who are in serious trouble.

The views of the Domestic Violence Crisis Service and the Women's Legal Centre for the ACT and Region were also sought. Both organisations supported the legislation, generally and specifically, and indicated their view that it is important that there is a means of ensuring that service of an order can be effective.

I have to comment on Mr Stanhope's remark, not today but on the earlier occasion when this was being considered, when he said, "Well, if a person is thought to have committed some offence which may constitute domestic violence, they should simply be arrested". I hope Mr Stanhope realises that that is not an option in many cases; that a cast-iron case necessary to bring a prosecution at law cannot always be sustained on the basis of evidence presented by one party to an incident of domestic violence. It is appropriate in those circumstances that you not launch a prosecution if you cannot follow it through. Equally, it is extremely important to make sure that a person has protection by way of a protection order in appropriate time and that it is served on a respondent in a timely way. That is what this legislation is all about. I think, frankly, it is simply nonsense to suggest that an alternative course of action in these circumstances is to go out and arrest the person against whom it is alleged some domestic violence has been threatened or has actually been perpetrated. That is simply utter nonsense.

8 December 1998

Mr Speaker, I will not go on any more except to say it is important that we pass this Bill. This legislation is about protecting vulnerable people, and it particularly refers to women. Those people are vulnerable people and they deserve to have the protection of the law. A major omission of our law until now is that it has not adequately provided for after-hours applications and after-hours service on a proposed respondent, and this Bill now achieves that. I urge the Assembly, strongly, to support those provisions.

MR SPEAKER: Do you have a corrigendum to present?

MR HUMPHRIES: Yes, Mr Speaker, I have an explanatory memorandum corrigendum to table.

MR SPEAKER: Thank you.

MR RUGENDYKE: Mr Speaker, I seek leave to speak to this Bill.

Leave granted.

MR RUGENDYKE: Thank you, Mr Speaker, and thank you, members. Mr Speaker, I feel compelled to clarify for the benefit of members, and particularly for Ms Tucker, the practical application of this legislation. Police have often been in a situation where they have needed to take action in relation to domestic violence outside the operating hours of the courts. This is a very important piece of legislation which enables those duties to be performed and for action to be taken to protect, as we have heard, mainly women from domestic violence during the evenings and over the weekends. It is very necessary to be able to bring offenders before a magistrate at the earliest convenience in these situations, and this legislation enables that.

I also wish to place on the record my concerns regarding Mr Stanhope's proposed amendment which would create a sunset clause which effectively removes the whole of this part of the legislation. I understand that Mr Stanhope's concerns relate specifically to the provisions in proposed section 19J. Mr Speaker, I simply record my concerns. I am not sure whether or not there may have been a different way to do that without jeopardising the intent of this otherwise very effective and sensible Bill. I will watch with interest how this proposed amendment from Mr Stanhope operates in practice if it is included in the legislation.

MR OSBORNE: I seek leave to speak, Mr Speaker.

Leave granted.

MR SPEAKER: Members, I would remind you that the Minister closes debate. If you wish to speak, please be present and speak before the Minister closes the debate. However, leave has been granted, Mr Osborne. Proceed.

MR OSBORNE: Are you in a rush to get home, Mr Speaker?

MR SPEAKER: No, I am not. I am just trying to organise things so that this follows in some normal sense. It is not Rafferty's rules. Proceed.

MR OSBORNE: I love it when you are cranky. It is so cute.

MR SPEAKER: You have been here long enough, Mr Osborne, to know the rules.

MR OSBORNE: Smile. Come on.

MR SPEAKER: Get on with it.

MR OSBORNE: Mr Speaker, I listened to Mr Stanhope's speech on this issue and I felt I needed to justify my position in supporting this in relation to the scrutiny of Bill's committee report that highlighted a number of concerns by the legal adviser. I would like to put on record that in that committee I was involved in quite a number of discussions with the legal adviser on this issue. The main thrust of what I was arguing was that I had read what he had said but I did not feel that it warranted not supporting the Bill. I felt that the issue in relation to this Bill is a unique one and one where unique pieces of legislation need to be enacted. As chair of that committee, I presented the report with the information provided by the legal adviser.

