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DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

9 December 1998

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The Assembly met at 10.30 am.

(Quorum formed)

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

PETITION

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

By **Mr Hird,** from 315 residents, requesting that the Assembly, in relation to development application DA 98 4473 in Melba, scrutinise it in a transparent and open manner and ensure that due process is observed to guarantee that the interest of all members of the community is served and amend the Land (Planning and Environment) Act 1991 and associated regulations to ensure that the Government is accountable for any and all decisions made under these provisions.

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

Melba Development

The petition read as follows:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> The following residents of the ACT wish to draw to the attention of the ACT Legislative Assembly, the following issues regarding DA 98 4473 on Block 8, Section 50 of the Division of Melba. The development is oversized, intrusive and will have a negative impact on adjoining parkland and change the character of the area. It is being pushed through in an underhanded and covert manner.
>
> We believe all residents of the ACT should have the right to determine the character of their neighbourhood, and the government should not be allowed to hide behind the confidentiality provisions (Regulation 11AA and Schedule 4) of the Land (Planning and Environment) Regulations.

The government of the ACT should also be accountable for their decisions to an independent body such as the Administrative Appeals Tribunal (AAT) for all decisions made under these regulations.

Therefore we the undersigned petitioners, request the ACT Legislative Assembly to:

1. Scrutinise Development Application DA 98 4473 in a transparent and open process,

2. Ensure that due process is taken in DA 98 4473, to guarantee the interest of all members of the community is served, and

3. Amend the Land (Planning and Environment) Act and Regulations to ensure the Government is made accountable to an independent body for any and all decisions made under these provisions.

Petition received.

SHOPPING CONTAINERS BILL 1998

MS TUCKER (10.34): I present the Shopping Containers Bill 1998, together with its explanatory memorandum.

Title read by Clerk.

MS TUCKER: I move:

That this Bill be agreed to in principle.

Mr Speaker, this Bill is about helping people do their bit to save the environment as well as save money. It focuses on one particular environmental problem, which is the incredible waste generated each day from the plastic bags handed out freely at shops. This is not to say that this issue is more important than other issues facing the Assembly. It is just one issue which we can do something about fairly simply. It also complements the other Bills I have put forward over this year that address various aspects of the waste problem as part of helping the Government achieve its target of no waste going to landfill by 2010.

A plastic bag by itself does not seem to be much of a problem, but when you consider the amount of bags used in Australia it does become a major problem. It has been estimated that 3.6 billion plastic bags are used per year in Australia. Of these, some two billion plastic bags are thrown away after a single use. A large supermarket gives away up to half a million plastic bags per year. Thirty-five thousand tonnes of HDPE film is used to make plastic bags each year, of which 25,000 tonnes is imported, adding to our foreign debt. Less than one per cent of plastic bags are recycled, because there are no community-wide recycling schemes for them, apart from some private arrangements made by individual supermarket chains to receive used bags.

Plastic bags are a small proportion of the total waste stream by volume or weight, but they are a particular nuisance waste. The HDPE plastic bags are non-biodegradable. Their light weight means that they are easily blown away, thus adding to litter problems. They are a particular problem in coastal areas and in our waterways, as bags floating in water can trap birds and animals. Some sea animals eat plastic bags, because they mistake them for jellyfish, and die of intestinal blockage.

This Bill takes one small step in the ACT towards dealing with this national problem. It requires retail businesses to charge their customers directly for any plastic shopping bags they provide for the purpose of carrying items from the store once sold, at a price that is not less than the cost paid by the business to buy the bag. At present, shoppers are given plastic carry bags free whenever they buy something in a shop. But, of course, the bags are not free. The retailer has to buy these bags from a bag supplier, but then this cost is spread as an overhead across all products in the shop, just like rental costs, employees' wages and administrative expenses. Shoppers are still paying for these bags through the goods they buy, but the cost of the bag is hidden. The cost to the environment of the bags cannot even be quantified, yet it is very real.

There is thus no incentive for shoppers to refuse a bag. Anyone who goes to the trouble of bringing their own carry bag is still having to pay for the shopping bags of others through the cost of the products they buy. There is no way they can refuse the cost of the bag. This Bill, however, will give them a way. It turns the tables so that a person doing the right thing by reducing the number of bags they use will actually save money by not having to pay directly for the shop's bags.

Those people who still choose to take the shop's bags will not be paying any more than what they currently are paying for plastic bags, except for some possible rounding up of the cost of the bag, as currently occurs with any goods bought. The cost of the bag will also be a specific item in their bill rather than being a hidden cost. The Bill does not impose any levies or additional charges on plastic bags, and no revenue is collected by the Government. I admit that this was our original idea when we publicly floated this proposal over a year ago, but the levy idea had to be abandoned because the legal advice we received indicated that a levy could be interpreted as a sales tax, which States and Territories cannot impose under the Constitution.

There are no additional costs to retailers, apart from the slight effort of ringing up an extra item for plastic bags on their cash registers and putting up signs telling customers what the charges for bags will be. We have not set a specific price for the bags, provided the price is at least the cost at which the retailer bought the bags from the supplier. Some people have argued that shops could actually exploit this Bill because they would now be charging directly for bags yet they may choose to keep the price of their products the same as before, when they incorporated the cost of bags as an overhead. This may be the case, but the prices of goods tend to fluctuate anyway across shops and at different times of the year because of the nature of the free market. This type of problem certainly has not stopped John Howard in his plans to remove sales tax on various goods.

The Bill takes a fairly broad definition of plastic shopping bags and includes the potential for the Minister to declare other types of bags or boxes to be covered by this Act. We are not expecting this to occur very often, but we thought it would be more comprehensive to include this feature in the Bill just in case it is needed in the future, rather than having to resort to further amendments to the Bill. I should also note that bags that are used for prepacking of products before sale are not covered by this Bill, as the cost of packaging a product is already incorporated in its unit cost.

The criticism has already been raised against our Bill that while it might be good in theory it is too heavy-handed for the small impact it is likely to have. I reject this argument. It is not such a hard thing for a retailer to charge for a plastic bag, just like they charge for any other product in their shop. I also think it will have an impact on people's attitudes towards plastic bags. The price of bags could be anything from a couple of cents to 10c, depending on the quality of the bag, and I am sure that people will start to think twice about whether they really need to take a bag once they realise that they have to pay directly for it. For better or worse, the hip-pocket nerve can be very sensitive for many people.

If this Bill is regarded as heavy-handed, then what would be an effective, viable approach that will reduce the use of plastic bags? The Government has admitted in various forums that plastic bags are an environmental problem and that it supports the objective of reducing plastic bag consumption, but it has said that it would prefer a voluntary approach of just encouraging people to use reusable bags when they shop. But what the Government has missed is that there is no financial incentive for people to do so. They have to go to the trouble of buying string or calico bags and then they have no opportunity to recoup the money by refusing the cost of plastic bags when they shop. I therefore doubt whether the Government's voluntary approach will really have much effect. It certainly has not so far.

It has also been claimed that we do not have to do anything because the supermarket chains are starting to set up their own recycling schemes. This is fine, but that is not getting to the base of the problem. The highest priority in the waste management hierarchy is to reduce waste; then reuse; and then recycle. Charging for plastic bags encourages people not to take them in the first place. In addition, bags made from recycled plastic, although environmentally better than virgin plastic, still come at a price, which customers should be made aware of.

In conclusion, this Bill provides an effective and simple way of encouraging people to reduce plastic bag consumption by applying the user-pays principle in a very practical and transparent manner. The Bill imposes only minor costs on retailers and allows customers to save money by refusing to take the bags offered by the retailers. I commend the Bill to the Assembly.

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

FOOD (AMENDMENT) BILL 1998

Debate resumed from 2 September 1998, on motion by **Ms Tucker**:

That this Bill be agreed to in principle.

MR MOORE (Minister for Health and Community Care) (10.43): Mr Speaker, the Food (Amendment) Bill 1998 was presented to the Assembly on 2 September this year. It inserts a provision into the Food Act requiring that irradiated or genetically modified food sold in the ACT be labelled to that effect. It is a slightly modified version of the Bill which was presented to the Legislative Assembly by former MLA Terry Connolly.

There are a number of issues that come out of this Bill that I think are particularly important. The first issue is that the intention of the Bill is well founded, and I think we should recognise it as being a positive intention. Unfortunately, the Government will be opposing the legislation, for a series of reasons. Most importantly, the Bill will not be able to deliver what it hopes to deliver. There are a number of reasons for that.

The first issue is the Mutual Recognition Act. Advice from the Government Solicitor's Office is that the Mutual Recognition Act 1992 would provide a defence for persons engaged in the sale of irradiated or genetically altered food which has been brought into the Territory from another participating jurisdiction which did not comply with this Bill. Therefore, the only food that would need to be labelled in accordance with the provisions of the Bill would be the food that was actually produced in the ACT. As you know, there is very little food produced in the ACT. The term "labelling of goods" in the Mutual Recognition Act 1992 includes any means by which, at point of sale, information is attached to goods or is displayed in relation to goods without being attached to them.

The second issue is the Commonwealth, State and Territory agreement in relation to the adoption of uniform food standards. I think this is an area that is much more important. The Australia New Zealand Food Authority advises that the Food (Amendment) Bill 1998 appears to breach the ACT's obligations under the 1991 Uniform Food Agreement. When I go through this material I want members to think about what position we would be in if, say, the Northern Territory were taking a radical stance on food which we would find horrific. Would we feel that they should comply with Australian agreements, or should they take a specific stance on their own if, for example, they were to take the opposite view to this and they felt that there was no need to label anything?

A food standard is defined in the Australia New Zealand Food Authority Act as a standard that has been adopted by the Australia New Zealand Food Standards Council under the Act, or a standard that is included in the Australia New Zealand Food Standards Code. The Act details a range of matters that may be included in standards or variations to standards, such as

> (a) the composition of food, including (i) the maximum amounts of contaminants or residues that may be present in food; (ii) its microbiological status and safety; and (iii) the method of sampling and testing the food to determine its composition;

(b) the production of food, including the maximum and minimum amounts of additives that must or may be used in the preparation of the food;
(c) the packaging, storage and handling of food;
(d) any information about the food, including labelling, promotion and advertising;
(e) the interpretation of other standards; and
(f) any other public health matters, as prescribed.

So, under its Act, the Australia New Zealand Food Authority, in developing food standards or variations to standards, must take into account the following objectives, in descending priority order:

(a) the protection of public health and safety;
(b) the provision of adequate information relating to the food to enable consumers to make informed choices and prevent fraud and deception;
(c) the promotion of fair trading in food;
(d) the promotion of trade and commerce in the food industry;
(e) and the promotion of consistency between domestic and international food standards where there is a variance.

Mr Speaker, those responsibilities are there, and they are to be taken seriously by the Food Authority and, of course, checked by the Australia New Zealand Food Standards Council, which is a meeting of Ministers from all jurisdictions in Australia and New Zealand, to get a consistent approach to food.

I would like to deal with irradiated food first, and then come to genetically modified food. Under the Food (Amendment) Bill 1998, it would be an offence for a person to sell food that has been subjected to a process or treatment involving irradiation unless a notice containing a statement to the effect that the food has been irradiated is displayed conspicuously at or near the point of sale.

The Commonwealth, States and Territories agreed to a moratorium on the manufacture, sale and importation of irradiated food in 1989. In 1992 all the jurisdictions agreed to the insertion of a codicil to the Uniform Food Agreement to ensure that a jurisdiction could not breach the moratorium. Currently there is not a food standard for irradiated food, and therefore it is currently illegal to either produce or sell irradiated food. The Australia New Zealand Food Authority, however, advises that it has produced a draft standard for irradiated food and is conducting further consultations with New Zealand prior to its circulation for public comment. The Food Authority also advises that the Australia New Zealand Food Standards Council - that is, the meeting of Ministers - would probably consider this standard out of session later this year or in the not too distant future.

I would like now to move to genetically modified food. The Food Standards Council, at its meeting on 30 July 1998, agreed to an interim food standard to regulate the sale of food and food ingredients, other than additives and processing aids, which are produced by using gene technology. The new interim standard - food standard A18 - prohibits the sale of these foods unless they are included in the table that is within the standard.

The Food Authority will assess the safety for human consumption of each food or class of food prior to its inclusion in the table. The safety assessment will be undertaken in accordance with the authority's approved assessment criteria. Under the standard, a food that is, or contains as an ingredient or component, a food produced using gene technology that contains new or genetically altered material, and is not substantially equivalent in any characteristic or property of the food, must include on the label the origin and nature of the characteristics or property modified.

The term "not substantially equivalent in any characteristic or property of the food" includes - and I will come back to "substantially equivalent" - where modification results in one or more significant compositional or nutritional parameters having values outside the normal range of values for the existing equivalent food or food ingredient; where the level of anti-nutritional factors or natural toxicants is considered significantly different in comparison to the existing equivalent food or food ingredient; where the food contains a new factor known to cause an allergic response in a particular section of the population; or where the intended use of the food or food ingredient is different from the existing equivalent food or food ingredient.

Mr Speaker, the "not substantially equivalent" issue is the nub of the information that I provided to members yesterday. I provided to each member a synopsis of the issues that would face the Australia New Zealand Food Standards Council on this matter. The American and Canadian position, as set out in that synopsis, is to follow the process of substantial equivalence. The European approach that members saw is, if you like, the halfway position. A few countries were identified in that submission, as members would be aware, that were separate from the European Union. Those countries include Switzerland and Japan. Those countries have taken the same approach, as I read it, as the legislation that is now before us. If you like, it is a hardline approach. Members will be able to see that by reading through that synopsis.

When we go to the Food Standards Council, which meets in Canberra next week - I think it meets on 16 or 17 December - to discuss this issue, I will be seeking to represent members accurately, and I would hope that members would favour the European position as being a sensible position. I think, having Australia isolate itself in a hardline position or, even worse still, having the ACT, as proposed by this legislation, isolate itself in a hardline position is simply not tenable. Therefore, I would ask members to advise me whether it is their personal view - or party view, as the case may be - that we take the position identified by the European Union.

In conclusion, Mr Speaker, I should say that the obligation under the Bill to display a notice is actually misdirected. The Bill imposes no specific obligations on any person other than the seller. The ACT seller will seldom have information on whether the goods were subject to particular processes. The legislation does not require producers or manufacturers to provide reliable information to the seller. As the imposition of requirements on interstate or international suppliers or manufacturers may well be beyond the legislative reach of the ACT, the most effective means of dealing with this matter would involve agreement between, and legislation in, other Australian States and New Zealand. Indeed, Mr Speaker, all jurisdictions have agreed that the appropriate approach to deal with food is that we have a consistent approach across Australia.

Whilst I understand the motivation behind this legislation, I think a much more important principle is to have a consistent approach on food across Australia. Therefore, this Bill should not be supported because, in practice, the only foods that would need to be labelled in accordance with the provisions would be those that are produced in the ACT anyway; the manufacture or sale of irradiated foods is currently illegal in Australia; the Bill is inconsistent with existing labelling requirements in the national Food Standards Code; and the Bill is premature, as standards relating to irradiated and genetically modified foods have not been completed. I would like to assure members that I will continue to pursue very actively the appropriate labelling of food in the appropriate national forum. It is something that I am prepared to do very vigorously. Indeed, I indicated to members that I have already done so on a number of issues.

Mr Speaker, I would just like to add one other thing. I understand that part of the motivation for Ms Tucker bringing this legislation on today was effectively to assist the Government in its representation to the Australia New Zealand Food Standards Council by saying that the Assembly has this particular position. I think, if anything, that will actually undermine my position as a Minister at that Food Standards Council in this particular case. Having already taken an Assembly position on eggs to the Australia New Zealand Food Standards Council, I have to say that, although I argued vigorously in favour of the legislation, I was outvoted. In fact, mine was the only vote in favour of it.

I think that, in some ways, having this sort of legislation which clearly flies in the face of what the council is trying to achieve in getting a cooperative approach, a collaborative approach, is not useful. I think the more effective way to proceed with this is to have this debate adjourned before we reach the vote on agreement in principle and then for me to continue to consult with members and to take an agreed position of this Assembly to the Food Standards Council and to see what we can do to persuade other members that the European position - if that is, indeed, the view of members - is the sensible way to go.

I would suggest that, in doing that, it may be appropriate for members and their specific parties to also lobby the other Ministers who will be at that council. I will add at this point, Mr Speaker, for members of the Labor Party in particular, that I have already lobbied the Labor members of the ministerial council on this particular issue. Although the intention of this legislation is positive and we understand what it is about, I think it is an inappropriate way to go about what we are trying to achieve.

MR STANHOPE (Leader of the Opposition) (10.57): Mr Speaker, the position that the Labor Party will take on this legislation is very similar to that which Mr Moore has just proposed and outlined. We are very happy to have this Bill debated today to the in-principle stage, but I think it would be the Labor Party's preferred position at this stage to have the matter adjourned perhaps before an in-principle vote, for the reasons that the Minister has outlined.

I note that, as the Minister has just indicated, the Australia New Zealand Food Standards Council is meeting in just a week or so and that it will be discussing these issues. Minister, you have said, and I think it is a point well made, that it is valuable for this Assembly to give some indication of its thinking on this very important issue. It is useful for us actually to have this discussion to achieve that end.

This matter has been around for some little while. I think members would recall that a former Labor member, Terry Connolly, had some interest in this subject.

Mr Moore: In 1995 he introduced it.

MR STANHOPE: In 1995, precisely. It is an issue that has at different times received differing levels of support and publicity within the community. I respect very much the intentions behind the legislation and I do respect the difficulty that legislators have in relation to an issue where successful implementation does truly depend on some national cooperation in order to achieve the desired outcome.

Of course, we cannot use the excuse of the lack of a national will and a national program to inhibit us here in the ACT in terms of those things that we believe are desirable aims. To the extent that Ms Tucker has brought this legislation forward in relation to an issue going to the health and welfare of every member of the community, in terms of their right to know whether or not they actually are being sold or fed irradiated or genetically altered food, I think the principle is quite absolute, that people most certainly have a right to know what it is that they are consuming or being asked to consume or being offered to consume. It is a fundamental right and principle.

So there is a difficulty here. There is a difficulty in acknowledging that every one of us has a right to know, through appropriate labelling, what is constituted within any substance that we as consumers ingest. But the practical difficulties of implementing, in a very small jurisdiction such as this, serious labelling obligations really are quite inhibiting. But perhaps it is not beyond our ken. Perhaps it is something that we cannot simply give up on as a result of the practical difficulties that we would face.

In terms of the meeting which the Minister will be attending in a week or so, it is relevant perhaps for the Minister to know that the Opposition in this place, the Labor Party, shares Ms Tucker's concerns about the inadequacy of current labelling. As the Minister says here - this perhaps is a point that we universally agree on within the Assembly - it is the ways and means that are actually causing the difficulties. But the Minister himself is a great exponent of actually finding ways and means through different policy issues. We note that the Minister will be raising again tomorrow issues in relation to safe injecting places. There is no more difficult issue in Australia, perhaps. It is perhaps even more difficult than labelling of genetically altered foods, Minister. Yet you are having a stab at it. That is perhaps an inappropriate allusion.

The point I make, Minister, is that, in terms of your responsibilities as the ACT's representative at the Australia New Zealand Food Standards Council meeting, I would like to think that you would take to that meeting an acknowledgment that there is - to the extent that I speak for the Labor Party - a strong view that current labelling arrangements for genetically altered and irradiated foods are simply not adequate; that it is an issue that needs to be taken seriously; and that if the Australia New Zealand Food Standards Council simply cannot progress the issue then they cannot complain if individual jurisdictions seek to find a way through the lack of national action in their own ways.

I think that Ms Tucker, in introducing this Bill, is simply saying, "If we cannot develop a national scheme, if the other States and Territories will not accept that consumers have a right to know what they are ingesting, then we in the ACT will find a way through on our own, as undesirable and as inefficient as that process may be". Minister, that is the message that I would like to give you, acknowledging that the Labor Party would not support this Bill to finality today, but would support it certainly in principle, and would wish you to understand that those are our views.

MS TUCKER (11.03), in reply: I am pleased that the Labor Party is supporting this Bill in principle. It was certainly my intention that it would just go to the in-principle stage today, because I do recognise some of the issues that are complicating the right of the ACT, as an individual legislature, to actually make a statement on this. I would like Mr Rugendyke to listen to this, actually, if you do not mind, because there are a few important things that I need to say. Members like Mr Osborne, Mr Rugendyke and Mr Kaine need to listen as well.

This Bill is not just about in-principle agreement on labelling, as Mr Stanhope said. Of course, that is part of it. But what this Bill is also about is how strongly we believe that labelling needs to be integrated into any agreement on food labelling and how strong we are on the labelling position. What Mr Moore's paper will describe and what is well understood is that there is not international agreement at all on the standard of labelling that is applied to these sorts of foods.

The Australian position, I am sorry to say, is looking like becoming quite weak. It is tending to go towards the United States model. This Bill that is presented today - which was, as members have said, Mr Connolly's Bill originally - requires a strong level of labelling. This Bill is not just a statement about the requirement to label foods for consumers; it is also about how rigorously we label these foods and how strongly we are committed to full information for consumers.

It is interesting that, in the international discussion, the Europeans are taking a stronger stance than the United States. The Swiss are actually taking a stronger stance again. This piece of legislation today would probably be closer to the Swiss model than anything else, although not quite the same. The Swiss model maybe is not even as strong as this. I know that the Japanese people are certainly becoming very concerned about this issue. So there is an international debate raging. I am really concerned to see Australia going with the United States, which has not a particularly good reputation on these issues, I have to say. So, if this Assembly does pass in principle this particular piece of legislation, it is an important statement from a particular region of Australia.

I reject Mr Moore's assertion that it is going to undermine his position in terms of his negotiations. I do find it interesting that Mr Moore has taken this position, because, when he was not a Health Minister and he voted on this, he did support Mr Connolly's Bill in principle. It was the same sort of process. Knowing full well, as we do, the complications regarding uniform food standards and so on, Mr Moore did support that at that time. He said:

> We are not debating irradiated food or genetically manipulated food. We are debating consumers' right to know. We are not debating whether or not this should not go ahead; rather, that the consumer should be able to make their own decision.

So Mr Moore was able to be strong then; but, as a Health Minister, his position has changed. That does concern me.

Mr Moore: My position has not changed.

MS TUCKER: Mr Moore interjects that his position has not changed in terms of the actual issue, and I acknowledge that. But he has the responsibility now to represent the ACT as Health Minister in these negotiations. This Bill is saying very clearly, "We don't like Australia going with the US model. We would prefer the European or even the Swiss model", if you look at the nature of this particular legislation that we are debating today.

I was interested to hear Mr Moore say that collaboratively and cooperatively is how he has to work - to get cooperation from the other Health Ministers. But compromising, cooperating, coming to a consensus point, has never in my experience meant that you cannot start with a strong position. In fact, that is what you have to do. If you are going to compromise, collaborate and cooperate to come up with a joint position, of course you go in with your strong position initially and you fight for that. You can do that in a cooperative way; of course you can. But it is a negative way of trying to fight for standards, I believe, to say that it is not a good thing to have a strong statement to support a strong argument that you take to these sorts of discussions. The real danger, of course, with these uniform standards is that it will actually become a race to the bottom. We become so keen to always see this uniformity that, unfortunately, it tends to go down in terms of standards, rather than up.

That is one of the problems that are coming up around the discussion of globalisation, free market principles, removal of barriers to trade and this uniform approach so that we can work with this happy global market. That is obviously fraught with difficulties and dangers. In fact, when I was at the Commonwealth Parliamentary Association conference in New Zealand, the topic was globalisation and its impact on a series of areas of concern to communities around the world - in this case, Commonwealth countries. Some of those concerns were around the ability of individual regions to actually legislate according to the standards and values of their communities. It is a concern around the world at the moment that this trend towards uniform standards is quite dangerous because it takes away the power of local legislatures to represent, in the way they certainly should be able to, the views of the community. Of course, we have had that discussion in this place before around the battery hen legislation as well.

So I do not think that people should be seduced always by the rhetoric that it is all about uniform standards, and that that is the most important thing. It is not. The most important thing is that, as a legislature, we have the right to have this discussion and to make a strong statement on it. We do not want to be told by a Health Minister that we

are not allowed to do that because, somehow, it is going to upset the uniform standards discussions that are occurring in Australia. I believe that it is going to assist in those discussions, and Mr Moore should be grateful that this parliament is prepared to take a stance on this issue, particularly in light of the fact that we are only going to the in-principle stage.

So we are saying through this Bill, as Mr Moore said in the last debate - he still says that he supports it, and I believe that he does - "This is about the consumers' right to know. We have high standards. We expect high standards in consumer information. This Assembly is of the view that this is what should be happening". Mr Moore can take that to his meetings and he can take a strong position from the ACT on that. I hope that he will do that with great enthusiasm.

MR STANHOPE (Leader of the Opposition): I seek leave to make a short statement, pursuant to standing order 47.

MR SPEAKER: Yes, proceed.

MR STANHOPE: I just want to clarify something, having just listened to Ms Tucker's response. I did indicate - and I am not sure whether Ms Tucker heard me - that the Labor Party would actually prefer to see the matter adjourned before the in-principle vote today.

Ms Tucker: No, I did not hear that.

MR STANHOPE: I was afraid that you had perhaps misunderstood our position. I did want to clarify that. We support it in principle. We support the intent - - -

Ms Tucker: So we are not having a vote?

MR STANHOPE: We would not support it at this stage, Ms Tucker.

MR BERRY: I seek leave to move: That the debate be adjourned.

Leave granted.

MR BERRY: I move:

> That the debate be adjourned.

Question resolved in the affirmative.

CHILDREN'S SERVICES (AMENDMENT) BILL (NO. 3) 1998

[COGNATE BILLS:

CRIMES (AMENDMENT) BILL (NO. 6) 1998
MAGISTRATES COURT (AMENDMENT) BILL (NO. 3) 1998]

Debate resumed from 23 September 1998, on motion by **Mr Stanhope**:

That this Bill be agreed to in principle.

MR SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Crimes (Amendment) Bill (No. 6) 1998 and the Magistrates Court (Amendment) Bill (No. 3) 1998? There being no objection, that course will be followed. I remind members that in debating order of the day No. 2 they may also address their remarks to orders of the day Nos 3 and 4.

MR MOORE (Minister for Health and Community Care) (11.13): I recall that my colleague Mr Humphries adjourned this debate, but I will make a few comments before Mr Humphries arrives. The Children's Services (Amendment) Bill amends the Children's Services Act so that children cannot be committed to an institution under the new fine recovery scheme established by the Magistrates Court (Amendment) Act 1998 until the magistrate has considered a report by the Community Advocate about the circumstances of the child. The issues that are set out in this legislation are ones that the Government has had under consideration for some time, but it is appropriate for Mr Humphries to put the Government's position.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.15): I thank Mr Moore for quickly being able to cover for me. It is of course his fault that the previous Bill was adjourned unexpectedly, and that prevented me being in the chamber when these Bills were called on. I thank members for their indulgence on my coming late to the chamber. Mr Speaker, this is the second time this year, in effect, that the Assembly has considered the issues that Mr Stanhope raises in these amendments. Members will recall that the Government brought to the chamber earlier this year its fine default package. That package was considered in June of this year. In considering the amendments that the Government made to a number of Bills to effect a much more comprehensive range of options for people who were convicted of offences and who had to pay fines, the Assembly supported a range of measures.

At that time Mr Stanhope put forward some amendments. They came forward very late in the day in the debate on the package of government Bills. Members will recall that I urged the Assembly not to support those amendments at the time because, I argued, the issues had not been well thought through, that the cost implications of the measures had not been adequately put forward and that as a result we foresaw a series of problems with the arrangements.

I suggested to Mr Stanhope at the time that he should bring the amendments back at a later time before the new package was to come into force and after some consultation and cooperation with the Government to see whether we could develop some sort of acceptable outcome. Mr Stanhope has brought forward this legislation for us to consider. The new package is due to come into effect from 1 January next year, so this is the last chance, I suppose, to incorporate these provisions into the package before it starts to operate to provide for a range of new options to be available to authorities to enforce fines imposed by the courts. I remind members that there are a large number of outstanding court-imposed fines which the Territory is owed - at least $1m, as I recall, when I last checked - and which we need to make a stronger effort to recover.

