



**DEBATES**

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

5 May 1999

**Wednesday, 5 May 1999**

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

**REMUNERATION TRIBUNAL (AMENDMENT) BILL 1999**

**MS TUCKER** (10.31): I present the Remuneration Tribunal (Amendment) Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

**MS TUCKER:** I move:

That this Bill be agreed to in principle.

Mr Speaker, yesterday in the Assembly the Chief Minister presented the latest ACT budget. The budget describes in great detail what the Government intends spending its money on. However, it is odd that there is one area of expenditure the Government does not want any control over, and that is its own salaries and those of other MLAs and office-holders. The Government leaves the setting of MLAs' and other office-holders' salaries to the Remuneration Tribunal. In the past, most MLAs have been quite happy to receive any increase in their remuneration that has been determined by the Remuneration Tribunal. The justification given is that the Remuneration Tribunal is an independent body that undertakes investigations into remuneration increases without any self-interest involved. This may be so, and I am quite happy for the Remuneration Tribunal to undertake such investigations. However, what concerns me is that there is no mechanism for MLAs to say no to a pay rise. We do have the option of putting submissions to the tribunal, but once the tribunal makes its determination then that is it. We receive a pay rise whether we like it or not.

There is no mechanism in the Remuneration Tribunal Act for the Assembly to question a determination of the tribunal. The standard mechanism for allowing such questioning across many other pieces of legislation is to make determinations disallowable instruments so that, if a member wishes to object to a determination, then the determination can be tested in the Assembly via a disallowance motion.

The provision of disallowable instruments is also about accountability, making sure that those people making decisions that affect the governance of the ACT are ultimately accountable to the Assembly. Mr Speaker, I therefore find it odd that the Remuneration Tribunal is not accountable for its decisions, even though these decisions affect the expenditure of public money. I note that in the latest review of MLAs' salaries by the tribunal, the Chief Minister said in her submission that the present circumstances do not

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warrant any adjustments to remuneration and allowances for members of the Legislative Assembly at this time. What is she going to do if the tribunal decides that MLAs will get a pay increase? Is she just going to say, "I do not really want this pay increase, but if you really want me to have it then I guess I will just have to accept it", or will she stick to her original conviction and say, "No, I do not think this increase is justified; I think the tribunal should have another look at this."? My point is that at present she or any other member does not even have the chance of questioning the tribunal's determination.

Of course, this Bill does not mean that MLAs will never get another pay rise. If a majority of members want to accept a Remuneration Tribunal determination, then a disallowance motion cannot stop this. However, I think that as MLAs we should be mindful of the economic circumstances of those people in the ACT who voted us into this privileged position, and we have to share the burden on the community of reducing the ACT's debt. Previous determinations of the tribunal seemed to be more concerned about the relativities between politicians' salaries across the different States rather than looking at the appropriateness of such salaries in the first place. The problem, though, is that at present there is no clear mechanism for the Assembly to send a message to the tribunal about what it regards as the critical factors to be taken into account in making determinations. By providing the opportunity for a disallowance motion, such issues can be debated directly in the Assembly rather than through the media as currently occurs whenever a new determination is made.

I should point out that this Bill does not allow the Assembly to overrule the tribunal and give itself a pay rise. The Bill expressly provides that a determination may not be amended through a disallowance motion to increase remuneration. The Assembly could only reject pay rises rather than decide on an increase.

Another aspect of this Bill is that it introduces restrictions on the range of persons who can be appointed to the tribunal. This is in response to the fact that, while the tribunal is supposed to be independent, there is nothing in the Act which specifies who can be on the tribunal. It is just up to the Chief Minister to make the appointments. I have therefore put in a requirement that a person cannot be appointed to the tribunal if they are employed by, or are providing services to, the ACT Government or if they previously held an office, including that of an MLA, in respect of which the tribunal determines remuneration. These changes should go some way towards promoting the independence of the tribunal members.

In conclusion, let me say that I am not sure why other members want no role in Remuneration Tribunal determinations when the Commonwealth Parliament has the power under its Remuneration Tribunal legislation to disallow determinations. This certainly has not stopped Federal MLAs from getting pay rises. When the ACT set up its own Remuneration Tribunal in 1995, the disallowance provision was specifically left out of the ACT legislation, but I think the Assembly abrogated its responsibility by not including this provision, and it is time to redress this situation. I commend this Bill to the Assembly.

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

## BRUCE STADIUM REDEVELOPMENT - PRESENTATION OF DOCUMENTS

**MR STANHOPE** (Leader of the Opposition) (10.38): Mr Speaker, I move:

That this Assembly requires the Chief Minister to present to the Assembly, prior to the adjournment of the sitting of Thursday, 6 May 1999:

- (1) certified copies of all the papers in the possession of the Government and its agencies relating to:
  - (a) the interim funding (including relevant approvals) by the CFU Whole of Government Account prior to the establishment of the external financing structure for the redevelopment of Bruce Stadium;
  - (b) the establishment and operations of any corporate and other structure relating to the redevelopment and management of Bruce Stadium, including but not limited to Bruce Operations Pty Ltd, Bruce Property Trust and Bruce Investment;
  - (c) subscriptions and/or taking up of units by the Government and/or others in Bruce Property Trust;
  - (d) the borrowing transaction of 30 June 1998 by the Bruce Property Trust from the Commonwealth Bank, including but not limited to any relevant guarantees or other securities given by the Territory or other entities and any subsequent re-financing;
  - (e) any other financial guarantees or other indemnities given in relation to the Bruce Stadium redevelopment;
  - (f) the calling of tenders for the redevelopment and submissions and other correspondence from all tenderers, the assessment of the tenders and the selection of the successful tenders;
  - (g) the Territory's bid for the staging of Olympic Soccer in Canberra, including those relevant to the appointment of CRI and the resulting contract with SOCOG and any relevant guarantees given by the Territory;

- (h) the selection and appointment of Deutsche Bank as broker between the Territory and private sector financiers for the private sector component of the financing of the redevelopment;
  - (i) the set of financial statements specific to Bruce Property Trust referred to in footnote 1.20 (page 188, vol. 2) of the 1997-98 Annual Report of the Chief Minister's Department; and
  - (j) contracts and arrangements for the management and operation of the Bruce Stadium including, but not limited to, cleaning, catering and the sale of corporate boxes and suites, merchandising, advertising and naming rights;
- (2) details, in relation to the redevelopment of Bruce Stadium, of:
- (a) the timing, amount, purpose and recipient(s) of all payments made by the Territory or on behalf of the Territory;
  - (b) the legislative authority for any payments and guarantees made by the Territory;
  - (c) any Territory appropriation made to date and any items outstanding required to be covered by appropriation; and
- (3) details of any borrowings made by the Territory or on behalf of the Territory under sections 40 and 42 of the *Financial Management Act 1996* and any delegations of authority made by the Treasurer pursuant to section 40 of that Act.

Mr Speaker, the Bruce Stadium redevelopment has from the outset been clouded in uncertainty. It has been a saga of over-the-top promotion quickly succeeded by doubt. Questions have continually been raised about the planning of the project, about tendering for the project, about the projected usage rates of the stadium, about the marketing of the stadium and about the letting and operation of concessions there. Promotion of the stadium has struggled. Naming rights and corporate boxes have not been sold, and a major concert has recently been cancelled. Seating for the Olympic Games soccer matches has been reduced from 40,000 to 25,000, even though we have been told that the break-even point for these matches is about 24,000.

These are serious issues, but overriding these issues in the public mind has been the question of how much it is going to cost and where the money will come from. The answers have been slow in coming, and those we have been given have not been clear.

Initially the redevelopment was to cost \$27m, with some \$15m coming from the private sector and with a guarantee from the Chief Minister that the Territory's exposure would not exceed, in any event, more than \$12.3m. The cost has now risen to an agreed \$32m, and there is no sign of the private sector funding. This is the capital cost of the venture. On top of that we have to meet operating and financing costs, but now serious doubts have been raised about the projections for the operating revenue. There is no doubt that we do have a wonderful facility at Bruce. I enjoy visiting the facility and I enjoy watching football there. But at what cost?

Now we have the fundamental questions about the project. Who has paid for the expenditure and on what authority? There is a complicated background to the issue, and it becomes more complex and more confused. On 1 June 1998 the Government created the Bruce Property Trust as a vehicle for the private sector to take equity in the redeveloped Bruce Stadium. On 15 April the Government created Bruce Operations Pty Ltd to manage the stadium.

Another factor in this confused web, this confused chain, is that the Appropriation Act in 1997-98 provided \$5.6m as a capital injection for the project. But \$14.7m was spent on the project, and the difference was covered by a loan of \$9.7m from the Commonwealth Bank. The Auditor-General noted that, to 30 June 1998, \$17.4m had been expended, with a further \$10m committed. The loan was taken out on 30 June 1998 and refinanced with internal ACT government finance on 1 July 1998. It is interesting that the Appropriation Act 1998-99 provided a further capital injection of \$6.7m for the project. The project is close to completion, and no private sector financing has been arranged.

**Ms Carnell:** What about the loan from the Commonwealth Bank?

**MR STANHOPE:** The Chief Minister interjects that the loan from the Commonwealth Bank is private sector financing. The details of that have not been declared to the Assembly. I am interested in the Chief Minister's interjection that the Commonwealth Bank finance that has been announced but the details of which have not been disclosed fits the description of private sector financing. We await with great interest the revelations of how a loan from the Commonwealth Bank, brokered apparently by the Deutsche Bank, fits the definition of private sector financing. But, with luck, the Chief Minister in her response in this debate will reveal to us exactly how that is achieved.

The point is that expenditure of some \$14m to \$20m, or indeed \$27m to \$32m probably, has been made or permitted and none of it, other than the amounts of \$5.6m and last year's amount, have been appropriated. This question of whether or not funds have been expended on the Bruce Stadium without any formal appropriation by the Assembly, by the parliament, goes to the very heart of our parliamentary system. Parliament is responsible to the people, and the Executive is responsible to the parliament. No payment of public moneys should be made without the Assembly's approval. This Assembly has appropriated \$12.5m, yet payments of \$27m to \$32m have been made by this Government.

The fact that our parliamentary system does depend on the Executive being responsible to the parliament is set out in a way in our founding document, the Australian Capital Territory (Self-Government) Act. That Act provides quite explicitly that moneys shall not be expended by the Government without them having been appropriately dealt with within the parliament, within the Assembly, and approval for the appropriation granted through the budget process. The Financial Management Act makes a similar provision - and it is a stark and blunt provision - that moneys will not be expended unless they have been appropriated.

There is some argument about whether or not in fact the Government's actions in relation to this matter have infringed the ACT (Self-Government) Act and the Financial Management Act. It is my view that they have. The Government tends to argue the contrary. The Government is seeking advice from senior counsel on whether or not the actions that it took do fit within that legislation. The Labor Party and others are similarly seeking legal advice on the question, though our view is quite firm. We are very much of the view that the advice that we will receive will in fact confirm the view that those vital, fundamental pieces of legislation have not been complied with by this Government.

It is relevant that the Chief Minister, in introducing the Financial Management Act, commented on the extent to which that part of the Financial Management Act - section 6, I believe it was - which requires that no moneys be expended unless there is an appropriation was a fundamental tenet of responsible parliamentary democracy. The Chief Minister explained that in her explanatory memorandum. She put it very well. She put it succinctly that the requirement that the parliament approve the expenditures of public moneys was fundamental to our system of government. Those were the Chief Minister's words. Yet here we have a situation in which, in the view of some of us, there is absolutely no doubt that this Government has expended anywhere between \$14m and \$20m of taxpayers' money, of ACT residents' money, without having brought it to this place for approval. That is a very serious matter.

There is almost no more serious a matter for us to contemplate than whether or not this Government did in fact act legally. That goes to the heart of the issue we are talking about here. Has this Government acted legally in its expenditures of up to \$32m on the Bruce Stadium? That is the fundamental issue. We do need to ask how that happened. The Government has not given a clear answer. It has obfuscated. It has sought to hide behind a range of other provisions within the Financial Management Act. It has sought to rely on fairly vague and ambiguous arrangements in relation to borrowings and loans, and overnight loans and balance day statements. It is a confused situation. The Government's defence of itself relies on a range of confused, undisclosed arrangements with financial institutions.

This motion not only requests that all the papers that relate to those financial transactions be presented to the Assembly but has regard to the debate about the Bruce Stadium; has regard to the debate on the public disclosure of a whole range of issues going to whether or not the business plan for the Bruce Stadium was based on solid ground; has regard to the unanswered questions in terms of usage projections, questions that have been raised about the nature of the contractual arrangements that this Government entered into with the tenants at Bruce Stadium; and has regard to the ACT Government's exposure of the



ACT taxpayer to continuing expenditure as a result of contracts entered with the Raiders, the Brumbies and the Cosmos on the basis of crowd projections that, it is reported to us through the media, appear to have fallen far short of the mark.

We have seen revelations in the *Canberra Times* this week that the basis of the Government's redevelopment was average crowd projections for Raiders games of 18,000, for Brumbies games of 16,000 and - I do not have the figures in front of me - for Cosmos games of 10,000. They were projected usage rates for 1999. Of course, there were enormous projections in relation to other possible usage, including entertainment, none of which yet have come to pass.

The projection in relation to the Raiders was an average of 18,000 a game. We can do the extrapolations for this year so far, and at this stage of the season the Raiders are averaging 12,000. That is a very good result for the Raiders, a reasonable result. Had the Raiders been asked about an average projected crowd, they probably would have picked something around the 12,000 mark. But the Raiders would never in their wildest dreams have imagined average crowds of 18,000. It has just never been achieved. Yet the contracts, the arrangements and everything to do with the redeveloped Bruce Stadium depend on those sorts of projections and the costings that one can then extrapolate from them.

Where did the Government get its projections from? How were they tested? If the soccer projection provided by the Government's consultants was indeed as reported in the *Canberra Times*, an average of 10,000 a game, then that is just gross. I understand that the average Cosmos crowd last season was in fact about 3,000. We have overstated it by about 300 per cent, if those are the facts. Hence the purpose of this motion. We need the details of this.

We need to go back to the start. We may need to go back to the basis on which CRI, Graf Consulting and others were initially engaged in 1996 and the work they did for the Government in the lead-up to the proposal for the Sydney Olympics, consequent on which came the arrangements in relation to the redevelopment of the Bruce Stadium. In 1996 the Government was already talking about a \$27m bill for the redevelopment. That was the figure that the Chief Minister stuck to hard and fast. That was before we got the Olympic Games. The redevelopment was announced after that. CRI did the preliminary work. CRI did the lead-up work. We applaud the fact that we were successful in attracting some Olympic soccer here, but we need the details of that and the cost exposure to us. We need to know what our exposure is under the arrangements that we entered into with SOCOG.

But we need to know the fundamental questions about the tendering process as well - the selection of CRI, their expertise, the selection of Graf Consulting, their expertise and how well time has treated the work that they did. Then came the decision that we would get the Olympic soccer, a decision apparently based on average crowds of about 24,000 in a stadium which now has a capacity of 25,000. We will need to fill the stadium to the rafters for every Olympic soccer game before we can break even. We need to know the basis on which those decisions were made.

Then who was it that actually got the contract to do the redevelopment? Who are the project managers? It is interesting that CRI Project Management picked up the contract. Those that did the original consulting work then became the ultimate consultants. We have a great interest in the documentation on that.

This motion simply asks the Government to go the full monty. That is what this is about. This is a request of this Government to go the full monty on Bruce Stadium, to table for the information of members of this Assembly the documents relating to the redevelopment of Bruce Stadium. This is the full-monty government now. This is the open and transparent government. This is the Government that will bare all to the Assembly and the people of Canberra.

This motion requests the Government to continue in the vein that it now pretends that it has set upon in its full-monty budget. We want the Government to go the full monty in its revelation of what went on at Bruce Stadium and to clear the air on it. We would like to see the documents. There is no basis on which this Government can seriously refuse members of this Assembly access to all the documents that have been requested on the Bruce Stadium.

**MS CARNELL** (Chief Minister and Treasurer) (10.53): Mr Speaker, the thing that is quite tragic here is that this motion is just about politics. It has nothing to do with the Bruce Stadium project at all. If it did have anything to do with the project, then why would those opposite not continue down the path that they started on when Mr Quinlan wrote to the Auditor-General asking the Auditor-General to do a full performance audit, something that the Auditor-General had already indicated he was happy to do?

**Mr Quinlan:** Only in my capacity as chairman of the PAC.

**MS CARNELL:** Absolutely. We have already had a letter from Mr Quinlan as chairman of the Committee for the Chief Minister's Portfolio, or the PAC, asking the Auditor-General to do a full performance audit. A full performance audit, as we know, includes such things as the financial structure, the total cost of the redevelopment, the design of the redevelopment and contractual arrangements. When Mr Stanhope was making his speech, I was writing down the things that he said this Assembly wanted to assess. According to Mr Stanhope's speech, they covered such things as the financial structure, the total cost of the redevelopment, the design, the contractual arrangements - exactly what Mr Quinlan asked the Auditor-General to do.

Why logically would those opposite now decide that they do not like that approach? Mr Speaker, is it a no-confidence vote in the Auditor-General? Is the Labor Party saying that the Auditor-General cannot be trusted? I have to say that that is a bit of a surprising thing for those opposite to say, because it was not all that long ago that Mr Parkinson was reappointed. That reappointment, of course, went to Mr Quinlan as chair of the committee, and Mr Quinlan said he had absolutely no problems with the reappointment of Mr Parkinson as Auditor-General.

If now those opposite are suggesting that they have no confidence in the Auditor-General, why on earth just a couple of months ago did they reappoint him? Are they questioning his independence? Are they questioning his competence or his office's

competence? I certainly hope not. I hope that members of this Assembly do not question the competence of the Auditor-General either. We have asked the Auditor-General to go down the path of looking at exactly the things that Mr Stanhope just said he wanted the Assembly to look at. The question everyone would have to answer is: Why should the Assembly do that if we have confidence in the Auditor-General? I have confidence in the Auditor-General, the Government has confidence in the Auditor-General and I would hope the whole Assembly does. It would be an obvious next step for those opposite to move a no-confidence motion in the Auditor-General because they believe he cannot do the job. The Auditor-General is doing exactly the same job that Mr Stanhope now believes that this Assembly, a select committee or whatever needs to do.

I also ask: Why do we have an Auditor-General to do such things as performance audits, or audits, of major projects? Why do we not just let the Assembly do those things? Why does Mr Quinlan's committee not do performance audits, or audits, of various parts of government? The reason is that we do not have the expertise.

**Mr Berry:** Ha, ha!

**MS CARNELL:** Mr Berry actually believes that we here in this Assembly could do a performance audit. I would suggest that there is not one member of this Assembly, including Mr Quinlan, who would have the current qualifications or expertise to go into a full performance audit. That is because our jobs are different. People have expertise in different things. The Auditor-General is doing the audit. The Auditor-General, the contractors and the members of the Auditor-General's staff are the people we employ and pay to do these very specific tasks.

The Government does not have any particular concerns about releasing some of these documents. The question you have to ask is: Why, when all of these documents either have been provided to the Auditor-General or will be provided to him on his request - and I mean all of them?

It is not possible to provide a number of items on Mr Stanhope's list publicly, but they have been provided to the Auditor-General, so the Auditor-General is in a position to have an overall look at this issue, with all of the documents on the table and with the expertise both within his office and with the people he regularly contracts to do these jobs. This is the job of the Auditor-General and his office.

If those opposite believe that the Auditor-General will not do that job properly, please make that the motion here. That is a really serious thing to say. If what we are talking about now is just playing politics by putting a whole lot of documents on the table, then this Assembly should see it for what it is - a little effort at playing politics.

Mr Stanhope started to debate the whole issue of Bruce Stadium rather than the issue of just providing a number of the documents involved. I think it is really important to note a few things here. Nobody has indicated at any stage that there was any evidence of impropriety in any of this. Has there been any lack of disclosure about the redevelopment? The answer is no. Mr Stanhope talked about borrowings over the end of last financial year. Yes, that is what happened. And where was it? It was right there in the accounts, in the Auditor-General's end of financial year audit of the ACT finances.