As I have said, I was involved in a number of discussions with him in committee on the points that he raised, but I did not feel that the issues were enough to make me not want to support the Bill. I felt in relation to this issue that we needed to make an exception, and that is why I will be supporting it, Mr Speaker. This is a very contentious piece of legislation which came back to the Assembly a number of times, and the issue of infringing on personal liberties was one that was discussed a number of times in committee. However, I felt, in relation to this piece of legislation, that we needed to have enough faith in the police. I am not saying that Mr Stanhope does not. I have worked as a policeman and have dealt with these volatile situations. Most of them occur at night and over the weekend, and magistrates are very hard to track down. I will be supporting the Bill. I am not in disagreement with my legal adviser, but the issues that he raised did not concern me enough to make me want to vote against the legislation. Thank you for your time, Mr Speaker.

Question resolved in the affirmative.

Detail Stage

Bill, by leave, taken as a whole

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (10.47): Mr Speaker, I ask for leave to move amendments Nos 1 to 14 circulated in my name together.

Leave granted.

MR HUMPHRIES: I move:

Page 2, line 6, clause 4, paragraph (b), omit the paragraph.

Page 3, line 7, clause 6, proposed new paragraph 19F(1)(b), omit “an authorised”, substitute “a”.

Page 3, line 36, clause 6, proposed new section 19G, omit the section, substitute the following section:

“19G **Recording of reasons when no emergency protection order is applied for**

Where a police officer -

- (a) deals with an incident in which the conduct of a person and the other circumstances appear to constitute the grounds mentioned in subsection 19F(1) for an emergency protection order; and
- (b) decides not to apply for an emergency protection order;

he or she shall make a record of the decision, setting down briefly the reasons for it.”.

Page 4, line 16, clause 6, proposed new subsection 19I(1), omit “An authorised”, substitute “A”.

Page 4, line 18, clause 6, proposed new subsection 19I(2), omit “authorised”.

Page 4, line 23, clause 6, proposed new paragraph 19I(2)(d), omit “authorised”.

Page 4, line 27, clause 6, proposed new subsection 19I(3), omit “authorised”.

Page 4, line 31, clause 6, proposed new paragraph 19I(4)(a), omit “authorised”.

Page 5, line 2, clause 6, proposed new paragraph 19I(5)(a), omit “authorised”.

Page 5, line 4, clause 6, proposed new paragraph 19I(5)(b), omit “authorised”.

Page 5, line 13, clause 6, proposed new subparagraph 19I(7)(b)(i), omit “authorised”.

Page 5, line 19, clause 6, proposed new subsection 19I(8), omit “authorised”.

Page 6, line 3, clause 6, proposed new subsection 19L(1), omit “an authorised”, substitute “a”.

Page 6, line 6, clause 6, proposed new subsection 19L(2), omit “an authorised”, substitute “a”.

Mr Speaker, I have circulated these amendments and an explanatory note regarding them. As members will see, the effect of the amendments is to enable a police officer, any police officer, to apply for an emergency protection order.

Mr Stanhope has expressed a concern about people being detained by the police while an order is being sought. If he has that concern about this legislation, fine. It follows from that that we want to address that concern. What we should do, therefore, is increase the efficacy of the process of obtaining an order so that a person’s period of detention is reduced to the shortest period possible.

The legislation presently requires that a sergeant or officer of sergeant or above rank be the person who seeks the order from a magistrate. What these amendments do is allow any police officer to seek such an order. That means that if an officer happens to be on the scene of a domestic violence incident and wants to get immediate protection, he or she can get on the telephone to a magistrate, if they can, and obtain the necessary order over the telephone without having to get in touch with the local sergeant and obtain his or her permission, or go back to the station and get somebody else of higher rank to be able to obtain that order.

I assume that I will have support from members of this place on the basis that they have expressed concerns about detaining people for up to four hours. This will not necessarily make a big difference, but it will in some cases allow a person to be detained for a shorter period because a multi-skilled police officer out in the field is able to make an application without having to go through a sergeant or somebody of above rank.

MR SPEAKER: Would you mind presenting the explanatory memorandum, Minister?

MR HUMPHRIES: Yes, I present the supplementary explanatory memorandum.

Amendments agreed to.