The Opposition's amendments incorporate the option of community service orders for fine defaulters. As such, there are two issues which are given rise to. One is the philosophical question of incorporating a community service order option in the process of enforcing a fine. The other is the issue of cost. I will touch first of all on the question of cost, because that issue was a fundamental problem on the last occasion. I want to emphasise that that is a fairly serious stumbling block to these amendments.

If we accept in principle that it is a good idea to have community service orders as an option before the stage at which we send someone to gaol - and I do not necessarily accept that it is - we also have to factor the cost into the present operation by Corrective Services of the community service order scheme. Members will recall me saying in the debate earlier this year that the Government's announced package of reforms was designed to produce an arrangement whereby the Territory recovered more money than it was previously recovering in unpaid fines. The saving we expected to make from this measure was, and still is, in outyears, $70,000 a year. We expect to have these measures recover for the Territory $70,000 above and beyond what we are recovering at the moment.

ACT Corrective Services have advised that a community service order scheme for fine defaulters would cost in the order of $107,000 per annum. They have also indicated that they consider that to be a conservative cost estimate. The effect of the legislation we would pass today, based on the assessment of ACT Corrective Services, would be to reverse the effect entirely of the amendments and the reforms which the Assembly passed back in June of this year. I ask members to ask themselves what it was that they were doing when they passed those amendments in June. Were they simply establishing a range of options for the sake of having a more comprehensive legislative regime? I would argue not.

The effect of the amendments was very simple and can be stated quite baldly as the capacity to recover more money for the Territory than was presently being recovered from fine defaulters. I suppose you might also say that a secondary goal was to add more respect to the regime of fine enforcement so that people felt that they ought to pay their bills whereas they would not have previously done so, given the very poor nature of the system. By far the most important objective of the system was to recover more money than we were previously recovering and than we are now recovering. If we pass these amendments today, we cancel that goal altogether. We might as well not have passed the reforms at all.

Having made the offer to Mr Stanhope during the previous debates to sit down with the Government and work out how we could come to some mutually acceptable position to be able to achieve his goals within the framework of having to save some money out of this new arrangement, it is disappointing to see that these amendments have come forward without that consultation either with me or with ACT Corrective Services. We now have an arrangement which suffers from exactly the same problem that the earlier amendments did in June.

I accept that there is a principle that Mr Stanhope wishes to put forward here, but the fact remains that it comes at a cost. That cost is the cost of the entire reform package which the Government has put in place, a package which took something like a year-and-a-half to two years to engineer and put to the Assembly and have passed. I would plead with members not to lightly set aside the effect of those reforms. That is what we will do if we adopt these arrangements.

Mr Speaker, there is a second issue here. That is the principle relating to having community service orders available to people, as they move through the enforcement process after being fined by a court. I would argue that the proposals would not benefit people who are too poor to pay or who have forgotten to pay, because the scheme we have already put in place, as of June this year, already has mechanisms to ensure that the poor or the forgetful are not imprisoned. There is absolutely no reason why people in either of those categories should face imprisonment under the arrangements already in place.

We are not talking about those people when we talk about these provisions. We are talking about people who, for a variety of reasons, choose to play the system and not pay their fines because they reckon they can get away with it or because they believe that some options cannot be enforced against them or even in some cases because they believe that serving some time in prison is a good way of being able to work off a fine. In those circumstances, we have to ask ourselves whom we are dealing with. As I say, we are not dealing with people who are poor and cannot afford to pay the fines or people who have just forgotten to get around to putting their cheque in the mail.

A fine defaulter who becomes liable for imprisonment would have been sent a penalty notice, a default notice and a notice of the suspension of his or her vehicle registration or drivers licence, if they have one, and the court would have found that he or she is financially capable of paying the fine. That is very important to remember. The court would have made an assessment at the time the fine was imposed which said that the court had heard the evidence, had heard what factors the fined person, the defendant, had mentioned in mitigation of their penalty and said, "What are your financial circumstances? How long do you need to pay any fine we impose?". That is taken into account by the court in imposing a fine. We would have a court order made by a magistrate or a judge which says, "You are liable for this amount of fine, based on the gravity of your offence, based on your financial circumstances and based on your own submission about how long you need to make a payment".

Changes in circumstances are also capable of being picked up by the system as it now stands. A person who was, say, employed at the time they faced the court but who has now lost their job and cannot afford to pay the fine has the capacity to seek from the court a change in the way in which their penalty is administered. They can seek generous time to pay or they can seek a deferral of the commitment. All sorts of arrangements can be entered into, and regularly are, by the courts of this Territory.

We are not dealing with people of the kind I have spoken about. The Opposition's proposals benefit those defaulters who simply refuse to pay the fine imposed on them by the court. Using community service orders as an alternative to imprisonment as the option of last resort would undermine the whole purpose of the scheme, which is to encourage payment by those fine defaulters who are able to pay their fines. The threat of imprisonment is a significant incentive for most people to pay an outstanding fine. Under the Government's scheme fine defaulters who resist paying face the certainty of imprisonment.

If the Opposition's amendments succeed, fine defaulters will know that the worst thing that might happen to them if they resist all the other attempts which have been made beforehand - like suspension of drivers licence and so on - to make them pay their fines is that they will have to perform some unpaid community work. Given that we are dealing with some people in this category who play the system, who actually work out the way they can least painfully deal with their outstanding debts - some will have quite substantial outstanding debts - it is often the case that people faced with the option of a community service order will say, "Great, terrific! I will be happy to work off my fine under supervision with a CSO". I predict, and ACT Corrective Services predicts on experience in other contexts, that people who can find their way through the minefield of the earlier penalties imposed by the court will use the CSO scheme to avoid imprisonment.

This scheme is designed to get people to pay their fines. If, effectively, we remove the sting of the threat of imprisonment, which is what the CSO arrangements Mr Stanhope proposes would do, because a person would be able to rely on doing community service as an alternative to imprisonment - - -

Mr Hargreaves: You should have come to the prison and had a look, too.

MR HUMPHRIES: I have been in lots of prisons. I have been in more prisons than you have, Mr Hargreaves. I am sure I know all about prisons. I know it is a new experience for you but I have plenty of experience of that kind. If we inject the CSOs into these arrangements, we will lose the capacity to recover fines. By the time we get to the level of CSOs and imprisonment, if people are going to go to those stages, the Territory will have lost its chance to recover the money. If people are determined not to pay the fine, then the Territory is obviously not going to recover the fine.

We have to have a disincentive at the end of the line so great that it will encourage not everybody but most people to pay their fines. If people see at the end of the line that instead of prison there is a CSO to serve, then clearly some people, some of the harder cases I spoke about before, will choose not to pay the fine and to use the CSO scheme to avoid paying. *(Extension of time granted)*

The defaulter will know that the worst that might happen to them if they resist all other attempts to make them pay their fines is that they will have to do unpaid community work. The amendments, therefore, would be unlikely to reduce compliance with penalty notices and default notices, and that would reduce the effectiveness of the scheme overall. That will certainly incur further costs to the Territory in arranging and supervising the performance of community service orders. I would confidently predict, based on estimates by ACT Corrective Services, not on my own estimates, that for those who get through the earlier process, a large number of fines would remain outstanding because of the option of CSOs being present. Fines would not be paid, because CSOs would be an option for people to avoid the payment of those fines.

Of course, the Territory could be said to have gained some benefit from having community service performed, but the whole system is geared around encouraging people to pay their fines. If people see CSOs as an alternative to paying fines, we will find ourselves in the position of not having the fines paid, and the whole purpose of the scheme will be avoided. "Recalcitrant" is the word used in my notes - I think it is a good word - to describe people in this position. Let us not confuse them with people who are either too poor or too disorganised to pay their fine.

I will not speak any further. I simply ask the Assembly to bear in mind that this is not the way to proceed with legislation of this kind. There may be some alternative to imprisonment that could be devised. It is not present in this legislation, and I ask members not to support the legislation in those circumstances.

MR RUGENDYKE (11.32): Mr Speaker, I rise briefly to inform the Assembly that I feel unable to support these amendments. I am sure that Mr Stanhope will understand, given my background. This is a difficult matter. People would soon cotton on to the fact that if they failed to pay a fine imposed by the court and they hung on for long enough they might end up just doing a bit of gardening and getting away with it. Whilst I understand the awful conditions that people are subjected to in prisons, I believe that it is necessary to have the threat of imprisonment at the end of the line for people Mr Humphries described as recalcitrant to ensure that outstanding fines are paid, fines that obviously contribute greatly to the Territory coffers.

Mr Speaker, I had hoped that I would be able to support the Children's Services (Amendment) Bill. My concern for children is well known. But I am reminded that most children facing fines are drivers of motor vehicles who often come before the courts on serious drink-driving matters.

Mr Humphries: Not necessarily licensed, but certainly drivers of motor vehicles.

MR RUGENDYKE: Unlicensed drivers and drivers of unregistered motor vehicles. I do believe that the threat of imprisonment does need to be there. Community service orders appear to be far too soft an option. The penalty for not paying a fine could be the odd bit of gardening or graffiti removal rather than imprisonment, the final sanction of the law. I am unable to support this legislation.

MS TUCKER (11.35): This is a complicated discussion, but the Greens are supporting these amendments. I do not think that we have heard a full discussion from Mr Humphries or from Mr Rugendyke. I would be happy for Mr Humphries to speak again if he wants to answer some questions for me. He said that the initial legislation would make savings of $70,000 in recovered fines. He then said that the cost of the CSOs would be $107,000. I do not understand who he thinks is going to be doing these CSOs. How was that $107,000 calculated? Was that determined on a projection of the number of people who once they saw that there was not a prison sentence would go to CSOs rather than pay their fines? I do not know how you could come up with that figure. I do not know how you could guess how many people would be persuaded by the threat of a prison sentence to pay their fines and how many would say, "If it is a CSO I will do the community service because it will just be gardening, and I like gardening anyway".

Mr Humphries: It is the estimate from Corrective Services.

MS TUCKER: Mr Humphries says it is the estimate from Corrective Services, but I am questioning that estimate. I think it would be very difficult to make an assumption on that. That figure has been introduced into the discussion, but I do not personally find it convincing. Even if it was correct, there are other sides to this debate. If you are telling me that community service work has no real value, I am interested to hear that, but I would have thought that with the cost of $107,000 for running CSOs there would be community benefits to people doing community service work, benefits which do not feature in the accounts. That has not been brought into the discussion.

Another issue raised by members is the real cost of putting someone in prison. Say imprisonment does not work as a disincentive. We have to look at the cost of putting a person in prison. We know about the young fine defaulter who was sent to prison, where he was bashed so badly that he got brain damage. There goes all the money that you thought you might have saved. Prisons are not hospitable places. They brutalise people. We are talking about imprisoning people who are not violent criminals. They are people who have not paid fines. There are genuine concerns about whether putting them in prison is a reasonable thing to do in the long term and what the cost to the community is in the long term. It may be much worse than the cost of running community service orders.

Mr Rugendyke said he thought he might be able to support Mr Stanhope's amendments regarding children but reconsidered because children drive motor vehicles and so on. I find that a very worrying point of view. Maybe young people can drive a car, but that is not the issue. The issue is: Do we want to put a young person in prison? For me, putting them in prison is a very abhorrent notion. If young people get themselves into a mess with fines, I do not see how anyone could possibly think it would be in their long-term interest or the community's interest to put them in prison.

We are talking about saving $70,000. I cannot see that it is justified. I know it is all predicated on the concept of having a disincentive that will make people respond differently. I do not think people like doing community service orders. That is my impression, having worked in a number of community organisations where there have

been community service workers. Community service is not something people particularly like to do. It is totally disruptive to their lives. It can be a better or worse experience, depending on the organisation they do the work for. It does have benefits for the community, something which I have already pointed out has not been brought into the analysis of the costs and benefits.

I believe that these amendments are reasonable and that this idea of Mr Humphries' could end up costing a lot more in social and economic terms in the long term.

MR BERRY (11.40): These pieces of legislation have a bit of history. These Bills were introduced by Mr Stanhope to draw attention to some matters which are well stated in what were originally intended to be amendments to government legislation. Of course, the Government did not want to be reminded of them. Mr Stanhope has reintroduced them, quite appropriately, to make certain provisions in relation to the issue of corrections and so on. What troubles me is that the Government seems to have a fixation on cost. That is all it seems to be worrying about. That is what I hear coming loud and clear from the Government.

It is disturbing for me that the crossbenchers have apparently given their support to the Government's position, not on the issue of costs, but just on the basis of retribution. I was once responsible for prisons. The principles of corrections, as I remember them, are deterrence, public safety, retribution and rehabilitation, but not in that order.

Mr Humphries: Not retribution.

MR BERRY: Retribution is one of them.

Mr Wood: Punishment.

MR BERRY: Punishment.

Mr Humphries: Punishment maybe, not retribution.

MR BERRY: It depends on how you see it. In my view, rehabilitation has always been, and should always be, the primary focus of any civilised community. I rather see that primary focus slipping because all sorts of excuses are seized upon to make it harder for people who are seen to be public enemies. People who commit crime in the community are out of step with community norms and have to be dealt with, but locking them away at the earliest opportunity is not the answer.

Over the years we have all heard complaints from police about magistrates who let criminals out, who let repeated offenders out or who do not punish them hard enough. It becomes quite tedious because it attempts to plug into the law and order fear campaign that we have had some experience of over the years and that we have had more of recently. I am a little bit disappointed that rehabilitation seems not to be a focus that Mr Rugendyke is terribly interested in.

My view about it is that as soon as the worst criminal can be rehabilitated and returned to society, that is where they ought to be, not locked away at great public expense just to satisfy some perception that we need to punish people. Punishment or retribution is part of the approach that the community expects for serious crimes. But in many of the cases we are talking about here public safety is not an issue; deterrence is an issue and rehabilitation seems not to have been treated with proper emphasis.

These Bills will maintain the need to rehabilitate people and to get them back into society, operating as normal members of society. If we are to focus on giving people public satisfaction by unduly punishing them to create a deterrent, I think we have lost the plot. Have a look at what goes on in some States in the United States. Massive numbers of prisoners are locked away, and they regard that as a successful corrections philosophy. It does not seem to reduce the amount of crime.

Mr Humphries: Crime is coming down. The latest figures show that crime is reducing.

MR BERRY: I was talking about in States of the US, where the law and order drum is beaten all the time. I do not necessarily think that these sorts of things create less crime in the community. In fact, if you take hope away from people, you create recidivism. If you do not give people hope for the future and they have nothing to lose, you put them in an extremely bad position and they are more likely to commit crime again.

I think the position of the Government and the crossbenchers is quite appalling. Any move away from rehabilitation, or a prospect of rehabilitation, is an abandonment of our responsibility as legislators to create a humane and proper social structure. Punishment is not something I find particularly tasteful as part of the principles of a corrections system. Punishment might give some people a nice warm inner glow. It does not give me one. I understand that victims of crime may have different views about these things.

Yes, we have to deter criminals. I do not know of anybody who likes to fulfil community service orders. I heard somebody refer lightly to removing graffiti or doing some other public works. They are still punishment and they are still deterrents. Most importantly, they do not put people in gaol. For the most part, people ought not to be going to gaol unless public safety is an issue. We should use all of our efforts to keep people out of gaol rather than putting them in. If you think crime is going to go away because you increase the likelihood of gaol, you have got another think coming. I do not know that it has a successful track record in many places.

I am concerned that the move towards retribution and punishment as some sort of silver bullet is fraught with dangerous probabilities. Deterrence has limitations when it comes to dealing with people who offend. The number of people in our prisons and the number of people who reoffend clearly indicate that our rehabilitation programs need some improvement. On the surface, the position of the Government and the crossbenchers seems to be a backward step.

MR STANHOPE (Leader of the Opposition) (11.49), in reply: Mr Speaker, there has been some misunderstanding in some aspects of the debate about what we are seeking to achieve and what these pieces of legislation would do if implemented. The motivator in introducing these pieces of legislation is that it should be the aim of all of us to keep people out of gaol if at all possible. That is the underlying philosophy that drove the introduction of these Bills.

The Bills require the Magistrates Court to consider the option of a community service order before a fine defaulter is committed to prison. The legislation does not remove the option of prison for fine defaulters. In fact, when the Government introduced earlier legislation, the ALP supported the notion of imprisonment for fine defaulters once the range of other options had been exhausted. To that extent, these Bills do not change that position at all. The current scheme, the one that we voted on earlier, forces the registrar to imprison a fine defaulter even if a community service order would have been desirable in the circumstances of that particular case. The registrar has no option. The legislation does not currently allow for community service orders.

The underlying position is that all alternatives to incarceration need to be explored. The measures proposed in this suite of Bills are real and reasonable alternatives. It is the Labor Party's position that nobody in Australia, particularly nobody in Canberra, should be imprisoned for poverty, for being unable to pay their fines. You cannot but say that the inevitable result of the current process, which denies access to community service orders, will be that people are imprisoned for being poor.

Mr Kaine: We can reinstitute the debtors prison, Mr Stanhope.

MR STANHOPE: Maybe that is what we are attempting to do here. Maybe there is a bit of social engineering involved to get the undesirable unemployed people off the streets.

Mr Berry: Vagrancy.

MR STANHOPE: Yes, that is right. Send them all back. Any person without assets or income other than social security benefits who is fined by a court, once they get on this treadmill and once they find themselves unable to pay their fines, will ultimately end up in prison. These amendments provide protection in suitable cases.

Mr Humphries: Why did the courts impose the fines in the first place?

MR STANHOPE: For law-breaking, but that does not mean we should abandon the notion of a community service order. Why do we inexorably end up in gaol? Why do we skip the community service order option? Why has this legislature done that?

Mr Humphries: Most places do.

MR STANHOPE: But we do not have to do what other people do. It is quite likely that any Australian on only a pension or benefit who has been convicted on some matter and fined will default under any time payment scheme that the registrar permits under section 152. Sooner or later registrars will have no choice under the existing legislation

except to conclude that all reasonable action has been taken to secure payment and that there is no reasonable likelihood of the fine being paid. Once the registrar comes to those conclusions, under the Attorney's legislation the registrar must then commit that person to prison. He has no discretion; he has no choice. They go to gaol.

All my legislation seeks to do is to give the court a discretion in suitable cases. You cannot deny that there will be circumstances in which a more appropriate option at the point when all other options have been secured would be to give some fine defaulters a community service order rather than a prison sentence. The existing legislation denies the court that potential.

Poverty is not a crime, and poverty should not lead to prison, but that is the situation we currently have. To suggest that a community service order is a soft option is absolute nonsense. Who in this place would willingly undertake to fulfil a community service order? Who is seriously suggesting that a member of the community sentenced to serve a community service order is not paying a fairly significant price?

Mr Hargreaves: Or suffering a big stigma.

MR STANHOPE: There is an enormous stigma attached to being required to serve such an order. It is a genuine punishment. I am very concerned at the notion that there is only one real punishment, namely, prison. At the base of my concern is the suggestion that the attitude to community service orders indicates a real lack of commitment by the Government to exploring other sentencing options. Statistics in the annual report of the Attorney's department give some credence to those concerns. Average daily occupancy of the Belconnen Remand Centre has gone up from 30 two years ago to 36. The average number of ACT prisoners in New South Wales prisons has gone up from 80 two years ago to 116. The average number of detainees in the Periodic Detention Centre has gone up from 26 a couple of years ago to 80.

Mr Humphries: What is your point?

MR STANHOPE: My point is an apparent lack of commitment by this Government to exploring alternative sentencing options. I am going through the statistics. Community service hours worked have declined over the last two years, from 42,000 hours in 1995-96 to 27,000 hours in the last financial year.

It is significant that, despite the fact that the number of community service orders has increased, the number of hours worked has almost halved in the last two years. Could it have anything to do, perhaps, with funding decisions made within the department? Could it have anything to do with the abolition of the gang-based community service order scheme?

Mr Humphries: Read the Estimates Committee evidence about that and you will see what the reasons are.

MR STANHOPE: The report reveals that in the last two years the number of community service hours worked in Canberra has reduced from 42,000 to 27,000. There must be some very significant reason for that. It also indicates a change in focus,

and that is a concern. This legislation reflects that change in focus. It removes the possibility for fine defaulters to receive a community service order. It seems to me that a community service order is a most appropriate order in a significant number of cases. I cannot see why it should be denied to the courts in relation to a fine defaulter.

Mr Humphries: It is not. They have that jurisdiction anyway. Your legislation makes it automatic that they go back for a CSO.

MR STANHOPE: Under your fine default legislation, Minister, the community service order option is not available. We are seeking to reintroduce it.

Mr Humphries: I do not think that is right. They have an inherent jurisdiction to do it at any stage they want. You check it out.

MR STANHOPE: Are you suggesting that under your scheme, once people get on your treadmill, they can go off for a community service order? How does the registrar get them back to the Magistrates Court?

Mr Humphries: They apply to the court.

MR STANHOPE: You have a scheme, Minister, that has deliberately excluded community service orders from its purview. As I said before, under the scheme as it currently applies, the registrar must at some stage reach a conclusion that he has taken all reasonable action to secure payment and that there is no reasonable likelihood of a fine being paid. At that stage the registrar commits the person to prison. He simply does not have a discretion under the scheme.

Mr Humphries: He does not, but the court does.

MR STANHOPE: Under my proposals a community service order would not be made unless suitable work was available and the fine defaulter was a suitable person. The smart alec fine defaulter is unlikely to receive the court's approval. The threat of imprisonment does not go away with these amendments. The threat of imprisonment remains. If a community service order is made, under my legislation the person must fully and faithfully carry it out. That is their last chance. If there is a breach of the community service order or a conviction for some other offence, the fine defaulter then goes to prison. That is the way the scheme is adjusted by my legislation.

While the cost of community service orders must be considered, there are a range of other factors. The Attorney has made great play of the cost of community service orders. I would be very interested in seeing the figures for what Ms Tucker spoke about. The Attorney suggested that the community service order scheme would cost more. Compared to what? Compared to gaol? What are the cost comparisons? How were they done? What assumptions were made about the number of people who, faced with the threat of going to gaol without the option of a community service order, would pay their fine or about the cost of sending a person to gaol, which I understand is significantly higher than the cost of a community service order? I am incredibly intrigued by the cost analysis. I would be very happy for the Minister to table the costings done by Corrective Services.

Mr Humphries: You could have asked for them before now.

MR STANHOPE: I ask for them now.

Mr Humphries: I do not have them now.

MR STANHOPE: I would be very interested to see them, Minister. Gaoling marginalised people - the so-called recalcitrants that the Minister is concerned with and all the other people who will be caught up in this fine default legislation - has a range of other significant costs. These costs apply to any individual exposed to a gaol culture - the cost to the community, the cost to the social fabric, the cost of an imprisoned person being further marginalised and forced to the edges.

There are many reasons for keeping fine defaulters out of gaol and almost none for sending them there, particularly when you have another option that you are not prepared to entertain. We should do everything we can to keep them out of gaol, for the whole range of reasons that we abhor the use of prisons - the cost to the individual, the cost to the community, the cost to the social fabric and the financial costs of gaoling people.

Mr Humphries: You should abolish gaol if you do not like that option for those people.

MR STANHOPE: It is an option of last resort, Minister. It concerns me that you do not think that it is an option of absolute last resort. You are not allowing it to be that, because you have no faith in the community service order system. That is all we are saying here.

I was most concerned by Mr Rugendyke's comments on the Children's Services (Amendment) Bill. Mr Rugendyke completely misunderstood the proposal. It concerns me that Mr Rugendyke or anybody else, despite any problems they have about the Crimes (Amendment) Bill, have a desire to see people sent to gaol. Their ideological position is that gaoling law-breakers is the only way to go, the only way they will learn their lesson. They are not concerned about the issues underlying the need to keep people out of gaol at all cost. They are suggesting that the Children's Services (Amendment) Bill should be opposed. Yet all the Bill does is ask that before any child in this community convicted of an offence that requires them to pay a fine in relation to which they default is sent to an institution to be detained the Community Advocate should present a report to the court. It asks for the Community Advocate to be involved in the presentation of a report on that child to the court. For Mr Rugendyke to stand up and suggest that he is going to oppose that absolutely staggers me. Mr Rugendyke stood up and said that we all know about his concern for children. If he can possibly oppose that amendment, that puts the lie to his concern for children. There is no way anybody in this place can in any way oppose that suggestion. *(Extension of time granted)*

I am looking for the support of the Assembly in relation to these Bills. I think these are commonsense amendments. I do not think my Children's Services (Amendment) Bill can be argued against with any cogency. It simply asks for the Community Advocate to be involved in situations in which a child is facing detention. For goodness sake, how can you oppose that, all for a fine? All I am asking for is that a child who has not paid a fine should not be detained without the advantage of a report from the Community Advocate, and Mr Rugendyke wants to oppose it. For goodness sake!

I come to the Crimes (Amendment) Bill. Once again, I cannot understand how we can possibly oppose a suggestion that interposed in the range of options that the Attorney has introduced in relation to the treatment of fine defaulters we should allow one additional option. I am not suggesting that we take any away. I am not suggesting that we take away the threat of imprisonment. We are simply suggesting that interposed in the range of options available to the registrar be the potential to refer back to court the question of whether or not, in relation to some fine defaulters, a community service option would be a better option than gaol. That is all my legislation does. How can you possibly argue against that? That is the nature of the amendments proposed, and I recommend these Bills to the Assembly.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

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

Question so resolved in the negative.

CRIMES (AMENDMENT) BILL (NO. 6) 1998

Debate resumed from 23 September 1998, on motion by **Mr Stanhope**:

That this Bill be agreed to in principle.

Question put.

The Assembly voted -

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

Question so resolved in the negative.

MAGISTRATES COURT (AMENDMENT) BILL (NO. 3) 1998

Debate resumed from 23 September 1998, on motion by **Mr Stanhope**:

That this Bill be agreed to in principle.

Question resolved in the negative.

UNIVERSAL DECLARATION OF HUMAN RIGHTS - AUSTRALIA'S COMMITMENT

MR WOOD (12.13): Mr Speaker, I move:

> Given that the Universal Declaration of Human Rights needs to be more than just noble words on paper, this Assembly asks the Chief Minister to write to the Prime Minister asking him and his Government:
>
> (1) to initiate a non-partisan parliamentary statement reaffirming Australia's commitment to the Universal Declaration of Human Rights;

(2) to foster a human rights culture in Australia by establishing a well funded National Committee for Human Rights Education; and

(3) to promote and protect human rights in the region in all aspects of domestic and foreign policy.

Mr Speaker, this is an important motion. I have anticipated general, let us say universal, support on a motion of this nature. Perhaps I should have informed the members of my intention earlier, but it has been an unusually busy week. Tomorrow morning at 10 o'clock the bells of Canberra will ring. Led by the carillon, school bells, church bells, even our own Assembly bells, will ring for one minute to mark Human Rights Day and the fiftieth anniversary of the Universal Declaration of Human Rights.

Tomorrow will be the culmination of a campaign launched a year ago by Amnesty International, the worldwide human rights organisation, to encourage people around the world to recommit to the ideals of the universal declaration. Ten million signatures pledging support for the declaration have been collected in books from every continent. These books will be presented at the International Human Rights Defenders Summit being held this month in Paris and will eventually be housed in a monument near the building where the UDHR was first drafted.

The signatures have been collected to show governments that ordinary people care about human rights. Fifty years is a long time, but not long enough where human rights are concerned. Violation of human rights remains commonplace. Amnesty International's annual report for 1998 shows that we still live in a world of abuse. In 31 countries people disappeared. In 40 countries there were executions, and in 70 countries prisoners remain under death sentences. Prisoners of conscience were held in 87 countries. Torture was used in 117 countries. There were unfair trials in 34 countries. Fifty-five countries held people arbitrarily without charge or trial. Extrajudicial executions occurred in 55 countries. Armed opposition groups committed serious human rights abuses in 31 countries.