Did it end up in the Auditor-General's report on the financial audits for the year ending to 30 June 1998? Was this issue in tiny print somewhere? Was it in a footnote somewhere that people missed? It was in "Significant Findings". Under "Significant Findings", in big black letters, the report went through exactly what the ACT Government had done across the end of the financial year. What happens to these financial audits that the Auditor-General does? In his significant findings he alerts everyone to the following fact:

This year \$14.7m was spent in cash on the Bruce Stadium redevelopment; this exceeded the \$5.6m received as a capital injection for the project; the shortfall was met by borrowing \$9.7m from the Commonwealth Bank; \$17.4m has been expended on the redevelopment to year end with a further \$10m committed at balance date;

That is very open, very transparent. What happens to a financial audit? Such audits are tabled in this Assembly and they are referred to an Assembly committee. That is exactly what happened to this one. It was referred to Mr Quinlan's committee. What does Mr Quinlan's committee then do with a financial audit? In this case, it came back to the Assembly with a review of the Auditor-General's Report No. 9, "Financial Audits with Years Ending to 30 June 1998". And what did it find? Right there in the document highlighted again were the audit findings. Highlighted again was the fact that \$9.7m was spent and that there was a loan over the end of the financial year. What did the committee say in comment? This is not in footnotes. It is up there in black and white. It is a pity that some members of the crossbenches are not here, because the committee report under "Bruce Stadium" says:

The committee observes that the Bruce Stadium redevelopment is the subject of a separate audit by the Auditor-General which is expected to include an evaluation, and the appropriateness, of the organisational arrangements to finance, construct and manage the redeveloped stadium, identify the total capital cost, the effectiveness of procedures and reliability of information used in making strategic decisions relating to the redevelopment and other matters concerning contractual and financing arrangements for the redevelopment.

This report was tabled in the Assembly in the last sitting week, only a couple of weeks ago. What was the finding of Mr Quinlan's committee? It was that the Auditor-General was looking at all of these things and we should let him get on with the job. What happened to that? Where is the lack of transparency? Mr Quinlan's own committee made that comment only two weeks ago. Maybe it was three weeks ago, but it certainly was not long ago. So what has changed? Absolutely nothing.

We need to look at this issue seriously and understand just how much public money will be wasted if we go down the path of requiring information to be put on the table in the Assembly only for political purposes, only to play political games, not for any community benefit. Members of the Assembly have to ask: Is there any evidence of impropriety? The answer is no. Nobody has made any comment whatsoever. Is there

any lack of disclosure about the redevelopment? The answer is no. Was more than \$12.3m of public money spent? The answer is no. Was the 1998-99 appropriation exceeded? No.

Did the Auditor-General qualify last year's accounts because of the transaction? The answer is no. Did the Chief Minister's Portfolio Committee make any reference to the validity of the transaction in their paper tabled just a couple of weeks ago? The answer is no. Is the Auditor-General currently conducting a comprehensive performance review of the redevelopment? The answer is yes. Do we have confidence in the Auditor-General to do his job? At least from this side of the house, yes. Has the redevelopment ensured that Canberra has a stadium that will be able to host Olympic soccer and maintain national sporting teams of the quality of the Raiders and the Brumbies? The answer is yes. Even Mr Stanhope made that comment. It is a great stadium.

Last week Kevin Neil of the Raiders said in the media that if it was not for the redevelopment of Bruce Stadium the Raiders would more than likely not be in this city. That is not my comment; that is Kevin Neil's comment. The same applies to the Brumbies. The upgraded stadium is required for professional football teams that cost what our football teams cost to get onto the paddock. Are all other jurisdictions hosting Olympic soccer conducting stadium redevelopments? The answer is yes. Does the redevelopment of Bruce Stadium exceed the functionality and quality of other redeveloped stadiums, given the investments made? The answer is yes.

The Labor Party themselves, even two weeks ago or three weeks ago, accepted that the Auditor-General's inquiry was a sensible way to go. They accepted that in committee comments to the Assembly. The Auditor-General is looking at this issue. We have confidence in the Auditor-General to do his job. But those opposite are playing politics. What does that mean? Those opposite are looking to have a number of documents tabled in this place. What for? Why? Does anybody in this Assembly have the expertise to understand complicated construction contracts?

**Mr Hargreaves:** Yes.

**MS CARNELL:** Who?

**Mr Hargreaves:** Mr Quinlan.

**MS CARNELL:** Why? I am happy to give him some tests on construction contracts. Are you an expert on construction contracts? I do not have the expertise to understand construction contracts, and I would suggest that nobody else in this place does either. (*Extension of time granted*) Nobody in this place has the expertise to understand the complexity of the documentation that Mr Stanhope has asked for. I also have to say that there are a number of areas where the papers involved could or should not be released, certainly not without the other party to the contract agreeing. The ACT Government is quite comfortable about the release of any of the documentation but we do have - - -

**Mr Quinlan:** What are we arguing about then?

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**MS CARNELL:** Because there are other parties to any contract, and there are confidentiality agreements. Last week Mr Quinlan did not write to me but went public and asked for - - -

**Mr Corbell:** All of those contracts specify that they could be requested, and you know that.

**MS CARNELL:** I will run through the ones that we would have problems with. Paragraph (1)(e) of the motion relates to any other financial guarantees or indemnities given in relation to the Bruce Stadium development. I am happy to provide this type of information but, given the nature of the agreements with some private entities, I would need first to write to them seeking their agreement for the release of such information. The agreements are the agreements with the Raiders, the Brumbies and the Cosmos. In the past all three codes have suggested that those documents should not be released, simply because they have differences that they do not want to share with their perceived competitors. I am more than happy, if that is what the Assembly wants me to do, to write to those entities asking them whether they would like to release those documents.

Paragraph (1)(g) refers to the Territory's bid for staging Olympic soccer in Canberra, and includes documents relevant to the appointment of CRI and the resulting contract with SOCOG and other relevant guarantees given by the Territory. I can certainly provide those documents relating to the Territory's bids for Olympic soccer and to the appointment of CRI, but because of certain SOCOG deeds of confidentiality I have written to SOCOG seeking their agreement to provide this contract to the Assembly. I understand that they will not give that agreement, so maybe those opposite might like to get stuck into their Labor colleagues in New South Wales telling them that they should be more open and accountable.

Paragraph (1)(j) deals with contracts and arrangements for the management and operation of Bruce Stadium, including, but not limited to, cleaning, catering and the sale of corporate boxes and suites, merchandising, advertising and naming rights. Once again, I am happy to provide this type of information but, given the nature of the agreements with some private entities, I would need to write seeking their agreement to the release of such information. Remember that there are always two sides to every contract, and I do not believe that individual's privacy should be compromised by this place unless they are willing for that to happen.

I come to paragraph (2) of Mr Stanhope's motion. I am happy to provide any information to Mr Stanhope, but I do not understand exactly what he is asking for in this request. For example, in respect of paragraph (2)(a), does he want us to provide details of each amount, which would be each payment to each individual supplier on the redevelopment, of which there are thousands, or something at a little higher level? There are detailed cost reports for each month which may be of more assistance. Again, I am not sure that Mr Stanhope himself knows what he wants. Can I suggest that Mr Stanhope and I get together and try to work out exactly what information is required here? This was put on the table yesterday and it does not make sense in many areas. The legislative authority, as Mr Stanhope knows, is currently the subject of a review by a QC based in

Melbourne. This advice has been sought by Mr Humphries' department for and on behalf of the Auditor-General. I would suggest that we wait and see what that advice is before we start checking the wind in the Assembly on what may or may not be the case.

Paragraph (3) calls for details of any borrowings. I can certainly provide the information requested, but does Mr Stanhope understand what he is asking for? I wonder. This will be quite a detailed list as it will cover a large number of entities. I note that no date range is given, so presumably I will need to go back to the commencement of the self-government Act. This paragraph does not talk about Bruce Stadium. It does not have anything to do with Bruce Stadium. It has to do with details of any borrowings made by the Territory or on behalf of the Territory under sections 40 and 42 of the Financial Management Act 1996 and any details of authorities made by the Treasurer pursuant to section 40 of that Act. It has nothing to do with Bruce. The motion has been badly put together. I assume that is not what Mr Stanhope means at all.

I come back to the fact that this motion, in its current form, asks for a number of contracts which cannot be provided without the agreement of the other contracting party. As I have said, I am more than happy to write to all of those people asking for their agreement, which is normal commercial practice. I am happy to do everything we can to be as open and as transparent as possible, but here we have a mess. We have potential truckloads of documents, and months of work would be required to produce what Mr Stanhope thinks he wants.

Would it not be sensible to sit down, maybe have a round table, and discuss exactly what documents this Assembly really wants and not just anything that might pop up. At what cost will it be to the taxpayer? I am talking about months of work here. (*Further extension of time granted*) When the Auditor-General decided to do a full performance audit, he accepted that it would take the Government a number of weeks to put together the information that he asked for. He understood that it was quite significant in volume. This motion suggests that the documents be presented tomorrow. It is impossible to produce every transaction and every agreement - we think that is what he is after - and, potentially, every borrowing that has happened since self-government. This is patently ridiculous. Let us just take a step back and let us decide what documentation is useful to the Assembly rather than put a huge stress on our Public Service and on the public purse.

**MR KAINE** (11.17): Mr Speaker, the Chief Minister's response to this proposal is, of course, predictable. I was interested in the number of times during her speech that she used the word "transparent" or the word "transparency". There is a great similarity between yesterday's budget and the Bruce Stadium, in that the Chief Minister claims that they are both transparent. When we get into the estimates we will see just how transparent the budget is. I think that is a debatable proposition. In this case the proposition that the whole Bruce Stadium deal is transparent is patently untrue. If the Chief Minister asserts that it is transparent, she will eventually be hoist on her own petard on this matter.

The Bruce Stadium project has in fact been shrouded in secrecy from the beginning. We have found it almost impossible to get any information out of the Chief Minister through the processes available to us - that is, through asking questions in this place. I guarantee that we could go back and do a research of the *Hansard* over recent months and count up

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the number of questions in connection with which the Chief Minister has actually produced any information. She is very adept at avoiding answering questions. There is no doubt that the reason why she has avoided all of the questions on this is simply that the project is out of control and the Chief Minister does not have the courage to come in here and admit it and tell the community how much it is ultimately going to cost them.

It is about time we had the facts on the table. I support Mr Stanhope's proposal. However, I do not think it goes far enough, and I will shortly move an amendment to add some information that I would like to see, information which Mr Stanhope inadvertently, I am sure, omitted. As I have said, it has been almost impossible to find out what the emerging costs of this project have been. Even today, the figure of \$30.6m, which is the latest one we have heard, is totally uncertain. Nobody in this place, I will guarantee, even perhaps including the Chief Minister, knows what the final cost of that project to the community is going to be. The Chief Minister, over a period of months, has avoided answering the question as to what the emerging cost has been - and the Chief Minister says this is transparent.

I have been getting information from a number of sources over recent months that suggests to me that the actual construction cost of this project is in excess of \$32.6m; that it is closer to \$35m. Maybe the Chief Minister would care to comment on that. But, of course, that is not the total cost. The Chief Minister herself told us that she is embarking on a 15-year borrowing program to finance this thing. What is the interest on that going to be? Is that going to be added to the final cost of this edifice to Ms Kate Carnell? The Chief Minister will avoid telling us as long as she can even what the amount of money is to be borrowed - and we still do not know what that is - how much the interest rate is and what the 15-year cost of all of that is going to be.

There is another little interesting aside to this. One of the costs emerging from the Bruce Stadium is the cost of making provisions for Australian rules football. Is there not an \$8m provision in the system to upgrade or create facilities for AFL? Because they were excluded from Bruce Stadium, is this not, therefore, an additional cost on the Bruce Stadium project cost? The Chief Minister will avoid dealing with that issue as long as she can.

What is the total cost? If the Chief Minister says this is so transparent, let her today tell us what the total cost of this project to the taxpayer is going to be. Do not give me this \$12.3m garbage. That myth was destroyed months ago. The total cost, the total risk, is now falling on the taxpayer, with the Chief Minister financing the entire program by borrowings, which are a risk to the taxpayer. The \$12.3m is rubbish. If she has the courage, let her here and now, today, tell us what the total cost of that project is going to be. She will not. She has been avoiding that question for months.

The financing arrangements have been deliberately obscured. We do not yet know even the details of these transactions with the Commonwealth Bank. We do know that there was a \$9m borrowing on 30 June last year which was repaid on 1 July. Why? That was borrowed because when the Auditor-General had a look at the books for the year he found that if that transaction had not been put through the books there would have been



a \$9m deficiency in the cash balance. If that sort of deficiency was found in the cash balance of a private corporation there would be dire consequences, but the Government obscured it by borrowing \$9m on one day and repaying it the next.

That was \$9m. We still do not know what interest was paid. We still do not know whether the Commonwealth Bank attached any other conditions to making that money available overnight. Was it a straight borrowing transaction? Was it \$9m borrowed at X per cent interest, end of transaction? I very much doubt it. What other strings were attached, particularly as since then, according to the Chief Minister, other interim financing arrangements have been put in place with the Commonwealth Bank? What interim financing arrangements? How much have we borrowed? What has it cost? What was the collateral put up by the Government to get this loan? How much in fact have we borrowed?

Even as recently as last week the Chief Minister avoided answering the question of how much we have borrowed from the Commonwealth Bank. She has the effrontery to come here today and say this is transparent; that everybody knows. Nobody knows, and it is about time we found out. Amongst all of that is the question that I adverted to before. What collateral deals has the Government done with the Commonwealth Bank, other than simply to borrow money from them? The Under Treasurer went public and said, "This might be an equity and loan transaction". Might be? Is it? What equity? What consideration has the ACT Government agreed to make available to the Commonwealth Bank other than just interest? Time will tell, Mr Speaker, but the Chief Minister will not - and again her claim of transparency is completely blown out the window.

The private sector financing is a myth. Originally there was supposed to be \$12.3m public money and \$15m private sector money. The Chief Minister was talking about that even a few weeks ago, at the same time she was denying that the project had blown out beyond the \$27m. Where is the private sector money? How much private sector money has in fact gone into this project? The answer seems to be zero, because the Chief Minister is now negotiating to borrow all of the money in excess of the \$12.3m budgeted. We have to cover the whole cost. Is that fact or is it not? If it is not, will the Chief Minister please stand up and be transparent and tell us?

Then there is the funny company structure we have set up, this ersatz company structure. It is a \$27m government project, and we have three interrelated companies to manage it. Why? We do not even know who the principals in these companies are, except that we do know that Mr Lilley and Ms Ford are the only shareholders and directors of one of them. Who are the figures in the other two? I am beginning to wonder whether anybody associated with this project, on being appointed, is issued with a pair of white shoes. Finally, what are the arrangements with the tenants?

**Mr Humphries:** Mr Speaker, I rise on a point of order. I think it is perfectly okay to make very strongly worded references to the Government in this debate, but I want to put to the Assembly that people like the Under Treasurer and Ms Ford have served not just this Government but previous governments in this place with distinction and do not deserve the sort of reference that Mr Kaine has just made to them.

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**Mr Corbell:** Mick Lilley has not.

**Mr Humphries:** He has served other governments in other places.

**Mr Hargreaves:** Who cares?

**Mr Humphries:** Okay, Mr Hargreaves does not care. There is no evidence whatsoever, not one shred of evidence, that either of those public servants have behaved in anything other than the most appropriate and proper way. Mr Speaker, I would ask Mr Kaine to withdraw the reference - - -

**Mr Corbell:** He made a reference to the colour of their footwear. How can that give rise to a point of order?

**Mr Humphries:** Mr Speaker, I ask to be heard on this matter. This is a serious matter, Mr Speaker.

**Mr Corbell:** Under what standing order, Gary?

**Mr Humphries:** It is a question on which the Speaker has ruled before, Mr Corbell, about making - - -

**Mr Corbell:** What standing order, Gary?

**Mr Humphries:** It is a matter on which the Speaker has ruled before - - -

**Mr Corbell:** What standing order?

**Mr Humphries:** Mr Speaker, if members want to get stuck into public servants, that is fine. But those sorts of references are not justified and should not be made unless members are prepared to back them up with substantive motions. We have talked about this kind of thing in the past. Ms Ford was a senior public servant in the office of a Minister in a Labor government. She served with distinction on both sides of the political spectrum. She does not deserve that kind of reference in this particular debate.

**MR SPEAKER:** Mr Kaine, if there was any inference - - -

**MR KAINE:** Mr Speaker, let me make it clear. The Minister has drawn an inference from what I said, so it is in his mind rather than mine. If the Minister's inference is that I am in any way attempting to cast an aspersion on the characters of two public servants, I am not. I am suggesting that perhaps the politicians behind all this ought to look closely at themselves. That was my point rather than the inference that the Minister chose to draw.

**MR SPEAKER:** Thank you for the clarification.

**MR KAINE:** It says something about the Minister's state of mind that he drew that conclusion. (*Extension of time granted*) The point that I was trying to make, Mr Speaker, is that this strange, convoluted, so-called company structure, first of all, seems totally inappropriate for a government contract of only \$27m. What is its purpose? What did the Government expect to achieve by setting up this shadowy arrangement about which we know very little even today, although the Chief Minister says it is all very transparent?

**Mr Moore:** You set it up. You were Assistant Treasurer.

**MR KAINE:** I did not, Mr Moore. Do not you fall for the Chief Minister's propaganda. I did not set it up. I had nothing to do with it.

**Mr Moore:** But you were in Cabinet. You were the Assistant Treasurer.

**MR KAINE:** Mr Speaker, I want to make a point about that. The Chief Minister is very good at drawing on Cabinet procedures and suggesting that I was involved in all sorts of things. I have to say that if she is going to draw on Cabinet processes and come to such conclusions, then I will have no compunction in doing the same thing to refute what she says. There is a thing called Cabinet solidarity and Cabinet confidentiality, but it does not imply that everything that the Chief Minister chose to do was with my agreement. Mr Moore sits in the Cabinet and he clearly does not agree with everything the Chief Minister does. If he can enjoy that privileged position, then I submit so can I.

To get back to the business of the debate, there is one other matter that remains very unclear, and that is the arrangements with the tenants at the stadium. One of the additions in my amendments, which I will move in a minute, has to do with that. Just what arrangements has this shadowy management organisation made with the major tenants? They are the beneficiaries of this, we were told originally. The three sporting codes that play on rectangular ovals were going to be the big beneficiaries. We do not know to what degree they are benefiting. If the Chief Minister thinks this is all so transparent, will she respond to my amendment to Mr Stanhope's motion and put the details of those agreements on the table so that we can see?

Mr Speaker, it is quite clear that the project is totally out of control, at least in the financial sense. It is a matter of grave concern, because the total responsibility for that project in a financial sense is now going to fall upon the taxpayer of the ACT. The Chief Minister can talk about Commonwealth Bank loans as being private sector injection as much as she wants. They simply are not. The total responsibility financially for that project falls on the shoulders of the taxpayers of the ACT the minute the Chief Minister sets into place the financial arrangements which I understand she intends to set in place. It is a loan - nothing more than that. It is borrowing, and the responsibility falls on the taxpayer.

It is time the Government came clean on all aspects of this project. It has been obscured. It has been deliberately obscured and Mr Stanhope is quite correct, as a member of this place, in finally demanding of the Government, regardless of what the Auditor-General might be doing, that they tell us in this place the facts about that project. We are

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responsible at the end of the day. The Auditor-General is not. He is just doing his job to check to see what is going on out there. At the end of the day he has no responsibility to the taxpayer. We do. The Chief Minister has a responsibility to us.

I turn to the matter of the committee report which the Chief Minister drew upon a minute ago. She extrapolated and said, "The committee said that the Auditor-General was looking at all these things and we should let him get on with the job". That is not what we said. We said that the Auditor-General was looking at this matter and that we reserved our opinion until he came back with a further view. That is what the committee said and the Chief Minister, as always, tries to distort that to something that it was not. For heaven's sake, Chief Minister, come clean. Put the facts on the table so that we all know - and I am sure you do know - the facts. It is approaching the status of a scandal, and it is about time that the shadows were removed and the public at least knew what is going on.

Mr Speaker, I seek leave to move the two amendments to Mr Stanhope's motion circulated in my name.

Leave granted.

**MR KAINE:** I move:

- (1) Subparagraph (1)(b), after the word "Investment" add "and the original business case and other preparatory documentation upon which the Carnell Government based its decision to proceed with the Bruce Stadium redevelopment".
- (2) Paragraph (1), add the following new subparagraph:
  - “(k) contracts and arrangements between the management and operators of Bruce Stadium and the tenant hirers of the Stadium;”.