MR STANHOPE (Leader of the Opposition) (10.49): Mr Speaker, I move the amendment circulated in my name which reads as follows:

That the following new section be inserted in the Bill: Page 6, clause 6, line 26:

“190. **Part ceases to operate on 31 December 2000**

This Part ceases to operate on 31 December 2000.”.

As I foreshadowed earlier, this amendment imposes, as Mr Rugendyke said, a sunset clause of two years from the end of this month. I have indicated my serious concerns about the extent to which we accept legislation that does trammel certain rights and liberties. As I indicated before, on balance I and the Labor Party agreed to support this legislation. I am not suggesting that in coming to that decision we were necessarily overawed, with great respect to the Attorney, by his particular interpretation of the provisions.

This is an interesting case in which the Assembly was presented with two sets of advice on a very difficult provision. One was the opinion of the Attorney-General, our first law officer, and the other was the opinion of the legal adviser to the scrutiny of Bills committee which, as the Attorney suggests, is the opinion of the scrutiny of Bills committee to the extent that it was presented as part of a report of that committee. I was suggesting in my comments that I found the scrutiny of Bills committee very persuasive. I think I found it more persuasive than the - - -

Mr Osborne: Than the chair found it.

MR STANHOPE: Yes, that is right. I have to say, Mr Osborne, that I found your report very persuasive. I thought it was very well argued and it raised issues which caused me genuine concern. The Labor Party has also gone through a process of balancing the various rights inherent in this very difficult issue. In the end we came down with the view that we would support this legislation.

We have been presented, in effect, with two-handed advice, or conflicting advice; that on the one hand it offends the ICCPR and on the other hand it does not. It is a complex issue. In response to the fact that we have the Attorney presenting one position to us and the scrutiny of Bills committee presenting a different view to us, I propose this amendment which will impose the discipline on this place and on the Territory to review the operation of this very significant change to the law in the ACT. I heard the argument that this is something that is currently undertaken in other jurisdictions, but they are not us. We are the ACT and we are responsible for the people of the ACT, and this is a significant advance in terms of restriction of the rights and liberties of a class of people.

Mr Humphries: Not in most parts of Australia, it is not.

MR STANHOPE: No, I just made that point, Mr Attorney. I said I took your point that other parts of Australia apparently have a provision such as this, but we do not here in the ACT. This is the first law that I am aware of in the ACT that allows the detention of a citizen of Canberra in Canberra otherwise than through arrest. I think that is a significant change of the law. It is not one that I like or think that we should make lightly.

I would like us to impose on ourselves, to impose on the Government, to impose on the Attorney's department, the discipline required to seriously assess this legislation in 18 months' time to see how it is being operated and to see whether or not our decision to trammel the rights and liberties of a class of person actually is justified by the ends. Do the means justify the ends here? Will the protection that this will afford to women and children, particularly, in Canberra justify this deprivation of the liberty of people that will be affected by this legislation? That is the balance we are talking about here and I think it is an issue which we should keep under review.

I would like this provision to impose that discipline on the Government and on the administrators of this legislation to ensure that that sort of monitoring is done. The police, as I have said, have a most difficult and unwinnable job to perform in relation to domestic violence. This legislation gives them a significant advance in their powers and we really do need to ensure that it is rigorously assessed so that we in Canberra are comfortable with what we are doing. I urge members to support this provision. It allows the Bill to become law as soon as it does. It does not inhibit the protections that the Minister is seeking to obtain through this legislation, but it does impose that discipline on us.

MR OSBORNE (10.54): Mr Speaker, I will not be supporting this amendment moved by Mr Stanhope. I have a problem with sunset clauses in legislation because I do not see the point of them. I think if something is not working you bring it back and you fix it rather than just have some legislation in place so that you forget about it. If Mr Stanhope feels that the new regime that will be in place because of this legislation is being abused or is not working, I suggest that an easier way would be to try to do something - - -

Mr Stanhope: Refer it to your committee.

MR OSBORNE: Try to refer it back to my committee. Thank you. To the justice part of it rather than the scrutiny part, I suggest, Mr Stanhope. Given that this is a unique piece of legislation, especially in relation to other scrutiny of Bills issues, yes, we do need to keep a very close eye on the Constable Plods, as I think Mr Humphries said. I understand why there are not Constable Plods anymore. It is because certain members are no longer part of that regime.

Mr Hird: He was a senior constable.

MR OSBORNE: He was not looking.