Australia is also criticised in this annual report. We are criticised for our record on deaths in custody, for the inadequate Federal Government response to the report on the stolen generation and for the continued mandatory detention of asylum seekers. Internationally, we are criticised for our refusal in 1997 to complete negotiation of a framework agreement with the European Union because we would not accept a binding clause which required respect for "basic human rights as proclaimed in the UDHR". That is why my motion calls on the Prime Minister to act to renew Australia's commitment to human rights in the eyes of the world.

The fiftieth anniversary is a time to look forward and to recommit; it is also a time to look back. Canberra has a special connection with the universal declaration. Ernest Burgmann was Bishop of Canberra and Goulburn from 1934 to 1960. The connection remains. His three surviving children still live here, as do many of his grandchildren, great-grandchildren, and great-great-grandchildren. His name is remembered through Burgmann College at the ANU and the new Burgmann Anglican school due to open in Gungahlin next year.

In September 1948 Bishop Burgmann was approached by Dr Evatt, Australian Minister for External Affairs and President of the General Assembly of the United Nations, to be part of the Australian delegation working on the declaration. On 1 October he joined six other advisers on the Australian delegation in Paris. He and the Catholic Auxiliary Bishop of Sydney, Eris O'Brien, were the only ecclesiastics on the national delegations, and they worked on committee No. 3. Burgmann commented:

> The first vivid impression I received was of the eloquence with which these national representatives confessed each other's sins. They know all about them in detail, and much research must have gone into the business of collecting reports of the iniquities of neighbours. At the same time there was much advertisement of the excellences in the constitution of the states from which the speakers came. All this seemed strange in a gathering bearing the name of the *United* Nations.

Some would say that in 50 years we would seem to have advanced very little. The challenge was visionary, but the reality was rather mundane. Burgmann's biographer, Peter Hempenstall, says:

> Away in Committee 3 tedium was the main worry. Burgmann had no trouble coming to grips with the issues ... But the committee moved at a snail's pace and Burgmann had to listen to interminable speeches on procedure. By the end of his first week they were not as yet agreed on Article One.
>
> Burgmann accepted the lengthy talking as the process of educating the powers to trust one another; it would take time.

And it is still taking time. Hempenstall continues:

> On 12 October Committee 3 passed Article One of the Declaration of Human Rights. Burgmann regarded it as historic. 'The fact that over 50 nations have got together and discussed fundamental civil and social rights is of the highest educational value. If they keep on doing it long enough the UN will become what it is meant to be, but not yet is.'

Article 1 states:

> All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Then followed 29 other articles, but Burgmann had to return to Australia. Here he continued to address Australia's internal problems and also to ensure that Australia did not lose sight of its place in the wider world and its international obligations.

Mr Speaker, on 22 September this year members of the Legislative Assembly signed the recommitment to the UDHR. You will remember that. Today in this Assembly we call on Australia to do the same and, with Australia, the world. The passage of this motion will give further impetus to this reaffirmation and I look forward to your support. The Assembly has expressed its beliefs and we have the right to request the Federal Government and Parliament to continue this campaign. Amnesty International says:

> Fifty years on it should be a celebration but it's not. The 1.3 billion people living in absolute poverty do not have access to their most basic rights.

And in the words of Kofi Annan, the UN Secretary General:

> Freedom knows no borders ... a fiery voice of liberty in one country can raise the spirits of another far away ...

The fact that millions of people - world leaders and citizens from every country and every walk of life - have recommitted themselves this year to the UDHR gives hope for the future for a world where human rights will be a universal reality.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (12.22): Mr Speaker, I rise on behalf of the Government to offer support for the motion which Mr Wood has moved in the house today and to echo the sentiments that he has expressed that tomorrow will be an essentially positive and forward-looking celebration of the fiftieth anniversary of the Universal Declaration of Human Rights. The declaration provides that all human beings are born free and equal in dignity and rights; that they should act towards one another in a spirit of brotherhood; that they are entitled to the rights and freedoms set out in the declaration without distinction of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Even after 50 years those words still are an appropriate touchstone not for just legislation and other acts of governments that deal with human rights but for all acts of governments and parliaments and of communities as a whole that affect the status of human beings.

Declaration signatories, when they signed the declaration, undertook "to strive ... to promote respect for the rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance". Those rights are expressed to belong to everybody. No distinction is made on the basis of the jurisdictional or international status of the country or territory to which a person belongs. The declaration has been the basis for growing pressure on governments from citizens to uphold and enforce those rights. International opinion expressed through the United Nations in particular and other non-government organisations has added to the pressure for those rights to be recognised not merely in the form of words and rhetoric but in practice.

Mr Speaker, every positive right, for example the right to walk down a street unimpeded, implies an obligation on others, indeed on society - in other words, a negative right not to interfere with the exercise of that right. This obligation is the basis of civil liberties, which are expressed as freedoms - freedom of speech, freedom of movement,

freedom from arbitrary arrest or detention, freedom of assembly. As Mr Wood pointed out in his remarks, despite the existence of those words in the declaration and despite the way in which those safeguards and protections have been translated into the language and form of legislation in many places, the fact remains that human rights are not universally respected and are not enforced uniformly around our world.

As the Amnesty International report Mr Wood quoted from indicated, even Australia cannot boast a totally clean human rights record. These structures and the awareness of the need to recognise human rights at least result in genuine attempts to uphold the rights of our citizens and protect us from the worst excesses, such as political murders, rapes and restrictions of freedom that occur in other countries. Clearly, Australia has some further work to do. We should, in some senses, judge ourselves on different standards, on higher standards, because we have for so long subscribed both in form and in practice to the words of the Universal Declaration of Human Rights. It is incumbent on us, therefore, to set ourselves higher standards all the time, to both examine and explore the ways in which we are actually enforcing those rights in terms of our own practice internally in Australia and, as this motion refers to, the way in which the Australian Government is applying those principles in overseas practice.

There are some areas where we have not lived up to the standards we have set ourselves. There are other areas where we need to consider expansion of the way in which our laws apply to categories of discrimination and to enforcement of human rights. At the beginning of my remarks I read out the various bases of discrimination which are outlawed under the declaration. We have added other categories of discrimination in legislation in Australia and jurisdictions like the ACT. It is appropriate that we continue to do that, because the declaration should not be seen as a static document, a document which is just about viewing the world in 1948 and applying principles that were deemed important at that time. Clearly, the world evolves, the world changes and other issues have to be explored in the progress of human society.

I think a non-partisan parliamentary affirmation of support for the declaration may have value. In Australia we have a Human Rights and Equal Opportunity Commission, which has the function of reviewing Federal legislation and practices and reporting on any breach of human rights instruments. It may be more appropriate to increase its resources for the purpose of education on human rights rather than establishing a different body. Nonetheless, I think there is some value in having the Federal Parliament and the Federal Government at least explore the proposal put forward in the motion that Mr Wood has moved. On either measure, it is important to make sure that we ratchet up the level of overview and enforcement of those areas one notch, and one measure or another would be appropriate to do that.

We must join with other members of the United Nations in promoting a sense of monitoring and enforcement of human rights in this region. I think we ought to establish a stronger sense of respect for those rights and those freedoms by referring to the declarations and the agreements that have been signed between nations. Some of the countries in our region are not signatories to any of the main human rights covenants, even though some of them are members of the United Nations. That might seem to be anomalous but, as a first step, we should try to bring nations under the umbrella of the

UN declaration and then use that as the basis to get them to take steps to observe human rights and fundamental freedoms for all people within their jurisdiction, regardless of race, sex, language, religion or any of the other factors referred to in the declaration. We have plenty of evidence that government without the rule of law as we know it will inevitably descend into corruption. We see it in nations even in our region. The declaration clearly spells out that the international community has not only a right but a duty to act where abuses in one of its member states have been identified.

Even though we have further steps to take within Australia, we also have steps to take very urgently and very importantly within our region. Mr Speaker, I welcome the sentiment of this motion that we should act in a more positive way in our region. I hope that we can do so through the agency of this motion and other measures taken in and around the celebration of the fiftieth anniversary of the UN declaration. I think we will be coming back to this subject tomorrow, which is the actual fiftieth anniversary, and I look forward to contributing to debate at that time as well on this important subject.

MS TUCKER (12.31): This is an important motion because it highlights the issue of human rights. As tomorrow will be the fiftieth anniversary of the Universal Declaration of Human Rights, it is appropriate that we have this discussion. The Universal Declaration of Human Rights acts as a blueprint for humanity. It is a very powerful tool. Over the last 50 years there have been triumphs and steady progress in acceptance of, and adherence to, the declaration's principles. In 1948 slavery was legally enforceable in many countries. Bonded labour was acceptable in India and Pakistan. In 1998 slavery has been abolished across the globe, and bonded labour is illegal and its incidence has been greatly reduced. In 1948 South Africa's apartheid forced black South Africans to carry a permit to travel in white areas. In 1994 black South Africans took part in an election that took the then recently released political prisoner, Nelson Mandela, to power in a landslide victory.

Closer to home, only in 1967 were Australia's indigenous people recognised as Australian citizens with an entitlement to vote. Thirty years later, in 1997, after a three-year investigation into the stolen children, the Australian Government recognised the need to make amends for actions of the past. They did this without any formal apology or offer of financial compensation, however. Australia has a responsibility to its own and, as a developed country, to the world in ensuring that human rights are upheld and violations are not tolerated. Australia has been no different to other developed nations in paying lip-service to the declaration, in this country's case not only to peoples of the world but to our own indigenous population.

I support Mr Wood's motion that Australia foster, promote and adequately resource the Declaration of Human Rights and issues surrounding it. The most effective way to do that is to look at why people are denied their human rights, how their rights are violated and what the basic underlying causes are. Poverty and war deny many millions of people food, shelter and access to education and work. Community Aid Abroad state that 1.3 billion people live in absolute poverty, with many more extremely vulnerable. At the same time nations, Australia being no exception, continue to spend an obscene amount on defence, an amount that could feed those impoverished the world over.

The Commission on Human Rights is always looking at itself and being challenged. Discussion is continuing about how we address issues of human rights. There has been ample criticism about the lack of emphasis at the commission on economic, social and cultural rights, although there has always been a very strong focus on civil and political rights. One of the critics of the commission is the chairman of the Committee on Economic, Social and Cultural Rights, Mr Philip Alston, who said that the commission was not doing what it should regarding these rights, as they continue to be considered under one separate item on the agenda while civil and political rights are considered under every item. The debate in the most recent discussions there focused on foreign debt of developing countries, further concentration of wealth in industrialised countries, structural adjustment policies and the effects of globalisation and modernisation on all. Four resolutions were adopted, two of which were groundbreaking. One was on the appointment of two special rapporteurs, one on the effects of foreign debt and the measures taken by governments, the private sector and international institutions to alleviate the effects.

The other was on the right to education, whose mandate includes taking into account gender considerations, especially the needs of the girl child, and providing the Commission on the Status of Women with reports concerning the situation of women within the field of education. The discussion is being progressed. The issue of gender is particularly strong and important at the moment, and there have been special debates on gender. The commission has also made references to issues of gender in discussions on the development of an international criminal court. We need to keep in mind that this is an ongoing discussion. We certainly have not had the definitive statement.

There are many issues that highlight the need to address the structural inequity that causes injustice and poverty around the world. These issues cannot be resolved overnight, but Australia's role in the sweeping and inherently damaging process of economic globalisation and the role of transnational corporations and elites that profit from abdicating their responsibilities under international agreements and treaties should be carefully analysed, as should Australia's defence spending relational to its spending on welfare, education and aid. Australia, by starting at home with its indigenous population, can place itself in a stronger, proactive rather than reactive position in the international arena.

MR RUGENDYKE (12.37): I rise briefly to support this motion. It is a very timely motion, given the celebration tomorrow of the fiftieth anniversary of the Universal Declaration of Human Rights. It is timely to remind ourselves and the citizens of our city and the country how well off we are in this country in relation to the human rights of our citizens. We see many abuses of human rights in other countries. I think this motion sends a message through our Federal Government to other countries that it is not acceptable for them to treat their citizens in such a poor way as is evidenced in news reports we see regularly. We often overlook the fact that we are so well off in this country and we often take for granted our human rights, which are so well protected and so well looked after. I support the motion.

Question resolved in the affirmative.

Sitting suspended from 12.39 to 2.30 pm

QUESTIONS WITHOUT NOTICE

ACTEW - Sale

MR STANHOPE: Mr Speaker, my question is to the Chief Minister. Given the Chief Minister's commitment to accrual accounting and the ACT's move towards implementing that method, does the Chief Minister accept that in financial and government circles it is now generally recognised that the accrual methodology provides a more realistic picture of a government's fiscal position than do traditional cash-based measures? If she does accept that view, how does she explain that ABN AMRO based its case for the sale of ACTEW on a cash flow analysis? Is it not the case that the use of such methodology, as identified by the Australia Institute, fatally flaws the ABN AMRO report? Does the Chief Minister agree that, having relied on such a fundamental flaw, the Government has only compounded the error by attempting to justify the sale of ACTEW by using a mixture of cash-based and accrual methodologies?

MS CARNELL: Mr Speaker, I think that Mr Quinlan should have helped on this question, because I know that Mr Quinlan would know the answer to this question. Yes, the ACT Government stands absolutely by accrual accounting when putting together such important things as operating losses, financial positions and whole-of-government statements. In fact, the ACT is leading Australia. It was wonderful to see in this Auditor-General's report the Auditor-General congratulating the ACT Government - - -

Mr Stanhope: Is he the local economist?

MR SPEAKER: Order!

MS CARNELL: Thank you, Mr Speaker. I have to say that Mr Quinlan was very pleased to approve the reappointment of the Auditor-General just recently. The Auditor-General makes the point that the ACT is progressing very well in this area and is complying with Australian accounting standards in coming down with an unqualified audit, which is great news. Yes, I totally support that.

With regard to the valuation by ABN AMRO, it does use cash flow information and a weighted average cost of capital discount rate, which, I have to say, is the way you value things. That is a totally different perspective from the whole-of-government financial situation - assets, cash flow - - -

Mr Corbell: Professor Carnell. Here we go, here we go!

MR SPEAKER: Order! The Chief Minister was asked a question by your leader, Mr Corbell, and she is answering it.

Mr Moore: You do not want an answer.

Mr Smyth: They do not like the answer.

MS CARNELL: I am sorry that I know the answer. If they want one to which I do not know the answer, they will have to try harder, Mr Speaker. With regard to valuing assets for sale on the market - listen, Mr Stanhope - the basis upon which people buy things is the cash flow. Surprise, surprise! It is actually based upon the sort of cash flow they would be able to get for that asset, such things as opportunity and cost coming together in basically what they would be willing to spend or to pay for an asset. So, Mr Speaker, using cash flow information - - -

Mr Berry: Why not the other way?

MR SPEAKER: Order! Mr Stanhope is trying to hear the answer. Do not be discourteous to your leader.

MS CARNELL: Mr Speaker, using cash flow information and a weighted average cost of capital discount rate - - -

Mr Berry: Tell us what that means.

MS CARNELL: I can if you would like.

MR SPEAKER: Mr Berry, it would take far too long to explain it to you. Would you please be quiet.

MS CARNELL: If you would like, Mr Berry, I am more than happy to take you outside later and give you a full run-down on the weighted average cost of capital discount rate. I am even happy to do it now but it would waste question time.

Mr Smyth: Get Mr Quinlan to explain it; he knows.

MR SPEAKER: Order! Chief Minister, continue, please.

MS CARNELL: Mr Speaker, this is a universally accepted methodology for estimation of the value of the business. It is not used only by the private sector. All governments who have considered selling businesses have used exactly the same methodology. It is interesting to note that in this report in which the Australia Institute have valued ACTEW in public ownership they make the point that the methodology that they have used is still being debated and is open to debate by economists. Mr Speaker, for that read, "Nobody yet agrees with us". On one side we have a situation where ABN AMRO are using the same methodology as is used by governments and the private sector to value businesses for sale and on the other side we have a methodology that the people who wrote it believe is still being debated by economists. Everything in the world is being debated by economists. It just means that they do not know the answer yet.

Mr Berry: Mr Speaker, I ask the Chief Minister to table the document to which she was referring.

MR SPEAKER: I do not know that she was referring to a document.

Mr Berry: She was. It is a public document.

MS CARNELL: No, I did not. I was just holding it up.

MR SPEAKER: That document. I thought copies were available.

Mr Berry: I would like the document in its current state.

Mr Humphries: It is convention that we do not ask for ministerial papers.

Mr Berry: No, this is not a ministerial brief. This is the document.

Mr Humphries: How do you know what it is?

Mr Berry: I can see it.

MS CARNELL: Have you not got a copy? Mr Speaker, I did not quote from the document. I held it up.

MR SPEAKER: I did not think you did.

Mr Berry: No, you were referring to the document. Will you table the document that you referred to?

MS CARNELL: No, because you have a copy.

Mr Humphries: Mr Speaker, there is no point of order. This is a breach of standing orders.

MR SPEAKER: No, there is not, actually. I am as puzzled as you are, Mr Humphries. Do you want to ask a question or would you like Mr Stanhope to ask his supplementary question?

Mr Berry: Of course.

Mr Humphries: We will take you out the back afterwards and show it to you.

Mr Berry: I would not go outside with her by myself.

MR SPEAKER: Mr Berry, would you mind sitting down. I think Mr Stanhope wants to ask a supplementary question.

MR STANHOPE: Mr Speaker, will the Chief Minister agree that she should increase the reserve price that the Government has placed on ACTEW to account for the confusion in methodology that has undervalued the asset by up to $700m?

MS CARNELL: Mr Speaker, the Australia Institute uses accrual accounting figures and the long-term bond rate as the discount rate. While you would have to say that it is imaginative, it is not how it is done in practice. I accept that they had to think long and hard to work out what was wrong with ABN AMRO. They had to use their imagination. They had to come up with an approach that was still being debated by economists and they came up with a figure. I have to say that if, by chance, they are right and somebody pays $1.7 billion for ACTEW when we put it on the market, boy, we are away. Mr Moore's problems in Health will be solved. The whole situation will be good. So, let us hope that we do get $1.7 billion for ACTEW. When we put ACTEW on the market we will take the best bid - not necessarily the highest bid, but the one that is best for the community.

What we have here is the Australia Institute using a methodology that they accept is still being debated by economists versus ABN AMRO using a methodology that is used universally by the private sector and the public sector for valuing assets. At the end of the day, Mr Speaker, which one would you take?

ACTEW - Sale

MR QUINLAN: Mr Speaker, my question is to the Chief Minister. Love it or hate it, the Australia Institute report clearly and succinctly articulates the fact that the only element of ACTEW's operation that is subject to any discernible risk is the electricity retail process. Is there any justification for considering the sale of water and sewerage operations and, in fact, the electricity hardware beyond the pursuit of $1 billion, or maybe $1.7 billion, to fund the superannuation liability and probably to buy votes over the remaining term of this Assembly? Will you now concede that the risk is isolated to the electricity retail business?

MS CARNELL: Mr Speaker, one of the fascinating things about the Australia Institute report is that, when it talks about the electricity retailing market, it indicates, as Mr Quinlan has, that the capacity to maintain the profitability or even the gross revenue from electricity retailing is, to quote Mr Quinlan, zip, non-existent, does not exist. They are Mr Quinlan's words. The Australia Institute do not actually say that in the report; they actually suggest that it is a bit shaky here.

Mr Speaker, we know - at least, I hope Mr Quinlan knows - that 30 per cent, I think, of the gross revenue of ACTEW last year came from electricity retailing. So, it is not an insignificant part of the gross revenue. In terms of profit, it was nearly $19m. Mr Speaker, I have to say, from my perspective, that that is quite a large amount of money. One of the things that the Australia Institute report does not do is take into account the risk of loss. I think that that is a fundamental problem with this report.

It suggests that all that can happen with electricity retailing is that the profit may go. That, I have to say, is the least of our worries, because, as we have seen in the market already both in South Australia and in New South Wales, potentially in Victoria as well, electricity retailers lose money, and big money, quickly because they are operating in a spot market, a spot market that can vary significantly in cost of electricity over a very short period of time.

Mr Speaker, I understand or the market seems to believe that at least one electricity retailer in New South Wales lost $10m in a week. That sort of loss is real. It is real for a government and it is real for the community. If I came into this place and said, "Oops, sorry, Mr Speaker, sorry Assembly, ACTEW lost $10m last week. I know that you will forgive me because we were trying. We were in there in the market doing our best; we just happened to lose", I know what would happen. The Assembly would immediately call for my resignation and for the resignation of the board and the CEO and would have absolutely no - - -

Mr Corbell: So, this is all about protecting your job, is it?

MR SPEAKER: Order! The cross-chamber exchanges will cease. The Chief Minister is answering the question.

MS CARNELL: Mr Speaker, not even the Australia Institute can find a reason to keep the electricity retailing. The rest of the business, as we know, is basically a toll business, a business that will not grow, simply because the ACT is not growing. Mr Speaker, on our evidence, our advice, the ACT can get a significantly better return on that money invested in what is predominantly a toll business by investing it in our unfunded superannuation, paying off debt and in other things such as a community fund.

Mr Speaker, all of the figures show that to be the case. The Auditor-General said yesterday that, if there were any indication that the value of ACTEW was going to increase in the future, there would be a good reason to keep it. If the value of ACTEW was going to escalate as our unfunded superannuation liability and our debts escalated, then the benefit of keeping ACTEW would be there. As the Auditor-General said yesterday in his report, that is not the case. The indications are that the value of ACTEW will actually decrease. The value of ACTEW decreases, the unfunded superannuation liability increases, and the gap widens.

To answer Mr Quinlan's questions very succinctly, yes, the risk is in the retail market, but it is not just the risk to the profit; it is the risk to the fundamental core of the business by losing lots of money quickly. Mr Speaker, the reason you would go ahead and sell is simply that the value and the return to the people of the ACT, according to the Auditor-General, ABN AMRO and just about everybody else who has looked at it except possibly the Australia Institute, are better.

MR QUINLAN: I have a supplementary question, Mr Speaker, on water and sewerage. Can you explain - - -

Ms Carnell: So, you have given up on the electricity functions.

MR QUINLAN: No, stay with water and sewerage. It is the remainder. It is the bit that is not subject to risk, which is what we are talking about. In relation to water and sewerage, can you explain how the people of the ACT can retain genuine ownership of franchised dams, water treatment works and sewerage works when you intend to flog off the pipe distribution and collection networks? Can you please give us your vision of events at the expiration of the 50-year franchise period?

MS CARNELL: Mr Speaker, in terms of being asked for an opinion, normally we rule out opinions of what will happen next year. I have to tell you that in 50 years' time there is not a big chance I will even be here.

Mr Corbell: She does not care, Mr Speaker.

MR SPEAKER: Mr Corbell.

Mr Corbell: She does not care because she will not be here. It is 50 years on; therefore, it does not matter, Mr Speaker. That is what the Chief Minister is saying to us today. My question is to the Chief Minister.

MR SPEAKER: Mr Corbell, is that your question? In which case, you can sit down and wait for the answer.

Ms Carnell: Mr Speaker, point of order: The point I made there - - -

Mr Quinlan: I am satisfied with the answer, Mr Speaker.

MR SPEAKER: Just a moment.

Mr Berry: That is not a point of order, Mr Speaker. Which standing order, Mr Speaker?

Ms Carnell: Mr Speaker, the point of order I made was that the question should be ruled out of order because I was being asked for an opinion, but not even an opinion now, an opinion in 50 years. So, the question should be ruled out of order.

MR SPEAKER: Order! With all the noise - - -

Mr Quinlan: Point of order, Mr Speaker: The question related to the rationalisation that the Government can place on selling water and sewerage. It has nothing to do with - - -

MR SPEAKER: Fifty years down the track?

Mr Quinlan: You have to know that because that is what you are committing for. It is part of the decision that they have taken. I strongly object to that point of order.

MR SPEAKER: I uphold the Chief Minister's point of order.

ACTEW - Sale

MR CORBELL: Mr Speaker, I am glad that the Chief Minister does not care about anything that happens in this place beyond when she is a member. My question is to the Chief Minister. The Chief Minister has repeatedly asserted that the sale of ACTEW must occur as soon as possible because there will soon be other utilities on the market. The Chief Minister has said that the sale price will drop dramatically if other utilities in other States are for sale and she has given that as her major reason for pushing this process to completion over the concerns of many members of this place. As the Chief Minister would know very well, there is every indication that the South Australian electricity utility is well off the sale agenda for quite some time. She would also be aware that the new Liberal leader in New South Wales, Ms Chikarovski, has made comments in recent days which seem to indicate a change in position for the privatisation of electricity in that State, which will have implications for the market.

Mr Hargreaves: Before an election.

MR CORBELL: Before an election. At least she is honest, Mr Speaker. Will the Chief Minister acknowledge that the tide is turning on privatisation, as other jurisdictions realise that the evidence is that privatisation costs the public in terms of service, access and equity, in terms of environmental protection, and in terms of long-term damage to public sector economies? Will the Chief Minister at least acknowledge that there is no rush and will the Chief Minister now allow a full, open and considered process of dealing with the issues the community want addressed before any decision is made to privatise ACTEW?

MS CARNELL: Mr Speaker, I come back to comments about Mr Corbell's questions. They are so long and ask so many different questions. I am happy to answer a bit of the question. I am happy to answer all of it, but it is just impossible.

MR SPEAKER: If members wish to ask long and detailed questions, it is their fault if they do not receive a response to all parts of it.

MS CARNELL: Thank you, Mr Speaker. I could not agree with you more. The Auditor-General, in his report yesterday, said that, if ACTEW is to be sold, as the selling price is likely to reduce in the future the more appropriate course would be to sell earlier - - -

Mr Corbell: Yes, but what about ETSA? ETSA is off the market.

MR SPEAKER: Be quiet, Mr Corbell. You have asked your question in some detail.

MS CARNELL: Mr Speaker, the most appropriate course would be to sell earlier rather than later. The reason for that, quite clearly, is that right now, as the Auditor-General says and other people have said, there is obvious interest in the market as there are opportunity costs in getting into the market now. I have to tell you that Mr Carr was quoted in, I think, the *Daily Telegraph* only a couple of weeks ago as saying that selling their electricity entities had not been taken off his agenda. The reasons for that are exactly the same as the things we are talking about now.

Mr Quinlan himself accepts that electricity retailing is a risky business. Other States are saying the same thing. New South Wales, South Australia and all of the others will get out of electricity businesses generally, simply because the levels of risk are too high for State governments. South Australia, having an upper house that is, I suppose, hung, may have chosen not to go ahead. It is interesting that their electricity retailer lost $8.6m last year. What a great win that was for South Australia! They get to keep something that is losing money. It is up to them to make decisions for South Australia. I do not think that that is a very wise decision. Certainly, it is not one that I would suggest should happen here.

Mr Corbell made comments about the environment and the price. He continues to restate all the things that he has said before in this place and been shown to be incorrect on. What has happened in the market that has been privatised in Australia? The outages have actually decreased. We have shown all the figures. Mr Corbell continues to quote figures that he knows are wrong. What has happened with prices? The prices have come down; there is no doubt about that.

Mr Corbell: Unplanned outages have gone up.

MR SPEAKER: Order!

MS CARNELL: The level of services has improved, the level of outages has gone down and the price has reduced.

Mr Corbell: Unplanned outages have gone up in Victoria.

MR SPEAKER: I warn you, Mr Corbell.

MS CARNELL: Mr Speaker, if that is the case, what was Mr Corbell's question even about? With regard to franchises generally on water, and I assume that that is the other part of Mr Corbell's question - - -

Mr Stanhope: Is this a note from a local economist?

MS CARNELL: No, Mr Speaker, there are no local economists here. Mr Speaker, with regard to the proposed sale of ACTEW and the franchising of the water assets, as members of the Assembly know, we have already tabled a statement of regulatory intent. We have already made it clear that the statement of regulatory intent will be

moved into legislation. That legislation will need to be passed in this house prior to any actual sale of ACTEW. That statement of regulatory intent will cover, as we have made it clear, such things as price, environment, service, ensuring that the ACT customers, the ACT taxpayers, have significantly greater protection than they have now.