**MR QUINLAN (11.34):** I think it can be said that something is rotten at Bruce. We have, as members may well recall, asked the occasional question without notice and a few questions on notice in relation to Bruce Stadium, the marketing of Bruce Stadium and the financing of Bruce Stadium, and we have received precious little information. We have witnessed the creation of a complex corporate structure for overseeing the construction and the operations of the stadium, and we have understandably wondered why. I think I can quote a government representative who said, "It is a stadium; it is not rocket science". However, we seem to have created a corporate structure worthy of BHP. I think we have been weaving the tangled web.

I have asked the Chief Minister, in writing, for a copy of the Bruce business plan. I do not want the confidential briefing which carries with it constrictions on what I might do or say about the information I receive. I just want to look at the business plan for the public stadium. I would like to work on the basis that the public should be informed as to what is occurring there and what their growing commitment is becoming. I have been

refused a copy of the business plan "because I do not think it is appropriate". That is how far we have come. That is from the Chief Minister, I think - "I do not think it is appropriate".

Of late we have seen figures published in the media. I think - let me stress that: I think - yesterday the Chief Minister refuted those numbers but stopped short of giving us the real numbers. She stopped a whole lot short of giving us the actual numbers on the expectations upon which we have committed substantial amounts of taxpayers' money. We would like to get that sort of information undiluted by the spin that we so often get from the Government. I am interested in the gross numbers and I am interested in the relativities of those numbers. Mr Stanhope mentioned some of them in his speech and I do not need to repeat them, but they do look quite odd, to say the least.

I have had a limited briefing from the Auditor-General regarding his audit and his reservations regarding the financial transactions, particularly borrowings regarding the Bruce Stadium and the rolling up of the Bruce Stadium Trust financial report into the department of whatever it was - everything that ended with "Industrial Relations" - which in fact did not exist by virtue of changes in Administrative Arrangements on 1 June 1998 when the Bruce Stadium Trust was created. For some reason the Government saw fit to roll them up together, probably so that they could get the result that we did not quite notice the import of some of the footnotes which were inserted in those accounts at the behest of the Auditor-General. He informed me that he had sought a legal opinion in relation to the actions taken by government in balancing the books at 30 June 1998.

The Auditor-General, as befits his role, was quite circumspect in the briefing that I received, but I certainly came away with the impression that he had received the bureaucratic run-around on the legal opinion that he sought. That is symptomatic of this Government's unwillingness to provide this people's house with information about what it is doing with the people's money, even in the new atmosphere of openness.

I was very flattered to rate so many mentions in the Chief Minister's speech. Let me say for the record that I have faith in the Auditor-General, but the indications in relation to this fiasco are such that I think the taxpayers have a right to expect us also to fully exercise our responsibilities to them and to become fully informed.

I expect that the Auditor-General's expertise and the expertise that he is able to avail himself of will be complementary to the information that, quite rightly, should be provided to the elected representatives of the people of Canberra. I will be very glad, in the fullness of time, to receive the benefit of the Auditor-General's view of the process - all of the processes, I guess. But I think it is also necessary, given all the symptoms that prevail, that the Assembly be fully informed and be able to make some judgments about the judgments made by this Government in relation to the Bruce Stadium development. If as the Chief Minister has said there are no secrets, indulge us. Just make the information available. If there are no secrets, there is no problem. I would infer from what the Chief Minister says that she supports the motion, as I do.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (11.42): Mr Speaker, I want to put on the record that the Government is prepared to table a number of documents relating to this matter. I repeat very emphatically what the Chief Minister has said. We have nothing to hide or to be ashamed of about the process which has been used here. Members of this place have been quick to describe this as a fiasco, a scandal, a breach of the law and a misuse of public money. Not one of those allegations has been substantiated by any hard evidence.

One comment has been made - and this has largely generated the most recent debate - that suggests that the Financial Management Act provisions do not support the details of the financing arrangements which have been undertaken in respect of Bruce Stadium. I in particular as Attorney-General have been asked to affirm that the legal process has conformed with the terms of the legislation. That is a matter on which we have sought advice from a prominent QC in Melbourne, who was chosen simply for the reason that he is one of a very few senior counsel in Australia with expertise in government financing. It is not an issue one would ask any member of the Bar to look at without the need for very extensive research if they had not had any practice in that particular field. That is why Mr Tracey of the Melbourne Bar has been asked to do this job.

I concede quite openly on the floor of this place that there is a question mark over that question. There is not a question mark over the issue of whether the Government has acted within the intention of the law. There is a question mark over whether the strict technical requirements of the legislation have been fully complied with. Members have said in this place in the debate today - Mr Stanhope said it - that if the Government has acted illegally this is the most serious possible matter that could be put to the Assembly. I would put it to Mr Stanhope that that is a view which is a little bit overstated. Indeed, it is quite naive in the breadth of the expression.

Let me give an illustration of that fact. For a number of years the former Labor Government of this Territory collected millions of dollars illegally from franchisees in this Territory - millions upon millions upon millions of dollars, probably several hundred million dollars from those sources. How do I know that? I know that because the legislation had to be changed - retrospectively, I might point out - in about 1993. Ms Tucker, I see, loses interest in the debate at this point, so I have to ask her to listen to this.

**Ms Tucker:** I have not lost interest. I am looking at your latest amendments.

**MR HUMPHRIES:** Fine, Ms Tucker. The legislation had to be amended retrospectively in about 1993 to protect the collection of tens of millions, maybe hundreds of millions, of dollars in franchise fees by the Government, at that stage a Labor government, because the Government had illegally collected revenue under those provisions. Did any of the Ministers in the Government at that time or subsequently offer to resign because of what they had done? Of course they did not. Was any opprobrium attached to that process? No, it was not. We support the idea of amending the legislation because of that weakness.

The point is that the mere fact that the Government has breached a provision of the law does not prove that the Government has acted in any way that was wrong. The laws of this Territory, as members can see by looking in front of them here, fill volume after volume after volume of statute books. The idea that governments will always comply with every provision in those laws at every time is nonsense. No government ever does. How many volumes are there? Can you count them for me, Chief Minister? It is nonsense to expect that any government could comply with all those provisions at the one time. Of course, they cannot. The question is: What is the nature of the breach.

**Ms Carnell:** There are about 34.

**MR HUMPHRIES:** Thirty-four volumes of legislation stand in front of us in this place, on the table in front of the members of this place. That is just principal legislation. Subordinate legislation would fill at least that much space again.

I make a concession for the sake of this debate. I do not concede it at all before the advice is back. It is quite one thing to argue that there has been a breach of legislation. It is another to argue that it is a matter for which the Government is responsible in a culpable sense. As I said, the former Labor Government collected hundreds of millions of dollars in revenue illegally because the franchise legislation was found subsequently to be invalid. That Government did not offer to resign at the time - - -

**Ms Carnell:** Or even give the money back.

**MR HUMPHRIES:** Or even give the money back, for that matter. It kept all the money that it collected. The question here is: What has the Government done wrong? There is a technical breach - potentially, at the best, in this particular case - of a piece of legislation, if that is the advice that comes back to government.

The practice used by the Government to make these sorts of financial transactions is not unethical; it is not improper; it is not unusual. Members in this debate have confused the complexity of the financial arrangements with some kind of attempt either to get around the law or to avoid public scrutiny and accountability. Neither of those things is true. The arrangements being used here are complex, yes, but they are ethical and they are legal. I put to one side the question of the exact provisions of the Financial Management Act, but in terms of dealing with financial institutions, in terms of borrowing, in terms of construction of the components of the dealing, they are complex but they are not illegal and they are not unethical.

Most especially, they are not designed to avoid proper scrutiny. That scrutiny has already occurred extensively in the course of this process. We have seen the Auditor-General's scrutiny of them and we have seen the public accounts committee, the Chief Minister's Portfolio Committee, scrutiny of them. Neither of those bodies has made any adverse comment on that process so far. Mr Speaker, this is an important point. I hope members are listening to this particular point. Wayne Berry, in particular, I hope, is listening to this, because he was a person who has some responsibility to bear in this particular matter. I think Mr Berry ought to listen to this, because I am about to make allegations about him.

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**Mr Osborne:** Just adjourn it and we will come back to it later.

**MR HUMPHRIES:** I could move to adjourn debate on the motion. Mr Speaker, I want to table some documents in this place. I think shortly another copy of the documents will be arriving from the anteroom for me to look at again here as I am speaking. I will table documents that relate to a loan transaction in 1993 which was engineered by the then Labor Government. It was a loan of \$1.5m for ACT Forests. There is a very large number of similarities between the arrangements in respect of borrowing against debt appropriations in that case and the Bruce financing statement which has been discussed in the course of debate today.

I will table those documents in a minute but let me make some points in the meantime. Both of these borrowings were provided for by legislation under the power of the Treasurer to invest public moneys. Both of these transactions were for capital improvement. Both transactions were not specifically covered by an item in an annual appropriation Bill. Both transactions involved loans from the Central Financing Unit. Section 86(1)(g) of the Audit Act and section 38(1)(c) of the Financial Management Act, although in different legislation, were essentially the same. The legislation relied upon in both cases was essentially the same. In both cases the terms and conditions were determined by the Under Treasurer and both of these transactions were audited by the Auditor-General at 30 June in the respective financial years and no qualification was made in either case. I table the documents relating to that particular transaction in 1993.

**Mr Moore:** The same thing.

**MR HUMPHRIES:** Exactly the same thing. The Auditor-General commented on those provisions. Mr Berry was involved in those transactions. Mr Connolly was, of course, the Minister who sought it. The Treasurer and Chief Minister, Ms Follett, was also involved in those transactions. They were perfectly legal transactions. They were perfectly above board. They were, in all material respects, identical to the arrangements which had been referred to in this particular case. The question has to be asked: What is the story? (*Extension of time granted*)

Where is the justification for the words like “scandal” and “misuse of public moneys”? Why did the Follett Government not “misuse public moneys” in 1993 but we, supposedly, have misused public moneys in 1997, 1998 and 1999? Can members answer that question?

**Mr Berry:** We did not.

**MR HUMPHRIES:** That is right. Mr Berry has got the point. You did not misuse public moneys in 1993, and we have done exactly the same thing at this stage in this particular transaction. We have done precisely the same thing.

**Mr Berry:** No, not even close.

**MR HUMPHRIES:** Mr Berry, you speak in this debate and you explain what is different about this approach.



**Mr Berry:** A scandal.

**MR SPEAKER:** Order! You will have the opportunity to participate if you are still here.

**MR HUMPHRIES:** I ask members to listen carefully to what Mr Berry has just said. He has repeated the accusation of scandal. I ask members to look at the documents I have just tabled and see that there is no material difference between what was done then and what is being done now in respect of this matter. The fact of the matter is that the process being used here did not involve undisclosed financial arrangements. They were put on the table fully and comprehensively in such a way as to provide full disclosure on those matters. It is the same section, except that the legislation is different. The earlier one was repealed but replaced by the Financial Arrangement Act.

**Mr Berry:** We would like to see the documents.

**MR SPEAKER:** They have just been tabled, Mr Berry, if you were listening.

**MR HUMPHRIES:** Mr Speaker, I want to correct a couple of things that were said in the course of this debate. The Government is happy to put these documents on the table and to have them discussed, but there are a number of problems with some of the documents.

In a little while I will come back to two amendments I will be moving. I want to come first to a comment made by Mr Kaine in this debate. He attacked the details of the financing arrangement and said they were a scandal. Let me put on record again that Mr Kaine was a member of the Government, a member of the Cabinet indeed - he was Assistant Treasurer and was present at the meeting of Cabinet - when the financing arrangement was settled upon in December of 1997. He was there. Mr Kaine, in response to an interjection from Mr Moore in the course of the debate today, made the comment that he did not agree with everything the Chief Minister did and said, "You would not either". That is axiomatic. No-one ever agrees entirely with anybody else in any situation.

The question here is not whether Mr Kaine was rolled by the Chief Minister or by Cabinet on this issue. The question is whether Mr Kaine made any attempt to dissent from the view which was put forward in the Cabinet submission. I have spoken to members who were present at that Cabinet meeting, and our recollection is uniformly the same. Mr Kaine - and the minutes of the Cabinet meeting disclose this very clearly - made not one peep of objection to the process that was put forward in the submission at the Cabinet meeting in December 1997. Mr Kaine, to the best observation of anybody who would have been sitting around that table, fully endorsed and supported the process which was being used at the time. We are entitled to assume that, because he raised not one peep of concern or objection about the process. To say, as he did, that he did not agree with everything the Chief Minister did implies that he was rolled by Cabinet and that he dissented from the Cabinet view, when in fact that is simply not true. Mr Kaine can come back in here and deny it if he wishes but the Cabinet minutes - - -

**Mr Corbell:** So much for Cabinet-in-confidence.

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**MR HUMPHRIES:** We can disclose matters in Cabinet if it is the agreement of Cabinet, and I think it is.

**Mr Corbell:** When it suits you.

**MR HUMPHRIES:** Yes, when it is agreed. I am sure Mr Kaine, if he is so intent on proving how badly he was done by in Cabinet, would be happy to consent to the tabling of the Cabinet minutes. I am sure he would be happy to consent to that if he wants to have his position vindicated.

Mr Speaker, I foreshadow two amendments which have been circulated in my name. The fact is that this agreement is not unprecedented. It is used extensively by governments of both persuasions in this Territory and in other States. This process is simply not justified.

**MR BERRY (11.59):** In speaking to the motion, I would like to foreshadow an amendment which I have circulated in my name. It goes to the production of these documents and how we might deal with them in the future. This is an acceptance of the Government's argument that they cannot produce them by the close of business tomorrow, but it also sets a timetable which, in our view, is reasonable. That is, by 31 May these documents ought to be produced.

This gives us some time to consider the documents before the sittings commencing on 22 June. I understand that the Government's move is to take us to the end of the financial year, which would make it very difficult for us to bring back debate to this Assembly in respect of these matters, if that was our wish, in the June sittings. It is eminently sensible, in our view, to ensure that we give the Government reasonable time - that is, until the end of May, which is three weeks or so away - to collect the documents. Then there will be a reasonable time, though a tight timetable, for us to consider what we expect to be a significant number of documents and perhaps prepare a process of scrutiny for the Government at the sittings which commence on 22 June. I think in all the circumstances that is a reasonable outcome for everybody in relation to the matter.

We have given ground in relation to our earlier demands. We know that there is sympathy for the issue of principle which is contained within our motion, but this amendment satisfies the concerns of the Government in relation to the matter. Importantly, it also allows for you, Mr Speaker, to circulate these documents so that they are circulated by virtue of an order from the Assembly and therefore are an extension of Assembly business, attracting the usual protection that documents might have if tabled in this place. I say again, Mr Speaker, that the amendment that I foreshadow contests the one which has been circulated by Mr Humphries in relation to the matter and gives us access to these documents on a more reasonable occasion. I would like to have had the opportunity to talk to Mr Humphries about this before he circulated his amendments. It would have been handy if he had been able to take into account our views in relation to the matter before he went to argue his case in other places.

I would ask those who are considering an amendment to take into account the reasons which I have given in relation to this foreshadowed amendment. It makes a bit of sense. It gives everybody a bit of time to look at the documents and also ensures that this Assembly is able to hold the Government to account at the earliest possible moment.

**MR MOORE** (Minister for Health and Community Care) (12.03): Mr Speaker, I have watched with some fascination from a distance as we deal with this Bruce Stadium issue, and I have often wondered what the fuss is about. I have been asking a series of questions. The first of those questions is: Was there fraud? I think we would all agree the answer is no. Was the Assembly misled? There has certainly been no indication of that. I am sure that if people thought they had been misled they would move very rapidly to move a motion about that. Was the approach unethical? No. Nobody has suggested that that is the case. Was it legal? A legal opinion is being sought on whether the Government specifically followed the letter of the law. There are many examples of this sort of approach being used in financial arrangements, not the least of which is the one for forests when Mr Wood and Mr Berry were in the Cabinet. Mr Humphries has now tabled the money on that. That is quite a bombshell, because it exposes that this is just pure politics. It is pure unadulterated politics.

Was there an attempt to avoid scrutiny? Is there an attempt to avoid scrutiny? No. That is what we have an Auditor-General for. The report of the Auditor-General went to the public accounts committee, and the public accounts committee tabled their report a couple of weeks ago, with no comment on this at all. But of course that was before Labor got a sense about this.

Was there an attempt to save the taxpayers money? Yes, there was. The Government did come into this arrangement for a reason - to try to avoid extra pressure on the budget. That is a very sensible thing to do. The Government could have got a loan of \$28m. It could have borrowed the money in the capital appropriation. That was possible.

Was there a scandal? Members have used the word "scandal" quite regularly. If you use the Wayne Berry debating technique, then that will be effective. We know that Wayne Berry's debating technique is that if something is black you just keep repeating that it is white. You do not put any arguments. You just keep saying it over and over again. Next week I will have been listening to Wayne doing that for 10 years. No doubt Wayne Berry is quite capable of making some comments on my debating technique as well. I do not argue about that. That is the technique. It is pertinent that I mention Mr Berry here, because he was involved in a Cabinet that made a very similar, if not exactly the same, arrangement about dealing with money when it came to ACT forests. That is now on the table.

**Mr Berry:** Mr Speaker, at the risk of appearing oversensitive about this issue, I would draw your attention to the need to be relevant. What some other government did aeons ago - - -

**Mr Hird:** Turn it up. No point of order.

**Mr Berry:** Mr Speaker, if you would allow - - -

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**MR SPEAKER:** Order, please!

**Mr Berry:** Mr Speaker, this is about the procurement of papers and documents in relation to Bruce Stadium, not what happened in relation to the doings of governments earlier on. Mr Speaker, I wonder whether you would mention the relevance section of the standing orders and live in hope that our brother members over there might follow them.

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

**Mr Berry:** You do not have to be relevant anymore?

**MR SPEAKER:** Just a moment. I have not finished. If you had been listening to Mr Humphries - you are not listening to me now either - Mr Humphries linked the matters by making a comparison with an event that occurred during the Labor Government. That is perfectly relevant. Mr Moore is now referring to it. The fact that you were talking to other members of the Assembly when Mr Humphries was outlining the situation is not my fault and it is certainly not Mr Moore's fault. There is no point of order.

**Mr Berry:** Mr Speaker, I yield.

**MR SPEAKER:** Thank you.

**MR MOORE:** From the very time Mr Stanhope began, he talked about a wide range of issues. I am simply putting them in their context. The main issue that I want to raise is about the Auditor-General and the public accounts committee. We have an Auditor-General looking at this at the moment. That is his role.

**Mr Berry:** A cover-up. You would rather cover it up.

**MR MOORE:** Mr Berry interjects, "A cover-up". As I see it, he is implying - and I hope he withdraws it - that the Auditor-General is going to cover up for the Government. Every member of this Assembly apart from you, Mr Berry, knows that the Auditor-General never does any such thing. The Auditor-General, in his independent role in reporting to the Assembly, in reporting to the public accounts committee, is doing anything but covering up. Mr Berry, you ought to use the opportunity to withdraw your inference about the Auditor-General.

**MR SPEAKER:** Just a moment, please. Mr Berry, you might like to withdraw any suggestion against the Auditor-General.

**Mr Berry:** There was no suggestion in relation to the Auditor-General. My accusation of cover-up was in relation to the Government.

**MR SPEAKER:** Thank you, Mr Berry. It is better to clarify it.

**MR MOORE:** What I am saying is that there is no cover-up. All this material is already available to the Auditor-General. Where there are any contractual issues or commercial-in-confidence issues, the Auditor-General can look at them. He, in turn, will report to the public accounts committee. The public accounts committee can then ask the Auditor-General about these issues to follow them up. They can seek to look at these areas and, within the committee approach, deal with them. That is exactly what we are talking about.

**Mr Corbell:** Open and accountable government, the full monty.

**MR MOORE:** Mr Corbell, I hear you arguing for open and accountable government. Mr Corbell, when your colleagues were in government, there were many times when I asked them to release documents and the answer that I got was that they were commercial-in-confidence. Mr Berry, you will remember this. I argued for quite some time that I did not believe in commercial-in-confidence. Prior to taking on this ministry, I said we needed to review the issue of commercial-in-confidence because it is overused by government. I still say that.