Mr Rugendyke: I missed that, Mr Speaker.

8 December 1998

MR OSBORNE: I am talking about senior constable - - -

Mr Rugendyke: The rift in the Osborne group is becoming apparent.

MR OSBORNE: In the job for 35 years and does not get above the rank of senior constable.

Mr Rugendyke: The Osborne group has fallen apart.

MR OSBORNE: A short seven years in the police force and I was a detective. It is obvious where the brains are in this part of the chamber.

Mr Hird: He was only a detective constable.

MR OSBORNE: Detective constable first class, I was, Mr Probationary Constable Hird. Mr Speaker, quite clearly, we do need to monitor the impacts of this legislation. I would be more than happy to have a look at some way of repealing it by way of numbers rather than just having some sort of sunset clause. As I said, I have never really been a fan of sunset clauses. I have put up with them grudgingly in the past in certain legislation in order to bring some people along on sensible proposals, but if this legislation is not working then quite clearly we would know before December 2000, which is two years away. While supporting the motive of Mr Stanhope, I will not be supporting the amendment. I do apologise for that, but I think I have given my reasons why.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (10.58): Mr Speaker, I have to put on the record also my own reluctance to support the amendment by Mr Stanhope. First of all, I have to say I really think Mr Stanhope has not adequately done his homework on the things that he said about this legislation. For my part, Mr Speaker, I think it is important that we send a signal to the agencies dealing with these problems that they are not on a short timeframe for dealing with these provisions; that they have only a two-year period after which, or before the end of which, they have to justify the continuation of these particular provisions. That is an unfair burden to place on their shoulders.

Bear in mind that these provisions are not new. They exist in all or almost all the other jurisdictions in Australia and they hardly need to be trialled in the ACT. Mr Stanhope seems to be suggesting that this is a very difficult concept; that we do not know that it is going to work and we had better trial it for 18 months in the ACT and see if it actually makes sense. We do not need to assume that the ACT is going to be so radically different from other parts of Australia that the provisions will apparently work well and effectively and without abuse for the most part in the rest of the Australian continent, but on the part of the ACT they are so problematical that they need to be explored through a trial process lasting 18 months. A sunset clause places a burden on the various agencies that have to administer these processes to come back and justify the continuation of the provisions after 18 months.

The second point I make is that I do not think the lack of a sunset clause in any way prevents review of the operation of the legislation. If Mr Stanhope, in 18 months' time, wants to move, for example, that the Justice and Community Safety Committee review the operation of the legislation, he is perfectly entitled to do so. But they will not be working up against a sunset clause which, as the Assembly knows from experience earlier today, can sometimes be a real problem in terms of managing the date that that particular sunset happens to come into effect.

The third point I make, and the last point I make, is that I think Mr Stanhope regrets the intemperate remarks he made when this legislation was first brought down. He said, "Let's just arrest the offenders rather than have to get protection orders in the first place". He seeks to extricate himself from the difficult position he placed himself in by saying, "Well, we still believe what we believed before, but we will tolerate this for 18 months while a sunset clause is in place and then we can come back and review all these things that we said about the matter". Secretly, of course, he hopes that by that stage everyone will have forgotten the circumstances which led to having to make that sunset clause in the first place. I do not buy that. I do not think it is convenient or fair to the parties out there who have to use these provisions. If he wants to initiate a review of the provision in, say, 18 months' time, he can go for his life. I have no problems with that, but I see no reason to facilitate that at this stage by putting a sunset clause into the legislation.

Amendment negatived.

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

Bill, as amended, agreed to.

ADJOURNMENT

Motion (by **Mr Humphries**) proposed:

That the Assembly do now adjourn.

Member's Title

MR OSBORNE (11.02): Mr Speaker, I rise to speak very briefly because it appears I may have inadvertently misled the Assembly on a number of occasions. There have been times when I have referred to Mr Quinlan as ACTEW's Accountant of the Year, Mr Speaker, but he indicated to me that he was actually Australia's Public Service Accountant of the Year. I apologise for the wrong title that I have used in relation to Mr Quinlan. I guarantee to him and to the Assembly that I will use the proper title by which he should be referred to in the future. I do apologise for that slip-up on my part.

Question resolved in the affirmative.

Assembly adjourned at 11.03 pm