Mr Quinlan: You are saying, "Trust me".

MS CARNELL: We are not saying, "Trust me". We are saying that we will be putting it in legislation before any sale goes ahead. Mr Speaker, we have indicated that we will be setting up a consumer council that actually has directive powers, things that do not exist now. There will be a capacity for consumers to complain to it and get results - not an ombudsman, not an advisory body, a body that actually has directive powers. Mr Speaker, this is a huge step in the right direction with regard to service. It shows without doubt that the approach that we have put in place, certainly an approach that is best practice, is miles ahead of that in any other part of Australia - - -

Mr Corbell: That is what Jeff Kennett said, too.

MR SPEAKER: Mr Corbell, you are under one warning. I am quite capable of naming you if you keep this up.

Mr Corbell: I am sure you would be, Mr Speaker.

MS CARNELL: Mr Speaker, this approach does ensure service delivery, does ensure maintenance of assets, and does ensure return to the ACT taxpayer. Mr Speaker, those opposite have not said what they would do to achieve those outcomes.

MR CORBELL: I am glad that the Chief Minister says, "Trust me", because that is what she is asking everyone in this place to do. Mr Speaker, I have a supplementary question. Will the Chief Minister now admit that her rush to sell off ACTEW is to avoid the scrutiny of the Canberra community in any real debate about the adequacy of the regulatory framework, about the nature of the franchise arrangement, as raised by my colleague Mr Quinlan earlier, or about the protection of a safe and sustainable water and electricity supply? Will she admit that her rush to sell off ACTEW is to avoid any scrutiny of the economic implications, as has been raised by my colleague Mr Stanhope? Will the Chief Minister admit that she does not know the answers to any of these questions expressed by the community so far, and she knows very well that the sale of ACTEW will not stand up to public scrutiny? Will the Chief Minister admit that she is just crashing through with this appalling lack of process to avoid being accountable to the community, who have not given her Government a mandate for sale?

MS CARNELL: It is interesting how long a supplementary question can be, Mr Speaker.

Mr Kaine: How long can the answer to a supplementary be?

MS CARNELL: If I answered every bit of it, the whole of question time. Mr Speaker, obviously that - - -

Mr Corbell: That would be a first if you answered every bit of it.

MR SPEAKER: It might be your last, Mr Corbell, if you keep that up.

MS CARNELL: Mr Speaker, obviously the comments made by Mr Corbell are simply rubbish. Even today at lunchtime I did a full briefing for a particular organisation. I did three of them last week. My Assembly colleagues are doing the same. Mr Speaker, we have made available a staff member to work with ACTCOSS during this period of working - - -

Mr Corbell: Yes, and ACTCOSS want an extension on the community consultation.

MR SPEAKER: I name you, Mr Corbell.

Mr Berry: Mr Speaker, I seek leave to move a motion to dissent from your ruling.

Mr Moore: No, leave is not granted.

Mr Berry: Mr Speaker, I move to suspend so much of standing orders as would prevent me from moving a motion of dissent from your ruling. I move that so much of standing orders be suspended - - -

MR SPEAKER: Order! The Clerk has advised me that I have not made a ruling. Therefore, you cannot move a motion against my ruling. I have not made a ruling; I have simply named a member. I call the leader of the house.

Mr Berry: I move that so much of the standing orders be suspended as would prevent me from moving a motion of dissent from your decision.

MR SPEAKER: The leader of the house has the call.

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

> That Mr Corbell be suspended from the service of the Assembly.

Mr Berry: Mr Speaker, I insist. I want to suspend so much of standing orders as would prevent me from doing that.

MR SPEAKER: You will have the opportunity to vote against this motion if you wish.

Mr Berry: No, I want to suspend the standing orders.

MR SPEAKER: The question is: That the motion be agreed to.

Mr Berry: I did not hear the motion, Mr Speaker. The motion was that I - - -

MR SPEAKER: I will ask the leader of the house to repeat it.

Mr Berry: I move to suspend so much of standing orders as would prevent me from dissenting from your decision.

MR SPEAKER: You cannot do so. It is not possible. I call the leader of the house.

Mr Humphries: Mr Speaker, I moved: That Mr Corbell be suspended from the service of the Assembly.

Question put.

The Assembly voted -

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

Question so resolved in the affirmative.

MR SPEAKER: Mr Corbell, you are suspended from the service of the Assembly for three sitting hours.

Mr Corbell accordingly withdrew from the chamber.

Civic Youth Centre

MS TUCKER: My question is to Mr Stefaniak, and I think that he has had some notice of it. Care Action, St John's Church, Reid, the Red Cross, the Hare Krishnas, the Freemasons and the Civic Youth Centre provide meals to the homeless and hungry on a rotational basis every night of the week. They currently do so at the Civic Youth Centre, which is a resource specifically for those under 25 years of age. I think that you are aware that the Civic Youth Centre no longer will be able to provide meals to those over 25 years of age; so, my question is: What provisions are in place to provide a new venue to the other organisations to feed those people?

MR STEFANIAK: I am not quite sure that the member has got the right end of the stick there. Members would be aware that the Civic Youth Centre has been operating from the Griffin Centre for some time. It continues to do so; in fact, it has enhanced its services considerably this year. Mr Speaker, at the present time the structure of the service and the opening hours are really very much a matter for the staff and the board of management there. The coordinator of the Civic Youth Centre has informed the Office of Youth that from January of next year the opening hours of the Civic Youth Centre will be extended from 4.30 pm to 6.00 pm Monday to Thursday. Obviously, that will benefit the many youths who utilise the centre.

A free meal has been offered in the past to persons older than 25 years as well as to young people. The Civic Youth Centre's management is attempting to discourage persons over 25 years from using the centre as a focus for meeting their needs. That will mean that organisations which currently offer the free meal service from the Civic Youth Centre at 4.30 pm will be required to offer this service from 6.00 pm. I have not heard of anything which indicates that people who need a free meal will not get it, except that the times have changed. The time of 6.00 pm is probably a lot better for dinner than 4.30 pm. The centre is doing a number of other things apart from extending its hours. It is also looking at ways in which it can further enhance the needs of youth at the centre.

MS TUCKER: I have a supplementary question, Mr Speaker. I do not think the Minister understood the question. This food will have to be prepared and given in another venue because, basically, it is not appropriate for that to be occurring at the Civic Youth Centre. You are quite correct in what you said, except the point is that what we have been left with is a number of community organisations which are prepared to offer free food to the homeless at 4 o'clock. That time is better for the people in the organisation because they can then go home to their own families. So, it is not going to be as easy for that community sector to provide the meals at 6 o'clock. That is what I am hearing from the community, Minister, so maybe you need to do some more work on it. Apparently, there is space in the Griffin Centre but, because of the requirement to pay rent, it is going to cost $13,000 a year to provide this absolutely vital service. My supplementary question is: Will the Government, being the caring government we hear it is, be prepared to subsidise the rent to enable these community organisations to provide this food free for those people in Canberra who are homeless and hungry?

MR STEFANIAK: It may not even be a question of that, Ms Tucker. Whilst the Civic Youth Centre is attempting to discourage people over 25 years of age utilising the centre as a focus for their meetings and so on, it is not shutting them out completely. A number of organisations provide food. I understand that some of the organisations that provide food do not necessarily do so at the Civic Youth Centre. I am certain that something can be worked out between the various organisations that are providing food to the various outlets and potential outlets that we have around the Civic area. That is certainly something that my office will facilitate if it can.

Ms Tucker: Is that a yes?

MR STEFANIAK: It is at the moment. We will see what we can do.

Health Protection Service

MR OSBORNE: My question is to the Minister for Health and Community Care. Minister, the ACT Health Protection Service is currently structured around five programs - drugs and therapeutics; food safety and compliance; applied environmental health; communicable disease control; and operation and support services. Last year, the Oceania health consulting group undertook a review of the Health Protection Service, and it provided your department with a discussion paper last month. Mr Moore, will you provide an update on the progress of this report, and will you confirm that among its recommendations is a proposal to sack our health inspectors and outsource their positions, as I believe happened in Victoria, even though the restructuring of the service does not produce any recognisable cost savings?

MR MOORE: Thank you, Mr Osborne, for the question. Yes, the Health Protection Service has been reviewed and I have had a look at that review. I have not at this stage made any final decision on it. Indeed, in looking at the restructure of the Health Protection Service I have, in conjunction with the department, put the review out to discussion so that people who are affected have an opportunity to comment on the program. One of the recommendations of that review was the possibility in some areas of outsourcing services, but no decision has been made to carry on with any outsourcing at all. As you would know, Mr Osborne, I have an approach where I will not rule out any possibilities under such circumstances. But I would have to see some very significant benefits before I would adopt that kind of approach. It was clear that that area of the department did need a review of its structure and, from the time I became Minister for Health, I have been concerned with the way the system works and the way it is set out.

I should add perhaps, to clarify it completely, that when I looked at the review I also had a briefing from the person doing the review, so I was able to ask questions about why it was that certain recommendations were made. But the most important thing, I think, is for us to work in a collaborative way with people who are affected by such a review. Whenever that happens, Mr Osborne, people are concerned about their jobs, so that it is important that we work with them and work through the issues with them. At the same time, we want to do it in a reasonably quick way so that they do not feel that there is a cloud hanging over them. It is appropriate to find a balance when we are talking about the way people work.

It is also appropriate that we should be doing that because this group, which is currently in a series of different locations, is going to be co-located at the former Holder High School site in what has been named the Howard Florey Building. That will mean that in some areas where we currently have two or three administrations it will be appropriate to have a single administration. One would hope that we could gain some administrative efficiency in that way so that we can improve service delivery, because that is what we are on about.

MR OSBORNE: I have a supplementary question. Minister, are you aware that ACT health inspectors and administrative staff, through their union, have lodged a vote of no confidence in the department and have totally rejected the draft review's recommendations? Are you also aware that they have submitted a strongly worded response outlining the lack of consultation with the staff and the ACT public and serious errors of fact and pointing out the huge risks to ACT Health, in their view, if this report is adopted? Are you aware of that?

MR MOORE: Mr Osborne, it is really interesting to see the approach taken by some unions. It is probably an approach that you will not understand very well. Sometimes when something is put out the approach is to give it a king hit and see whether that has an effect. That is an approach that I know has been taken by some members of this Assembly at various times. I think you would be aware of that, although you may not be able to recall certain specific incidents, even within the last little while. Then they move back to see whether there is a middle position. Mr Speaker, I think it is appropriate for the Government to have made that review public in the sense of making it available to the people who are going to be affected by it. We will continue to negotiate on it.

ACTEW - Sale

MR HIRD: Mr Speaker, my question is to the Chief Minister. I refer to yesterday's release of a report by the Australia Institute which looked at ACTEW Corporation. In particular, I refer to page 25 of the report, which says:

> ... the Government, as majority owner, can set ACTEW's dividend at any level it chooses. If the Government so desires, it could require dividends of $183m every year, just as it did in 1997-98.

Chief Minister, is that statement by the Australia Institute factual?

Mr Quinlan: Sure it is; it is in the book.

MS CARNELL: If it is in the book it must be; that is Mr Quinlan's view. All I can hope, Mr Speaker, is that if anybody ever decides to do so, Mr Quinlan is Treasurer and ends up in gaol. I do thank Mr Hird for the question. Mr Speaker, just 24 hours after it was released, much of the report by the Australia Institute has been discredited. Within two hours, the Government revealed the existence of a $1 billion hole in the institute's assessment of our superannuation problem.

Mr Stanhope: That is rubbish, absolute rubbish.

MS CARNELL: Mr Stanhope says that that is rubbish. I would love Mr Stanhope to get up in this place and explain why it is rubbish, because then we would fundamentally take him apart on it.

Mr Stanhope: Take me outside and explain it to me, too.

MS CARNELL: I am happy to take you outside, too.

Mr Berry: Don't go without a witness.

MS CARNELL: I will take you outside together, if you would like.

MR SPEAKER: There will be nobody left in here soon if we keep this up.

MS CARNELL: Mr Speaker, this $1 billion hole is the extent of the superannuation liability that will accrue over the next 10 to 15 years. Yet all the Australia Institute could say on this subject was that what we needed to do was to fully fund these liabilities in the future. In other words, what we should do from now, from this moment on, is fully fund the accruing liabilities. Mr Speaker, I have to say that $100m a year is a large amount of money.

Mr Speaker, one other glaring mistake in the report is the claim that the Government can set ACTEW's dividends at any level that it chooses. If you want proof of just how out of touch the report is you need only to look at that comment. The Government can take dividends from ACTEW only to the extent that ACTEW makes a profit. That is the law. You cannot take more than the profit in dividend.

Mr Quinlan: It is mainly a monopoly.

MS CARNELL: It is illegal. Mr Quinlan must know that, although it appears from his interjection that he does not know that. So, when you see stupid statements like, "If the Government so desires, it could require dividends of $183m every year", you realise how misleading this document is. The Government did not take $183m as a dividend last year, as claimed by the Australia Institute. Mr Speaker, what we did do was repatriate $100m of capital, and we had to go to court to get an order to do so. It simply cannot be just taken out, Mr Speaker.

Let us assume for a moment that the Government did take $183m out of ACTEW every year, as suggested by the Australia Institute. If we did that, I could guarantee that ACTEW would cease to exist in a very short period of time. Mr Speaker, the only person who would own ACTEW then would be the bank that lent ACTEW all of the - - -

Mr Stanhope: Which bank?

MS CARNELL: Which bank? The bank that would lend ACTEW the money to repatriate back to the Government. Mr Speaker, this is simply ridiculous. These are just two of the problems that the report has identified, a report which, according to the ACT Trades and Labour Council and the Australia Institute, was independently refereed.

Mr Speaker, that was said again by Mr Stanhope in this place yesterday. I want the members of the Assembly to listen carefully to what I say next. The Australia Institute, which is a left-wing think tank, is also a not-for-profit company set up in the ACT.

A company search which I will now table for the information of members revealed that the institute has a number of directors. Two of these directors are listed as Fred Argy and John Neville. Funnily enough, Mr Argy and Mr Neville are actually two of the three referees cited by the Trades and Labour Council, Mr Hamilton and Mr Stanhope as being independent of the institute. Obviously you would not get referees that were not independent of the entity that wrote the report, Mr Speaker; that would not be professional at all.

So, we have a situation where two of the three referees behind this report are not actually independent of the institute but are actually directors of the company. I have nothing against Mr Argy or Mr Neville. In fact, I have never met them. It is not a matter of character, Mr Speaker; it is a question of probity. Why was it that Jeremy Pyner, Clive Hamilton or Jon Stanhope was not prepared to reveal the information that the people they were waxing lyrical about as referees for the report were actually directors of the company?

Mr Speaker, if I got up in this place and said, "Look, I have got as referees these two wonderful people who have run over the ABN AMRO report and they say that it is fantastic", and if it turned out that they were both directors of ABN AMRO, what would happen in this place? All hell would break loose. Those opposite would be claiming, "Shock, horror, we have all been duped. The referees are actually directors of the company". That is exactly what those opposite have done.

Mr Speaker, compare that so-called independent report with the Auditor-General's report brought down yesterday. On the one hand, we have an unsolicited, truly independent report from an officer who is charged specifically with auditing the ACT's books and whom the members of the Opposition were very pleased to endorse for reappointment just recently. On the other hand, we have a report where three of the four authors have publicly expressed their opposition to privatisation and two of the three allegedly independent referees are actually directors of the authors' company.

Mr Berry: Why don't you say it outside, Chief Minister?

MS CARNELL: It is on record.

Mr Stanhope: Attack their integrity outside the house.

MS CARNELL: This is not about integrity; it is about probity. Two of the three referees were actually directors of the company that wrote the report, directors of the Australia Institute. I have tabled the company search, Mr Speaker. It is simply lacking in probity. If Mr Stanhope had not got up in this place and said, "Look, this is wonderful because there are independent referees", there would be no problems, Mr Speaker. But independent referees are not directors of the company. If it was ABN AMRO, those opposite would be crying foul. They would be saying, "Throw the report in the bin". Mr Speaker, the same thing applies the other way round. People who are directors of the company cannot be independent referees.

Water Franchise

MR KAINE: Mr Speaker, my question is to the Chief Minister. Chief Minister, in connection with your Government's proposal to privatise ACTEW, particularly in connection with the water part of it, you have opted for a partial franchise proposal. My research into the privatisation of water round the world shows that where there has been a move to privatise water supply, and it has not been common, the proposition of franchising has not been at all common, and the proposition of partial franchising is extremely rare. In fact, there is only one country in the world which has generally adopted the notion of franchising the water supply to private companies, and that is France. Chief Minister, can you tell us what was the source of your advice that franchising - indeed, partial franchising - of the water supply in Canberra was an appropriate way to go in the Territory?

MS CARNELL: The advice did come from ABN AMRO, but I have to say that we have an officer who actually visited a number of those entities in France and had a look at the situation in other parts of the world as well to see how these franchises actually work. So, we have done quite a lot of research in this area and looked at the best possible way to maximise the value of ACTEW to the people of the ACT while ensuring that we maintain control over strategic assets, as we have said on many occasions, but also important things such as environmental issues, quality of water, and testing - all those sorts of issues.

We believe that the approach we have taken does balance the valid concern of the community to maintain ownership of strategic assets and, at the same time, ensure that those assets can be run in a cost-effective manner and achieve the sorts of community standards required from a price perspective, a service perspective and an environmental perspective. That is the reason we tabled the statement of regulatory intent. We have indicated that we will be setting standards - independent standards that do not exist at the moment. As we know, ACTEW does its own testing, sets its own standards and actually sells the product as well, all inside a corporatised entity. It even has a subsidiary company that does that.

Taking the approach that we plan and taking the regulatory part out of ACTEW itself, having that under the auspices of government so that government has control over standards of service, standards of testing, testing levels and so on - I think we are looking at NHMRC levels at this stage in terms of water testing - gives the balance appropriately. Again, ABN AMRO were a source of advice, plus the fact that we have had input from companies and have had an officer talking to the actual councils - they call them shires in France - and so on that have gone down that path, and have been going down that path for quite a number of years now.

MR KAINE: Thank you for that, Chief Minister. My supplementary question flows from that. If you have had lots of input, lots of advice and lots of research you will know that in France, where the majority of the world's franchising of water is actually carried on, the maximum period for which a franchise is granted is 15 years and the most common period is 10 years. The reasons for that are the very things that you outlined - the difficulty of imposing a regulatory regime and of policing and monitoring it.

What, then, is the basis for your advice that in our case 50 years is appropriate - three times, four times, or even five times what is the norm in the one country in the world where franchising is commonly practised?

MS CARNELL: I accept Mr Kaine's comments with regard to 50 years. It is a long time and it is certainly something that the Government is looking at. In terms of the consultations that we are involved in at the moment, we are very interested in the input already from members of the Assembly. I think Mr Rugendyke has made his point clear on this issue; he believes that it should be for a shorter period. That is something that the Government is more than willing to look at.

As we said when we tabled the statement of regulatory intent, it is a document that is open to negotiations, shall we say, and to community input. If the community believes that 50 years is too long, the Government will certainly look at that very seriously. I think that the input that we have had from ABN AMRO, from entities in France and from companies that have been involved in this area for a long time indicates that a timeframe somewhat longer than 15 years would be appropriate and certainly would maximise the return to government while still allowing us to ensure that those assets are being properly maintained.

It is important to remember that at the end of the franchise period, whatever that franchise period would be, we would go back to the market for a new operator. That new operator obviously would have access to the pipes under national competition policy, so comments made earlier that somehow a new franchisee would not have access to the pipes is simply ridiculous. National access codes, competition policy and competition agreements obviously would guarantee that. I take Mr Kaine's comments on board and would appreciate his input to the consultation process.

Belconnen Remand Centre - Inquest

MR HARGREAVES: My question is to the Attorney-General. Is the Attorney-General aware of yesterday's adjournment, for the third time, of an inquest into the death in February of an inmate of the Belconnen Remand Centre? Can the Attorney-General confirm that the coroner was critical of delays in the inquest brought about by a lack of cooperation by ACT Corrective Services? Did the coroner say that he "will not have this investigation kidnapped by the Executive and public servants of the ACT"?

MR HUMPHRIES: Mr Speaker, to the best of my knowledge, yes, that is what the coroner said. I have heard a report of what was said in the Coroners Court. I have asked for a full report on that. When I have that I will certainly take it up with Corrective Services. The initial briefing I have received is to the effect that the information provided by Corrective Services to the coroner was provided not by way of some kind of summons or writ requiring information to be provided on a compulsory basis, but rather as a courtesy to the inquest. Obviously the coroner was critical of the fact that it was provided in the timeframe that it was.

I intend to find out what the story is with those matters. But, Mr Speaker, I would urge members to bear in mind that, of course, this matter is still before the coroner. The inquest has been adjourned until, I think, next year and in that time, of course, the matter remains sub judice. Therefore, I will be restrained in what I might say about the matter while it is still being considered by the coroner.

MR HARGREAVES: I have a supplementary question. I respect that, Minister, and I will restrain myself in the question as well. Could you confirm that recently there have been at least two other attempted suicides at the Belconnen Remand Centre? Can you reassure the Assembly and the family of the inmate whose death is the subject of this investigation that every effort is being made to assist in the inquest? You were not quite sure about whether that was so. Could you assure us that that will be so?

MR HUMPHRIES: Mr Speaker, as to the second part of that question, I cannot answer that at this stage. I had not been briefed until yesterday on any of the developments with respect to that inquest from the point of view of Corrective Services, so I could not say whether there has been full cooperation or not. I would certainly hope that members of Corrective Services - indeed, all agencies of the ACT Government - would be fully aware of the need to cooperate absolutely with the judicial process, whether it is in the Coroners Court or elsewhere. Indeed, yesterday the Director of Corrective Services, in his minute to me, did say that he was naturally - he said "naturally" - very aware of the requirement to be fully cooperative with such processes.

As to the question of other attempted suicides, I am briefed fully by Corrective Services whenever there are incidents within the Remand Centre or the Periodic Detention Centre which fall into a number of categories - where illicit drugs are found, where inmates suffer significant harm, and where there are attempted suicides. I have to say that I do not recall seeing any briefs about any attempted suicides in recent months, but I am happy to find out whether there have been any attempted suicides in that period and advise Mr Hargreaves.

Nurses - Enterprise Bargaining Agreement

MR BERRY: My question is to the Minister for Health and Community Care. Minister, today hundreds of nurses stormed the administrative offices at the Canberra Hospital as a result of their frustration with your arrogant refusal to accept the strong recommendations of the Industrial Relations Commission in your dispute over a new EBA. It is clear, Minister, that your arrogance in this matter is the root cause of the industrial chaos in our health system, as displayed in what I would describe as weasel words in the letter you sent to the Australian Nursing Federation yesterday. Your acknowledgment that you have ignored the commissioner's strong recommendation is clearly an attack on the nurses union. The spin-off of an extended industrial dispute,

of course, is assistance with your burgeoning health budget problems. Is it not about time that you accepted absolutely and unequivocally the umpire's recommendation in order that patient care and safety once again can become the priority of the hospital, rather than your squabble with the nurses? Do not give me this business that you have accepted the commissioner's recommendation without preventing the process from continuing. When will you stop the process from continuing and accept the commissioner's strong recommendation?

Mr Smyth: I take a point of order. It is quite clear in the standing orders that you cannot debate an issue in asking a question. The member should either put his question or sit down.

MR BERRY: You would not know; sit down.

MR SPEAKER: Order! I uphold the point of order, Mr Berry.

MR BERRY: What was the point of order?

MR SPEAKER: You were asking a question.

MR BERRY: I am asking a question.

MR SPEAKER: Yes, but you must not debate it.

MR BERRY: I am not debating it. I am just giving a preamble to it. The question-in-chief, I might put it.

MR SPEAKER: Have you asked your question?

MR BERRY: I have finished. I am just waiting for the Minister's answer.

MR SPEAKER: Thank you. And you, Mr Moore, are not permitted to express an opinion in your answer.

MR MOORE: Yes. This issue is about patient care and safety. Mr Berry, I was not the one who, in dealing with patient care and safety, wrote to the chief executive officer of the Canberra Hospital and said:

> Please be advised that a skeleton staff will not be left at TCH during the stoppage, so you will need to make alternative arrangements for the care of patients at TCH.

I was not the one who wrote those words, Mr Speaker. In fact, the person who wrote those words and signed the letter was Colleen Duff, secretary of the Australian Nursing Federation. She would not put in a skeleton staff during the stoppage. Fortunately for patients and fortunately for patient care, the majority of nurses appear to have a different view from that of the Australian Nursing Federation.

Mr Berry talks about hundreds of nurses storming the office of the CEO. First of all, let me say that I think it is entirely inappropriate for people to act in that way and storm the office of the CEO. However, let me tell you what actually happened this morning during that period. The Nursing Federation called on all nurses to strike. They asked for all nurses to walk out, leaving no skeleton staff. How many did? Of the 200-odd nurses who were on duty at the time they were asked to do so, at 9 o'clock this morning, just over 50 of them said that they were going to leave their post. It seems to me that the nurses recognised a series of things. The first thing they recognised was that to leave patients without care was just inappropriate. It is a shame that the federation did not have the same view.

Mr Berry: Your arrogance is causing this, Michael.

MR MOORE: No, Mr Berry, it is not my arrogance that has caused it at all. The industrial relations commissioner, in her strong recommendation, said that we should make sure that we carry out what was required of the current EBA, that is, that we do a comparison in salaries before we get to the point where the agreement is certified. Mr Berry, we will do so. The hospital, on that recommendation, immediately invited the Nursing Federation to join it as equal partners in carrying out that task. The hospital immediately invited them. But the Nursing Federation has a different agenda. Their agenda is to stop a ballot. They do not want to have a free, secret ballot. Mr Berry, coming from the Left of the Labor Party, might not understand the benefits of having a secret ballot; in fact, he probably thinks that there are incredible disbenefits to having a secret ballot, and I am sure that he does. But what they seek to prevent is a secret ballot of staff at the hospital.

Mr Stanhope: Don't you like nurses?

MR MOORE: In fact, I wrote to Colleen Duff on this very issue. I said:

> The issue upon which the Commissioner based her strong recommendation that the ballot not proceed - the failure of parties to the current nursing agreement to review market rates of pay - appears to have been resolved by Mr Johnston's announcement that such a review will take place prior to next year's salary negotiation phase. I urge the Federation to participate fully in that very useful exercise.

Mr Berry: Weasel words; inflammatory weasel words.

MR MOORE: On the contrary, Mr Berry. Mr Stanhope interjected earlier, "Don't you like nurses?". I like nurses very much. Let me say that they do a fantastic job. That is why, Mr Speaker, I trust the nurses to make their own decision, to do it in secret ballot and come out with a decision on whether they want to go down the path of an enterprise bargaining agreement which provides them immediately with an increase in their salary in the order of 10 per cent and provides a framework for a further salary increase.

Some misinformation has been put around about this issue, saying, "This is the end of the deal. This is what you get and that is the end of it". It is not. That is how it works. That is what we are telling the nurses. That is what the hospital is telling the nurses.

That is what we would like to put to them. Unfortunately, the framework is not the preferred method of the Nursing Federation which, as I understand it, would prefer to have a single agreement covering the whole of the Territory. If we did that, Mr Berry, I would not have the wherewithal to provide nurses with anything like that kind of return in their salary. In other words, Mr Berry, I do like nurses enough to trust them to make their own decisions. Secondly, I will provide, if I can, a significant increase in their wages, because this is about individual nurses being able to make their decisions.