It is entirely appropriate for the Auditor-General to look at this matter. It is entirely appropriate for it to be reviewed by the public accounts committee. You do not buy a dog and then bark yourself. That is exactly what is happening. I understand that Mr Stanhope does not have faith in the chair of the public accounts committee to be able to do that job. I am sure that Mr Stanhope is particularly disappointed in Mr Quinlan's effort as chair of the public accounts committee in dealing with the report of the Auditor-General on this very matter which was tabled a couple of weeks ago. The committee came down with no comment. I understand that there is a wedge in there and that it is very difficult, so you come back to this sort of process. We have an appropriate process to follow. That is the process we should follow first. If that process is not working, or we have a problem with that process, then it is time to come back and deal with these issues, unless it is not the financial issues you are worried about but purely politics. If it is purely politics, then I suggest, Mr Corbell, that you in particular, because you generally have an open mind on such things, look at the documents that Mr Humphries tabled and see whether the process that was followed is almost identical, if not entirely identical, with the process that has been followed here. It is a beat-up and you know it. If it is not a beat-up, the Auditor-General is the appropriate person to tell you to separate this from the pure politics which you are enjoying so much.

**MS TUCKER (12.13):** From one who never enjoys pure politics, that is quite good, Mr Moore. There are a number of issues I would like to address in this debate. The first thing I would like to get on the record is that I do not agree that this is in some way a slight on the Auditor-General, as the Chief Minister spent a lot of time inferring. This is about making information available to the members of the Assembly in the interests of the community. The Auditor-General is indeed undertaking a performance audit. I have great faith in the quality of his work, and we all await with interest the results of his performance audit.

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I think more harm has been done to the Auditor-General by the Government's arguments. It is pretty insulting to be saying that because the accounts were ticked off by the Auditor-General, they went to the public accounts committee and the committee said nothing therefore everything is fine, when it is publicly known, and there has been great debate about it for the last two weeks, that there are concerns about the legality. The Auditor-General is interested in those concerns about the legality. The fact that it was not specifically mentioned in the financial audit report is not the point. That is not why people in the ACT community are very concerned. What people in the ACT community are concerned about is that they have seen an expenditure of a significant amount of money that was not appropriated and that was borrowed at the end of the financial year and paid back the next day in order to make the accounts look right.

Whether or not Labor did that in the past is not the point either. This is about how governments manage money. I heard Mr Humphries say that whatever happened was within the intent of the Financial Management Act. When I look at the presentation speech for the Financial Management Bill, I notice that at the end Mrs Carnell said:

The Bill sets out the financial responsibilities of chief executives. This includes responsibility to observe appropriation limits.

The point is that appropriation limits were obviously not respected in this matter. They were respected at the end of the financial year, absolutely, and that is why it is all so interesting. But the obvious question that has to be asked - and you do not have to be an expert to ask this question - is: What does that mean? Does that mean that that could occur across all of government? Can you just spend more than was appropriated and then borrow it and pay it back quickly to make the accounts look okay? That is why legal advice is being sought, that is why the community has an interest in this and that is why the arguments put by the Liberals today look pretty silly. They seem to be trying to suggest that Labor did this once, and how dare they speak about it? They are speaking as if it is not an issue of concern. It is of grave concern to the community.

In 1996, when we debated the Financial Management Bill, the Greens did ask that there be a sunset clause and a review in three years, which would have been due in June of this year, because we could see that, as a new piece of legislation, it may well need reviewing and that there may well be problems. I will be putting to the Assembly tomorrow that the public accounts committee, the Chief Minister's Portfolio Committee, should carry out such a review. That would be useful, because there are a number of matters, other than those that have come out of this Bruce Stadium issue, that I believe need to be looked at again.

The cost to taxpayers was mentioned by Mrs Carnell. I think most of us believe that if this is about accountability and openness then the costs are worth being paid. There obviously will be costs anyway to get these documents together for the Auditor-General. That cost would have been incurred anyway. There probably will be extra costs if the documents come to the Assembly, because there are other issues of disclosure of information, particularly those related to commercial-in-confidence.

Mr Moore referred to his position on commercial-in-confidence. I was looking at the guidelines that came out. Members may recall that draft guidelines were produced and went to Ted Quinlan's committee. The committee responded, the Government responded and we have ended up with guidelines. I am interested to know how many of these guidelines have been observed by government. I would like to quote a number of parts of the guidelines:

In handling commercial information, Government agencies must abide by a commitment to as full disclosure as possible, within the framework of existing Freedom of Information law. Principles of probity, ethical decision-making and fair dealings must be observed.

There is your overarching statement of principle. The document continues:

The obligation of the Government to account for its management of the Territory's resources means that in some circumstances commercial information in the possession of a Government agency must be disclosed. Individuals and businesses have a right to know, in advance of providing information, when this might occur.

This may not have been possible. I am not quite clear on the timeframe of some of these arrangements. The point is that these guidelines are in force. The draft guidelines have been around a lot longer, since February of this year. But there was an intention expressed by government about draft guidelines in April 1998. So for quite a long time the Government has been saying publicly that they have a commitment to these principles for commercial-in-confidence. There has been time for the Government to work with all the businesses involved in this particular motion to do with Bruce Stadium. The guidelines say:

Individuals and businesses have a right to know ...

That is right. My question is: Has that occurred? Has government talked about issues of commercial-in-confidence with these contractors? They clearly have an obligation to do so under their own guidelines. One of the key principles states:

while classifying commercially sensitive information as confidential means it will be accorded appropriate security within an agency, the classification itself does not justify non-disclosure. Specific grounds or reasons, consistent with these guidelines, are required to justify any decision not to disclose commercial information.

The Government has said today that there is particular information they are not comfortable about releasing, so they have an obligation under these principles to give the Assembly specific grounds and reasons. We look forward to seeing those. The guidelines also state:

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It should be understood that commercial-in-confidence status would be afforded only in the limited circumstances set out in these guidelines. Discussions on these issues should occur early in any negotiation before potentially confidential information comes into the possession of the Territory.

As I have already asked, has this occurred? Has there been discussion with these contractors? The guidelines also state:

confidentiality will be afforded only in accordance with these guidelines. Contracting firms or individuals should clearly identify, in writing, any information they believe is confidential. Agencies, in consultation with the contracting party, must resolve which information will be considered as confidential before the matter proceeds.

Has any of this occurred? The guidelines go on to say:

Where it is agreed that information is confidential, the party providing the information should be advised in writing that confidentiality may be subject to exceptions where the information - - -

**Mr Humphries:** I rise on a point of order, Mr Speaker. Ms Tucker is asking a number of questions about the application of the confidentiality guidelines. Those are reasonable questions to ask, but they do not relate to the motion before the Assembly today. That is all about other information. None of the information Ms Tucker is saying she wants is contained within the motion that is before the Assembly today. I simply raise the question of relevance of these comments to the motion before us.

**MR SPEAKER:** Be guided, Ms Tucker.

**MS TUCKER:** I would argue very strongly that it is relevant. The Assembly has asked for information today and we have been told that there are issues of commercial-in-confidence. I am saying that we need to take into account what this Government has said itself about commercial-in-confidence. We need to see the Government respecting those guidelines before it makes claims in this place that particular information is not appropriate. I am finished on that point anyway. I think I have made my point, Mr Speaker.

I am quite supportive of this motion. I think it will enable members to access information which is important and is of concern to the community. I acknowledge the extension of time requested by the Government in Mr Humphries' foreshadowed amendments. The Labor Party have come up with a way of accommodating the concern about the time that was given, so I will support Mr Berry's amendment to the timing. I will not be supporting Mr Humphries' amendments, but I would want to see a good justification from government if there are claims of commercial-in-confidence.



**MR CORBELL** (12.23): I will be brief, Mr Speaker. I do not want to go over the arguments for the motion. I think those have been quite adequately covered by my colleagues and by members of the crossbenches. But I do want to draw to the attention of members the amendment that has been foreshadowed by Mr Berry in relation to the timeline for these papers to be presented to the Assembly. Mr Berry is foreshadowing that he will move an amendment setting 31 May as the time for the papers to be tabled.

If members support such a proposition, they will have the opportunity, should the information be of such a nature that it warrants it, to direct questions to the relevant Ministers and departmental officials during the estimates process. Quite clearly, the Government's amendments to make the tabling date the end of the financial year would put consideration of these documents completely outside consideration of the budget and are simply an attempt to avoid scrutiny.

**MR SPEAKER:** It being almost 12.30 pm, the debate is interrupted in accordance with standing order 74.

**Sitting suspended from 12.25 to 2.30 pm**

## **QUESTIONS WITHOUT NOTICE**

### **ACT Budget**

**MR STANHOPE:** Mr Speaker, my question is to the Chief Minister. Twelve months ago the Chief Minister presented a budget that included a forward estimate for an operating deficit of \$90m for 1999-2000. Since that time the Territory has received a windfall Commonwealth funding supplement of \$85m, based on the good work of Mr Alan Thompson and others in the department. On those figures we expected to see in yesterday's budget a projected deficit of only \$5m, but the 1999-2000 budget predicts an operating deficit of \$64m. In 12 months the estimate has effectively been shown to be out by the best part of \$60m. Can the Chief Minister say what this implies for her claim that we will be back in the black in the next financial year?

**MS CARNELL:** Boy, do I want this question. Mr Speaker, what it shows, without any doubt, is that those opposite can never get anywhere near government because they do not know the difference between general government funding and specific purpose funding. They do not know the difference. Specific purpose funding has to be used for guess what, Mr Speaker? For specific purposes. It cannot be taken off the operating loss. Woe, Mr Speaker. This is really accountancy 101. It is hard to believe that anybody who has sat in this place for more than five minutes does not know that. It is almost absolutely unbelievable that the leader of an opposition that plans to respond to the budget tomorrow does not know the difference between specific purpose funding and general government funding.

Mr Speaker, as I think we made clear yesterday, the extra money for general purpose funding from the Commonwealth Grants Commission was not \$84m; it was \$57.5m. The rest was specific purpose funding.

**Mr Stanhope:** So you are only \$40m out.

**MS CARNELL:** Only \$40m. So we are getting there. Mr Stanhope has now admitted he is wrong, Mr Speaker; but we will take the next step on this, Mr Stanhope. Mr Speaker, did those opposite ever expect that last year we had actually plugged an increase in Commonwealth funding into our bottom line? Of course not, Mr Speaker, because that would mean understanding basic budget documentation. Now, how much money did we plug into the budget? I understand why those opposite are talking because they should be extraordinarily embarrassed, Mr Speaker.

**Mr Stanhope:** No, not a bit embarrassed. Where is the \$16m from Medicare funding, Mr Moore?

**Mr Moore:** He is taking advice from his treasurer.

**MR SPEAKER:** Order! Just a moment. The Chief Minister is answering the question. I would ask both sides of the house to be quiet.

**MS CARNELL:** It appears that Mr Stanhope would now like me to answer where the money from Medicare is, because he found the first question did not work. Mr Speaker, the amount of money that was plugged into the bottom line of last year's budget for increases in government funding was about \$20m. That means that we got \$57.5m in general government funding. We had already plugged \$20m in. So that means that there is about \$37m over and above what we had plugged into the budget. That is not exactly \$84m, Mr Stanhope. That is pretty basic budget understanding. Next time Mr Quinlan gives you a question, I would ask a few more questions on it, Mr Stanhope, otherwise you will get very embarrassed.

Now, Mr Speaker, the \$37m in extra money we have got, where has that gone? Well, I have to say we do have an operating loss that - wait for this - went from \$90m to \$63.5m; basically to \$63m. But, as well as that, in this budget there are a lot of budget pressures that were not anticipated last year. I know it is hard for Mr Stanhope or Mr Quinlan to understand those things. It is going to be very difficult for them to bring down a budget if they do not understand those things. Quite significant extra financial pressures exist in Health. In fact, we have actually debated that in this house, so it is hard to believe they did not know they existed, Mr Speaker.

**Mr Stanhope:** A 21 per cent increase in the waiting list. That pressure.

**MS CARNELL:** I know you would rather not have me answer this question, Mr Stanhope, because you are very, very, very silly. As well as that, of course, there is the extra cost of prisoners in the gaol system in New South Wales. There are the quite significant extra costs that have had to be plugged into the budget for increased police salaries, agreed to with the Federal Government, not with us. The list goes on. Right across government there are significant pressures, as there are every year, on the budget that were not actually in last year's budget.

When you put a budget together you have where you start, where you finished last year, and where you think you will finish, which is around about a \$150m operating loss. We wanted to get down to \$90m. We have programs in place to achieve that. You have to add on the extra pressures on the budget on top of the \$90m, because they are things we did not plan for last year. Are you listening, Mr Stanhope, because it might just help?

Then you have to take off the \$37m in extra money that we got. That meant we had to make some extra savings to get down to the \$63m, but we did that, Mr Speaker. That proved that we could reduce the operating loss by a significant amount of money this year, and move the Territory next financial year into the black for the first time since self-government.

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

**MR STANHOPE:** We were entertained, Chief Minister. Mr Speaker, last year's budget papers, referring to the increase in general revenue grants relativities, said in respect of the ACT that the increase in the relativity has been primarily caused by a decline in the ACT's capacity to raise own source revenue. Will the Chief Minister confirm that in fact the Grants Commission bailed her out as a result of her failure to repel the relentless attack on Canberra by her Liberal mates on the hill?

**MS CARNELL:** I find it very difficult to understand how that was a supplementary to the first question, but I am happy to answer it. In terms of the increases in relativity, the reason that our relativity improved is that we had to undo the absolutely atrocious job done in 1993 by the previous Labor Government when they went to the Commonwealth Grants Commission. We believe, and have argued for many years now, that the Commonwealth Grants Commission made a number of mistakes in 1993 simply because those opposite put forward a crummy submission.

We had to explain to the Commonwealth Grants Commission and argue with them at length over a number of submissions about the cost of running the ACT; things inherent in this city that are not the same in other cities, such as the economies of scale issues, the spread out nature, and the Y plan.

All of those issues had to be addressed, and were addressed at length, Mr Speaker, to the extent, as many people know, that we took members of the Commonwealth Grants Commission up in the air over Canberra in a plane to show them just how spread out Canberra is and how difficult it is to run things like bus systems in a city like Canberra. We also argued with the Commonwealth Grants Commission about issues of education, such as the fact that our retention rates are significantly higher than in the rest of Australia and that they should not penalise us for those sorts of things. Those are exactly the things that those opposite should have been arguing in 1993, and obviously did not succeed at.

### **Legal Practitioner – Complaint by Attorney-General**

**MR KAINE:** My question is to the Attorney-General. Attorney, I have been provided with information that suggests that you recently wrote to the Law Society of the ACT lodging a formal complaint, as Attorney-General, against a barrister and solicitor in the Territory. In that communication you used words like this person having a shallow disregard for the due processes of law, and that his duty should be to respect and uphold the due processes of the law and the like. Attorney, is it a fact that you wrote such a letter as first law officer of the Territory and that you did so under the provisions of the Legal Practitioners Act which you personally administer, and did you lodge a formal complaint with the Law Society of the ACT against the legal counsel representing the family of Katie Bender at the hospital implosion inquiry?

**MR HUMPHRIES:** Mr Speaker, yes, I have written a complaint to the Law Society and, of course, that is a complaint under the Legal Practitioners Act. Obviously, there are no other sorts of complaints that one can generate of that kind. I hesitate to confirm the last part of Mr Kaine's question because the Legal Practitioners Act contains confidentiality provisions about complaints that are made under it and inquiries that are held under it to protect the identity of people who are being inquired into. However, I understand that the complainant has himself revealed the nature of the complaint to the ABC, and obviously also to Mr Kaine, so I think in the circumstances it would be reasonable to - - -

**Mr Kaine:** That is not so, Mr Speaker. That simply is not the case. I want it on the record that that is not the case.

**MR SPEAKER:** You will have the opportunity to explain, Mr Kaine, in due course.

**MR HUMPHRIES:** Well, the fact is, Mr Speaker, that the complainant has revealed the fact of the complaint to the ABC, which is interesting because it may constitute a breach of the Legal Practitioners Act. Nonetheless, yes, that is the case, Mr Kaine. I have made that complaint and it is on the basis that I consider that the conduct concerned was quite inappropriate. I made comments about the conduct at the time in the media, the conduct complained of in the media, as I recall, and I think it is an appropriate matter for the Law Society to deal with.

**MR KAINE:** I have a supplementary question, Mr Speaker. The Minister's response is generally in accord with information that has come to my attention, but my supplementary question is this: Minister, when you lodged that complaint against the Bender family's legal representative, in whose interests were you acting - those of the Bender family or of somebody else?

**MR HUMPHRIES:** Mr Speaker, as first law officer of the ACT, in a sense I play a number of roles. Among those roles is being the nominal head of the legal profession of the ACT. I have a vested interest therefore in making sure that the conduct of legal practitioners in the ACT is of the highest order. I consider that the conduct I complained about was not of that order and I drew the matter to the attention - - -

**Mr Kaine:** And your conduct is better? It is absolutely reprehensible, Attorney.

**MR HUMPHRIES:** Thank you very much for that comment, Mr Kaine, but if you look closely at what the issues are, if you have that opportunity, I think you would at least understand the grounds for my concern. Mr Speaker, I think it is appropriate to draw those matters to the attention of the Law Society. I am not sure what sort of trick question it is to say was I acting for the Bender family. I obviously was not acting for the Bender family. That was not my intention and it is not my duty to play that particular role. It is my duty to play the role of a person who advocates for high standards among solicitors and lawyers generally in this city.

I am surprised at the question in some ways. Certainly, in the past Mr Kaine would have been very quick to believe things that were said about this particular practitioner which were not very flattering. I am surprised that he apparently now believes that this particular practitioner deserves to be defended, irrespective of what the particular complaint might be about.

**Mr Berry:** Mr Speaker, Mr Kaine referred to some documents that he has. I wonder if he would mind tabling them.

**MR SPEAKER:** It is up to Mr Kaine to ask for leave to table them.

**Mr Kaine:** I have no objection to tabling the documentation. In fact, I seek leave to do so.

Leave granted.

### **Forward Estimates**

**MR QUINLAN:** My question is to the Chief Minister and is in relation to forward estimates in the budget just brought down. I actually am seeking clarification, let me assure you. The forward estimates in the budget show a decline in the financial position of the superannuation insurance provision, aside from the partial relief provided by the capital repatriation from ACTEW. The statement of the financial position of the general government sector shows borrowing increasing next year by \$266m, I think, to about \$735m, and investments increasing by \$356m to \$916m. Projections for the Central Financing Unit show growth of up to \$1.3 billion by the year 2003. Can the Chief Minister explain the strategy and would she consider it prudent to shift towards a more conservative position where borrowing is eliminated and our exposure to what I call corrections in equity and security markets are eliminated? If we can generate the levels of cash shown in these statements, why are we not dedicating superannuation collections from agencies to the superannuation and insurance fund?

**MS CARNELL:** Mr Quinlan, amongst other things he has asked, asks why we have gone down the path of moving the \$300m from ACTEW across to the superannuation provision account. Of course, ACTEW will have to borrow that money. There is \$266m of non-general government sector borrowing that is ACTEW's borrowing because ACTEW will obviously have to borrow the majority of that money. ACTEW does not have \$300m floating around in its accounts. So the majority of the \$300m will have to

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be borrowed by ACTEW. That money will be transferred across and put into the superannuation provision account in line with the recommendation of Mr Quinlan's own committee, Mr Speaker.

**Mr Quinlan:** No, I am not worried about that. Why have we got a lot of money in the CFU?

**MS CARNELL:** Mr Quinlan is interrupting. We believe that that approach was very much in line with the approach that Mr Quinlan's committee suggested should happen. We also took on board Mr Quinlan's comment or Mr Quinlan's committee's comment and those opposite comments that believed that ACTEW could easily handle repaying that sort of borrowing out of operational activity. We agree that ACTEW can handle borrowings of up to that amount of money from their ongoing operations. It certainly will mean a reduction in returns or rebates to the ACT Government. There is no doubt about that, but those reductions have been factored into our forward estimates.

The interest that the superannuation provision account will generate is reinvested into our superannuation provision account. I think it is important though at this time to make the point that even with the move of \$300m across into our superannuation provision account it only really gets to the stage of funding around about half of our unfunded superannuation liability. Mr Speaker, that half - - -

**Mr Quinlan:** I raise a point of order, Mr Speaker. I understand what we are doing with the \$300m from ACTEW going to the super fund. The point of the question is why are we building up huge amounts - - -

**MS CARNELL:** Mr Speaker, this is not a point of order.

**Mr Quinlan:** Well, you are not answering the question. I thought I might explain it to her so she could answer it.

**MR SPEAKER:** I am sorry; I have no control over that. Ministers can answer the question as they see fit. It is not a point of order, Mr Quinlan.

**MS CARNELL:** Mr Speaker, possibly the best outcome for Mr Quinlan, if he is very confused about the whole role of the CFU, is for us to give him a briefing on this issue. It is quite a complicated issue, to follow the trails of transactions through the CFU, with the movement of the money across to the SPA and the borrowing from ACTEW. Mr Speaker, we are very happy to give that briefing to Mr Quinlan.