I will just go back to the way I started. I said, Mr Berry, that approximately 150 of the 200 or so nurses indicated that they would be remaining in the wards. I understand that 50 or so nurses joined the stoppage, and they are entitled to do that, and then other nurses who were off duty came and joined them, giving, I am told, a total of about 100 nurses in this industrial action. Mr Berry, I do not like industrial action. When you were the Minister and you were having a significant dispute with the Nursing Federation over the triple-eight roster, I am sure that you did not like having the dispute. None of us likes disputes - at least, none of us on this side of the dispute mechanism. I presume that the federation would prefer not to operate with these sorts of dispute mechanisms; but if in the end I go into dispute with the Nursing Federation in order to give ordinary nurses a significant increase in their salary, I am prepared to do it.

MR BERRY: I have a supplementary question. Minister, will you accept the challenge to take this matter back to the Industrial Relations Commission and let the umpire decide whether you have handled this matter correctly, in accordance with her strong recommendation? Will you accept the challenge - yes or no?

MR MOORE: Mr Berry, the Nursing Federation - - -

Mr Berry: Yes or no? Yes or no?

MR SPEAKER: Just a moment; he is answering the question.

MR MOORE: Mr Speaker, I am not going to answer Mr Berry's question with a yes or a no. Next he will be asking me whether I have stopped beating my wife - yes or no. Mr Berry, you would be aware that, under the industrial relations system, if the federation wants to go back to the commission it is entitled to do so. I am sure the Nursing Federation, reading the letters that they write, will be doing what they can to convince their members that this enterprise - - -

Mr Berry: You are fumbling.

MR MOORE: Mr Speaker, it is particularly difficult to answer questions when Mr Berry interjects on every second word. An occasional interjection of the sort that we get from Mr Hargreaves, which is very rare and is right to the point, is an acceptable bit of parliamentary practice, but the constant bantering from Mr Berry where he has got his mouth in gear but his mind in neutral is incredibly difficult to deal with.

Mr Speaker, the industrial relations process is available to the two parties to this agreement, the hospital and the Nursing Federation, but I re-emphasise that this Government is interested in delivering the best possible deal it can for the nurses in the wards and Mr Berry finds it hard to understand, given where he comes from in politics, that a secret ballot conducted by the Electoral Commission is a fair and reasonable way of allowing nurses to decide for themselves whether they want to go along with the proposal.

Sobering-up Shelter

MR RUGENDYKE: Mr Speaker, my question is to the Minister for Health and Community Care, Mr Moore. Minister, you are no doubt aware that two or three years ago a sobering-up shelter was established to care for people with alcohol problems and to steer these people away from police watch-houses. As I recall, the shelter was open for about a year and closed following an unfortunate death at the premises. Could the Minister please advise the Assembly what stage plans are at for the reopening of a sobering-up shelter in the ACT?

MR MOORE: Thank you, Mr Rugendyke, for the question. I have had a number of discussions with people in my department to determine what is the most effective way to deal with a sobering-up shelter to make sure that our liability issues are dealt with appropriately and, more importantly, that people who are in a sobering-up shelter will be safe. At this stage, I think that it would be best if I come back to you with a detailed answer on exactly where we are up to with that negotiation.

MR RUGENDYKE: As a quick supplementary question, I take it that you would agree that having a system to divert drunks from watch-houses is much more appropriate than the existing circumstances.

MR MOORE: Philosophically, Mr Rugendyke, I agree with you that, if somebody is drunk, we should be treating them with respect and trying to ensure that we get them through that stage safely and get them home. Of course, that was the idea of a sobering-up shelter, keep them away from the issue of law, not put police in an awkward and inappropriate position, and give them somewhere to go. It is something that I will put some effort into now and let you know how we are going with it.

Mr Speaker, considering that the house is due to rise tomorrow for the break over summer, I may take that answer back to Mr Rugendyke personally rather than taking it on notice in the normal way. If other members are interested in that answer, I am happy to provide them with it as well.

Government Housing

MR WOOD: My question is to the Minister for Urban Services. Minister, I receive many anxious approaches from tenants of government housing complexes who fear for their continuing security of tenure. For example, two weeks ago I was contacted by an O'Connor resident whose neighbours, all of whom are in the private sector, had received very informative letters from ACT Housing telling them that his house was to be pulled down and turned into units. What a pity no-one from ACT Housing had the courtesy to tell him! He, the tenant, was the last to know. Only yesterday I was contacted by a lady who had lived in her apartment in the Northbourne Flats since the 1950s. Her neighbours and she are worried about their future after the announcement of the so-called vision for Northbourne Avenue. Their worry is not unnatural, given the excessive media hype over the report, yet no-one from ACT Housing has approached them. Similar anxieties are held at Burnie Court and Lachlan Court. Given the Government's oft-stated commitment to consultation, will you immediately set up a program to talk to the residents in each of these complexes to provide the detail of any plans for the future and to hear residents' views, and do so before decisions are taken?

MR SMYTH: Mr Speaker, I thank Mr Wood for his question and I thank him for giving me some indication that this question would be coming. This Government is committed to consultation, and real consultation. I would like to cite as an example what happened just some months ago with McPherson Court. The Federal Government has given the ACT Government, through ACT Housing, some $200,000 to look at different manners of provision of public housing. The Community Housing Canberra Group are now doing a feasibility study for the redevelopment of McPherson Court, being very much aware that all tenants deserve to know the future of the place, whether it puts a roof over their head.

In the case of McPherson Court, newsletters and letters were put out to the residents and meetings were held so that residents could come and ask questions to find out what was going on and what their part in it was, what their future would be. My understanding is that ongoing information is being put out to the residents of McPherson Court as to what is happening with the development of this plan. I think we got it very right in the case of McPherson Court. I understand that in the O'Connor case a resident was, in fact, overlooked. Officials from the department have now spoken with and apologised to the resident.

In the case of Northbourne Avenue, the draft variation which is out for comment is, of course, a National Capital Authority and PALM document that is put out. What happens to the substantial holdings that ACT Housing has on Northbourne Avenue may change as a consequence of the variation. The ACT's holdings in terms of housing have an impact on the variation, but will not necessarily stop the variation from proceeding. In that regard we have put notices out to the residents of the Northbourne Flats, for instance, to let them know what is happening. I understand that there have been meetings in Havelock House and at PALM itself to explain further what is happening there. We have certainly put out large amounts of information there.

As to the all-up strategy, I have sitting next to me the former Minister for Housing, who, I think, did a tremendous job in prompting the community to look at the needs of public housing, particularly how we manage the big flats. Members might or might not be aware that we have 29 multisite complexes with more than 40 units. We call those our big flats. There are 29 sites across the ACT that are part of the big flats. Many would be aware of the major names. I am sure we have all heard of Burnie Court and Lachlan Court.

Each has different needs. We have a strategy in the short term to address those needs. We are constantly talking with the residents. We have programs in place there to look at issues such as their safety and security, where we liaise with the AFP. There is a continual process to upgrade the stock. Recently, we upgraded 228 dwellings at the Allawah and Bega flats. We are replacing the heating systems at the Northbourne Flats. We have done landscaping at Corryton Gardens in North Lyneham. We have upgraded sewerage at the aged persons units at Braddon. The list goes on and on.

Currently, we are looking at the needs of tenants long term. We are looking at where they want to live and in what sort of housing they want to live, instead of saying, "You just have to live in the houses that we provide". We are making sure that our stock matches their needs. We are making sure that the sometimes unhealthy concentrations that occur in some of the big flats are broken up, if possible. All of these things take time. We are working towards that and we are developing a strategy that we will implement as soon as we can.

As to a formal announcement and a date, this strategy is continuous. It is not something that will just stop and start in a defined period; the whole process continues. We are looking towards improving the accommodation that we provide to all our tenants all the time. A major part of that, of course, will be consultation with the existing tenants.

MR WOOD: I wish to ask a supplementary question, Mr Speaker. I am anxious to get a particular date here and I want to make the aside that I do not think the McPherson Court consultations were necessarily the best. They were not bad. The fact is that ACT Housing is working on plans for some of these complexes. Staff are in their offices working diligently on plans, but the tenants do not know what those plans are. Contrary to what happened at McPherson Court, they ought to be told at this stage. So, I am looking for a commitment. Bearing in mind that the Christmas period is coming up, will you give a commitment to go to Burnie Court and Lachlan Court - I hear what you say about Northbourne Flats - by mid-February and say, "Look, this is what we are thinking about. This is how far we have gone. What do you reckon"? Could that be done?

MR SMYTH: Mr Speaker, I will not pre-empt when the strategy will be ready. We are making sure that we get the strategy right. It involves a large number of our tenants. It may vary from unit to unit. As I have said, there are 29 of these sites. How we release that information will be appropriate at the time. The needs of the various complexes vary from things like the age of the units to the siting of the units and the efficiency of the units. The important thing here is the needs of the tenants. The tenants are now telling us, according to our surveys, that where people wish to live is not necessarily where we have holdings. Some of the sites that we offer people simply because they are the only

houses that we have are not necessarily their first choice. What we have to do is to make sure that we get this right. This is a long-term process and there is no point in just saying that as of mid-February we will have a date when it will all start. This is an ongoing thing. Bill Stefaniak started it. He started it very well by announcing the big flats strategy. We are addressing those problems and we will get on with the job.

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

Water Franchise

MS CARNELL: Mr Speaker, may I give some further information from question time?

MR SPEAKER: Yes, certainly.

MS CARNELL: Mr Speaker, I am advised from the CGE, that is, the French water corporation or the entity that runs it, that the concession - - -

Mr Humphries: Compagnie Generale des Eaux, probably.

MS CARNELL: That is the one. Can you just say that again?

Mr Humphries: Compagnie Generale des Eaux.

MS CARNELL: That is it; that is the one. He did it well.

Mr Humphries: Just a guess.

MS CARNELL: It is, but that is the one. The advice is that concessions or franchises in force in France are commonly for 25 to 30 years. We will certainly give Mr Kaine more details of some of these arrangements if he is interested, and I am sure that he will be.

Mr Speaker, I was also asked what would happen with regard to the pipes if the franchisee changed in the future. If the existing franchisee - at the moment, that would be the owners of the pipes - did not win the franchise for the next period national access codes and competition policy arrangements would mean that the new franchisee would have access to the pipes under the terms and conditions set by the independent regulator. This would happen very smoothly, and would not impact at all on service delivery under, as I said, the national access code requirements.

Hospital Waiting Lists

MR MOORE: On 26 November, Mr Stanhope asked me a question about a $3m offer to the Canberra Hospital to purchase elective surgery to reduce waiting lists. He asked what the impact on the waiting lists would be if the $3m was taken up, why the hospital had not taken up the offer, and whether the hospital's failure to take up the offer had anything to do with the shortage of nursing staff or the availability of intensive care beds.

My answer is as follows: On the basis of roughly $3,000 per cost weighted separation, $3m would buy about 1,000 separations. However, the impact on the waiting lists if the $3m was taken up would depend upon a combination of the availability of surgeons and the specific nature of the procedures carried out. Some procedures naturally take a much greater amount of theatre time - for example, cardiac bypass surgery takes an average of four hours compared to a general surgical case, which takes between one and 1½ hours. Additional moneys would be targeted at those categories of patients who are the most urgent and have been waiting the longest within those groups.

As the Assembly is aware, waiting lists have shown a small but consistent downward trend over the last few months. All efforts are being made to ensure that this trend continues. However, the normal downturn in activity over the Christmas period is expected to have an impact.

Mr Berry: Especially the strike by nurses.

MR MOORE: Arrangements have been made to provide access to operating theatres for those surgeons who are not intending to take leave. There was initially a reaction to the VMO contract negotiations in the middle of this year which did impede activity. To a large degree, these problems have been overcome. The hospital has, over recent months, been quite open in its statements that recruitment difficulties continued in selected areas despite a very active recruitment campaign. Some bed closures have occurred as a result of the recent industrial dispute with the Australian Nursing Federation. The operating theatres have been able to maintain their throughput capacity despite experiencing some recruitment difficulties. The intensive care unit did experience staffing difficulties for a period of three to four months, which did have an impact on elective surgery. However, staffing is now at the budgeted level.

Mr Speaker, when I was giving that answer there was an interjection from Mr Berry on the nurses' industrial action and patient care. I have a copy of a media release which was released today, which says:

> Rosemary O'Donnell, Director of Nursing, Women's and Children's Health -

in other words, a nurse herself -

> said that staff on the wards coped well and patient care was maintained at appropriate levels.

Indeed, Mr Johnston said this morning:

> Our patients are always our primary concern and sufficient staff remained on the wards to enable adequate levels of patient care to be maintained.

Mr Speaker, as we know, the nurses themselves are interested in patient care and put that as their highest priority. It is a shame that we cannot say the same for the Nursing Federation, who were prepared to call a stop and not even put on skeleton staff in a salary dispute where we are trying to give nurses a 10 per cent increase.

Totalcare Incincerator

MR SMYTH: Mr Speaker, yesterday Ms Tucker asked me about an inquiry into the incineration of pesticides at Totalcare. The former Minister, Mr Humphries, wrote to the Commissioner for the Environment on 12 August 1997 advising that the Assembly had passed a motion calling on the Government to implement a number of measures in relation to the Totalcare incinerator at Mitchell and the Minister asked the commissioner to consider the need for an investigation of the incineration of pesticides. At the same time a code of practice for the incinerator was being developed and, on completion, that code was included in the authorisation for the incinerator under the Environment Protection Act 1997. As the code itself includes a moratorium on the incineration of pesticides, an investigation by the commissioner was not then required.

Kingston Shopping Centre

MR SMYTH: Mr Speaker, yesterday Mr Kaine asked some questions in relation to Kingston and a *Canberra Times* article. The ACT Government's precinct management program has made available $535,000 in the 1998-99 financial year for the first stage of a two-stage upgrade of the Kingston shopping centre's public places. In this first stage, Mr Speaker, we are focusing on the Green Square area. What we will see there is a rejuvenation of the landscaping, the paving, and the drainage and improvements to lighting and street furniture. In stage two of the master plan, the upgrading works will be extended to Eyre Street and Jardine Street, and linkages will be put in place between the shopping centre and the new Kingston foreshore development. That work is yet to be funded.

The article that appeared in the *Canberra Times* on Monday, 7 December 1998 stated that funds had been diverted from the upgrade of Green Square to be spent on fixing drainage. That statement is misleading, Mr Speaker. The stormwater works outlined are critical elements of the Green Square upgrade. They involve the provision of new sumps and piping from Green Square leading northwards along Jardine Street. This new pipe work will connect into the old stormwater system opposite the laneway exit at

Jardine Street, where it currently terminates. The sum of $33,000 of the precinct management program's funds will be used to provide subsoil drainage and for the collection of water from downpipes currently flowing across footpaths in Green Square. It is necessary to carry out this work as part of the upgrade to ensure positive drainage for the square and its connection to the stormwater lines.

Mr Kaine was quite correct. Budget Paper No. 4, page 135, shows that there is money allocated for forward design for the Kingston stormwater augmentation to the value of $200,000. It will be looking at completing design work for upgrading the old system, which is now considered inadequate. It is proposed that this system take the stormwater from Jardine Street to Telopea Park stormwater channel. As yet, construction funds have not been allocated to this project. We will look at that in the context of future capital works programs.

PAPERS

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): Mr Speaker, for the information of members, I present the following papers:

> ACT Government Workforce Statistical Report for the first quarter of 1998-99.
>
> Canberra Tourism and Events Corporation quarterly report for April to June 1998, pursuant to subsection 28(3) of the Canberra Tourism and Events Corporation Act 1997.
>
> Consolidated Financial Management Report for the month and financial year to date ending 31 October 1998, pursuant to section 26 of the Financial Management Act 1996.

The latter report was circulated to members when the Assembly was not sitting.

DISABILITY NEEDS
Discussion of Matter of Public Importance

MR SPEAKER: I have received a letter from Mr Wood proposing that a matter of public importance be submitted to the Assembly for discussion, namely:

> The needs of the disabled.

MR WOOD (4.01): Mr Speaker, in the budget and subsequently, the Chief Minister and her colleagues have spoken much about the caring capital. Today I want to acknowledge a circumstance where that is certainly the case. Yesterday, in company with Mr Rugendyke, I took to Minister Moore two particularly stressful cases of people with a very significant disability. I want to thank the Minister for his prompt

and compassionate response. I might say that it was a very proper response. It was certainly caring. I will not name the families, but I do want to indicate the circumstances and at the same time point out that these are not uncommon circumstances. There are many other families in the community facing the same difficulties.

The first family has three children, two of them most severely disabled. They are confined to wheelchairs and they have communication problems. They are now aged 16 and 20. The second family has a Down syndrome child aged 20, who also has significant and recurrent behaviour problems. So far, for the 20 years of the life of these people, their families' lives have been stressful, as they have struggled to work and look after their young people. It has been a very stressful and difficult life. But it was about to become intolerable. What was barely manageable was to become stressful beyond measure.

Why is that? Simply because they are aged 20. They are now, or about to be, past the time when they can attend Koomarri School. That was where, in the first place, they had programs suitable for them and, at the same time, respite was provided for the families each weekday. But all that was just about to stop, just end, on 18 December when school closed.

The families, with their social workers, were searching for options to carry on that good work, and they came to me and to Mr Rugendyke when no options were appearing. Indeed, they had received letters saying, "Well, there is no money at the moment; maybe in the new year with the new program". That was when Mr Rugendyke and I went to Mr Moore, who immediately said, "Yes, I will talk to these people". He heard the case, met the families and acted promptly to see that those services will be provided after 18 December, when something will switch on - it is being worked on now - to see that these young people have their proper place in some or other community access program. It was a necessary decision by Mr Moore and a compassionate one. There is still the question of respite care for one family to be worked out, but I expect that to be done this week. It was a good, caring result.

But let me point out, as if I need to, that the problems persist. These were two cases; but there are many more cases out there. I expect that I will be contacted by others in similar compelling circumstances. These are people who are exiting from Koomarri; but I have seen a table of figures telling me the numbers of people who will leave Koomarri in future years. So there are growing numbers; but there are not the numbers dropping out of the programs that support these young people - maybe one or two a year, but there are more than that needing to come into the programs. Year after year more people are needing these services. I am talking about just one area. Today I am not getting into the question of the frail aged. That is a growing area.

I went to a seminar on Monday this week where all the difficulties of care were pointed out. Obviously, future budgets will have to attend to this problem. It is very important that they do so. While I have taken people to Mr Moore, I do not believe that this is a very good process. It has worked on this occasion for two families; but, when access to essential services depends on your access to the Minister, that is not the best way to proceed. That really cannot continue. I see that Mr Moore agrees. We need systems in

place whereby services can be provided without one needing to have the privilege of being able to see the Minister. Mr Moore earned some kudos this year, when the budget showed increases in expenditure for mental health. In future years I hope that he will earn kudos for increases in services to the disabled, when there is increased funding there.

Some weeks ago the Assembly's Health and Community Care Committee agreed to take on an inquiry into the needs of respite care in the ACT. We have agreed now on the terms of reference for that, and I will be making a statement on that in this Assembly tomorrow. That inquiry is in response to persistent arguments that there is simply an inadequate availability of resources in the community for all those people who need respite care - the aged, infirm, disabled, troublesome - and the people who care for them as well.

That is an important inquiry. I hope that we can come up with instances where we can highlight the needs and perhaps challenge Mr Moore and others to see whether those needs can be met. In that committee inquiry, in all the responses to the problems of disability, we must supply the many needs. We must provide the support for those living in the most difficult circumstances that will help to make us a truly caring community.

MR MOORE (Minister for Health and Community Care) (4.08): Mr Speaker, I am delighted that Mr Wood has raised this matter of public importance and I appreciate the positive comments he made about the way I dealt with two specific cases that were brought to me by Mr Wood and Mr Rugendyke. Those cases were, of course, at the desperate end, Mr Speaker. Mr Wood is quite correct when he says that it would be inappropriate to link access to resources with access to the Minister. Indeed, the resources in this particular case have been provided temporarily while we are waiting for another problem to be resolved.

But that need is a real need, Mr Speaker. We know that approximately 128 individuals in the ACT are seeking support. Seventy-five individuals are seeking the provision of an individual support package, and 34 individuals are currently receiving respite care through the ACT Community Care Disability Services Program. These people are expected to be seeking accommodation support within the next 12 to 36 months. Mr Wood, that is why I would ask you to support me in proceeding with the sale of ACTEW. It is this need and these sorts of issues that we are trying to address in dealing with our operating loss, in dealing with gains, and in dealing with the wherewithal to be able to meet this sort of need. The only way we can meet this sort of need is to have financial access.

Mr Quinlan: Tacky, Michael.

MR MOORE: Mr Quinlan interjects that it is tacky. Yes, in some ways it probably seems tacky to raise that issue in this debate. But it is only when we have the appropriate wherewithal that we can actually deal with these issues, when we have the money to deal with them, because there is a need for increased expenditure in this area and, Mr Wood, we have to find the money somewhere.

The ACT Disability Services Act 1991 is an important piece of legislation, in that it sets out to safeguard the rights of people with a disability. It does four things. It establishes objectives, it defines "disability", it defines who can be funded to provide services,

and then it sets out principles to be advanced through that funding. Of course, Mr Speaker, there is other legislation pertinent to these issues, such as the Guardianship and Management of Property Act, the Discrimination Act, the Commonwealth Disability Discrimination Act, the Community and Health Complaints Act, the Community Advocate Act and the Mental Health (Treatment and Care) Act.

Another factor impinging on this area is the Commonwealth-State Disability Agreement. The Commonwealth-State Disability Agreement, which includes the provision of supplementary funding of some $500,000 over four years to address the needs of people with disabilities who require support to engage in meaningful daytime activities, to access vocational services and to develop living skills to attain personal and career goals, is being renegotiated. A tender was recently advertised for that very purpose. It was the issue that I mentioned as being the longer-term solution in the specific case that Mr Wood drew our attention to. Tenders for that will close on Friday week, 18 December.

The Disability Services Subcommittee of the national Standing Committee on Community Services and Income Security Administrators has commissioned consultants to undertake a study of unmet need right across Australia. The consultant's report is expected to be submitted to Ministers in the new year. The report is likely to generate an informed discussion of this important topic. Mr Wood, I expect that, when we have the consultant's report on unmet need, we will actually stand in quite good stead against the rest of Australia. But that is not good enough. It will show that we have a clear unmet need in the ACT.

That is why I will keep coming back to this issue of the sale of ACTEW. Until somebody can show me a better way of raising the revenue to deal with these sorts of issues then I will come back to that. I know that, towards the end of last year and through the election campaign, Ms Tucker supported my approach by saying, "We should increase taxation", but other members of this Assembly have not supported that approach, and therefore we have to look for an alternative way.

While that is going on, Mr Speaker, because money is not the only answer, the department is developing a disability services strategic plan, which seeks to strengthen the good parts of the existing service system; improve those parts that are not working well; introduce change where it is required; ensure that services are what our customers actually want, as well as carers, of course; make the best use of limited resources; and make a positive difference. Although I have argued that it is appropriate to sell ACTEW in order to help us provide resources, there is always going to be a limited amount of resources, and within those resources priority decisions are going to have to be made.

Mr Speaker, in speaking to this issue, Mr Wood was speaking about a range of disability services, which do not normally include mental health. But I think it is important to include mental health issues in disability services. I think most members would agree that there have been significant moves in reform of mental health services over the last couple of years, and these have been particularly effective. It does not mean to say that people can rest on their laurels. They are not doing that. Nevertheless, I think it is worth

highlighting some of the things that have been achieved - the release of the Whole of Territory Mental Health Plan and the work that was done on that; just yesterday the release of the youth suicide strategy and the work that that leads to; and the development of a transcultural mental health strategy and the establishment of a transcultural health network. Mr Speaker, we are talking about expenditure on a series of capital works to help support an appropriate approach to mental health.

Mr Speaker, I have also introduced into this Assembly amendments to the mental health legislation. On that issue I will say to members now that I shall be organising a round table meeting in early February to discuss the mental health legislation because I know that there are contrary views on it. After that meeting, or even before it, the Health and Community Care Committee may wish to take on that legislation. But I think as a first step it would be appropriate to use the sort of method that Mr Wood used when we looked at the Whole of Territory Mental Health Plan earlier in the year and bring people together to see whether we can find compromises, where appropriate, on the mental health legislation. I just say that as an aside.

I also would like to comment on the disability advisory committees. The Government has been provided with advice on the proposed restructure of community-based advisory committees in the areas of aged care services, which Mr Wood touched on, disability services, and mental health services. The advisory committees will help government to seek advice from the wider community.

Mr Wood, you also touched on respite care. I am absolutely tickled pink that you will be making an announcement tomorrow about the Health and Community Care Committee looking at respite care. There are some difficulties here as to what is Federal Government responsibility and what is ACT Government responsibility. Mr Wood and I, and other members, including Ms Tucker, have discussed the issue of the inadequacy of respite care. Of course, what we would like to do is provide huge amounts of money. We have to make a sensible decision about what we can provide within the current resources. I will say to you, Mr Wood, that I was advised just today that the second house at Fisher, which was originally set up as a COOOL house, is working very effectively at the moment as a respite care house. We, in ACT Community Care, are proud of the fact that the people in respite care are really there for respite care, unlike in other States, where often up to a third of people are permanently in respite care, effectively blocking places for people who have a genuine need for respite care.

Mr Wood: Is that going to be a permanent arrangement now?

MR MOORE: Mr Wood interjects, "Will that Fisher house be a permanent arrangement?". There has not been a final decision made about that, Mr Wood. If your committee is looking at that issue, you might be able to provide advice to me on it. I would be very interested in your view on that. I would add, Mr Speaker, that under the HACC program funding is being provided to develop a model for community-based rehabilitation, which will provide for better coordination between acute and community-based services. That project has recently commenced.

I did mention earlier, when I talked about need, that approximately 75 people were seeking the provision of individual support packages. We have completed a review of the individual support packages program. The review focused on improving the direction and management of the program; improving access and the process of allocating resources; empowering clients; and achieving consistency in the charging of management fees. I was told today by people within the department that I can expect to see that review within the next week or two.

It seems to me, Mr Speaker, that there is a whole series of issues that go to the point of ensuring that we have the best possible care for people with disabilities. But it is always underlined by having adequate funding, which is why once again I call on members to consider, when they are dealing with the issue of ACTEW, how we are going to provide money for this sort of issue to be able to provide for people who are genuinely in need and to be able to show the caring side of government.

Mr Speaker, we are also looking at the special needs transport review. The Health Department has engaged consultants, who have almost completed a review of special needs transport. The study focuses on special needs transport funded through HACC and on the ACT taxi subsidy scheme. The department is negotiating with the consultants on how best to bring the study to a conclusion. It is intended to bring this work to a conclusion so that its recommendations can begin to be implemented as soon as possible, and certainly within the next financial year. The Government is working in conjunction with key stakeholders, such as ACROD, the bus companies and so forth, to develop an action plan for accessible public transport in the ACT.

Mr Speaker, I would also like to mention that, in 1998, the Government established Community Connections, a non-government organisation, to provide information, negotiation and brokerage services to assist people with disabilities to optimise their access to generic services. Indeed, Community Connections has provided invaluable services to assist and empower people in this area.

Mr Speaker, I would also like to mention that the Government deals particularly with children with special needs; my colleague Mr Stefaniak is going to deal with this. The Government spends over $19m a year providing a range of special needs assistance to 1,466 students in government schools. I will leave it to Mr Stefaniak to elaborate on that issue. Mr Speaker, there is also the community organisations rental housing assistance program, which head-leases public housing stock. Additional funds of $1.5m were allocated in last year's budget for the provision of housing assistance to people with a disability. The program currently head-leases about 88 properties.

Mr Speaker, there is a huge range of things that are currently going on within this caring Government to ensure that we can deal with people with disabilities in the best possible way. I have never had any doubt about the intention of all members of this Assembly to do their very best to find the most effective ways for dealing with people with disabilities. There will be differences of opinion on occasions as to what is the best way to do that; but, generally, I have found that members are very much in agreement on the sorts of things that are going to be able to be used to achieve that.