**MR QUINLAN:** I have a supplementary question. Given that we estimate that we will have very substantial levels of cash in the years ahead invested by the Central Financial Unit, does the Chief Minister consider it is time to set up a separate superannuation board and a separate investment fund that is quarantined for future purposes from political expedience now and in the future?

**MS CARNELL:** Mr Speaker, I think Mr Osborne has brought up this issue before. He is not here. Ensuring that the superannuation provision account is not touched by governments in the future is something that the Government does totally support and it is something that we will be moving to do.

### **Public Service - Redundancies**

**MR HIRD:** Mr Speaker, my question is to the Chief Minister and Treasurer, Mrs Carnell. Is the Chief Minister aware of the comment made yesterday by the Leader of the Opposition, Mr Stanhope, that the Government was slashing the number of ACT public servants in its latest budget? Can the Chief Minister confirm to the parliament whether the practice of offering voluntary redundancies to ACT public servants actually began under this Government?

**MS CARNELL:** Thank you very much, Mr Hird, for that question. Mr Speaker, you have heard the saying that a week is a very long time in politics. Well, if that is true, then I have to say that 4½ years appears to be beyond the collective memories of those sitting opposite. If you believe people like Mr Stanhope and Mr Berry, the idea of voluntary redundancies is something that only appeared recently and under a Liberal government.

Mr Speaker, to fully answer Mr Hird's question, let us get some basic facts on the table. Yesterday this Government announced that it would seek to offer approximately 450 voluntary redundancies across several agencies as part of efforts to contain costs and to improve the efficiency of our services. This represents only 3 per cent of total numbers in our Public Service. It did not stop Mr Stanhope from telling everybody who bothered to listen that we were just like every other Liberal government, slashing the Public Service. He used all those sorts of hopelessly cliched statements, Mr Speaker. His colleague, the ever reliable Mr Berry, also weighed into the debate this week, telling the media that public servants were being offered redundancies because of my Government's financial mismanagement. That was an interesting comment from Mr Berry, and one that I will come back to a little later.

Mr Speaker, the practice of offering voluntary redundancies did not begin under this Government, surprise, surprise, even though Mr Berry and Mr Stanhope have tried to create the impression that they were somehow invented by this Government. I can tell the Assembly that the practice of offering them began barely two years after self-government started. Mr Kaine offered them when he was Chief Minister and, guess what, the Labor Party offered them when they were in government. And, boy, did the ALP offer them, Mr Speaker.

Over the three years between 1992 and 1995 a total of 1,019 redundancies were paid out by the Labor Government at a total cost of \$37m. Let me repeat that in case Mr Stanhope was overseas or maybe asleep, as he was yesterday. Mr Speaker, between 1992 and 1995 Labor paid out a thousand redundancies. Some of us can remember that Mr Berry was a Minister in that Government and therefore was part of the budget Cabinet, part of all of that decision-making. But, wait a minute, Mr Speaker. Did not Mr Berry say earlier this week that the only reason that a government would offer voluntary redundancies was appalling financial management? Clearly, the financial

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mismanagement of the former ACT ALP Government must have been very, very, very bad, Mr Speaker, to sack 1,000 people, to use Mr Berry's own words. It must have been very bad mismanagement, Mr Berry.

Mr Speaker, in defence of the former Chief Minister, Rosemary Follett, that certainly was not her view at that time. Indeed, her view, and that of the Labor Government on voluntary redundancies at the time, seems to differ sharply from Mr Stanhope's and that of Mr Berry, at least in this day and age. I think it is worth having a look at a couple of quotes from Ms Follett on voluntary redundancy. On 15 June 1994 she told the Assembly:

It remains my view that continuing to make allowance for voluntary redundancies makes good sense.

That is the view of the Labor Party, Mr Speaker. But wait, there is more. On the question of voluntary redundancies, Ms Follett went on to say:

This is an area where I believe that making this provision is a prudent form of budget management.

That is a prudent form of budget management. They were Labor's words, Mr Speaker, not mine. Compare this comment with those of Mr Stanhope and Mr Berry over the last few days.

To finish answering this question, I might share with the Assembly one final twist in this whole story which I think puts the Labor Party's current position on redundancies somewhere between hilarious and farcical. I am sure that Mr Humphries and Mr Moore will remember that back in 1993-94 when the former Labor Government offered redundancies totalling \$17m in one year they were attacked by their colleagues in the Trades and Labour Council. Does anyone remember who Rosemary Follett sent to negotiate with the Trades and Labour Council - in other words, to argue the case for voluntary redundancies with the Trades and Labour Council?

**Mr Hird:** It wouldn't have been Wayne.

**MS CARNELL:** You guessed. It was Mr Berry. He was out there negotiating on behalf of the Government, convincing the Trades and Labour Council it was a good idea to have voluntary redundancies. Mr Speaker, I suppose the irony is not lost on everybody in this chamber, but maybe it is lost on poor old Wayne.

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

**MR HIRD:** Yes. On all the questions I have asked in this chamber, there has never been silence from the Opposition. This is the first time, and I congratulate them. They might be learning something, Mr Speaker.

**Mr Berry:** We are busy reading these letters. Very interesting.



**Mr Stanhope:** The one from Bernard Collaery is a ripper. Read Bernard's letter, Harold.

**MR SPEAKER:** Order! I would much rather read Bernard Shaw, frankly.

**MR HIRD:** Chief Minister, just to put my earlier question about voluntary redundancies in the proper context, what was the ACT's unemployment rate in, say, mid-1993 and what is it today?

**MS CARNELL:** Thank you. In July 1993, when Labor offered redundancies totalling \$17m, the ACT's trend unemployment rate was 7.5 per cent, Mr Speaker. Right now, as at March 1999, it is 5.9 per cent, a full 1.6 percentage points lower. I think on that basis I can rest my case.

### **Public Service - Size**

**MR BERRY:** We will see what sort of a brazen explanation you can come up with in answer to this question, Chief Minister. In the lead-up to the 1998 Assembly election, in the most misleading and dishonest Liberal election promise, you said to the ACT public servants that the pain was over. On page 1 of the *Canberra Times* on 9 February 1998 you promised to abandon plans for any more cuts to the ACT Public Service and to use the \$5m of unspent redundancy money on a range of job creation, health, education and other programs. In your policy launch, to cap it off, you said, "The pain was over and with the Public Service cut from 20,000 to about 17,000 over the past three years, restructuring was now largely complete". Not so. Now, Chief Minister, you are planning to spend \$16m axing Public Service jobs. Let us see if you can come up with a satisfactory though brazen explanation for your change of heart.

**MS CARNELL:** Mr Speaker, you just cannot help but love him, can you? The man got up at the last election and launched "Working Capital" that used the cash line in the balance sheet to fund all his promises. You cash managed your whole election campaign and spent the cash line in the balance sheet. Mr Speaker, you have to laugh.

**Mr Hird:** But it's serious.

**MS CARNELL:** Unfortunately, it is important. Mr Speaker, the commitment that we gave at the last election campaign was that systemic changes to the ACT Public Service were over, and that is actually the truth. We said that the days of the 2 per cent across-the-board cuts to all areas at the same levels were well and truly over. We indicated that the days of central redundancy pools were gone. When I was asked during many of those debates whether that meant there would be no more redundancies, I said, "No, of course there will be, because there will always be redundancies in any dynamic government".

**Mr Berry:** Now the pain is over.

**MR SPEAKER:** If you continue to interject, Mr Berry, it will not be over for you.

**MS CARNELL:** There will always be redundancies in any government simply because of the way staff are used and the sort of staff you need. Whether you need them inside or outside the government will always change, regardless. Those nasty salami slicing approaches, that everyone had to lose 2 per cent of staff or 3 per cent of staff, or \$5m here or whatever, are certainly gone. That will continue to be the case as long as we are on this side of the house because, Mr Speaker, that is just bad management. Good financial management is about ensuring that redundancies and changes in the way we operate our Public Service are targeted to the areas where we can maintain service delivery, and where we can achieve the maximum benefit for the people of Canberra.

When you look at the approach that we have taken in this budget, that is exactly what has happened. Say the redundancies are in areas of Health, Mr Speaker. It was not so long ago in this place that those opposite, Mr Berry included, were berating this side of the house for the overspending in health. "Shock, horror, you have overspent your budget". Now we are back with a new budget and coming up with approaches that will overcome a lot of that overspending and they are doing it again. "Shock, horror, you are offering redundancies".

Mr Speaker, I make the point that you cannot have it all ways, and those opposite seem to want to, particularly Mr Berry. He wants to be able to get stuck into Mr Moore about the health budget, but at the same time say, "But no, no, no, we won't have any redundancies". Well, I have to tell you, it ain't possible, Mr Speaker. Seventy per cent or so of the health budget, and we will use that as an example, is wages, Mr Speaker. What is the rest of the health budget? Things like pharmaceuticals, surgical supplies, X-rays, and MRIs and pathology. Where does Mr Berry think he is going to save that money and bring the health budget under control? Maybe we will hear tomorrow. We know that now he is saying "no redundancies". Maybe we should stop giving people drugs. Maybe we should stop doing X-rays. Maybe we should stop pathology. Maybe we should stop surgical supplies. Well, we do not think that is very sensible, Mr Speaker, and nor do our patients. The approach that we have taken is a very targeted approach to redundancies that will maintain service delivery and give the people of Canberra value for money.

**MR BERRY:** Mr Speaker, I have a supplementary question. If things are so rosy, why do another 450 people have to lose their jobs when, according to your budget statements so far, what has happened is that you have got more money from the Commonwealth, more money from taxes, and you have borrowed another \$300m via ACTEW and kept the superannuation that you have collected from agencies?

**MS CARNELL:** I despair for the other side of the house. Mr Speaker, things are looking good in the ACT, but we have still got a \$150m operating loss this year. What we have put on the table is a plan to reduce that operating loss to \$63m next year and to go into the black the year after. Now, Mr Speaker, I have to tell you that that does not just happen. It does not happen without very hard decisions. It seems Mr Berry believes that if the economy is looking all right governments can do nothing and everything will just work out. Well, that is what they tried last time, Mr Speaker, and they ended up with a \$344m operating loss that we ended up with, and no money in the Central Financing Unit.

Mr Speaker, I think it is worth making a couple of comments. Mr Berry did quote the *Canberra Times* in the first part of this question. The *Canberra Times* this morning made comments like this:

The Carnell Government has turned the territory's finances around, slashing the operating loss by more than half in the year from July and predicting a balanced Budget the year after - the first since self-government.

I think it went on to say, "It establishes her" - meaning my - "financial management credentials", Mr Speaker. That is more than you can say for "Working Capital" and Mr Berry.

### **Environment and Heritage Budget**

**MS TUCKER:** My question is directed to the Minister for Urban Services and is about the budget appropriation for environment and heritage. Minister, in the budget papers there were several new funding initiatives for the environment, in particular, \$340,000 for implementation of the ACT greenhouse strategy, and also increased funding of \$154,000 for membership of the Murray-Darling Basin Commission. However, I note that the overall expenditure for the environment and heritage has only increased by \$82,000, which is obviously not going to cover these initiatives. Could you therefore tell us what activities are going to be cut within environment and heritage to free up funds for these initiatives? If none are going to be cut, where is that money coming from?

**MR SMYTH:** Mr Speaker, I thank the member for her question. I am not sure how she did her maths to get that total. The advice from the department is that the overall increase is some \$800,000 for the environment funding for this year, which I have to say I am very pleased about. We are pleased to put money into - - -

**Ms Tucker:** So you are saying there is \$800,000 new money? Is that what you are saying?

**MR SMYTH:** The advice I have is that the overall increase is \$800,000.

**Ms Tucker:** New money? Right.

**MR SMYTH:** New money. Extra money. We are very pleased that it goes to things like the Murray-Darling, to which we are committed. The ACT Government is responsible for the water that flows through the Territory. There is money there for the Commissioner for the Environment to make sure that the Year 2000 Environment Report is done as well. Extra money will be going in through the capital works program to things like Tidbinbilla, for instance.

We are very committed to the environment. This is perhaps the greenest government in Australia. We are the only government that takes things like greenhouse targets seriously enough to set targets. We have taken our control of water seriously through the water abstraction charge. We say to the people of the ACT that it is very important that we

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understand the true value of the water. In this case I think your figures are wrong. The advice I have from the department is that it is in fact an increase of \$800,000, and we are very pleased to have done that.

**MS TUCKER:** Okay, thank you. I have a supplementary question. On the matter of the water abstraction charge, that is something that many environmentalists have lobbied for. It is in recognition of the issues around catchment management. You will be raising \$1.7m in revenue from that. How much out of that amount will be allocated now to improve catchment management?

**MR SMYTH:** The important thing here is that we spend some \$22m directly on maintaining the environment through Environment ACT as well as other initiatives through various other parts of the department. Water abstraction money will be raised, but this Government does not hypothecate any money. We believe that money should go to the Government and then be allocated appropriately. The water abstraction money, for instance, would go nowhere near to offsetting the \$22m that we commit to the environment every year. We are very pleased with the extra \$800,000 that we have been able to put into the environment, and we will continue to look after the environment, as we should, because this is the bush capital.

### **Government Housing**

**MR WOOD:** Mr Speaker, my question is to the Minister for Housing. Minister, the 1999-2000 budget proposes the disposal of a further 800 government houses to the community sector over the next five years. That is an ambitious target. My question focuses on the planned transfer of 200 houses in the current financial year, a trial year, if you like. Minister, firstly how many government houses have been allocated - that is promised - to the community sector? That may follow a flurry of activity in the last few weeks. Secondly, and most importantly, how many houses have actually been transferred to the community sector? Finally, what are the processes undertaken to get those houses across to the community sector?

**MR SMYTH:** Mr Speaker, I thank the member for his question and his long-term interest in housing issues. One of the deficiencies in the public housing market, as outlined by the Productivity Commissioner, was the fact that there was a significant lack of choice in public housing in the ACT in comparison to other jurisdictions. The Government's commitment at the last election that we would broaden the range of providers of public housing was initially to see some 200 houses go across to Community Housing Canberra. We are quite pleased with the way that is going and we will now extend it so that some thousand houses will be transferred by the year 2005. It is very important, where we can, to allow tenants to have a say in the houses that they reside in because - - -

**Mr Wood:** Tell us how far that has gone.

**MR SMYTH:** It is progressing rather nicely. I will have to - - -

**Mr Wood:** Progressing well. How well?

**MR SMYTH:** I will have to get a firm figure for the member as to exactly how many have been transferred at this stage. We have set in train our process. The Federal Government gave us a grant that enabled us to set up a model which may be used around the country. We hope that it will because we believe the model will work. It sets up a process that allows us to offer these houses for them to either reject or accept so that we can set up alternative providers to look after the interests of ACT Housing tenants.

**MR WOOD:** I have a supplementary question, Mr Speaker. Is it a fact, Minister, that only a relatively small number of houses have been transferred and there is practically no cash flow at all in the community sector at this stage? In light of your promise, I take it you will table a list of those houses that have been actually transferred? I do not mean allocated, I mean transferred.

**MR SMYTH:** Mr Speaker, members would be aware that we have transferred McPherson Court for redevelopment to the controller of Community Housing Canberra. That is the start of the process, and the process is moving along very nicely. Other houses have been offered and accepted. Some have been rejected. As I said, I will get the member an up-to-date total.

### **Speed Cameras**

**MR HARGREAVES:** My question is to the Minister for Urban Services. Minister, in yesterday's budget announcements I see that Urban Services will be introducing speed cameras from 1 July this year. Will these cameras be static or mobile? Will they be placed in a locality and retrieved at a later time, or will they be operated by people? Have these people been trained?

**MR SMYTH:** Mr Speaker, we do intend to introduce such speed cameras. They are a very important initiative in reducing the road toll. Our road toll seems to move somewhere between 17 and 22 deaths a year, which is far too high for a city like Canberra. I am told that in Victoria they dropped the accident rate by some 20 per cent with the introduction of speed cameras. If we could do the same, I would be very pleased. I would like to drop it by 100 per cent. We need to work out the details of how we will implement them and what techniques we will use. At this stage I will simply say that they are to be introduced on 1 July and I look forward to the results that they will bring.

**MR HARGREAVES:** I have a supplementary question, Mr Speaker. The Minister did not answer the question. I suppose that was because he does not know the answer. Will you confirm, Minister, that only officers from the Department of Urban Services will control and operate these cameras?

**MR SMYTH:** Mr Hargreaves always likes to make snide remarks and little off-the-cuff comments. Perhaps he should listen to the first answer before he asks a supplementary question. He asked whether certain details had been determined. My answer was no,

they have not been determined as yet. We will work out how best and how most appropriately to use this technology to reduce the death toll that we have in the ACT. What we need to do is make sure that we use it effectively, and we will.

### **Development Applications**

**MR CORBELL:** My question is to the Minister for Urban Services. Can the Minister explain to the Assembly why one-quarter of all development applications other than single dwellings will not be assessed by PALM within the statutory timeframes under the Land Act as a result of the 1999-2000 budget?

**MR SMYTH:** Mr Speaker, it is pleasing to see that Mr Corbell has an interest in planning matters. Recent figures that I have had have shown, after years of decline in the time to process applications, the result of the review that we implemented and put in place. For instance, the March figures have shown a remarkable turnaround on the applications. We will continue to implement those reforms to make sure that we serve all Canberrans, whether they be residents or developers, and get the best outcomes in the planning system.

**MR CORBELL:** I take it that is a yes. Minister, in a press release on 13 January this year in relation to the Ernst and Young review of PALM you stated that "PALM has recognised and is responding to the need to provide better value for money and has put in place a sound reform agenda". Will you explain to the Assembly how this statement can be reconciled with the impact of the budget on the assessment of building applications, and that it actually represents a false economy rather than providing better value for money to the ACT community? Lastly, will you confirm that PALM has reduced its target from 85 per cent to 75 per cent of all development applications outside single dwellings being assessed within the statutory time limits?

**MR SMYTH:** Mr Speaker, it is curious to hear the Labor Party speak of false economy. They are the ones who implemented enormous numbers of voluntary redundancies at absolutely no gain to the economy for the people of the ACT. As we have said, we will implement the reforms that Ernst and Young suggested in their review of PALM so that we will deliver a far more effective and a far speedier assessment system to meet the needs of both residents and developers in the ACT.

### **Olympic Games - Travel Proposal**

**MR RUGENDYKE:** Mr Speaker, my question is to the Chief Minister. Chief Minister, on 26 May last year I informed you of details of a proposal from SOCOG to include free public transport and tickets to games events held in Sydney next year. The free transport proposal was to be applicable to a zone extending from Scone in the north-west to Goulburn in the south-west but excluding the ACT. Due to the fact that our city has committed itself to a \$27m project, or, now, a \$32m project, at Bruce Stadium in order to host Olympic soccer, I asked the Chief Minister to personally write to the Olympics Minister, Mr Michael Knight, urging him to reconsider the proposal to include the ACT in the free transport zone. Chief Minister, tickets for Olympic events go on sale in

25 days and my inquiries with SOCOG reveal that the ACT is still excluded from the free transport zone. I understand that you did write to Mr Knight on 27 May last year. What was his reply? What follow-up did you employ to change his mind, and why is the ACT still excluded from the free transport zone?

**MS CARNELL:** Yes, I did write to him after you brought up this issue last time, Mr Rugendyke. The response was pretty typical, I seem to remember, but I will certainly find that response and make it available. I am very happy to follow up again with SOCOG and with the New South Wales Labor Minister.

Mr Speaker, I think it is unfair and unfortunate that the ACT has been left out of the free transport opportunities that exist to Sydney. I do not think that is a fair situation. We do have a transport strategy that is being worked up for the ACT as well. I am happy also to make information available to Mr Rugendyke with regard to what we are planning to do with buses and to ensure that people can get to the stadium easily and at limited or no charge.

We have also just started to promote Olympic soccer in Canberra into the region. I think the first approach has been to write to all soccer players and all soccer clubs in the region suggesting that they might like to come to Canberra to see Olympic soccer. Maybe there is some benefit in not having free transport, and that is, hopefully, all the people in the region will come to Canberra instead of going to Sydney. Maybe we should look on the bright side of anything.