I would just like to mention as a final thing, Mr Speaker, that in late November the department advertised a tender for the provision of domestic support - household cleaning, shopping, et cetera - for people who are frail aged or who have a disability. The department intends to purchase services which will maintain or enhance the individual's independence and respond to the domestic support needs identified by clients, while providing the minimum necessary intervention or assessment. I think this summarises the approach of the Government, that we still would like to provide, as far as we can, empowerment of clients with disabilities. Mr Speaker, I thank Mr Wood for bringing this matter of public importance to the attention of the Assembly today.

MR STANHOPE (Leader of the Opposition) (4.24): I am very pleased to join this debate. It is a very important issue and one that does not get sufficient attention. People with a disability in our community are often rendered invisible. There are certainly many problematic areas surrounding ACT disability services, as there are in disability services throughout Australia. In reality, they can be broken down into issues affecting disabled individuals, the families of disabled people, carers and others who work in the industry. These areas, however, cannot be separated and they obviously overlap. Priorities that need to be addressed differ depending on who you speak to in the industry, but suffice it to say that there are obviously very many.

The lack of daytime services and accommodation is extremely serious as is the lack of resources and the vertical fiscal imbalance between the Commonwealth, the States and the Territories regarding the funding of disabled employment services and accommodation. At issue here, of course, is the difficulty in delineating lines of responsibility. Currently, the Commonwealth is responsible for funding employment services for the disabled and the States and Territories provide funding for accommodation services. A range of problems invariably arise.

Problems always arise when disabled people lose their employment. Their daytime care then becomes the responsibility of the accommodation providers. I know this is a very real and continuing difficulty in the ACT. Under the current arrangements, there are no adequate provisions for the transfer of funds from the Commonwealth to the States or Territories to deal with these sorts of situations. From the discussions that I have had - and I have had many and varied discussions with service providers over the last few months - this causes no end of problems for those involved in providing sufficient care for unemployed, disabled people.

On the staffing side of the equation, the ongoing inequities surrounding the introduction and implementation of the social and community services award, the SACS award, are causing continuing frustration and great angst within the community sector. Many have spoken on this topic before, and I will not take up any more time on it today, but it is an issue that we must remain focused on in this place.

I will take the opportunity while speaking on this to discuss an annual general meeting that I attended last weekend. I attended the annual general meeting of People First ACT Inc. I am sure my colleagues are aware of People First and the advocacy work that they do for the disabled. Their objectives are to promote and support the dignity, respect, opportunities and human rights of people who are intellectually disadvantaged in order to empower the individual.

Consequently, it comes as no surprise to hear that one of the main issues taking up People First's time is the recent decision taken by the Commonwealth, States and Territories to drop any reference to the relevant Commonwealth and State disability services Acts following the signing of the second Commonwealth-Territory Disability Agreement. As People First noted in their annual report, and this was an issue of some discussion at the annual general meeting, there appears to be more concern about the amount of dollars being on offer than the protection of the rights of people who have a disability.

Mr Temporary Deputy Speaker, the removal of this provision from the new agreement effectively means two things. First, there is now no contractual obligation for States and Territories to retain their disability services Acts. Moreover, the removal of this provision throws doubt upon our commitment to the protection of the rights of the disabled. The ACT Government is now under no obligation to adhere to the ACT Disability Services Act when entering into contracts with service providers. While the agreement maintains a reference to the national standards, the fact that reference to the Act has been dropped means State and Territory disability services Acts have been significantly diluted.

Advocacy groups are now raising concerns that, as a result, governments may attempt to amend or even repeal their individual Acts. But the biggest concern is that the rights of the disabled will be seriously undermined. If service providers and governments are not under any obligation to adhere to the Disability Services Act, it will be only a matter of time before conditions for the disabled deteriorate further.

A couple of specific issues which were raised at the annual general meeting of People First relate to court actions that People First have been involved in. I might read a couple of very interesting points in the chairman's report. At the annual general meeting the chairman of People First quoted from his report:

> One of the main challenges for disability advocacy has been the lack of a level playing field. People who have a disability, especially an intellectual disability, are one of the most powerless groups within our community. Yet legislation such as the Commonwealth and ACT Disability Discrimination Acts and the Commonwealth and ACT Disability Services Act, which were introduced to protect their rights as human beings and as service users have increasingly become less effective.

At the annual general meeting much note was made of the fact that the Human Rights and Equal Opportunity Commission, one of the major watchdogs in Australia protecting the rights of disabled and disadvantaged people, has had its resources decimated in the period of the Federal Liberal Government. I think it has lost between 30 and 50 per cent of its resources and staffing, as well as a dedicated disability discrimination commissioner. The impacts on the Human Rights Commission are more than just practical ones. The symbolic impact of the dissolution of that office, I think, is a significant blow to the aspirations of disabled people in Australia.

I will conclude with a short discussion on a significant issue that was raised at the annual general meeting - that is, the difficulties of accessing legal advocacy by disabled people and advocacy services on behalf of disabled people. The ACT Disability Discrimination Legal Service provided by the Welfare Rights and Legal Centre has been set up under the Disability Discrimination Act to provide specialist advice but has such limited resourcing and funding that it can provide very little support. There are very significant matters occurring in the ACT in relation to the rights of disabled people. We are probably aware of the recent decision by the president of the AAT in the matter re Hill in which People First provided the most significant of the advocacy services for the clients in that case.

This interesting case raises, I think very starkly, the ease with which we dismiss the rights of disabled people. The case went to the right of intellectually disabled people in a group house to have some say in the allocation to that house of a further intellectually disabled person. The group that had been living together in that house for some time as a unit felt that they had a right, as the tenants of that house - their guardians and their advocates felt that they had a right - to be consulted about the addition of a fellow tenant to that house.

The AAT's decision was interesting and significant. In effect, the case mounted on behalf of the residents was dismissed on the very interesting and significant basis that the community care was not covered by the particular provisions of the Disability Discrimination Act under which the tenants were seeking to bring the action because the care was being delivered to a special group.

I will not go on any further. I know there are other colleagues who wish to speak in this debate. That case is a matter which I will be pursuing further in this place. It does highlight to me some of the very significant issues that we have to face in relation to the provision of disability services.

MR STEFANIAK (Minister for Education) (4.32): Mr Temporary Deputy Speaker, I start by saying that perhaps the title which Mr Wood chose for this matter of public importance - "The needs of the disabled" - could have been a bit better. It would have been better had it been entitled "The needs of people with disabilities", or even "People with varying abilities". I think that would have been a lot more appropriate.

The needs of people with disabilities are very important to this community. It is a very sensitive issue. The needs of students, children and young people with disabilities are probably even more sensitive. It is certainly a matter of great concern to this Government and to me in my role as Minister for Education with responsibility for youth.

It is very difficult to put a dollar value on how much is enough to meet the very complex needs of people with disabilities, and especially students with disabilities. Also, as Mr Moore has indicated, we do need to look at the issue realistically in the context of the total funds available. Of course, the Auditor-General's report tabled in the Assembly yesterday made some very pertinent points in relation to that. I will come back to those later.

There are a number of things that have been happening in the area of youth and children's education. Mr Deputy Speaker, government policy is based on the belief that all Canberrans, regardless of their background, must have equal access to education. That principle applies equally to students with disabilities. The Government is committed to maintaining funding for special education. In addition, we fund four special schools - the Woden school, the Koomarri school, the Cranleigh school and the Malkara school. Indeed, the Koomarri school is having its graduation tonight, which I hope to attend.

Also, Mr Deputy Speaker, we fund a special program at the Turner school. We have special units at a number of schools - namely, Chisholm, Garran and Mount Neighbour primary schools. There are college-level specialist programs which are offered at convenient locations - at the Canberra College, at the Phillip campus and at Dickson College. This year approximately 70 per cent of the 1,500 or so students with disabilities in our government school system are being educated in mainstream schools and they receive additional support. In 1998, approximately 480 students are attending those special settings that I mentioned, Mr Deputy Speaker.

We are constantly working to find more effective and indeed creative ways of meeting the needs. For example, in 1996 there was a review of services to students with disabilities in ACT government schools. It made a number of recommendations. One of the recommendations suggested allocating resources to students based on their educational needs regardless of the setting they attended. The consultation process demonstrated very strong support for that recommendation.

In seeking a mechanism for determining educational need, my department has negotiated with the Victorian Department of Education to trial its educational needs assessment questionnaire - a model similar to the current resource model used for special settings. In line with the recommendations from the special education review, it encompasses a wide range of needs and allows for more discrimination between different levels of need. During term 2 of this year, parents met with school and department personnel to discuss their children's various educational needs in a number of areas. In terms of recommending to introduce the Victorian resource model, the reference group has stated that that should be deferred until 2000. That will give the group more time to explore the best ways of adopting that model to suit our particular needs in the ACT.

We provide support ranging over a wide area for students with disabilities. We have a number of early intervention programs. This is crucial to giving young people with disabilities a sound start. These are provided through CHADS and they are for children from birth to 12 years of age. The CHADS therapy services - that is, Child Health and Development Services - are provided for children unless they are attending a special school. Children with severe to profound disabilities attending special schools receive support from the disability program, ACT Community Care.

For 18-month to three-year-olds, we have playgroups at CHADS and, for three- to five-year-olds, we have eight early intervention units. They operate alongside regular preschools. Also for three- to five-year-olds we have the autism intervention unit and the language preschool, which provides an educational program for children with a severe language delay or language disorder. For three- to six-year-olds, we have special schools.

We have the use of itinerant teachers for vision impaired and hearing impaired children and that commences from diagnosis and subsequent referral. Itinerant teachers support younger children before they reach school age. They visit them at their home and they visit them at their preschool. Preschool resource teachers also provide support for children making the transition from early intervention programs to regular preschools and children identified with special needs at preschools.

We have seen an increase in the number of children in the ACT with a diagnosis of autism spectrum disorder, and that is especially true in the early childhood area. The early intervention services currently run an autism intervention unit for children aged three to five. As well, there are a range of options for students with autism, including placement in early intervention units, special schools, special classes or mainstream classes. We are working very hard on this issue.

We have a working party of parents and departmental officers which has met regularly since October last year. It has made some very important recommendations about educational programs for students with autism. A total of 33 recommendations are currently being considered by the department. Two autism-specific classes were supported this year at Turner Primary. They will continue next year. A class using applied behaviour analysis is being supported in North Ainslie Primary and that will continue next year. Additional arrangements for students with autism are planned for next year. These will include at least two autism-specific classes in a mainstream primary school and a class as well for high school students.

Special needs transport is a very important area. As a matter of course, as an additional service to assist families with children with disabilities, we provide transport to school for students with disabilities. They are currently transported to and from school by one of three ways: By ACTION special needs bus with a regular supervisor, and about 290 students utilise that, at a cost of $1.125m per year; by a private bus company where a supervisor is provided when required, for example, for behavioural difficulties which affect the safety of those travelling by bus, and about 90 students use that; and by taxi or multicab, and currently, about 90 students use that, at a cost of about $360,000.

Safety is a critical issue, Mr Deputy Speaker, in transporting students with disabilities. The safety of students is maintained with constant contact between the department, the transport provider, the school staff and parents. Of course, where unexpected difficulties arise, a case conference involving all parties is convened to develop and implement strategies to ensure the safety of students and drivers.

We also provide, as Mr Moore highlighted, for a very broad range of needs right across the spectrum. In terms of students with disabilities in our schooling system, overall in 1997-98 we spent some $19.025m. That indeed was an increase. It was for 1,466 students with disabilities. The year before, 1996-97, for 1,467 students with disabilities - one more - we spent some $17.454m. So there has been a significant increase in this crucially important area in what I must say is a very difficult budgetary situation for the Territory. I think that shows the importance the Government places on this essential service. That is in the face of a very severe financial constraint and, again, I think the Auditor-General's report highlights that.

Without doubt, the needs of the disabled of this community are an absolute priority for this Government. Of course, the needs of students with disabilities are being addressed very seriously. The Government, as Mr Moore has indicated, would like to do more. We are looking at ways in which we can but, again, I get back to the Auditor-General's report. Mr Moore is quite right in raising those points.

We do have a significant operating loss. The report indicates that, whilst our services and infrastructure are very good and better than those of the States and Territories, they come at a price. We are constantly continuing to spend more than we earn, and that is a very real problem. I would say to members that there are some very real benefits which I think people can see from this window of opportunity in relation to ACTEW. It is important to get the ideological blinkers off because it will at least give us some potential, perhaps, to be able to spend more money in crucial areas such as this. Otherwise it is going to be very, very hard.

That having been said, I think it is quite clear both from what Mr Moore has said and from what I have said that this Government has a very clear commitment to people with disabilities, regardless of how old they are, and that is shown by the extensive range of programs that we have throughout our community.

MS TUCKER (4.42): I realise that other members want to speak to this matter of public importance and, as we are going to run out of time, I will try to keep to the point. In the last Assembly, as members are well aware, the Social Policy Committee inquired into the Commonwealth-State Disability Agreement. During that inquiry we were contacted by many people in the community who were very concerned about services for people with a disability and also more general issues related to discrimination and how we, as a society, integrate people with a disability.

The current Education Committee also intends to hold an inquiry into this matter. We want to look at how people with a disability are able to access educational opportunities, because it is quite clear that this is an area that is still of major concern, despite what Mr Stefaniak just said. While we now have Federal, Territory and State legislation in place whose objectives are to eliminate discrimination and to promote recognition and acceptance within the community of the principle that persons with disabilities have the same fundamental rights as the rest of the community, the reality does not meet that goal.

I am still meeting with people who feel unsupported and even violated by the systems which are meant to support them. I still meet people who are desperate to get support. The common complaint from carers, for example, is this: "I have put in endless hours to care for this person. I have given up other life opportunities. I find it hard to make ends meet financially because I have chosen to care for this loved one. I have saved the Government many thousands of dollars and, when I ask for support from government, I am told, 'Sorry, there are no funds' ". I remember very clearly one mother saying, "If I leave my child on the Minister's doorstep, then they will find funds. Is that what I have to do?".

That is not good enough, Mr Deputy Speaker. Despite what government members have said about the funding problems they are experiencing, I believe it is a basic responsibility of government to care for those who are unable to care for themselves and who are vulnerable. I believe that there are decisions which can be made and priorities can be reassessed. I think that government, through its budget decisions, shows that it does not respect or value the contribution that these people make. If government does not support the vulnerable people in our community, it is failing in its responsibilities.

There is incredibly bad buck-passing between the Federal Government and local government which does credit to neither. The reality is that too many people in the ACT who have a disability or who care for someone with a disability feel marginalised and unsupported. Since my committee inquiry in the last Assembly and the health commissioner's report, I acknowledge that some improvements have been made to how services are being delivered. I acknowledge also that there has been a reworking of how mental health services are delivered. I agree with Mr Moore that this is an issue that needs to be included in any discussion on disability. However, those reforms have been mainly organisational and I do not believe they have been supported adequately by resources.

We do need to see an increase in support options for accommodation. We need to see an increase in availability of respite care options, employment opportunities, daytime support, holiday care, after-school care and educational opportunities. The issues around dual diagnosis are not properly acknowledged - that is, dual diagnosis of mental illness and intellectual disability or some other disability. Advocacy functions are also poorly supported. Quality assurance mechanisms have not been appropriately developed yet, and input from consumers still has not been integrated well enough into the processes around decision-making and policy development in this area.

I am also concerned about the current Commonwealth-State Disability Agreement. I believe that the legislation that is in place to ensure the rights of people with a disability is being diminished in its ability to affect what is happening in service delivery and in overall treatment of people with a disability.

Another issue is transport. We have what I think is called the draft transport strategy. Certainly, there is a Federal discussion going on now about transport issues for people with a disability. I know there was a survey done on that and over 6,000 people with disabilities responded, which is a very clear indication of the importance of this matter of transport to people with disabilities.

What is clear is that the issue of access is extremely reliant on accessible public transport, basically because it is obvious that many people with a disability will not be able to drive a car. Of course, there are broader benefits to the community if there is transport that is designed to accommodate such people because it will also help other people in the community - the elderly, the ill and young people. It is a fundamental issue of access that, once again, has not received appropriate treatment by the Federal Government. I hope that Mr Moore will strenuously lobby his colleagues in the Federal domain to respond positively to the draft standards on transport that I believe are being discussed at the moment.

In conclusion - I am sorry to say it, but it is the case - many people with disabilities still do not have the same choices as others in the community. They are still discriminated against and carers are not adequately supported. One issue I would like to address briefly, because I probably dealt with the families that Mr Wood mentioned before and I also made representations on their behalf, is that, as a member, I found that an extremely difficult thing to do. When I have done this I have never done so lightly because I know that these people came to see me because I have influence. I have been able to get some assistance for them, but I am very painfully aware of the fact that I have probably caused someone else to go further down the queue. There are not enough services, many people are waiting and many people will not have the courage or knowledge to go and see a politician.

While I absolutely support the need for the Minister to step in, as he did, for those particular families, I also have a very uneasy feeling that there are many other people who are as desperate as those families and have not had the benefit of the Minister's intervention. That is why I think this is such a serious issue for the ACT Government, or for any government, because, when you see the reality of the situation of these people, you cannot help but respond. But these people are silent and there are many of them out in the community. That is why we need to see governments funding these services. These people are, by nature, vulnerable and they are probably not going to go and talk to politicians.

MR HARGREAVES (4.50): I rise to add my support to Mr Wood's comments on this particularly serious subject. I have been concerned for many years about how we as a society provide assistance to those who, due to a significant impairment, are disadvantaged. I will, for the moment, restrict my remarks to those concerning people with physical disability rather than an intellectual disability, although this latter group often suffer disadvantage in much the same way as the former.

There are a range of things that we, charged with the delivery of services, do not do that well. Disabled people have quite different housing needs from non-disabled people. I note that the public housing program does pay some attention to these difficulties, but perhaps the links with the specialist support organisations such as ACROD, the professional officers within the Department of Health and Community Care and representatives of disabled people and their carers could be strengthened.

We do not provide transport options for our disabled people very well at all. There is dispute in the taxi industry about just who should be able to carry disabled people. There are insufficient taxis, multicabs, in Canberra available for hire. Also, there are some vehicles which can adequately carry disabled passengers but cannot get the bookings. Why this is so is one of the mysteries of all time. I was pleased to see the introduction of midi-buses into the ACTION system. This goes some way towards assisting normalisation for the disabled. But, Mr Deputy Speaker, I was not impressed, as I have said in this place before, to hear that the dedicated disabled transport system for patients attending rehabilitation at the Canberra Hospital had been cut out, to be replaced by taxis - a saving of $300,000. What price can be put on patients' peer support available on those buses?

Mr Deputy Speaker, many of the disabled people in our town became so through some type of trauma, either surgery to eliminate disease, stroke, or head injury or accident. In order to help these people return to as normal a life as possible, we need to help in two ways. In fact, we need to remember that we must provide rehabilitation and ongoing support. Rehabilitation is doing something with a patient, whereas in all other areas of health primary care we tend to do something to a patient. I will not go into any detail about the professional medical services available to patients who have suffered a disability, but I must say that I have been most disappointed to witness and hear about the most serious deterioration of services available at the Canberra Hospital.

Mr Deputy Speaker, in previous times the services at the hospital were geared towards clinical recovery, coupled with resurrection of esteem. Sadly, the attention to the esteem aspect of recovery has been eliminated from the case management processes. Over the past four years, the valuable work done by the rehabilitation workshops has all but ceased. The innovative programs of health professionals aimed at helping patients who want to get better, want to cope after rehabilitation, have been wound down in the interests of greater patient throughput, quicker discharge and thus dollar economics.

The whole ethic of assistance to people has been changed. People have approached me with horrendous stories about the shabby way they have been treated. They are scared to put in an official complaint for fear of retribution and loss of some of the services they need. I hope that the Minister's attention has been drawn to this matter and that, in the proposed changes to the hospital and community care services, these rehabilitation services are restructured with emphasis on the client, not on the bottom budget line nor on the professional egos which have run riot over the past four years.

Mr Deputy Speaker, I want to pay tribute to the rehabilitation support organisation - You and Me. This organisation had its genesis in the destruction of services in the workshops at the rehabilitation service at the hospital. Mr Cec Millane and his wife, Carol, felt abandoned by the system. Mr Millane has suffered significant disability through stroke. They decided to provide these services themselves and are doing so successfully with little help from government. They had to beg, borrow and steal to set up something to help their fellow disabled. Their struggle is a sad testimony to the lack of real compassion seen in government services. There is the constant restriction of rules and budgets and little room for discretion.

Mr Deputy Speaker, I conclude by supporting your comments. In the delivery of support services, we should all say, "There but for the grace of God go I". We should be looking for ways to help, not looking for excuses not to.

MR QUINLAN (4.55): Mr Deputy Speaker, I would like to refer back to something that Mr Moore said about helping him - I think he spoke in the first person - to sell ACTEW to fund future disability services. Might I say in reverse that I would like to think we could save ACTEW, an income-earning asset, so that we have income well beyond Ms Carnell's lifetime which, in question time, she stated was as far as she was prepared to look, care or plan. Over recent years I have had some direct experience in the field of disability services, admittedly more as a facilitator than as a direct supporter or carer.

Nevertheless, I have met and gotten to know quite a number of people with disabilities, their case managers, their primary carers and the support workers that work at the sharp end. I have to say that I have been encouraged by what I have seen.

I have seen the commitment of the support organisations, the NGOs, the people in them and, in fact, the commitment of some of the departmental officers who work directly with the NGOs. I have been encouraged by the courage of primary carers. It is a sad commentary on my gender that the great majority of primary carers are women. Those primary carers looking after children, who are women, quite often do it by themselves because there has been a family break-up, possibly because the member of my gender could not take the heat.

I have been encouraged by the actual courage of the people themselves. I will personally mention one - a young lady called Wendy Whelan - who is profoundly disabled but has more courage and determination than anybody I have ever met. She was not always a compliant recipient of service. She was an independent young woman and wanted to control her life. It was pleasing to see the progress made in the development of support services where there was a need, under recommendations by Michael Kendrick, to move away from maternalistic or paternalistic case management and do-gooders towards the empowerment of primary carers and the empowerment of people with disabilities. This was designed to support and complement the capabilities of people with disabilities and to give the primary carers information and negotiation support when and if they needed it. But the progress was towards that empowerment.

I am rather concerned that, as funds appear to shrink, this progress may be halted and even reversed. I have to concur with you, Mr Wood, that there is a great danger that squeaky wheels will get more service than those that do not know about service. During the time I spent working directly with Respite Care I knew that the organisation was afraid to advertise. It was afraid that, if it advertised to let people know it was around, it could not handle the avalanche of requests that would follow that advertising. Yet the people that worked there cared enough to know that they wanted to reach the priority cases. They wanted to ensure that the most deserving cases got the service they required. The meagre service - because demand has always exceeded supply, as far as I have seen - was made available in order of priority.

Debate interrupted.

ADJOURNMENT

MR DEPUTY SPEAKER: Order! It being 5 o'clock, I propose the question:

That the Assembly do now adjourn.

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

Question resolved in the negative.

DISABILITY NEEDS
Discussion of Matter of Public Importance

Debate resumed.

MR QUINLAN: I am acutely aware that I am running out of time. I make a plea for the NGOs out there to have some flexibility when we work towards the purchaser-provider model because, on the one hand, they get a grant but, on the other, they are under the hammer of "use it or lose it". So they wish to provide service, they fill their book and then, of course, along comes a higher priority case. That high priority case is often passed from organisation to organisation and refused. Hence, we get people having to come to Ministers. I think the system deserves some flexibility to ensure that we are reaching the priority cases.

MR DEPUTY SPEAKER: The discussion is concluded.

URBAN SERVICES - STANDING COMMITTEE
Report on Final Draft Management Plan for Tidbinbilla Nature Reserve

MR HIRD (5.01): Mr Deputy Speaker, I present Report No. 16 of the Standing Committee on Urban Services entitled "Tidbinbilla Nature Reserve - Final Draft Management Plan 1998", together with a copy of the extracts of the minutes of proceedings. I move:

That the report be noted.

Mr Deputy Speaker, this is another unanimous report by the Standing Committee on Urban Services. It is a detailed report covering four basic documents: The 1998 final draft management plan for Tidbinbilla Nature Reserve; the 1997 public works implementation plan for Tidbinbilla; submissions to the committee's inquiry; and the transcript of the public hearing held on 21 August this year.

Arising out of this material, the committee has made 10 recommendations. I will not read all of them, Mr Deputy Speaker, as members will find them on page 5 of the report. The most important recommendations are: That the wilderness value of Tidbinbilla be better recognised; that all money raised by entry fees at Tidbinbilla be used at Tidbinbilla for the betterment of the reserve; that the Conservator of Flora and Fauna not be placed in a position where he is both the proponent of a major capital works project, such as the visitors centre at Tidbinbilla, and the provider to government of what is expected to be impartial advice about the conservation values of Tidbinbilla Nature Park; that the final management plan for Tidbinbilla be reviewed by an independent environmental assessor every three years, and this report be tabled in the Assembly and made available to the relevant committee; and that the Government consider increasing the staff resources of the Parks and Conservation Service in light of its many responsibilities at Tidbinbilla and elsewhere throughout the Territory. Members will find the detailed reasons for these recommendations in chapter 4 of the report.

Mr Deputy Speaker, before I close I should commend the Government for bringing forward the management plans for public land. Tidbinbilla is the third major management plan considered this year by my committee. The others involved Canberra Nature Park and urban parks in various areas of the city. The preparation and finalisation of these management plans has been long overdue. It is good to see them coming to the committee and then to the Assembly. Mr Deputy Speaker, I commend the report to the parliament.

Question resolved in the affirmative.

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 4) 1998

Debate resumed from 18 November 1998, on motion by **Mr Rugendyke**:

That this Bill be agreed to in principle.

MR SMYTH (Minister for Urban Services) (5.04): Mr Deputy Speaker, the Government will be supporting this Bill in principle because there is some merit in Mr Rugendyke's approach. I understand that the current practice in relation to offences such as burnouts is for the police to attempt prosecutions under the dangerous driving or negligent driving provisions of the Motor Traffic Act. This has highlighted some problems in the enforcement of these provisions, which does suggest that the current law is inadequate.

If the act of deliberately spinning the tyres of a car on a public road was only publicly undesirable, then perhaps I would doubt the value of this Bill. However, the practice of the burning out of a motor vehicle is unsafe as it depends, almost by definition, on a temporary and deliberate loss of control and traction. In particular, the Government strongly supports the offence outlined in proposed new section 119AA that we might refer to as an aggravated burnout. If it was not bad enough that people conducting these sorts of activities on public streets create a danger when they actually occur, pouring oil or diesel fuel onto the road surface actually means that we have a residual safety problem as well. Oil spills from vehicles are bad enough, but the deliberate application of lubricants onto the road surface is simply an act of stupidity of an extreme order.

Mr Deputy Speaker, the Government does have a number of concerns about the Bill and I will be moving some amendments later in the debate. In addition to the amendments, I will be moving a motion to refer the Bill, together with Mr Hargreaves' amendments and my own, to the Standing Committee on Urban Services.

My amendments to Mr Rugendyke's amendment Bill support the broad intent of Mr Rugendyke's amendments in that burnouts and street racing are prohibited unless that person has a permit to engage in those activities. The enforcement provisions for these offences, including the cancellation of licences, are not altered by the Government's amendments. Further, the provisions covering the seizing and impounding of vehicles are

unchanged, apart from some minor consequential changes. Indeed, the Government's amendments will have a similar effect as when the Bill was tabled in the Assembly except that permit approval for burnouts and street racing is granted by the Registrar of Motor Vehicles rather than the Chief Police Officer. Such provisions, to some extent, already exist in the Motor Traffic Act.

In addition, the Government's amendments remove the provisions in Mr Rugendyke's Bill that allow for the Chief Police Officer to approve road events. The Government's amendments allow the Registrar of Motor Vehicles to consider applications to take part in the activities of burnouts, testing the speeds of vehicles, and racing vehicles.

Mr Deputy Speaker, as I have indicated, there are a number of issues that may benefit from further scrutiny, and consideration by the Standing Committee on Urban Services can only add to the Bill's effectiveness. Indeed, since the Bill was tabled it has come to my attention that, for instance, Newcastle has addressed this problem by setting up an area where people with the desire to do burnouts may go and do that. Were the committee to consider the Bill, the two sets of amendments, and seek further information on how we can cope with this problem, perhaps we could come up with an answer that keeps the streets safe or in fact makes the street safer, as is the intent of Mr Rugendyke's Bill, and he is to be congratulated for that. At the same time it might allow those who have the urge, and I guess the money, to be involved in burnouts and street racing to indulge in that sport as they see fit.

By referring this Bill to a committee, Mr Deputy Speaker, we can ensure that it is considered appropriately. There are some stiff penalties in this Bill. It enters some new areas that the ACT does not currently act in. When we talk about some of the penalties and the impounding of vehicles, this is a very serious matter.

It is the Government's intention to support this Bill to the in-principle stage. We believe there is merit in what Mr Rugendyke has brought to the attention of the Assembly. We believe, however, that it does need some finetuning. I think Labor intends trying to knock it off, which would be most unfortunate. I think the best thing we could do is send it to the Urban Services Committee, as we have done previously with Bills like the water Bill. After a round table we were able to come back with quite a firm position after much consultation and community input. Perhaps this would allow us even to strengthen the intent of what Mr Rugendyke has proposed here. Perhaps we could give those who would like to indulge in the art of burning out some scope for participating in that and at the same time ensure that we have streets that are as safe as we can make them.

MR HARGREAVES (5.10): Mr Speaker, first, I should stress that the ALP does not condone or encourage drag racing or burnouts in Canberra's streets. It is loutish behaviour that the community should not tolerate. We do not want to see the streets of Canberra turned into Mount Panorama; nor do we want to see accidents as a result of this behaviour.

At present the Act states that it is illegal for two motor vehicles to race one another on a public street. This carries a negligent driving offence, which is only a $147 fine. I do not dispute that the current penalties need to be reviewed and possibly strengthened;

however, not to the extent that this Bill proposes. Furthermore, I feel that this Bill will impress safer attitudes on the roads, but just because it is law does not mean that people will not test it. However, Mr Speaker, the real test lies with the Government. How do they intend to enforce this legislation when our police do not have the resources? As much as the community wish that police could be present at every crime that takes place, realistically it is not possible.

Mr Quinlan: They are at some.

MR HARGREAVES: Mr Quinlan, my colleague, says they are at some. Selectively perhaps? Therefore, the community should realise that this Bill needs to be enforced by the police.

Mr Speaker, Labor feels that the penalties for an offender are too severe. The penalties should be made appropriate for the crime. It is not appropriate for a second offender to have their vehicle forfeited back to the Territory. This is on top of having their licence suspended for 12 months and paying a penalty. It is not really appropriate, Mr Speaker, that the second time you have committed an offence under these provisions that you have your vehicle confiscated. The question must be asked: What right does the Government have to confiscate a person's vehicle? This takes me back to the days when I was at school when you used to have your belongings confiscated at school by your teacher. It just represents schoolyard bully tactics.

This type of legislation opens the door for a wide range of possible penalties for other offences. For instance, Mr Speaker, if a person is continually found in contravention of the Environment Act because their fireplace emits an excessive amount of smoke, does this mean the Government will confiscate their home and sell it? Or, Mr Speaker, if your child is caught for the second time breaking a window at a shop, does this mean the Government will take the child away? Some might say, "Hopefully".

Mr Quinlan: Just his rocks.

MR HARGREAVES: I take it you are going to support this Bill when it comes to the vote. This may sound silly, Mr Speaker, but it could happen, and this Bill today is only the beginning.

Seriously, this Bill represents an infringement of people's civil liberties. Under this Bill perpetrators are offered no protection and have no rights. The fact that a person can be arrested on police suspicion raises alarming problems. We are not talking about a hanging offence here, Mr Speaker, when the police suspect that murder may have taken place, when there may have been mass rape or maybe a break and enter at a significant jeweller's shop; we are talking about people putting skid marks on a road. To be arrested on the suspicion that you may have put those skid marks on the road is a little bit rough. Mr Speaker, this type of law apparently was implemented in England over 20 years ago, and, not surprisingly, it was not successful. Subsequently the law was repealed.

The scrutiny of Bills committee raised several valid points about this Bill. For instance, the trial of a motor vehicle appears to be very broad. What happens when a motor mechanic has to test a vehicle after repairs? Depending on the test conducted, they may be in contravention of the law. What happens then? What happens, Mr Speaker, if you are tearing along the Monaro Highway doing 95 kilometres an hour. There is a 100-kilometre maximum speed limit. There are lines marked on the road for you to check your speed. You are actually trialling the speed of your vehicle, Mr Speaker. Therefore, if there is a boy in blue sitting on the side of the road and he does you, you can lose your vehicle if it is the second time you have been silly enough to do it.

Mr Speaker, I understand what Mr Rugendyke is trying to achieve. Indeed, we realistically support what he is trying to do. However, the Labor Party feels that this Bill represents harsher penalties and not a deterrent. The Labor Party will not be able to support the Bill.

MR BERRY (5.15): Mr Speaker, thank you for the opportunity to speak to this Bill. Nobody likes to hear somebody making excess noise outside their house, or anywhere else for that matter, or see great volumes of smoke and damage to the roads as a result of the habits of those with powerful, and some not so powerful, motor cars on our public roads. Nobody likes to see police being frustrated in their attempts to deal with these sorts of activities. One expects that the police, as any other human being, would support moves to make their life easier, but we as legislators have to balance this against the rights of the individual and how inch by inch we might undermine civil liberties if we were to go down this path. My colleague referred to this in his contribution on the matter.

I would like to talk about some of the issues that have been drafted into the legislation. There are many questions unanswered about this Bill. I see that the Government intends that this Bill should go off to a committee, and I think that is an appropriate course.

Let me give you a few examples. This one should tickle your fancy. This is the interpretation in the Bill of burnout:

> 'burnout', in relation to a motor vehicle, means operate the vehicle in such a manner as to cause the vehicle to undergo sustained loss of traction by the driving wheel of the vehicle; ...

That could apply if you were bogged. I am not quite sure whether that definition has been properly thought through because that is exactly what happens when you are bogged. I do not think anybody would make smoke and flames when they were bogged, so I rather worry about that definition. The Bill says motorists are not to race or to attempt speed records and so on. It is pretty clear that the police have wide powers to deal with motorists that behave in this way in any event in relation to the roads. Drivers are not allowed to race with another vehicle. Well, certainly, if they were speeding, under the Motor Traffic Act the police would be able to deal with them. If they were driving in a manner dangerous they could be dealt with by the police. If they were driving negligently they could be handled by the police in the usual way. So I do not see any particular need to legislate again.

The Bill refers to an attempt to break any motor vehicle speed record. That would involve speeding, in my view, and if that was the case police have power to act. Trial the speed of a motor vehicle. That again would involve the driver in a breach under other relevant legislation. Compete in a trial designed to test the skill of a driver or the reliability or the mechanical condition of a vehicle. I am not quite sure how far that is meant to go, but if you have some difficulties with, say, the brakes of your machine and if you happen to be a home mechanic and you have adjusted the brakes, you have to try them somewhere. It strikes me that that could be construed to be a trial designed to test the skill of a driver or the reliability or the mechanical condition of a vehicle. It seems as though it would almost certainly apply to somebody who runs the local service station or garage for the repair of vehicles. So that one troubles me a bit. I think that is going a bit too far. There are a lot of unnecessary attempts to legislate where powers are already available.

I know that the Bill refers to the holding of a permit and so on, and maybe there is a need, as set out in Division 2, to have provision for approved events. While it is set out here that the Chief Police Officer, and, I suspect, his delegate, could give approval for those sorts of events, there is no provision to review the decision of the Chief Police Officer if there is a disagreement with the way that he has arrived at the decision. So I think there is a basic flaw in the legislation in that respect.

I see in the Bill another provision:

> A person shall not knowingly burnout a motor vehicle on a public street where any petrol, oil, diesel fuel or other inflammable liquid has been placed on the street surface beneath, or near, a tyre of the vehicle.

There are already provisions in the Motor Traffic Act, as I understand it, to prevent people releasing anything on the roadway, and I think that even includes water. I do not know why, but this is being confined to petrol, oil, diesel fuel or other inflammable liquid being placed beneath or near a tyre of a vehicle. You do not have to use any of those. In fact, other lubricants have been used for those things, I am informed. You do not necessarily need to use any mineral spirit or inflammable liquid to create the lubricant to enhance the spinning of wheels, so I am informed. Some washing detergents will assist.

I do not think enough thought is being given to this. In any event, I am not sure that we even want to do it. On that score, I would be perfectly happy to vote against this Bill in principle because I think it smacks a little bit of a nanny-state trying to legislate on anything. It was not long ago that there was much criticism out in the community about leaflets under windscreen-wipers. Just how far do we go with legislation? When we run out of things to do, do we come up with some wild legislation to prevent people from doing things? Then we at least can say, “Well, look at my legislation count for the year. I’ve got much more stupid legislation than anybody else in the place, but I’ve got much more”. I worry that some of these things fall into that realm, where we are ending up with legislation for legislation’s sake.

There are provisions in this Bill for some fairly massive fines, and that is not to say that significant fines are not available as penalties already available in other laws. I heard Mr Rugendyke refer to an incident somewhere in Macgregor or not far from where I live. I knew about that because those playful and sullen youths in their sporty and loud motor cars used to frolic not far from my house. I can tell you that nobody was too happy about it, least of all me. One of my neighbours was even less happy about it because he made his displeasure public. He did not receive too many thanks from the frolickers on that score. He got a dreadful level of harassment which was very unpleasant. None of that would have been fixed by this legislation. Those people were eventually caught in the act. I think that would be the best description.

The police eventually went out to the scene and negotiated the position. There was some sort of a gathering of people. There had been an accident out there. A young fellow had a motor vehicle accident. There were terrible circumstances, and quite a lot of his friends were upset. They were involved in all of this sort of stuff. I do not think this sort of legislation would have fixed that. I think the police very sensibly defused it. I expect there were a few defect notices issued and I expect a few people were sent on their way. Probably a few young fellows are a bit more sullen about the police than they once were, but that is the nature of young people.

I do not think the application of this legislation will prevent that. For those of us whose brains are beginning to shrivel, there are lots of young people out there whose brains are still growing. I am sure they will work out ways to do these sorts of things, notwithstanding any laws that we might provide. If we pass a law which tends to inhibit these practices, I am sure there are some inventive young people out there who will find a way around it. This Bill would have been easy meat. I do not think we need to do that. I am really worried about legislating for everything. It really ought to be a measure of our success that we do not legislate for these things.

On environmental grounds, there are plenty of reasons why you would say people should not roar the daylights out of their cars, blow them up, emit large clouds of smoke, burn holes in the pavement with spinning wheels, spoil the bitumen by pouring all sorts of substances on it and so on, but there are other laws that already can deal with those things. Yes, it is a problem for policing, and it is a problem for us, as people who control, in one way or another, this legislature, as to how we provide police services. If there were more police there would be less of this happening. That is true. But there is a point where you say, “Is it necessary to have a policeman standing to attention on every corner waiting for some young fellow to do something silly in a motor car or do something to show off in a motor car?”.

One of the things that I have noticed since changes to the motor vehicle registration rules in the ACT is that there are many more noisy vehicles, and there are many more vehicles which seem to me to carry extras that might not entitle them to be registered. That is my impression. Young people are normally not people who are that flush and they cut corners when it comes to servicing their motor vehicles. There are many more vehicles that emit lots of smoke and fumes and all that sort of stuff. I do not think this Bill will address all those sorts of things.

It has been said that this will be in time for the Summernats. My experience with the Summernats, inside, is that with a few exceptions it is very well run. I have been there several times and I have watched it all. It is not the sort of thing I would like to do with my car every day, or with anybody else's car for that matter, but it is very well regulated. Again, I do not know that this Bill is necessary.

The final point I want to make is about the seizure by police of motor vehicles. That is absolutely unacceptable. No matter how troubled I was about the behaviour of young people, I would not support this proposition. If a vehicle is not suitable to be on the road, it can be defected. It can be stopped immediately if there is something wrong with it. There is nothing to stop the police from doing that now. For the police to take it into their possession smacks of a very sad move towards increased police powers which would be completely unacceptable to the community. It would not improve the relationship between police and young people. I have said this about the increase in police powers before. Things like move-on powers do not improve the relationships between police and young people, and these sorts of things will not do it either.

Where do we go from here? Once police have the power to impound vehicles on suspicion, that can go on to all sort of other property. I think this is over the top, to be frank. Yes, I think that would be the kindest thing I could say about it. I think forfeiture and impounding of vehicles is just way over the top. If people break the law they should be fined and brought to book the same as anybody else. There are offences which are punishable by other means, although there are fewer and fewer community service orders here in the Territory. People ought to be punished, but taking their possessions in the way proposed by this Bill is completely unacceptable. I think the Bill is badly drafted and badly thought through, and it will not fix the problem.

MS TUCKER (5.31): I sympathise with Mr Rugendyke's concerns about people doing burnouts or having races in their cars on public streets. However, I do have doubts that this Bill is the best way of dealing with this issue, for two reasons. Firstly, I think the principle of seizing a person's car if they are suspected of doing a burnout is very draconian and out of scale with the offence, and, secondly, I think the Bill has been poorly drafted and needs major amendments to make it effective.

Let me go through the major problems I see with this Act. There is already an offence under section 119 of the Motor Traffic Act for racing with another vehicle on a street which carries a $200 fine and three demerit points. Mr Rugendyke seeks to up this to a $1,000 fine and immediate seizure of the vehicle. If the offence is proven in court the person's licence may be cancelled for up to 12 months and the car impounded for three months. For a second offence the vehicle can be forfeited to the Territory.

The question that has to be asked is whether the punishment fits the crime. It is interesting to compare this punishment with drink-driving, where the fine for first offenders over 0.05 is only $500 and a loss of licence for six months. For over 0.08 it is $1,000 and 12 months' disqualification. Which offence is creating a greater public safety risk?

There is also the question of why cannot the existing offences in the Act be used for burnouts and racing. There are already offences for reckless driving, negligent driving, careless or inconsiderate driving, and driving without full control of the motor vehicle, with fines ranging from $100 to $1,000. Surely the deterrent already exists for these activities. Perhaps the problem is more with having enough police available to deal with these incidents rather than the provisions of the Act.

Regarding the detail of the Bill, proposed new section 119 is poorly drafted. It includes prohibitions on attempting to break any motor vehicle speed record and trialling the speed of a motor vehicle, which, in the context in which this Bill is going to be applied, seems rather meaningless. What speed records exist for driving down Lonsdale Street? Surely a person driving over 60 kilometres an hour down Lonsdale Street is already breaking the law. The prohibition on competing in a trial designed to test the skill of a driver or the reliability or mechanical condition of a vehicle is written so broadly that it could potentially prohibit driving lessons or mechanics testing their repaired vehicles.

The new part of the Bill for the approval of regulated road events is a replacement for the existing section 217 of the Act, but in the process a number of worrying changes have been made. In the old section 217, responsibility for approval of events was held by the Registrar of Motor Vehicles, but this Bill seeks to transfer this power to the Chief Police Officer. No reason has been given for this transfer of power or why the police would be better at doing this job than the registrar. It is also a major worry that the previous right to appeal to the AAT has been omitted by this Bill.

The approval process also opens up a can of worms by actually allowing people to get a permit to undertake the activities that Mr Rugendyke wants banned, like burnouts and speed races. If burnouts are so intrinsically bad, why would we want to set up a process to give people permits to do them on public streets? Surely the place for these activities is in the Summernats grounds, not on public streets. I would have similar views about car races like the FAI rally, which should be held out in the pine forests and not on public roads around the centre of Canberra. I am also surprised that not only is a permit required for an organised event but also that each participant in the event has to get a permit, which seems to be a doubling up of the administrative processes that need to occur.

I also have concerns about the civil liberties aspect of police being able to seize a person's vehicle for up to 28 days before an offence has been proven in court. I would have thought that the behaviour of the driver of the vehicle was the problem, not the car, which is just the means of transport. If the driver is breaking the law it would seem more consistent to take away their licence to drive, as occurs under drink-driving laws, rather than take their car away.

Overall, I think this Bill has been badly drafted, and I am not convinced that there is a desperate need for the police to have these powers when there are other offences already available in the Motor Traffic Act.

MR RUGENDYKE (5.36), in reply: Mr Speaker, I believe it is imperative that we deal with this Bill in its entirety today. I feel that we have little to gain by delaying a resolution until next year. I urge members to give long and hard consideration to the situation of their residents, particularly in north and inner Canberra. I am referring to residents who have grown to dread the holiday period over the last 10 years or so because police, quite frankly, do not have complete ability to stop hoons causing disturbances in the streets.

I would be fairly close to the mark if I said that every member in this chamber today would have records in their files of community complaints about street hooligans, particularly around the time of the Summernats. We all know that the Summernats is just around the corner. For all the good that the Summernats does provide the city, there is no argument that there is an element of people that this event attracts who do the wrong thing, an element which disregards safety on our streets and has no consideration for residents.

These residents have suffered for long enough. It has been going on for at least a decade. We all know what the problems are. We see them raised annually. The community is crying out for something to be done. This is our opportunity to act and to put legislation in place which is going to help the long-suffering residents.

This is the chance for members of this place to put up their hands and make a difference, which is long overdue. If we do not make the move then rest assured the complaints and outrage will be cranking up again shortly. This is the chance to rectify that. Let us remember that the last car show that created major problems in the city was nowhere near as large as the Summernats. Police almost lost control on that weekend. What would happen if things did get out of hand like they have before and during the Summernats?

A lot of my anxiety stems from the changes to burnouts and street racing laws in New South Wales, laws which, I must say, were implemented by the Labor Government. If the New South Wales Labor Party can see fit to endorse such road safety measures, I do not understand why the ACT Labor Party should object to my Bill which, in fact, mirrors the New South Wales legislation. Further, Mr Speaker, because the ACT is not protected in this way, I fear that interstate drivers could well try to take advantage of this over the holiday period. They know they cannot get away with it in New South Wales. I fear they will try to make the most of our lenient laws and abuse our roads. We are leaving ourselves wide open if we do not enact legislation such as this.

You only have to go to Lonsdale Street in Braddon on any Friday night to see the carry-on, which is nothing but a sheer road safety hazard. The mix of cars, crowds and beer certainly is volatile. Only last Friday evening, Mr Speaker, the behaviour was at its worst. At the corner of Lonsdale Street and Girrahween Street cars were performing burnouts for extended periods and holding up traffic in the process at that intersection. This is not appropriate behaviour on our public streets. Our police are, in a lot of ways, powerless to act. So what do we do when or if a situation gets out of hand?

As I said earlier, I have fears about this holiday period. The laws in New South Wales are tough enough, but I fear that the temptation for interstate drivers to come here to test our softer laws will mean trouble for our community.

If you are doing the right thing on the roads, Mr Speaker, there is no reason to worry about this Bill. What it means is that if you abuse the privilege of driving on our roads the privilege is taken away. If you want to keep offending, the courts will have the power to take the car away. Street racing and burnouts on public streets have absolutely nothing to offer our community. There is no room for this type of behaviour in our suburbs. We have to send a message and put up a deterrent. Heavy fines, seizure of vehicles and loss of licences do that.

Mr Speaker, the thrust of this Bill is to strengthen the laws in order to impress safer attitudes on our roads, and also to eliminate pollution problems associated with the practice of street racing and burnouts. I also urge the Assembly to embrace this Bill and give a large group of long-suffering residents some well-earned peace of mind.

I understand that there are some amendments to be proposed to this Bill. I also understand that there is a proposal to send this matter to a committee for further consideration. I encourage members to deal with the detail stage here today. Make a concerted effort to debate the concerns today and reach an outcome that is going to have a benefit for the ACT community during the coming Christmas period.

Question resolved in the affirmative.

MR SMYTH (Minister for Urban Services) (5.43): Mr Speaker, pursuant to standing order 174, I move:

> That the Motor Traffic (Amendment) Bill (No. 4) 1998, together with the amendments by Mr Hargreaves and the Minister for Urban Services, be referred to the Standing Committee on Urban Services.

MR OSBORNE (5.44): Mr Speaker, I will not be supporting the motion because I cannot understand what has happened with this Bill in the last 24 hours. My understanding was that it was to be passed today. When Mr Rugendyke tabled the Bill a couple of months ago it was designed to assist the police during the Summernats period. It would appear that that is not going to happen. Obviously something has happened in the last 24 hours on the part of the Government because they have now decided to send it off to a committee. I will not be supporting the motion. I am pleased that the Government let us know after lunchtime that it was going off to a committee. I am disappointed that this Bill, which allegedly had the support of the majority of members, now will not be debated until next year. As I said, the main intent of Mr Rugendyke's Bill was for the Summernats. I think it is pointless sending it off to the committee at this stage. I want to register my dissent at what the Government is doing with this.

MR BERRY (5.46): Labor will be supporting this referral to the committee. We expressed our views in relation to the matter. I do not need to go over the ground again except to say, Mr Speaker, that we would have preferred to see the Bill defeated at the in-principle stage. We will be satisfied for it to go off to a committee and we will be happy to take into account the committee's recommendations and report in due course. We did criticise some aspects of the Bill and if something positive can come out of it we would welcome that.

MS CARNELL (Chief Minister and Treasurer) (5.46): Mr Speaker, just for the record, this Bill came to the party room for the first time this morning, as members would be aware, to be looked at by members of the Government. This morning was the first time we had a chance to come up with a position.

MR SMYTH (Minister for Urban Services) (5.47), in reply: Mr Speaker, as the Government has said, we support the Bill in principle. We think it needs some finetuning. Mr Humphries' department and mine have been working with Mr Rugendyke to finetune it. We have come up with some amendments. Mr Hargreaves has some amendments. I only heard this week about how this problem is being dealt with in some other jurisdictions. I think there is merit in looking for answers. As others have said in this place, often legislation cannot stop something, but let us look at ways, in the totality, that offer solutions as well as enforcement. It is reasonable to send it to the committee.

Question put:

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

The Assembly voted -

AYES, 9	*NOES, 3*
Mr Berry	Mr Kaine
Ms Carnell	Mr Osborne
Mr Cornwell	Mr Rugendyke
Mr Hargreaves	
Mr Humphries	
Mr Moore	
Mr Quinlan	
Mr Smyth	
Ms Tucker	

Question so resolved in the affirmative.

LEGISLATIVE ASSEMBLY (PRIVILEGES) BILL 1998

Debate resumed from 20 May 1998, on motion by **Mr Osborne**:

That this Bill be agreed to in principle.

MS CARNELL (Chief Minister and Treasurer) (5.51): Mr Speaker, parliamentary privilege is a term that describes the power, the privileges and the immunities of a parliament. These privileges ensure the proper operation of the parliament and in this sense parliamentary privilege places the parliament above the general law. However, we should not forget that the reason for this is public interest. Freedom of speech in a parliament is guaranteed because it is in the public interest that the debate should be free from outside interference or obstruction.

One of the issues highlighted by the report on standing order 207 was that in the event of disruption in the gallery the Speaker's only option is to adjourn proceedings. While in many cases this might be a sensible approach, it is an issue that goes to the heart of the Speaker's ability to manage the precinct to ensure that the Assembly can continue to sit in an orderly way. It is in the wider public interest that the interests of a vocal minority should not impede debate in this parliament. Under the proposed precinct provisions the Speaker has the power to direct that non-members leave and not re-enter the precinct.

There are different views about whether it is appropriate to include the car park in the precinct. Why include the car park? I think the answer is quite simple. Access to the building has a very direct impact on the capacity of the Assembly to operate without outside interference when a demonstration impedes entry into the Assembly or the provision of basic services. Members should also note that clause 13 of the Bill means the Speaker's control and management of the precinct are subject to any direction of the Assembly.

The provisions of the Bill that deal with publications of the Assembly clarify another area of doubt in the existing legislation. These provisions put beyond doubt any susceptibility of staff to legal action because they have published authorised documents. This covers publication and distribution of the proof *Hansard*s, *Hansard* itself and other reports and papers published under the authority of the Assembly. Only three of the statutory offences potentially apply to members. These are a breach of publication prohibitions, unauthorised disclosure of in-camera evidence and improper influence of witnesses. I think that members agree that this is entirely appropriate. The conduct of members within the chamber should be dealt with by the Assembly through the standing orders. However, these three offences are of a more general application and apply outside the context of parliamentary debate and procedure.

Some of the offences relate to giving evidence before the Assembly or its committees, although the offences apply only when a person has been summonsed. This means it is possible to flag a more formal proceeding by ensuring a formal summons. The current practice is that formal summonses are not generally issued. The Bill does not mean that this has to change. What it does mean is that committees may consider using a summons if the nature of the inquiry justifies a more formal approach. Mr Speaker, the involvement of the public in Assembly committees should not become overly formal. These powers are intended to provide a wider range of tools to make appropriate procedural decisions. As before, the public should be encouraged to participate in the processes of the Assembly.

I would like to give my support and the support of the Government to the Bill. This Bill settles some outstanding issues in relation to the operation of parliament. It also makes a wider statement about the operation of our parliament. The Bill reflects some of the history of the development of parliaments in the Westminster tradition. That is a result of the provisions of the self-government Act. However, the Bill puts the stamp of the ACT parliament on the way the concept of parliamentary privilege applies to this Assembly. Mr Speaker, as we approach the tenth anniversary of this Assembly, it is appropriate that this legislation brought forward by Mr Osborne is passed at this time.

MR BERRY (5.56): Mr Speaker, I find it hard to search out a reason why we need to duplicate many laws which already exist. Yes, there are some areas covered by this legislation which are not covered by other laws of the Territory but, on the whole, I would have to say, and I have been here since 1989, that I have never really seen much difficulty in the will of the people, if we can describe it that way, being exercised in the parliamentary sense. I do not think it has been inhibited by the laws which now guide us in our everyday life. We do enjoy the privileges of elected office, and they are weighty privileges which have to be treated with respect. They have been long recognised in law and there are certain protections which are provided for parliamentarians or legislators in this country, and for good reason. It is not because they are ineffective that this Bill comes forward.

I go back to a comment I made earlier in relation to the motor traffic legislation. We are getting to the stage where, if people have little to do, they come up with legislation to improve the count. If this Bill was never introduced I do not think the ordinary community out there would notice. If it were to be passed I do not think the community would notice because the changes that it would bring about are insignificant. I therefore think this is another piece of legislation that we are debating at this late hour which will be of no particular useful purpose so far as the ordinary taxpayers are concerned.

I did see elements of the legislation which refer to the precincts. Where I park my car many other members of the community can park too, as visitors and so on. It is a public street, I think, according to the Motor Traffic Act, and people can be booked. Indeed, they can be breached for traffic offences in that area. I do not see a need for it to be treated any differently. If there was repeated difficulty for members gaining access to this house I might then say we have to rethink this.

Yes, there have been some tense relations between the Assembly and people in the community, but even when I have been the centre of that controversy I have never felt threatened. That might be because I am a bit foolhardy about these things or it might be just that I was not threatened. I rather think it was the latter. I do not think I have ever been threatened even when I have been at the centre of some contentious issues.

Ms Carnell: I have to say that the bus drivers got a bit funny.

MR BERRY: The Chief Minister interjects and says the bus drivers got a bit funny. That would not be the first boisterous demonstration out the front. There may well have been some behaviour that you would not like to see happen in your lounge room.

Ms Carnell: Spitting was a bit iffy.

MR BERRY: That is an assault.

Ms Carnell: So I should have - - -

MR BERRY: It was open to you to do that. If people do those sorts of things it is open for you to proceed. I do not think this Bill will change any of that. If people vandalise it is open to the Speaker or the Clerk to engage the police to look into the matter. This Bill will not change that. If there was some vandalism, under this legislation the response would be the same.

Mr Humphries: Are you opposed to the Bill, Wayne?

MR BERRY: We do not think it should be passed in principle. I will be moving to send it off to a committee. I cannot see the need for the legislation. It seems to me to be a duplication. We are happy to refer it to the Administration and Procedure Committee and let them have a look at it.