**MR RUGENDYKE:** Thank you, Chief Minister. That was part of my supplementary question but I will change it to fit the original answer. Bearing in mind that we will have to fill Bruce Stadium to approximately 96 per cent capacity for every soccer game it hosts during the Olympics, would you be looking to provide free transport, as Sydney does, from our own region to Canberra and further afield to regions such as the Riverina and perhaps even Victoria?

**MS CARNELL:** Mr Speaker, we are not looking at free transport outside the ACT, at least to my knowledge, but I will certainly follow up on that. We certainly are looking at an internal transport policy to get people from I suppose car parks and from areas around Canberra into the stadium to eliminate the need for driving.

I think one of the things about the Canberra Olympic option versus Sydney is that the costs of coming to Canberra and staying in Canberra are so much lower than in the case of Sydney. So already we have a very real financial advantage. People can come to Canberra, buy tickets, stay overnight and at the same time access quite a large number of other attractions in the ACT. When you look at the overall packages in Canberra, even with the cost of bus fares or whatever, they are still very attractive in comparison to Sydney.

Mr Rugendyke made a comment about the need to get 24,000 people to the stadium. I would be extremely disappointed if there are not 24,000 people in Canberra and the surrounding regions who are very keen to come to the stadium. In fact, I know that that is very much the case.

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**Mr Berry:** One game or six games?

**MS CARNELL:** Maybe those opposite are not interested in going to see Olympic football, but I have to say I am. I know it's a round ball, Paul. It is all right.

### **Canberra Hospital**

**MR OSBORNE:** My question is to the Minister for Health. He is far too comfortable. Minister, which areas or units within the Canberra Hospital have been identified as being the major areas of overspending in the current financial year?

**MR MOORE:** Is that the question?

**Mr Osborne:** That is it.

**MR MOORE:** I thank Mr Osborne for the question. In fact, the area is quite complex because we know there is overspending right through the hospital. Mr Osborne, we know that the cost of a nationally adjusted cost-weighted separation compares with the Canberra Hospital in such a way as the Canberra Hospital is shown to be significantly overfunded. Certainly, if we just look at the raw figures, it does appear that the medical area in the hospital is the area that is most underfunded, but it does take a look below those figures to determine that the way the hospital put its budget together for last year puts a skew on those particular figures. Really, Mr Osborne, the issue we are dealing with is a cultural financial issue that goes right across the hospital.

I will say that the redundancy package that was announced yesterday in the budget, the \$6m, was provided in case the hospital needs to use it. It may well be that the hospital does not use the full \$6m. We would be quite pleased if that is the case and if it is not necessary to meet the needs of the hospital. The thing that we put as priority one is patient care, to make sure that that is protected. I have reiterated that to Mr Rayment on a number of occasions, although not that I need to because he is on the same wavelength himself. We would expect that the bulk of those redundancies will come from administration across the hospital.

**MR OSBORNE:** I think Mr Moore has partly answered my supplementary question, but I do not know that he answered the first part of the question. He is obviously learning, Mr Speaker. Which areas of the Canberra Hospital have you identified as to where the 100 jobs are to be reduced from? Are they in the same areas that the previous overspending was within?

**MR MOORE:** I think I did answer that question by saying that the overspending actually occurs right across the hospital. It is not a matter of saying, "Aha, here we have surgery overspending", or, "Here we have medical overspending", or, "Children's and women's health is overspending". It would be much easier, I must say, Mr Osborne, if that was the case and we could just then identify one place and go through it. It is an issue that goes right across the hospital, in all areas of the hospital, and that is why it is that we are going through a re-engineering process and a broad rectification plan that goes right through all areas of the hospital.



I would like to emphasise that the voluntary redundancies that are being negotiated by Mr Rayment are being negotiated with the unions, with the staff, and will be targeted to best suit the needs of the hospital rather than the individual. In other words, if somebody puts their hand up to go for a voluntary redundancy - I understand that quite a number of people have already done that - that will not necessarily be accepted. If it is going to have an impact on patient care it will not be accepted. The next step is that Mr Rayment will be negotiating with the unions and the staff to make sure that we can deliver the best possible impact.

We recognise that there is a problem with the funding situation at the hospital, and the majority of members here expressed their grave concern not so long ago about the way that was being handled. What has happened is that the Government has said, "Yes, we take that seriously; we are going to handle this". We have already made some progress with the rectification by finding revenues from places like the Department of Veterans' Affairs by purchasing extra surgery. The projected operating loss now is at \$4.8m for this year. That is the first step.

I have to say though that the hardest part is not the first part. We were able to find some revenue. The hardest part of this exercise is getting the second \$5m. That is why it is that we are looking at redundancies, because with a one-off payment we can then seek to get the long-term savings. But I emphasise again that our priority one is patient care.

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

### **Australia-Chinese Friendship Village**

**MS CARNELL:** Mr Speaker, I want to respond to a question from Mr Corbell. He asked a question with regard to the Australian-Sino friendship village and said:

It was reported in a Beijing newspaper on 29 October 1998 that a Friendly Cooperative Agreement was signed between the Mayor of Beijing and the Chief Minister of the ACT. Later it was mentioned that the Independent Group of Canberra and a Beijing group signed an agreement entailing \$US35m to build an Australian-Chinese friendship village in Canberra over a one year period. Has this village proceeded? If not, when will it start? Has a site been decided? If so where will this be?

He went on to ask this supplementary question:

Can you explain the relationship between the Friendly Cooperative Agreement and the Friendly Australian-Chinese Village? Is this Memorandum of Understanding a public document? If so, can you table it?

Members would be aware that a commercial agreement has been entered into between the Independent Group in Canberra and the Kuai Group in China relating to the development of an Australian-Sino friendship village in Canberra. My understanding of the arrangement is that the consortium would promote the sale of sites within the village to Chinese governments and enterprises for use as their Australian bases. I am advised that the consortium is currently undertaking market testing of the project in China prior to proceeding with the next stage of the development, which will presumably entail site selection and purchase, and undertaking the necessary planning processes.

There is no relationship between this initiative and the cooperative agreement signed by the ACT Government and Beijing Municipal Government. A copy of the government-to-government agreement signed during my 1998 visit to China is contained in the delegation report previously provided to members.

### **Australian Institute of Sport - Swimming Pool**

**MS CARNELL:** Mr Speaker, on 20 April 1999 Mr Rugendyke asked this question:

Has the ACT Government or ACT departments had any contact with the AIS about becoming involved or taking over the AIS pool or any other AIS facilities and, if so, what are the details?

Mr Speaker, there is no formal connection between recent expression of interest advertisements for health and fitness services and the long-term management of the AIS pool. The AIS is market testing the provision of corporate health and swim school programs. The latter obviously operates from the pool, but that is the extent of any association with the facility. There are no discussions between the Government and the AIS taking place regarding control over the pool. The bigger picture of elite sport, in the future, is something which will not be known until late in the year 2000, so any speculation about the AIS pool, in this context, is premature.

### **Hepatitis C**

**MR MOORE:** I have a reply to a question that I took on notice on 22 April 1999 from Mr Stanhope. He asked:

Would the Minister advise whether claimants will be provided with legal assistance in pursuing compensation with regards to those who contracted hepatitis C?

The scheme to compensate persons who have contracted hepatitis C is intended to be, and is designed to be, as simple, user friendly and as accessible as possible. Persons accessing the scheme will be referred to legal advisers if they wish. Legal expenses are an item which will be included in any compensation offered to such a person.

## Food Labelling

**MR MOORE:** On 22 April Ms Tucker asked me this question:

Is the Minister aware that in the ACT Food Act 1992, section 19 prevents action against a company if advertising is misleading on the food label even though it complies with all labelling codes?

She also asked this supplementary question:

Will you please frame your answer around the correspondence that your office received in relation to a constituent having claims against a baby food company.

When a food label complies with the Food Standards Code and provided there is no contradictory information or any statement or pictorial that is false or misleading then no action will be taken under the ACT Food Act. If, however, labels include statements, et cetera, that are false and misleading and the label in other respects complies with the Food Standards Code then legal action is possible under false and misleading provisions under section 19 of the Food Act.

I have been informed by the department that a complaint was received last year about a particular brand of baby food where both scenarios applied. The complaint concerned the following statement: "for children four to six months of age breast milk on its own was not sufficient to meet increased energy needs". Investigation revealed that older stock of the product did include those words which could be construed as false and misleading. However, the product label had already been changed. The expression complained about had changed to "health professionals recommend introducing solids to children around four to six months of age starting with iron enriched rice cereal". Advice received from the Australia New Zealand Food Authority was that the latter label complied with the Food Standards Code and the new statement was not false and misleading. So it has changed.

**Ms Tucker:** But it is still misleading.

**Mr Humphries:** Not according to ANZFA.

**MR MOORE:** I do not think it is.

## Sportsgrounds

**MR STEFANIAK:** Mr Hargreaves asked me a question on 20 April 1999 in relation to what football fields may be withdrawn to enable SOCOG to conduct training prior to the Olympics.

The ACT Government has entered into a memorandum of understanding with SOCOG in relation to the provision of soccer facilities for Olympic competition and training. That relationship is being managed by the Chief Minister's Department.

As a support to the Olympic competition venue, Bruce Stadium, the ACT must provide four or five training venues of a standard acceptable to SOCOG and FIFA from 2 September 2000. At this stage no decision has been made on these venues, but a comprehensive assessment of the possible alternatives is now under way. This involves a thorough analysis of factors such as the playing surface, lighting, security and player amenities. From 1 July 2000, if the playing surfaces are not of a satisfactory standard, SOCOG may require the grounds to be closed to allow the surface to recover. Venues under consideration include some managed by the ACT Government through the Bureau of Sport and Recreation, as well as a number outside the ACT government system.

The decision on venues is to be made as soon as possible to allow the necessary planning for any venue enhancement or reallocation of users. Preliminary advice has been given to local peak football organisations that some disruption may result from this exercise, but that as far as possible the effects are to be focused on soccer as this is the sport which will be most advantaged by the Olympic program.

### **Service Station Site in Torrens**

**MR SMYTH:** Mr Speaker, on 22 April Mr Osborne asked a question about the Torrens service station site. The question was in four parts. He asked: Was the fencing on the site approved by Planning and Land Management? Did PALM approve the removal of the underground tanks? Has Ampol lodged a development application or sought a lease variation for the site? Given that the site has not been used for just under 2½ years, do you intend to enforce your Government's policy on the use of service station sites and resume the lease so that another service station may begin to operate at that location?

Mr Speaker, the answer is as follows: Yes, the fencing was approved in 1996 at the time approval to remove the tanks was refused. The fencing was approved to minimise the risk of anyone being hurt on the unattended site. The underground tanks are still in situ. For safety reasons they have been filled with water containing a rust inhibitor, as well as the vents and pipes leading from the tanks being capped.

Yes, Ampol has been negotiating with PALM about alternative uses for the site since early 1996. Ampol has lodged several development applications over this time with proposals that could not be supported. Ampol, on 9 April 1999, lodged an application to vary the lease purpose clause to allow the construction of eight townhouses and associated parking. The proposal, if approved, will also require the demolition of the existing buildings, the removal of the underground tanks and the remediation, if necessary, of the site.

Mr Speaker, I am advised that the last franchisee that occupied the site got into financial difficulties with regard to the operation of the site. Ampol has advised PALM that the volume of product passing through the site was insufficient for ongoing viability. Given that the site closed prior to the introduction of the Government's new service station policy and that an approvable application has been lodged, I do not propose to initiate lease termination action at this time.

### **Environment and Heritage Budget**

**MR SMYTH:** Mr Speaker, further to the answer I gave Ms Tucker, I said that the Government does not believe in hypothecation. There is one exception that I forgot about, the fees for Tidbinbilla, and I apologise for that. I have offered Ms Tucker a full briefing on the environment budget to explain where the \$800,000 comes from that increases the environment budget this year.

### **LEGAL PRACTITIONERS ACT - COMPLAINT BY ATTORNEY-GENERAL - PUBLICATION OF DOCUMENTS**

**MR BERRY (3.36):** I seek leave to move a motion to authorise the publication of the documents presented to the Assembly by Mr Kaine earlier this afternoon.

Leave granted.

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

That the copies of the documents relating to the complaint lodged with the Law Society by the Attorney-General relating to remarks made by Mr Collaery which were presented to the Assembly this afternoon by Mr Kaine be authorised for publication.

By way of explanation, I am advised by the Clerk that absolute privilege may not apply in respect of these documents outside of the house. It just seems to me to be prudent in a matter in which many lawyers may well be involved for this motion to be passed as a matter of course. It is a similar motion to the ones passed by committees in respect of evidence which is taken before them.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (3.37): I do not have any particular problem with having these documents on the public record. I am quite happy for what I have said to the Law Society to be available. I have just seen the response from Mr Collaery about the allegations that I have made. He is perfectly entitled to put his point of view forward. I have to make it clear, though, to the house that what is being done here is a device to circumvent the operation of the Legal Practitioners Act. The Legal Practitioners Act contains very specific provisions that prevent the publication of information about the processing of a complaint. Whether that is desirable or not is a matter that is open for debate. To be quite frank with you, I would be quite willing to debate the proposition, that is, to consider supporting the proposition that we should move away from that degree of high protection. Perhaps legal practitioners should not have the degree of secrecy or confidentiality that shrouds complaints made against them. However, that is for another day, because the law at the present time says that these matters, when they are treated as inquiries by the professional conduct board of the Law Society against legal practitioners, are to be strictly confidential.

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The tabling of these documents today by Mr Kaine and the motion of Mr Berry to publish them are obviously a way of being able to put them out in the public arena which would not be possible under the provisions of the Legal Practitioners Act. I simply warn members about the dangerous precedent being set here of getting around legislation passed by this house by using this mechanism to publish documents which otherwise would not be legally published. If I or anybody else were to walk out there before this motion was passed and hand this document to somebody, we would be committing an offence which would be punishable by imprisonment. By doing it in this way, we avoid that onus. That may or may not be a good thing, but I think it is a bit of a slap in the face to legislation which this place has enforced, which is legislation of this place.

Mr Speaker, the other question about this matter is the role of the other party, Mr Collaery. I do not have a great brief to carry for Mr Collaery and Mr Kaine says that he has not been in contact with Mr Collaery about this matter. It is principally for the protection of Mr Collaery that the provisions have been designed. Do we know whether Mr Collaery is happy for all these allegations about him and his response to be in the public arena? That is what these provisions in the Legal Practitioners Act are designed to protect. I suspect that Mr Collaery will not mind that that is out there, but I do not know whether he will or he will not.

**Mr Berry:** That is not the issue.

**MR HUMPHRIES:** It is the issue because - - -

**Mr Berry:** No, it is not.

**MR HUMPHRIES:** Mr Speaker, it is the issue because these documents are protected from public disclosure, except for what we are doing now. Without this motion it may well be an offence to hawk these documents around the media and so on outside this place. As I have said, I am not ashamed of what I have had to say about this matter, but the provisions are not there to protect me; they are there to protect the legal practitioners who are complained about. If you continue to maintain that you have not been in touch with Mr Collaery, I think you have to ask yourself the question: Is it fair to expose him in this way, to remove from him the protection which the law affords him? That would be, I think, an unfortunate precedent to set.

**MR STANHOPE** (Leader of the Opposition) (3.41): I shall be very brief, Mr Speaker. I understand the point that the Attorney-General is making. I think the matter has travelled beyond that. There is an interesting issue here for us in that documents have been tabled, we all have them available to us, and they have been spoken about in this place. Simply tabling them here attracts qualified privilege in terms of our positions in relation to them. As I understand it, there would be nothing to prevent any member of this place speaking about the content of these documents and, of course, that will occur. This is a matter which will undoubtedly attract significant media and community interest, as it should. It would now not be wise in terms of the processes that are already in place for these documents not to attract privilege.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): May I speak again to the motion, Mr Speaker? I seek leave to make a few further comments.

Leave granted.

**MR HUMPHRIES:** I will be brief, Mr Speaker. Mr Stanhope's argument seems to be: "We have got this far; we had better go the whole hog". If Mr Stanhope is saying that it was an accident by which we ended up with these documents on the table and we might as well continue with that process, that is fair enough. I am not sure that it was an accident, Mr Stanhope. Nonetheless, you have not addressed the central issue here. It is about the protection of people who have the protection of the law. We can circumvent all sorts of privacy provisions built into all sorts of legislation. You are a former president of the Council for Civil Liberties of the ACT. Do you not feel a little bit odd about taking away the protection in this case of a particular individual who has that protection under the effect of the law?

**Mr Stanhope:** I certainly have a lot of feelings about what I have just read.

**MR HUMPHRIES:** I am quite happy to put this matter on the table, Mr Speaker; I have no compunction about it. But, as I say, this is not there for my protection. It is there for the protection of Mr Collaery.

**Mr Berry:** Mr Speaker - - -

**MR SPEAKER:** You will be closing the debate.

**MR STEFANIAK** (Minister for Education) (3.43): Just a few points, Mr Speaker - - -

**MR SPEAKER:** This is rapidly becoming a court of law rather than an Assembly.

**MR STEFANIAK:** Yes, it is a bit. I think the Attorney-General has made a very valid point. Regardless of politics and people on the other side of the chamber wanting to get the Attorney - I suppose that is all quite natural; it is the nature of the business that we are in - Mr Humphries raises a very valid issue in terms of the other party, Mr Collaery. No-one knows what Mr Collaery thinks about this matter. Mr Humphries, it is documented, has made a complaint about a certain matter regarding Mr Collaery and Mr Collaery has made a response. That is something that would have been dealt with in due course, in the normal course of events had things not happened today, by the Law Society and action would have been taken one way or the other. That would have been a matter for the Law Society.

Mr Humphries also raises the point of privacy. What is the difference between this situation and a situation in which, for example, someone had alleged criminal activity against a person - or any other act of wrongdoing, impropriety or whatever - and the police were investigating the allegation and someone wanted to publish details of that, including the allegations against the person? Let us say that the person complained about was subsequently found to be innocent.

**Mr Corbell:** It is not sub judice.

**MR STEFANIAK:** Yes, it would be. I think you are really drawing a long bow. I think there is a really dangerous situation here, especially as regards Mr Collaery. If this material is published out there, that could well have unforeseen effects on him and his practice. I think the Attorney has a very valid point there and I would ask members to think very carefully before they act on this issue.

**MR KAINE (3.45):** Mr Speaker, there seems to be some concern about Mr Collaery's position in this matter. I want to reiterate, despite Mr Humphries' insinuations and assertions, first of all that the documents did not come to me from Mr Collaery. For all I know, they may well have come out of the Minister's own department. I have not spoken personally to Mr Collaery on the matter. But that objection has been anticipated. Since I tabled the documents, Mr Collaery has been contacted. He knows that I have tabled those documents now and he has no objection to their being published.

**MR SPEAKER:** Thank you, Mr Kaine. That also absolves standing order 46, I might add.

**MR KAINE:** I was speaking to the motion.

**MR BERRY (3.46), in reply:** Mr Speaker, I bow to Mr Humphries' superior knowledge of the Legal Practitioners Act. It adds weight to my argument that it seems that this matter ought to be given the full protection of the Assembly. I raised this matter because it struck me as a matter of extreme public importance and interest, given the circumstances with which it is associated. That was the principal reason for my rising to move this motion in respect of the matter. Mr Speaker, I think it is just a prudent move to deal with this matter. I must say from looking at the letters that there is nothing in there that I could discern as being defamatory, although I am not qualified to make a judgment in respect of that. I must say that I would be concerned if some of the things that are being said in there were said about me, but that is not the point.

The point at issue here is whether this matter should be given the protection of the Assembly. I think that it is in the public interest to do so. I do not think that it will interfere with due process in any event. Mr Humphries makes the point anyway that perhaps there is a strong argument to change the Legal Practitioners Act in respect of the secrecy that surrounds these sorts of things. I will end my contribution there, Mr Speaker, and merely ask members to support the motion.

Question resolved in the affirmative.

### **PERSONAL EXPLANATION**

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): Mr Speaker, under standing order 46, I need to make an explanation. It is a very brief one. Mr Kaine said a moment ago that it is possible that this document was leaked from my department.



**Mr Kaine:** It is possible.

**MR HUMPHRIES:** No, it is not possible, because it never went to my department. They never had the document. Therefore, it could not have come from my department.

### **AUTHORITY TO BROADCAST PROCEEDINGS Paper**

**MR SPEAKER:** For the information of members, I present, pursuant to subsection 8(4) of the Legislative Assembly (Broadcasting of Proceedings) Act 1997, an authorisation to broadcast given to a number of television and radio networks in relation to the proceedings of the Assembly for Tuesday, 4 May 1999 and Thursday, 6 May 1999, concerning the presentation and agreement in principle debate of the Appropriation Bill 1999-2000.