Ms Carnell: Hasn't it been there?

MR BERRY: No, I do not think so. It strikes me as most appropriate that the Administration and Procedure Committee look at this anyway. Mr Speaker, assuming that the Bill passes the in-principle stage, I will be moving to send it off to the Administration and Procedure Committee for review and report. That is not to say that some of the provisions within the Bill are terribly harmful. They are provisions which might serve some practical purpose, but they mostly duplicate laws which are already available to us. They also address a situation which, to me anyway, does not seem to be a problem.

It is true that we do not have legislation of the order which exists in other States, and there may be an argument that we should. I cannot see it because my powers and my privileges in this place have never been interfered with as a result of the absence of this legislation since 1989. I have never felt threatened. Other people may have been, but I do not think this legislation would have stopped that. The same avenues were available to people if that were the case. The police could have been called to deal with matters.

Mr Speaker, I do not feel that this is terribly urgent legislation. Again, it is that nanny-state sort of stuff, that we have to legislate for everything, and that troubles me. If the Administration and Procedure Committee is able to review the Bill and come forward with some sensible amendments I would be quite happy to consider them later on, but at this point I do not think we should proceed further than the in-principle stage at least. I would be happy to be convinced otherwise if the Administration and Procedure Committee were to recommend otherwise, but at this point I think it would be improper to proceed with the Bill until it is properly reviewed.

You would all have received some advice referred to you by the Speaker, I think, from the Clerk which raised some issues in relation to the matter. They are issues which I think ought to be reviewed in the context of a proper inquiry. I do not think it is appropriate for us to try to analyse each and every aspect of the Bill and its application in this place without it having first been to a committee. We will support sending it off to a committee if it survives the in-principle stage, and it looks as though it will.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 9	*NOES, 4*
Ms Carnell	Mr Berry
Mr Cornwell	Mr Corbell
Mr Humphries	Mr Hargreaves
Mr Kaine	Mr Quinlan
Mr Moore	
Mr Osborne	
Mr Rugendyke	
Mr Smyth	
Ms Tucker	

Question so resolved in the affirmative.

Bill agreed to in principle.

MR BERRY (6.08): Pursuant to standing order 174, I move:

That the Legislative Assembly (Privileges) Bill 1998 be referred to the Standing Committee on Administration and Procedure for inquiry and report.

I could develop some further reasons.

Mr Moore: There is a standing order about repetitiveness.

MR BERRY: I think I could develop some further and innovative reasons by referring further to the Bill, but that is not the point of the exercise. The point of the exercise is to have an expert committee of the Assembly look at the matter and to come back to this place with a report which we can all consider in the cool light of day. I think it would be a sensible move.

I have expressed my personal reservations about the Bill and Labor's reservations about the Bill, but we will be happy to consider a report from that committee. We seek the support of other members of this Assembly for that course. The Administration and Procedure Committee has a reputation for very carefully considering these sorts of pieces of legislation or efforts or issues which affect the Assembly. It uses the wider networks of the secretariat to develop these matters fully, and I think that is a most appropriate course for us to adopt.

MS TUCKER (6.10): Yes, I support the motion that it go to the Administration and Procedure Committee. I supported this Bill in principle, but I am interested to hear that there were some concerns raised by the Clerk. I am not familiar with what they were. If there are some issues of detail that need to be resolved it is entirely appropriate that it go to the committee. I hope that members will support the motion. If they do not it shows a certain belligerent attitude that is quite unnecessary under the circumstances.

MR MOORE (Minister for Health and Community Care) (6.10): Mr Speaker, my recollection is very different from that of Mr Berry and Ms Tucker. The issue came before the Administration and Procedure Committee and was dealt with in the last Assembly by that committee. It was not dealt with as a Bill, but conceptually and as part of the issues. In its legislative form, as it is here, I think there is nothing that warrants any controversy and it can go forward. Is your recollection different from mine?

Mr Berry: My understanding was that there might have been parts of it - - -

MR MOORE: It may be parts of it. Maybe a series of issues came before us at different times. That may be why I have that recollection. I think this helps resolve some of those issues and I think it is not necessary for the Bill to go back to that committee. I think the Bill is fine in its current form.

MR CORBELL (6.11): Mr Speaker, I will be supporting the motion to refer the Bill to the Administration and Procedure Committee simply for the very reasons that Mr Moore points out. Whilst the Administration and Procedure Committee in the last Assembly, I understand, did deal with a number of the issues that are raised in the Bill, it did not deal with the overarching development of that piece of proposed legislation and the impact it would have on the operations of this place.

In light of the fairly serious and important comments that have been made by the Assembly's Clerk in relation to this Bill and some of the concerns that have been identified through that advice, it is entirely appropriate that this Bill be considered by the Administration and Procedure Committee. There has been no thorough analysis of it. If there is a forum in this place, apart from the Assembly itself, which could be used to do a more detailed assessment, it would be the Administration and Procedure Committee. It has the representation of all groupings in this place and it has the ability to seek the advice of officers of the Assembly who have the expertise that I think is important in considering this Bill. It is not a minor Bill. It is not something that should be debated in half an hour today and simply passed through. It should be considered carefully through a committee process. We have done that with a range of other Bills and on this occasion I think it is entirely appropriate that we do that.

I urge members not to deal with this Bill too hastily in terms of debate this evening, but instead refer it to the Administration and Procedure Committee so that we can deal not just with the issues which led to the drafting of the Bill but the Bill itself.

MS CARNELL (Chief Minister and Treasurer) (6.13): Mr Speaker, there are a number of reasons why you send a Bill to a committee and we have spoken about them in the last couple of days. Sometimes it is because, as with Mr Rugendyke's Bill, we had only had it for a very short time and there were still some issues that some people were

not comfortable about, simply because of the timeframe. That is simply not the case with this Bill. We have had it in front of us in this form for quite a long time. We have had the Clerk's letter since the middle of October. We have had any amount of time to address these issues. There has been any amount of opportunities to bring forward amendments and to have discussions with Mr Osborne.

The Government is very comfortable with the Bill in its current form, simply because we have had the time to speak to the necessary people, to address the issues that were raised, or to ensure that they are addressed from our perspective anyway and to get on with the job. We are not in the business of trying to slow down the house in any way, and we are certainly not in the business of referring things to committees simply to slow down the process. In this case we have had the Bill for sufficient time for everyone in this place to have addressed the issues that need to be addressed.

MR HARGREAVES (6.15): Mr Speaker, I support the passage of this Bill to the Administration and Procedure Committee, for a couple of reasons. The first reason is that, whilst part of it may have been discussed by that committee last year, there were four of us who were not in the last Assembly. We were not privy to those discussions or those conclusions, even though I suppose even we can read. I believe we ought to be able to consider these things.

The Chief Minister says she is not about flicking things to a committee to slow things up. I am afraid I do not agree with that either. It is a tactic, and a reasonable one to be employed in the parliamentary process. However, you flick it for two reasons when you slow it up. The first one is that you just want to get a handle on it, and an honest one. At other times you want to flick it because you do not want to talk about it at the moment.

Mr Smyth: Are you going to own up on all occasions when you are doing that? Are you going to fess up?

MR HARGREAVES: I do not say that that is an all exhaustive list. Yes, I will fess up. I will do it to you any time I get a chance to. However, I am anxious to have it passed to that committee for the honest reason that I would like to see people's minds wrapped around it in a forum where they can discuss it and bring it back. I would hope that my new colleagues in the Assembly would think likewise because the Administration and Procedure Committee, of all of the standing committees of this Assembly, is the one which is charged with housekeeping and it is the one in which, I guess, there is no chance of party political bias getting into it. We hope.

I urge members to vote for its transmission to that committee and do Mr Rugendyke, Mr Smyth, Mr Stanhope, Mr Quinlan and me a favour, because we were not here when Mr Moore was looking at it. I would like to have that revisited in the context of what we have had put before us today and so that we do not have to go back and do all the reading on it. We can get the committee to consider it in toto. I think it is most appropriate that that happen.

MR OSBORNE (6.17): I do not have a copy of the Clerk's letter but from memory there were two issues, which were, I thought, only minor issues. One related to the issue of the five days from when someone can go to court. That is something that has been in place from about the nineteenth century, I believe, when it took a number of days by horse and carriage to get to court. The second thing was the issue of the car park being included in the precinct. They are hardly issues which warrant defeating the Bill, Mr Speaker. I think the Bill should go through and I will not be supporting this waste of time by Mr Berry.

MR KAINE (6.18): Mr Speaker, I support the motion that this Bill should go to the committee for consideration. In fact, Mr Osborne's comments confirm my view. As the Chief Minister said, the Clerk did make some very significant comment about this Bill, but the originator of the Bill tends to underestimate the importance of the Clerk's comments. I would have thought that if the author of this Bill were serious about it he would have taken on board the comments made by the Clerk and brought forward some amendments to correct it. He has not chosen to do so. Nor has the Government. It does not seem to consider that the Clerk's comments have any relevance at all; that we should whack it through tonight and, if the Bill has flaws, tough luck. I do not support that approach to legislation of any kind, Mr Speaker.

The point has already been made that this is not insignificant legislation. It is quite significant legislation. We should make sure we get it right. Since nobody on the floor of the house has chosen to attempt to do that, I support the referral of the Bill to a committee that can have a look at the matters raised by the Clerk and by anybody else who might have some concerns with it, and make sure that when it is passed by this house it is good legislation, not flawed legislation.

MS TUCKER: I seek leave to speak again.

Leave granted.

MS TUCKER: I want to make an extra comment. If members are saying that this should not go to a committee and that comments from the Clerk are not serious, and Mr Osborne obviously has not been able to address them, Mr Moore and Mrs Carnell might like to address those issues for the benefit of members here so that we understand why they think these comments are not serious enough to warrant the committee looking at them. I would like to hear from Mr Moore and Mrs Carnell on that.

Mr Moore: Close the debate, Wayne.

Mr Berry: No, you address it. Tell us what you think of that. You can have leave to speak again.

MR SPEAKER: Order, Mr Berry!

Mr Berry: We just offered them leave to speak again and neither of them would rise to respond to the - - -

MR SPEAKER: Order, Mr Berry! It is up to the individual members whether they wish to speak at all.

Mr Berry: Indeed, Mr Speaker, and I gave them all the opportunities to do so.

MR SPEAKER: They do not need to be provoked, thank you.

MR BERRY (6.20), in reply: I gave them all the opportunities to do so and they were disinclined to respond to the issues which have been raised in the Clerk's advice which you circulated. The Government is clearly supporting this legislation and does not want proper inquiry into the matter, and neither does Mr Osborne.

One of the interesting things about this is that the Government intends, and Mr Osborne intends, to create a precinct here for their own protection because they have been bothered in the past. They want to try to create a little bunker for themselves when they make controversial decisions. Yes, I agree that the Chief Minister was hassled in the past over a bad decision about buses. I suspect that Mr Smyth would have been hassled on a bad decision about buses had he not turned himself around and realised the error of his ways. He saw what happened to the Chief Minister and he learnt, and he did not proceed. So in the end we did not have to tolerate that again.

We have a situation where the Executive is preparing for itself a little bunker in law and we have the car park precinct being established so that nobody can confront a member out there when they get out of their car and put a proposition to them. If the member is unhappy the member can then call upon the Speaker to order this person to move on. This is a clear demonstration of people trying to create for themselves a buffer zone. It is a buffer zone that they might need if they go on with silly decisions like selling ACTEW, or if Mr Smyth had gone on with a silly decision like privatising the buses and so on. I am not frightened of the community because I do not intend to waste the landscape as this lot do.

I think this is legislation that has not been well thought through. In the first place it was a knee-jerk reaction from the Chief Minister in response to her being hassled as she came to work. Of course, she did not like the issues which she had to confront being put to her face. Well, I do not mind that. I am not frightened of it. Here we have a situation where the precincts of the Assembly are being established for no good reason. There is no good reason for this. This is merely to save Ministers in this place from being confronted by members of the community. We all remember the fuss and bother at the larger parliament to our south when the media wanted to talk to members of the Government as they were going to and fro. I think the Government might have been of our particular flavour at one stage, and they did not like the media scrum out the front. They were wrong.

I think establishing this sort of buffer zone just to protect yourself is a sign of your frailty. It shows that you are just trying to create a bunker for yourself. I still recall this Chief Minister going crook about the very meagre security arrangements that are in place around this building. Do you remember her shrieking and screaming about the very meagre security arrangements around the building? Now she is supporting something which will establish a bigger buffer zone for her own comfort. Isn't that just amazing!

Mr Speaker, it is clear from the numbers that this Bill will not be going off to a committee. It surely deserves to go off to a committee so that it can be properly considered and in order that sensible recommendations can be prepared for later consideration by this Assembly.

MR SPEAKER: Order! There is too much audible conversation.

MR BERRY: That is better.

MR OSBORNE: I seek leave to speak again.

Leave granted.

MR OSBORNE: Mr Speaker, I am happy for it to go off to the Administration and Procedure Committee for a short period next year, so I will support Mr Berry's motion.

Question resolved in the affirmative.

LIQUOR (AMENDMENT) BILL 1998

Debate resumed from 27 May 1998, on motion by **Mr Osborne**:

> That this Bill be agreed to in principle.

MR HUMPHRIES (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (6.27): I think I need to speak, Mr Speaker, simply to restore calm and order to this chamber. The Government will support the Liquor (Amendment) Bill which is before the house, on the basis that the Government believes that there is a very powerful case for ensuring that there is a much tighter arrangement in place for the sale of liquor, in particular to children under the age of 18. The Bill does have a problem which I propose to fix by way of an amendment, but the thrust of the Bill is supported by the Government.

I am advised that, in the absence of words expressly imposing vicarious liability, the provisions of an Act may possibly be interpreted to impose vicarious liability for an offence. However, it would be preferable to avoid the need to put this to the test. The likelihood of vicarious liability being negated by Mr Osborne's Bill is more probable as a result of the repeal of all of subsection 104B(3), as it could be argued that the legislature's intent, with the repeal of all the subsection, was to reverse the current position under the Act. Mr Speaker, that is in fact the argument in favour of the amendment, which I am not moving at this stage, so I will not proceed with those remarks. Seeing as no-one was listening anyway, apart from the Chief Minister, I might as well have read my shopping list.

There is a problem with the enforcement of laws which prevent the sale of alcohol to children under the age of 18. A succession of judgments by ACT courts have relied upon the provisions in the Liquor Act to suggest that a licensee has exercised due diligence in putting in place some scheme, in theory, to prevent the sale of liquor to a child under 18. A practice has developed around those provisions which effectively gives a licensee the capacity to argue a defence to a charge that they have sold to a child under 18. I think we go too far with those provisions. We have certainly reached the stage where a number of licensees, notwithstanding that they have not only knowingly sold liquor to under-18s but repeatedly sold liquor to under-18s on a number of occasions - - -

Mr Quinlan: Knowingly?

MR HUMPHRIES: Knowingly or not, they have made those sales. The Government believes that we should approach this issue on the basis that an absolute liability of sorts ought to rest on a retailer of liquor to ensure that systems are in place which not only are designed to prevent the sale of liquor to under-18s but actually result in the sale of liquor to under-18s not being possible. This is what this Bill Mr Osborne has brought forward does.

These are serious steps that we take. We certainly make it more difficult for a licensee to avoid a conviction. I think that is the message the Territory would like to be sending to such licensees - that they ought to put in place mechanisms to ensure that a person who is acting in their employ does not sell to an under-18 and that if their measures fail to be effective they have to wear the consequences of that failure. It is a high bar to set, I concede, but it is an appropriately high bar, given the important question at stake here, the question of ensuring that children are not able to purchase liquor from ACT retail outlets.

I want to quote at length from a decision brought down earlier this year by the then president of the Administrative Appeals Tribunal, Professor Lindsay Curtis. He and his tribunal had considered a number of such decisions over a period of time and, I think it is fair to say, reached the view that we had got to the stage where too low a standard was being imposed on retailers in the ACT. I quote from the last page of his judgment:

> ... the licensee escapes penalty notwithstanding that there was error on the part of the manager trusted with the day to day operation of the store. The same result was reached in the Woolworths' case. There must, I think, be a real question whether this is a satisfactory outcome from the point of view of administration of the Liquor Act. The judgements of the House of Lords in Tesco Supermarkets v Nattrass make it clear that the policy considerations behind the decision in that case concerned the perceived unfairness of making a company criminally liable for the actions of an employee. It may be doubted, however, whether this accords with the reality of practical management. Those who are entrusted with the day to day management of the operations of a business are those who,

> in a practical sense, will be responsible for the diligent implementation of company rules, policies and practices. Those who constitute the "directing mind and will" of the company may well be those who lay down systems designed to ensure that no breaches of the law will result from the company's operations. But the diligent implementation of those systems is in practice left to those to whom the company has entrusted responsibility for its day to day operations.

Here is the most pertinent bit, Mr Speaker:

> Although it may well be unjust that a licensee who has taken reasonable precautions and exercised due diligence should face criminal prosecution for the actions of an employee, it seems to me that the desirable outcome might well be different where a disciplinary sanction is involved. It seems to me that it might well be reasonable that a licensee should be required to accept responsibility for a failure of diligence on the part of those employed to manage its day to day operations to ensure that its systems are properly implemented and that instructions given are properly observed.

What I think Professor Curtis is saying is that, where criminal sanctions are in issue, yes, it is reasonable to accept that due diligence is a defence. But where we are looking at a disciplinary sanction of the kind contained in the Liquor Act, then it is reasonable to accept that due diligence should not be an entire defence to a proceeding against that licensee, in this case before the Liquor Licensing Board.

Mr Speaker, those comments reflect the frustration which has been permeating the liquor enforcement mechanism of this Territory about the way in which the liquor legislation has in fact been applied. I think we should hear those concerns and we should reflect and pick up those concerns in our response. The appropriate response is to support the legislation which is before the house today. Yes, it does set a high standard. Yes, it means that a licensee who puts in place precautions that break down will be, in effect, opening themselves to proceedings before the Liquor Licensing Board. But that is an appropriate standard, in my view and the view of the Government, because we need to make sure that the highest standards are maintained in this area.

The fact is that almost on a weekly basis, certainly on a monthly basis, people are being prosecuted for sales of liquor to under-18s. If due diligence is supposed to be resulting in a high standard in the ACT's liquor outlets, it does not appear to be working. The number of breaches of the legislation that appear to be occurring is regrettably high, in fact alarmingly high. I believe we should support this legislation, thereby sending a signal that we consider this should not go any further.

In our view, unless a defence is available under the Act - and I am particularly thinking about those provisions that are provided for in the legislation for people seeing a proof of age card or other evidence of age, but that is another matter, so let us put it to one side - then I think an absolute liability ought to devolve onto the licensee. The Government therefore will be supporting Mr Osborne's Bill.

MR QUINLAN (6.37): Mr Speaker, the ALP will not be supporting this Bill. Mr Humphries referred to sending a signal and setting a high bar. He referred to Lindsay Curtis's judgment that the standard is too low. What we see here will compensate for having too low a standard by having no standard at all, placing the burden of proof upon the retailer. I am not all that familiar with going to pubs, taverns and clubs. With this level of legislation, we are getting to the ridiculous stage. If you had any worldly experience, you would know that there are many organisations that virtually do backflips to ensure that they do not get caught under the existing legislation but still occasionally do get caught purely because - - -

Mr Humphries: More than occasionally. It's happening a lot.

MR QUINLAN: I do not believe in creating law to compensate for poor regulation. If the standard is not good enough, change the standard, improve it. You are wiping it out altogether. There are inadequate processes and regulation. If you cannot prepare a decent case, then lift your game in the preparation of the cases that are going forward. When people are running licensed premises and retail premises, there has to be some latitude if the proprietor has done everything within their power to ensure that they are not selling to minors, yet it happens very occasionally because one staff member forgets to ask for the proof of age card once and the police happen to be there. Under this Bill they are guilty as charged because there is no out. It does not matter how the organisation has tried. I know from direct experience that they do try. The ALP agrees totally with the spirit of this legislation. We should not be selling liquor to minors. If this Assembly is so far removed from the world out there, we have a major problem.

MS TUCKER (6.40): I am also sympathetic with the intention of this legislation. Obviously, no-one wants to see alcohol being served to minors. I have talked to a number of groups about this legislation and it does seem to be an extreme response to the problem and one that is very unfair. By removing subsection 140B(3) from the Liquor Act you are taking away any ability for an owner of an alcohol outlet to defend themselves. Mr Humphries said that a defence is too easy under the existing law and that people are being let off too often. I am happy to look at other ways of addressing that issue.

An amendment to be proposed by Labor would up the ante to some degree by putting in "any reasonable doubt". I do not know what the Government's response to that will be but I will be interested to listen to the arguments. To me, that is a step towards upping the ante, or giving a message to the court that quite a strict test has to be applied to licensees if they are trying to defend themselves against a breach of the Act because a minor has been served alcohol.

By removing their ability to defend themselves at all, you could be making the legislation open to abuse. A disgruntled employee could easily decide to punish their employer by purposely not carrying out the normal processes that they have been asked to do and trained to do. These things do happen in the workplace. I agree with Mr Quinlan when he says that the supporters of this Bill do not understand the reality of complicated workplaces. Apart from that, it just seems incredibly unfair to me that a piece of legislation should take out the ability of people to defend themselves against a charge.

While I would not support this Bill and I would consider supporting the Labor amendment, I am happy to work with the Government to look at other ways to increase the responsibility of licensees, if that is the issue. I would have to see the stories behind the breaches to understand what exactly is going wrong. It is an issue that I am prepared to put time into, but this particular legislative response is right over the top and very worrying and unfair. It does not give natural justice.

MR CORBELL (6.44): Mr Speaker, I join my colleague Mr Quinlan in saying that this Bill, as Ms Tucker rightly points out, is an extreme response to a problem which, whilst a difficult one, is being addressed by an overly reactive approach. It is disappointing that we are here this evening because Mr Osborne has said he wants this Bill debated this evening. There are members in this place opposed to the Bill and raising concerns about the Bill, and where is Mr Osborne? It stretches credulity just a little bit when we are all hanging around here so that Mr Osborne can have his Bill debated, and he does not even do us the courtesy of listening to the debate. As it is his Bill, Mr Speaker, you would think that he would do that.

I move on to the substance of the Bill. As my colleague Mr Quinlan rightly points out, the issue here for the Labor Party is that this Bill completely reverses the onus of proof. Even if an organisation, a pub, a club, a tavern, is responsible, does everything in its power to properly and effectively train its staff and has proper and effective procedures in place to deal with the possibility that staff may serve alcohol to minors, and they serve alcohol to a minor they are committing an offence. You would think that we would want to be encouraging a responsible attitude. This does the reverse. It says, "We do not care whether or not you adopt a responsible attitude. If you serve alcohol to a minor, you will be at fault and you will be punished". They may not be at fault. My colleague Mr Berry rightly points out that approximately 4,500 people turn 18 every year. Are we seriously suggesting that someone just under the age of 18, 17 and six months, is not going to walk into a pub or club and attempt to buy an alcoholic drink? Of course they are.

This Bill is not going to resolve the problem that has been identified. In fact, it is a draconian approach to an issue that needs to be addressed in a wide range of ways. Simply to pass a Bill and walk out of this place later tonight and say, "I fixed the problem because I changed the law" is unrealistic. As my colleague Mr Quinlan pointed out, who are we kidding? The only people we will be kidding are ourselves. This Bill is not necessarily going to address the issue of under-age drinking in Canberra but it is going to put an incredible onus of proof on the providers of alcoholic beverages in quite an unfair way. Yes, the problem does need to be addressed but simply legislating is not the way to address it.

MR OSBORNE (6.48), in reply: I thank the majority of members for their support. Mr Speaker, I believe that selling alcohol to under-age people is something that we as an Assembly and as a society need to cover all bases on, to make sure that there are no loopholes for people to slip through. Unfortunately, such a loophole has been provided in the past to licensees through a generous application of the due diligence test by the Supreme Court. This test is now so broadly defined that, as long as a licensee can argue that he had procedures in place to require staff, for example, to seek identification from purchasers, despite their neglect to do so, it constitutes a rock solid defence to a prosecution for the sale of liquor to a minor.

Members will recall that the context for this Bill involved the recent successful appeal to the Supreme Court by Woolworths at Dickson against a finding which had been made by the Liquor Licensing Board. The dismissal of that finding by the court judge has provided any future defendants with an easy defence, thus making the Liquor Act completely ineffective. This Bill will close that loophole and make it an offence for licensees to sell alcohol to an under-age person. It will still be necessary, as with any offence, to prove to the satisfaction of the board or the court that there was an element of intent and that the offence actually took place.

What this Bill will not do is allow the defendant simply to assert that he or she is not liable for the neglect of his or her employees in such a serious case.

Mr Speaker, I will accept the amendment from Mr Humphries, which tidies up the Bill, but I will not accept the amendment to be moved by Mr Quinlan, which just returns the position to what it is now. I thank members for their support.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 8	*NOES, 5*
Ms Carnell	Mr Berry
Mr Cornwell	Mr Corbell
Mr Humphries	Mr Hargreaves
Mr Kaine	Mr Quinlan
Mr Moore	Ms Tucker
Mr Osborne	
Mr Rugendyke	
Mr Smyth	

Question so 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) (6.52): I move:

Page 1, line 11, clause 4, omit 'subsection (3)', substitute 'from subsection (3) all the words after 'person' (first occurring)'.

I present a supplementary explanatory memorandum. I have speaking notes to this amendment. I do not think I need to deliver that speech. I simply ask members to refer to it. I seek leave to have my speech incorporated into *Hansard*.

Leave granted.

Document incorporated at Appendix 3.

MR QUINLAN (6.53): I move the following amendment to Mr Humphries' amendment:

> Add "and substituting 'unless the body or person establishes beyond any reasonable doubt that reasonable precautions were taken and due diligence was exercised to avoid the conduct.' ".

In the practical world outside this place, without there being precautions, you still go to court; there is still a hearing; you still get charged. It is just that you have an out. If the way the law has been applied to date has been inadequate, we should have been looking at the application of it. We should have been looking at the way we were doing it. We should have been looking at the way the cases were prepared against Woolworths if they failed. But if businesses have done all things practicable to avoid the sale of liquor to minors, then I think that should be sufficient defence.

Question put:

> That the amendment (**Mr Quinlan's**) to Mr Humphries' amendment be agreed to.

The Assembly voted -

AYES, 6	*NOES, 7*
Mr Berry	Ms Carnell
Mr Corbell	Mr Cornwell
Mr Hargreaves	Mr Humphries
Mr Kaine	Mr Moore
Mr Quinlan	Mr Osborne
Ms Tucker	Mr Rugendyke
	Mr Smyth

Question so resolved in the negative.

Amendment (**Mr Humphries'**) agreed to.

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.

ACTEW - Sale

MR QUINLAN (6.58): I wish to take just a couple of moments of everybody's time. Earlier today the Chief Minister quoted a selective sentence from the Australia Institute report on ACTEW. I just want to read into *Hansard* the full paragraph. It states:

> It will be argued below that the appropriate procedure for valuing public enterprises is one based on a risk-adjusted bond rate. However, it should be observed that this issue is still being debated by economists. Hence, it is appropriate to consider valuations based on the private WACC. It is clearly inappropriate, however, to use a private WACC in place of the bond rate actually faced by government and then to make *additional* adjustments for implicit costs of public ownership. In effect, these costs are being counted twice. Unfortunately, this is precisely the procedure adopted by ABN AMRO/DGJ and endorsed by the ACT Government.

Fire Brigade

MR HIRD (6.59): Mr Speaker, I would like to take one minute to congratulate the ACT Fire Brigade on their fine effort in the late hours of yesterday and early hours of today when a fire occurred at the Finnish Club in Jamison. They did a sterling job. It is a dangerous building. I would like to congratulate the officers who were in attendance, and I would ask the Minister to convey my comments to them.

Question resolved in the affirmative.

Assembly adjourned at 7.00 pm