### **CONSOLIDATED FINANCIAL MANAGEMENT REPORT Paper**

**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 Consolidated Financial Management Report for the period ending 31 March 1999, pursuant to section 26 of the Financial Management Act 1996. The report was circulated to members when the Assembly was not sitting.

### **DEPARTMENTAL PERFORMANCE REPORTS Papers**

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer): I present the December to March 1998-99 quarterly departmental performance reports, pursuant to section 25A of the Financial Management Act 1996, for the Chief Minister's Department, Education and Community Services, Minister for Health and Community Care, Department of Justice and Community Safety, and Minister for Urban Services. With the exception of the Department of Urban Services, the quarterly performance reports were circulated to members when the Assembly was not sitting.

### **UNIVERSITY OF CANBERRA Paper**

**MR STEFANIAK** (Minister for Education): Mr Speaker, for the information of members and pursuant to section 36 of the University of Canberra Act 1989, I present the University of Canberra's report for 1998, including financial statements and the Auditor-General's report.

## BRUCE STADIUM REDEVELOPMENT - PRESENTATION OF DOCUMENTS

Debate resumed.

**MR SMYTH** (Minister for Urban Services) (3.49): Mr Speaker, I will be brief because this motion is nothing more than a trawl for documents. There is an element of high farce to this debate because, as we heard this morning, there is no evidence of impropriety. Right from the start we have been quite up front on this matter. There has been no lack of disclosure on it, so much so that we have had report No. 9 of the Auditor-General. The Auditor-General in his significant findings has made comments, the report has gone to Mr Quinlan's committee and Mr Quinlan's committee has chosen not to make comment.

Mr Speaker, the Auditor-General is now looking at this matter again. I note that many members have stood in this place today and said that this move is not a snub or that it does not reflect on what the Auditor-General is doing. The Auditor-General is doing very much what Mr Stanhope is asking for. Why is he doing it? He is doing it because Mr Quinlan asked. If Mr Stanhope has some doubt on what Mr Quinlan has asked, Mr Stanhope should take it up with Mr Quinlan. We on this side of the chamber certainly have a great deal of confidence in the Auditor-General and we believe that the process should be allowed to run. At the end of the process the Auditor-General will bring down another report and both sides will look at it, I am quite sure. That report itself will also be referred to Mr Quinlan's committee. The ability for all of that to be done in a procedurally correct way is there, Mr Speaker.

What should happen is that the Auditor-General should be allowed to do his job. What should not happen is that some members of the Assembly should not cast doubts upon what the Auditor-General is doing. Members opposite have stood and said, "We are not casting any doubts on what the Auditor-General is doing", but, at the same time, they are saying that we need to set up exactly the same sort of inquiry. Why? You can only surmise that it is political, Mr Speaker, that what we want to do here is stir the pot, throw another log on the fire. Mr Quinlan got up and said, "I have full faith in the Auditor-General". Let him get on with his job. Let him access these documents which he has. There is a significant number of documents and the Auditor-General will work his way through them so that he can come to a determination. That is what he is paid to do. That is what he is tasked with.

Mr Berry said that the example of a non-funded appropriation by Mr Connolly was irrelevant. It is a clear example of similar action under the Labor Party. Mr Speaker, when that happened under the Labor Party the then Opposition considered that it was fine, that it was appropriate, that it was a reasonable way to act under the Act then. It is still a reasonable way to act under the current Act, simply because the section that pertains to both was lifted, more or less, from one Act and put into the current Financial Management Act. Mr Speaker, it is just pure politics.

What will happen when we get the Auditor-General's report is that it will, of course, go to Mr Quinlan's committee for report. What they are doing by saying that they need to trawl through these documents, to get these boxes and boxes of documents, is that they do not trust the Auditor-General. Nobody here is making an accusation of fraud or

saying that we have been misled or that what has been done is unethical or illegal. We are getting clarification on the legal stance. We believe that we have acted within the law. We believe that we have acted within the intent of the law. But, as we found out in several cases recently - I bring to the memory of members the excise case whereby the States and Territories thought for a long time that they were working exactly to the law and the High Court revealed that it did not believe that that was so and the system was changed - some minor tweaking of the Financial Management Act may need to be done. Should there be a need for clarification, I am sure that the Auditor-General will recommend that. I am sure that the legal advice, if necessary, will point that out.

What we have here is an Assembly that is so often saying that the process is wrong. They are very keen on that. If they do not like decisions, they go after the process. Here, they are going after the man who is going after the process. What they are saying is that the Auditor-General is not up to the job. They are wrong. When the Auditor-General brings out a report condemning the Government or pointing out deficiencies in the Government they are the first to use it.

**Mr Berry:** I take a point of order, Mr Speaker. It is on a matter that was raised earlier. The Minister just said that the Opposition had said that the Auditor-General was not up to his job. We have never said that. In fact, on the matter being raised earlier, I withdrew any such suggestion.

**MR SPEAKER:** Yes, that is true. Mr Berry did withdraw any suggestion that the attack was on the Auditor-General. As I recall, he said that the attack was on the Government, which he can get away with.

**MR SMYTH:** Mr Speaker, I have said several times already that they have all stood and said that they are not attacking the Auditor-General. If they are not attacking the Auditor-General, prove it by letting the Auditor-General get on with his job. The Auditor-General has requested the majority of these documents. The Auditor-General will go through these documents. He is the one who is best qualified to report - - -

**Mr Stanhope:** We can read, too, Brendan.

**MR SMYTH:** You can read. I can read. I can read them until I have read them all, but it does not mean that I will understand them. Clearly, from your question at question time, you read the budget and you did not understand it, as the Chief Minister so artfully pointed out. You can read until you are blue in the face but if you do not understand what it means, if you are not qualified to make a judgment, you have to leave it to the professionals. The Auditor-General is the one who is empowered by the Assembly to make these decisions. He should be allowed to - - -

**Mr Stanhope:** What are you trying to hide, Brendan?

**MR SMYTH:** I am not trying to hide anything. What we have here is a trawl. It is just a big trawl through the Government's files. They are casting a huge net, a wide net, to get everything to look through. These things have been looked at. They have been - - -

**Mr Stanhope:** What is the secret?

**MR SMYTH:** There are no secrets. What you are doing here is saying that anybody that signs a contract with the ACT Government had better be aware that the Assembly may demand that that document be tabled and made public. In many contracts, in many documents, businesses reveal the inner workings of their business and their ability to deliver on contracts. If you are willing to expose the inner workings of businesses, both large and small, for their competitors to see what they did to win a contract, how better their bid was, what incentives they put in their bid, you are saying, "Don't come to Canberra to do business because the Labor Party in the ACT Assembly will expose your contract for all your competitors to see". What you are doing is saying that you do not want Canberra to do business. What you are doing by this very action is saying that you do not believe in private sector development of the ACT. It is a terrible thing that you are doing here. Today the Deputy Chief Minister revealed that Labor did a similar thing in the early 1990s. Clearly, what has happened is acceptable under financial management Acts when they do it, but we are not allowed to do it. It was good for them; we are not allowed to do it. They will do it and get away with it but we cannot.

There is no need to say that, Mr Speaker. What we have here is, quite clearly, what was considered to be acceptable practice then and is acceptable practice now. What we should not have is this trawl - and that is all it is; it is just a fishing expedition - through these documents. We talk often in this place of process and letting process run. This is an opportunity for them to put their money where their mouths are. When they are happy with the process, they will let it run. When for some odd reason they are not happy, when it does not suit their political purpose, they refuse to accept it. They do that time and again with the Auditor-General. When the Auditor-General brings out a report that condemns the Government, they reckon it is the best thing since sliced bread. When the Auditor-General says that we got it right, they refuse to acknowledge or say that it is flawed. It is about time that you applied some standards to this matter.

What we need in the Assembly, what we need in building up a better Canberra and what we need in creating more jobs is the certainty that when you sign a contract with the Government that has a clause that says that the contract will not be disclosed for whatever reason both parties will honour that agreement. What the Assembly is saying is that it will not. What the Opposition is saying is that it does not believe that the Government should honour its agreements. What the Assembly is doing through the Labor Party, through this motion, through Mr Stanhope, is attacking commercial confidence, attacking the reputation of the ACT across Australia in a business sense. We will be a laughing-stock, we will be a joke, when, for instance, the Raiders - - -

**Mr Stanhope:** That is the view of some already, mate.

**MR SMYTH:** The quote in the *Canberra Times* this morning was "No hope", was it not? I wonder who is the joke here. Do the Raiders want the Brumbies to know what they negotiated with the Government? Of course they do not. Do the Cosmos know what deal the others put to the Government? Why should they? These are commercial advantages that all these companies seek and they should rightly seek them because it is appropriate that the private business dealings of a company as contained in commercial-in-confidence contracts be kept commercial-in-confidence. This motion is a joke, Mr Speaker; it is just a trawl. The Assembly should vote against it.

**MR OSBORNE (3.59):** I will speak to the whole motion, Mr Speaker. I had a really good time yesterday. I thought that the full-monty budget yesterday was a tremendous performance. I enjoyed it that much that I am here today wanting more. I want to see the full monty mark 2. Mr Speaker, I will be supporting Mr Stanhope's motion, with the only real issue being that of the date that the information needs to be tabled by. I have yet to make up my mind over that.

Mr Speaker, if I may give you what I consider to be a brief history lesson on the whole Bruce Stadium redevelopment from the perspective of what I know and where I think the problems have been. I would like to say at the outset that I think the development at Bruce is a magnificent facility. I think that the corporate facilities and the seating on the Paul Osborne stand side - sorry, it has not been named yet, has it? - are second to none. In saying that, throughout this whole process I have been concerned about what has been going on there, especially in relation to some of the projections and some of the advice that has been given to some of the public servants in relation to this whole project.

From memory, a consultant was hired by one of the departments to look at the redevelopment. From memory, the main reason for Bruce Stadium needing to be redeveloped was the Government's wish to attract Olympic soccer to town. SOCOG had made it very clear that, unless there was a complete rectangle, there was no chance in the world that we would get a look-in at hosting any matches. I mention that because I find it quite interesting that the MCG has been given the privilege recently of hosting some Olympic soccer matches and has been permitted to put in temporary seating for those games. I just thought it important to mention that point.

I am not sure of the name of the consultant hired. I think it was Graf Consulting. I get a nod from the Labor Party. I have to say, Mr Speaker, that I do recall some quite ludicrous projections being made by this company in relation to crowds, turnover and many of the things involved with getting the private sector aspect of the redevelopment off the ground. From memory, some of the figures bandied about in the Assembly and in the press in the last couple of days were quite correct. I recall figures of 17,000 and 18,000 being mentioned by this consultant as an average for Raiders attendances. Mr Speaker, I retired a number of years ago and I do not know whether there is anyone left at the Raiders who can draw those crowds. I do not like harking back to my last year, 1994, but I will. It was the year that the Raiders last won a premiership and we were the only major football code in town at the time, yet - I do not have the exact figures - I think it would be fair to say that the average attendance at Bruce Stadium was something like 14,000 or 15,000.

The figure of 18,000 was high for a competitive market. The Brumbies are very successful at the moment. The Cosmos are getting a few there, Mr Speaker. With the emergence of the Brumbies and the Super League war, attendances have been affected. I know that during the Super League year the Raiders played in games where over 75 per cent of the crowds were non-paying people, had been given a free ticket. Crowds of 6,000 or 7,000, well under half, had got in for free. I think some of the advice given by this company in relation to projected crowds was clearly out of this world.

Mr Speaker, in 1994 when the Raiders did win the grand final I believe the turnover for the organisation was something like \$4m or \$5m. I know that to meet some of the private sector aspects of the redevelopment, the costs, this consultant suggested that they certainly would be able to exceed that. The thing that concerned me at the time was that some senior public servants were taking what this consultant had to say in relation to Bruce Stadium as gospel. I know for a fact that both the Raiders and the Brumbies at various times told senior public servants that this bloke had no idea, that some of the figures that were being bandied about were pie in the sky, were just not achievable. I recall being in the company of some of these people from both organisations when they laughed at some of the things that the Government was taking on board. That is regrettable, Mr Speaker. Although there is a tremendous facility out there, I think that the smart people in this Government, the people at the top of OFM, have become involved far too late. I have complete faith in the Under Treasurer on this matter, but I think that it has just been a matter of him becoming involved after the horse has bolted - in fact, I suggest after the horse has run about 500 or 600 kilometres.

Mr Speaker, there is no doubt that Bruce Stadium is a tremendous facility. There is no doubt that it needed an upgrade. My concern all along has been that the ratepayer is going to be stuck with the vast majority of the cost of the redevelopment of the stadium. I have had many discussions with some of the corporate sponsors, especially in relation to the Raiders, who in the past years have bought boxes at Bruce Stadium. They laugh at me when I ask them whether they have bought one this year. They have said to me on many occasions that it is just way out of their league. It costs around \$50,000 for a facility at Bruce Stadium. In the past they could have picked a small one up for between \$10,000 and \$15,000. I think all of us here would acknowledge that Bruce Stadium is a tremendous facility. I do not think any of us do not want it to work. But, quite clearly, some of the information that was provided to some of the senior public servants involved in this project, especially in the early days, needs to be looked at.

Mr Speaker, on many occasions I have spoken in this place about my concern over the use of the term commercial-in-confidence. I think that it is used far too much. I have on the table a piece of legislation in relation to freedom of information, which I have been very interested in for a number of years. Quite clearly, I am a believer in things being out in the open. That is why I will be supporting this motion. I had a discussion with the Chief Minister today in relation to her concerns over some of the legal aspects of releasing some of this information. That is why I am more inclined than not to support an extension for when this information has to be tabled so that she can seek some legal advice. But at the end of the day the argument would need to be very strong to stop its being tabled because I think the people of Canberra, especially those of us in the Assembly, deserve to know exactly what has happened at Bruce Stadium. *(Extension of time granted)*

I think the worst-case scenario will be that the Government will come back and say, "Look, the reality is that we will have to pay for most of this as the private sector aspect of the redevelopment, the money that they were supposed to put in, just is not there". I think that is going to be what will happen, but I do believe that the information does need to be in the arena. I have heard the arguments about specifically the Raiders and the Brumbies. I am sure that they have been directed at me, Mr Speaker. I must say that my

concerns in this matter are more focused on the taxpayers' dollars than on whether the Raiders' or the Brumbies' contracts are tabled in the Assembly. I do apologise to Mr Neil and Mr Sinderberry, but I have to say that I do think that they need to be on the table.

In summary, Mr Speaker, I just need to stress that I think Bruce Stadium is a tremendous facility. I think that what we have here in Canberra will be acknowledged in years to come as one of the great arenas in this part of the country. In saying that, I do think that there is enough concern over what has happened, about the information that has been provided, for this Assembly at least to scrutinise many of the contracts that have been involved in this process. I reiterate and stress that I believe that it is a tremendous facility. I still believe, though, that this Government or possibly a Labor government will be coming before the Assembly in the not too distant future and, throwing their hands up, saying, "We will be paying for all of this". I am not saying that that is a bad thing, Mr Speaker, but I do think that there needs to be at least some acknowledgment from the Government that that is a possible scenario. I will be supporting the motion by Mr Stanhope, with the date being the one issue that I have yet to make up my mind on, Mr Speaker.

**Mr Humphries:** Mr Speaker, I have not yet moved the amendments which have been circulated in my name, so I seek leave to move them now. There are two on one sheet, numbered 1 and 2, and a third one on another sheet. We might call that No. 3 for the sake of efficiency of labelling. Mr Speaker, the first amendment removes reference to the three paragraphs which, I would argue to the Assembly, would cause the Government considerable difficulty if it is required to table those documents.

**MR SPEAKER:** Order! Mr Humphries, I am told that you cannot move your amendments at the moment. We can have only one amendment at a time and Mr Kaine has one before the house.

**Mr Humphries:** I was seeking leave to move my amendments, Mr Speaker. According to standing orders, I have sought leave to move the amendments. If I cannot seek leave to do it, I will take your word for it.

**MR SPEAKER:** We have a procedure drawn up for the moving of the amendments, but it just a matter of finishing off the debate. Does anybody else wish to speak?

**MR STEFANIAK** (Minister for Education) (4.14): Mr Speaker, I have listened intently to the debate this afternoon. Certainly, I would agree with a lot of what Mr Osborne has said. Bruce Stadium is certainly, whichever way things pan out in this debate, an international-quality sports stadium. It is world class and has excellent facilities for sports persons, for spectators and for workers. It is going to stand us in good stead for probably another 40 or 50 years as a premier stadium. It is interesting to look at the history which Mr Osborne has gone through. I am not necessarily saying that it might all be right. But I wonder whether, at the end of it all, that is supportive of the need to table all these documents, as Mr Stanhope would want.

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I think there is a lot in what Mr Smyth says in terms of process. How many investigations, how many people, do we want to look at this matter? Provided there is due process - and we do have due process here - the legitimate concerns of those opposite and any members of the crossbench in terms of properly scrutinising this matter can be readily met. We already have people seeking legal opinions on some points of contention. I do not think anyone is alleging in this house that anything that has happened has been occasioned by fraud - that is not being asserted by anyone - or through any illegal motives. I would tend to agree with Mr Smyth that this is very much a fishing expedition, a trawl.

We have an Auditor-General - a very expert person - who is actually paid to analyse and has the expertise to analyse documents of this kind. He is involved. Obviously, he would request these documents and any other documents that exist in relation to this matter. It is his job to go through those with a fine toothcomb and make a report to the Assembly, which can then act upon it. If there is need for people in the Assembly to look at the documents that he refers to, that would occur. That is a very proper process. The Auditor-General, as members are well aware, is often very critical of government in his reports. As Mr Smyth indicates, when the Auditor-General is critical of the Government those opposite are the first to say, "Government, you have acted incorrectly there. You need to fix it". When the Auditor-General brings down something that they do not particularly like, they bag it. We have seen that happen, too.

I do not think that anyone disputes that the Auditor-General is the proper person in the proper office to look at matters such as this one and then advise the Government and the Assembly and, through them, the people of Canberra as to what has occurred, what should occur, what is wrong, what is right, and what can be improved. The matters go off then to a committee of the Assembly which, with the expert advice and opinion that the Auditor-General is able to bring to bear, can look at them further. I cannot see the benefit of having all these documents produced for the Assembly when we also have the Auditor-General looking at this matter and we have a number of legal opinions being sought. How many investigations do you want running concurrently in relation to the same matter?

Mr Speaker, I do note that, throughout all the cacophony of criticism by the Opposition of what has occurred, the Chief Minister has indicated that the Bruce Stadium transaction has always been on the table. What the Government has intended to do and what the financing arrangements were have always been in the open. The Opposition seems to be asserting that there has been something that was completely inappropriate. All right, we are looking at the legalities of that. A number of people are doing that. But I seem to recall - no doubt this was mentioned this morning - that the Follett Government adopted a very similar procedure itself. The incident I recall was in relation to matters to do with ACT Forests. There was a very similar process indeed. Whilst most of the members of the Opposition are new, there are still a couple of old stayers there who were in Cabinet then and who should be well aware of that process. I think there is a certain amount of hypocrisy coming from the Opposition in relation to this matter.

Mr Speaker, this motion is, quite clearly, a fishing expedition. If the Auditor-General was not looking into this matter, if nothing else was occurring, it may well be very reasonable to have the relevant documents placed on the table. But the matter has gone



beyond that. Legal opinions are being sought. The Auditor-General is conducting an inquiry in relation to this matter and certain steps will flow from that, including further action and scrutiny by the Assembly. We simply do not need to have all these documents produced while all of that other activity is, properly, going on. Mr Speaker, along with the rest of the Government, I will not be supporting this motion by Mr Stanhope.

**Mr Humphries:** Mr Speaker, I understand that we have to vote on Mr Kaine's amendments before I can move my amendments, so I think that Mr Kaine's amendments should be put or someone should speak to those if they have not done so already.

**MR SPEAKER:** The situation is that I am going to put the question on Mr Kaine's amendments. Once they are out of the way, I will then move to Mr Humphries' proposed amendments and then move, finally, to the proposed amendments which are in conflict, namely, Mr Humphries' amendment and Mr Berry's amendment relating to the date. That is the procedure which will be followed. However, I understand that the Leader of the Opposition wishes to speak to Mr Kaine's amendments.

**MR STANHOPE** (Leader of the Opposition) (4.21): Mr Speaker, I rise very briefly - it has been a long debate - to say that the Labor Party supports Mr Kaine's amendments. We acknowledge that the class of document set out in Mr Kaine's amendments, had we thought of it at the time we were drafting the motion, is what we should have asked for ourselves. Mr Kaine's amendments have our full support. I urge members to support them as well as the substantive motion.

Question put:

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

The Assembly voted -

*AYES, 8*

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

*NOES, 9*

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

Question so resolved in the negative.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (4.24): Mr Speaker, I seek leave to move together amendments (1) and (2) circulated in my name.

Leave granted.

**MR HUMPHRIES:** I move:

- (1) Subparagraphs (1)(e), (1)(g) and (1)(j), omit the subparagraphs.
- (2) Paragraph (3), omit “(3) details of”, substitute “(d)”.

Mr Speaker, we have had a lot of this debate already. The first amendment is about deleting reference to information or documentation which is, essentially, about a range of contracts which are presently covered by commercial-in-confidence clauses. Mr Speaker, I want to put on the record that the Government generally does not go out and seek commercial-in-confidence provisions in contracts. Commercial-in-confidence is almost always sought by the contracting party, the organisation that comes to the Government proposing a contractual arrangement. Mr Speaker, let me be clear, commercial-in-confidence provisions are not the innovation of the present Liberal Government. They were used extensively by the former Labor Government.

**Ms Tucker:** You have produced guidelines and principles on it.

**MR HUMPHRIES:** Yes, we have. Ms Tucker has raised the question of guidelines. I will come back to that in a moment. I just want to make a point before I do that. We have not invented the provision and we do not generally seek it out. It is normally sought by the private sector. Mr Speaker, the other factor is that it has been relied upon heavily in the past by members of the Labor Party. I remind members of the fact that when the VITAB scandal was breaking it was Mr Berry who relied very heavily on the commercial-in-confidence clause in the VITAB contract to prevent that contract ever being tabled on the floor of this place. We on this side have never seen that contract. Why? Because there was a commercial-in-confidence clause in there and the government of the day argued that it should not be tabled. Because of that, we did not move a motion at the time requiring you to table that document. We were not entitled to see that contract then, and that was a bigger scandal than this is ever going to be, I would suggest - I hope. That was a matter of enormous importance which cost the Territory taxpayers nearly \$4m; but, in those circumstances, it was agreed by the Assembly that we not produce that document, that contract, because it was commercial-in-confidence. Why are we now saying that these contracts should not have that same protection? We should be consistent at least about that.

The second issue is the one raised by Ms Tucker a moment ago. It is true that we have guidelines about that. The guidelines are about - - -

**Mr Berry:** Tell us about your promise to give us the documents.

**MR HUMPHRIES:** Mr Speaker, if I could have a bit of shush.

**Mr Hird:** I cannot hear what the Minister is saying.

**MR SPEAKER:** Order!

**MR HUMPHRIES:** Mr Speaker, there are guidelines about talking to parties who come to the Government seeking commercial-in-confidence contracts and putting to them the circumstances where those contracts will not be acceptable, that is true. But many of these documents predate those guidelines and the contracts were entered into with the commercial-in-confidence provisions there. We are not arguing in our guidelines that our views about commercial-in-confidence are such that we can now just rip up a contract which has already got that clause in it.

**Ms Tucker:** You can produce statements.

**MR HUMPHRIES:** What sorts of statements?

**Ms Tucker:** You can fulfil your part of the guidelines and principles.

**MR SPEAKER:** Order! You will have an opportunity to join the debate when Mr Humphries is finished.

**MR HUMPHRIES:** Mr Speaker, to answer Ms Tucker's further interjection, the Chief Minister is quite prepared, as I understand her comments earlier today, to write to those parties and say, "Will you allow your contract to be tabled on the floor of the Assembly, notwithstanding the commercial-in-confidence?". But if we are required to table them without the consent of the party which has such a clause in there to protect the confidentiality of their provisions, we are in breach of that contract and we are also in breach of the principles. We have already established in this place that we do not ask for commercial-in-confidence contracts to be put on the table. Sure, Ms Tucker, we as a government have to go back and apply the guidelines that are now on the table by persuading parties or saying to parties, if necessary, in the future, "We won't accept commercial-in-confidence contracts unless there is a very good reason for doing so". But many of the contracts covered by this motion predate those provisions and that would be, I would submit, unfair.

Mr Speaker, the point that needs to be made about paragraph (g) is that there is a matter of some sensitivity about SOCOG's requirements. SOCOG has made it very clear that its arrangements are in confidence. I have some qualms about it, but I am not too concerned about being sued by - - -

**Mr Berry:** SOCOG should not be keeping secrets.

**MR HUMPHRIES:** Mr Speaker, if I could make my remarks.

**MR SPEAKER:** Order, Mr Berry! I invite you to join the debate after Mr Humphries is finished, if you wish.

**MR HUMPHRIES:** I am not exactly comfortable, but I am prepared to wear the possibility of the Government being sued by somebody who has a contract with us which is meant to be commercial-in-confidence but which we table on the floor of this place.

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I am happy to wear that possibility. I am not quite so comfortable about wearing the possibility of there being some more serious reaction from SOCOG to our tabling of these documents. That would be a matter of some considerable concern to the ACT Government.

Mr Speaker, the second amendment is about the effect of paragraph (3) of the motion. Paragraph (3) as it stands is very broadly drafted and could cover hundreds and hundreds of transactions. I just do not know how many, but there could be a great number of such transactions. I would argue that we should bring paragraph (3) under the heading of paragraph (2). The details should be in relation to the redevelopment of Bruce Stadium. This is about Bruce Stadium. Let us make the request for borrowings details about Bruce Stadium. That is why, arguably, we should amend paragraph (3) to make it less of a fishing exercise. It says, "Any borrowings the Government has done, give us information about".

**Ms Carnell:** Since self-government?

**MR HUMPHRIES:** Since self-government potentially, or at least for some time back. Instead, make it apply to developments in respect of Bruce Stadium. I have to say that I disagree with the Chief Minister. It does not go back to self-government; it goes back to 1996. Still, there could be a large number, possibly hundreds, of such dealings which are dealt with there. This is just a grand fishing exercise. With respect, there are a great many documents potentially in that and I think that that is not appropriately part of this motion.

**MR STANHOPE** (Leader of the Opposition) (4.32): I want to clarify the point that was just made. I am conducting some sign language here with Mr Rugendyke, but the point was made - the Chief Minister referred to this matter in her earlier speech - that paragraph (3) does deal with any such transaction since the passage of the Financial Management Act. I believe that it did not come into effect until July 1996, so we are not talking about 10 years' worth of transactions. We are, in fact, talking about 2½ years, which is significantly different. I think it is relevant that the - - -

**Ms Carnell:** Relevant to what?

**MR STANHOPE:** It is relevant that members know that the claim that you made in relation to paragraph (3) simply was wrong, Chief Minister. We are not talking about documents going back to the beginning of self-government; we are quite clearly not. You were simply wrong.

**MS CARNELL** (Chief Minister and Treasurer) (4.33): Mr Speaker, if I could just speak to that. The motion is about Bruce Stadium. Are we in the business of passing motions about putting information about everything on the table? Do we not care about what it is about or why we are asking for it? The Opposition obviously do not know why they are asking for information that is not to do with Bruce Stadium. This motion is quite clear. The rest of it is about Bruce Stadium. I understood from all of the debates that what the Assembly is after is information about Bruce, not about everything in the universe that could have happened. That is simply ridiculous.

What we need to do here is to make it clear that the information required is the information regarding Bruce Stadium. That would be, in line with the rest of the debate in this place, understandable, but it is not understandable if we are going down the path of taking a broad-ranging approach. If those opposite are not willing to accept that approach, they would have to support Mr Humphries' second amendment, which seeks to omit paragraph (3), the broad-ranging, "Let's look at everything that might have happened since the Financial Management Act came into place".

This morning, Mr Speaker, we tabled in this place an example of a similar transaction taking place under the old Audit Act and the previous Government. If the Assembly is interested in every transaction under the Financial Management Act, why would it not be interested in every transaction under the Audit Act. It is patently silly; if members are concerned about Bruce Stadium, it should be about Bruce Stadium, not about something else.

**MR SPEAKER:** The question is: That Mr Humphries' amendments be agreed to.

*A vote having been called for and the bells having rung -*

**Mr Humphries:** Mr Speaker, is it possible to split the two questions?

**MR SPEAKER:** If you wish. Is it the wish of the Assembly to divide the question?

**Mr Berry:** No, not at this point.

**Mr Moore:** It is a normal part of standing orders. It is the normal way that we consider things and it is the Speaker's decision.

**Mr Berry:** Not before the bells have been rung.

**MR SPEAKER:** On the contrary. I have not put the question yet.

**Mr Berry:** Okay, go for your life.

**Mr Corbell:** You have put the question.

**MR SPEAKER:** We are having a division on it, yes. Is leave granted to split the question? There being no objection, leave is granted. The question now is: That Mr Humphries' amendment No. 1 be agreed to.

**Mr Humphries:** Mr Speaker, why do you not put the two questions on the voices?

**MR SPEAKER:** I have already put them on the voices and a division is now in progress. Leave has been granted to divide the question. The question is: That Mr Humphries' amendment No. 1 be agreed to.

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The Assembly voted -

*AYES, 7*

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

*NOES, 10*

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

Question so resolved in the negative.

**MR SPEAKER:** The question now is: That Mr Humphries' amendment No. 2 be agreed to.

The Assembly voted -

*AYES, 9*

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

*NOES, 8*

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

Question so resolved in the affirmative.

Amendment agreed to.

**MR SPEAKER:** Before I move to the next set of amendments, I wish to point out that both Mr Humphries and Mr Berry have circulated amendments outstanding. Mr Humphries, I am going to give you priority because you gave me your amendment first.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (4.41): Mr Speaker, I gather that there is some suggestion that we should allow more time. I am going to argue that 30 June is a better time than 31 May. here are two reasons. First of all, an extraordinarily large number of

documents have been sought here, an absolutely mammoth number of documents that would fill boxes and boxes. It will take a lot of time for people to collect that information. It may be possible by 31 May, but it may not be possible.

The second issue, Mr Speaker, is the fact that the documents being sought include documents, as a result of the vote on the previous amendment, which, for example, relate to the contract with SOCOG. As the Chief Minister indicated, she will write to SOCOG and, indeed, to other parties that have now been included in this motion and seek their agreement to the tabling of documents. It may be that in some cases there will be a refusal to do that. It would, I think, be appropriate for the Chief Minister to have the chance to come back to the Assembly as a whole in the sitting weeks in June and explain what the result of her requests has been so that it is possible for the Assembly as a whole to judge the appropriateness of that course of action. If, for argument's sake, we asked SOCOG to allow its document to be tabled and it said no and we came back to the Assembly and said, "We cannot table it because they have said no", and if the Assembly then said, "You must table it, otherwise we are going to move a motion of no confidence in you", we would know where we stood. We could choose between falling as a government or breaching our agreement with SOCOG. We would know where we stood in that circumstance.

But this decision will fall in the middle of a non-sitting period, if Mr Berry's amendment gets up, and that would put the Government in a very difficult position. I would argue that we should allow ourselves the time to get these documents together. It is a large number of documents that we are talking about here. Secondly, we should have the chance to come back to the Assembly and explain the difficulties that we have encountered in complying with the Assembly's resolution.

**MR SPEAKER:** Mr Humphries, please move your amendment formally.

**MR HUMPHRIES:** I move:

- (3) Omit "adjournment of the sitting of Thursday, 6 May 1999", substitute "end of the present financial year".

**MR BERRY (4.44):** I did not hear Mr Humphries give me his undertaking that he would give us documents as they came to hand. He is not listening. Perhaps he does not want to give me that undertaking.

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

Leave granted.

**MR HUMPHRIES:** Mr Speaker, I indicate that the Government would not wait until the end of the period concerned and then table them all at that stage.

**Mr Berry:** No, you will give them to us as they come to hand.

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**MR HUMPHRIES:** Let me finish, Mr Berry. You will get what you want. You do not have to be hyper all the time. Mr Speaker, as documents become available in a class that has been referred to in here, we will make that set of documents available through the Speaker. It has occurred to me, Mr Speaker, that we might need to support the second part of Mr Berry's motion in order to be able to effect that, but I think that that is fair enough. We are quite prepared to do that if the motion gets up as amended by my amendment. Mr Speaker, if Mr Berry is prepared to withdraw paragraph (1) of his circulated amendment in favour of my amendment, it would solve the problem of having his amendment as a single block. If he wants to keep paragraph (1) of his amendment, I will have to amend his amendment, apparently, to be able to effect my amendment which is before the chamber.

**MR BERRY:** Mr Speaker, I seek leave to make a statement.

Leave granted.

**MR BERRY:** Mr Speaker, I take it that the Minister still intends to pursue the amendment which is before us. We have not voted on it, but we will shortly.

**Mr Humphries:** Not before we have dealt with yours as well, I take it.

**MR BERRY:** My amendment has not been moved yet. If your amendment fails, which I expect, given the good sense of members here, I will move all of my amendment. In the absence of good sense in this respect, I will move the second half.

Amendment agreed to.

**MR BERRY (4.47):** Mr Speaker, I seek leave to withdraw paragraph (1) of the amendment circulated in my name.

**MR SPEAKER:** I am advised that, as you have not moved it, you do not have to withdraw paragraph (1); you can simply move paragraph (2), Mr Berry.

**MR BERRY:** That is sound advice. Mr Speaker, I move so much of paragraph (2) as is applicable. I need only to say that the reason for moving the amendment in this form is to make sure that the undertaking that has been given to the Assembly by the Attorney-General can be implemented. The end effect of this particular part of the amendment I circulated would enable the Speaker to receive the documents and circulate them in accordance with his powers, subject to the request of the Attorney. I do not think I need to say anything further, Mr Speaker, unless there is a need to amend this amendment.

**MR SPEAKER:** One moment, please, Mr Berry. I am just consulting with the Clerk.

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



## POSTPONEMENT OF NOTICE

**MR BERRY:** Pursuant to standing order 127, I fix a later hour for moving the motion relating to Journey of Healing 1999.

## POSTPONEMENT OF ORDERS OF THE DAY

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

That orders of the day Nos 1 to 4, Private Members' business, relating to the Administrative Appeals Tribunal (Amendment) Bill 1998, the Coroners (Amendment) Bill 1998, the Oaths and Affirmations (Amendment) Bill 1998 and the Supreme Court (Amendment) Bill (No. 2) 1998 be postponed until a later hour this day.

## BUILDING AND CONSTRUCTION INDUSTRY TRAINING LEVY BILL 1999

Debate resumed from 21 April 1999, on motion by **Mr Berry**:

That this Bill be agreed to in principle.

**MR STEFANIAK** (Minister for Education) (4.54): Mr Speaker, the Government will not be supporting this Bill. This decision reflects careful consideration and wide consultation on the issue as recently as last year. Whilst a training levy is aimed at improving skill levels, we believe that it is the industry itself which needs to develop such a long-term strategy, through self-regulation rather than a compulsory levy. There is, Mr Speaker, a distinct line between what is a government responsibility and what is not. It must also be remembered that the Government already offers a very high level of support to the building and construction industry, and rightly so.

Mr Speaker, in November 1997 a discussion paper was released on funding training in the industry. That paper canvassed three options involving introduction of a levy, developing an industry managed scheme, or continuing arrangements that were then in place for the construction industry training fund under the Long Service Leave (Building and Construction Industry) Act of 1981. We also sent out an exposure draft Bill. That was circulated as a means of clarifying the extent of regulation and administration that would be required if a levy were introduced. That exposure draft, Mr Speaker, was circulated late in 1997. It brought out the administrative complexity of a levy such as this. The effort and cost of compliance was a major consideration in the Government's decision not to proceed. A number of other factors were relevant too, Mr Speaker, which I will come to later. Indeed, it was not until the detail was fleshed out through the process of drafting a Bill that the full weight of the administrative complexity for a system the size of the ACT became apparent.

5 May 1999

Comments received on the discussion paper and further consultations indicated that there were marked differences of views within the industry. Can I have a little bit of shush, Mr Speaker? There are about 16 different conversations going on here. I will wait until everyone is finished. Keep it down to a dull roar, if you would not mind.

**Mr Moore:** I take a point of order, Mr Speaker. I draw your attention to Mr Hird and standing order 41.

**MR STEFANIAK:** Thank you members. As I said, Mr Speaker, comments received on the discussion paper and further consultations indicated that there were marked differences of view within the industry and there was not clear support for a training levy. In fact, Mr Speaker, there is still a distinct difference of opinion between major stakeholders, including the Chamber of Commerce and the Housing Industry Association, which oppose the levy, and the Master Builders Association which supports it.

Mr Speaker, this has been around for some time. In 1994, when it was last raised, I understand the MBA changed its submission and did not support it. The then Opposition and the Assembly defeated a Bill which was introduced by the previous Government. In 1996 it looked like we were very close to industry consensus on this. However, that seemed to dissipate. I think that was very much borne out after we put out three distinct options in 1997. The Chamber of Commerce, the Housing Industry Association and the building owners management group opposed the levy, and still do, and the Master Builders Association and CITEA supported it.

The Government decided subsequently not to proceed with a training levy and existing arrangements for training under the Long Service Leave Act were allowed to lapse about the middle of last year. As an aside, it is interesting to note that it has taken Mr Berry almost a year to react to this.

Mr Speaker, training for the building and construction industry is an important issue. The industry is fragmented, with high levels of subcontracting. The industry needs to promote a training culture where employers recognise that an investment in training is an investment in the future of the industry and ultimately a benefit to them. Like many industries, the future of the building and construction sector is ultimately in the hands of today's apprentices. Attracting and training competent young people should be of the utmost priority to the sector.

It is important for the Assembly to note that this Government already provides significant training assistance for the building and construction industry. The industry receives a comparatively high proportion of government-funded training. Although the industry comprises 4.8 per cent of the work force, it receives 8.7 per cent of funded training hours. Not only do we provide funding for direct training, we also fund an Industry Training Advisory Board which coordinates training to ensure it meets industry's needs. Additionally, two of the seven group training companies represent the building and construction industry. These bodies also receive considerable Commonwealth and ACT funding and indicate the high ratio of funding for training in the building and construction industry. Moreover, there is a role for the industry itself, at a broad level, to ensure effective training strategies.

Debate interrupted.

### ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

### BUILDING AND CONSTRUCTION INDUSTRY TRAINING LEVY BILL 1999

Debate resumed.

**MR STEFANIAK:** Mr Speaker, even those opposite must recognise that it is highly inequitable to impose a levy to fund training in one industry when similar action is not taken for other industries, such as tourism and hospitality, for example, a very large industry here in the Territory.

Many industries are taking advantage of the innovations in training and introducing new training packages which promote flexibility and choice. The new training arrangements now mean that training focuses on the needs of the workplace and the individual. It is up to employers and employees to create training programs that will meet their needs. It is not the role of government to intervene in the process and dictate the type of training or the funding that particular industries allocate to training.

We have a strong belief that training in this industry, and others, is important. Despite what Mr Berry may say, the Government's opposition to a levy is not an indication that it does not support training. In fact, this Government supports training in the building and construction industry to the tune of \$5m.

Mr Speaker, the Government believes that there is a need for the building and construction industry to review its training strategy. The industry is currently preparing a three-year plan to address training needs for building and construction in the ACT. It is important that the industry both maintain a competitive skills base and is able to attract and train apprentices for the industry. A well-considered training strategy is fundamentally important to doing this. But the Government believes the best way to do this is through self-regulation, not through a compulsory levy. The industry needs to develop a culture in which training is seen as an investment in the future health of the industry.

The building and construction industry is no different from any other industry in this respect. The responsibility lies squarely with the industry itself. A government imposed levy will simply not change the industry's perspective on training and indeed may be

counterproductive to the overall health of the industry in the ACT. If a compulsory levy was to be introduced it is almost inevitable that the building contractor would pass the costs on to the consumer who would already be facing a hefty bill. It is also likely that a levy would do little to encourage construction in Canberra.

Whilst the 0.2 per cent may not seem huge, that is \$200 per \$100,000 and so on. Also, I note that the Commonwealth Government has indicated that it will refuse to pay the levy. It is a very significant builder of property in Canberra. I think there is \$152m for the Museum of Australia. The Department of Defence is also a very significant builder in terms of Commonwealth structures in Canberra and, indeed, throughout the country. It refuses to pay the levy.

Local government would not be exempt from that, but I note that no provision has been made in our capital works for this particular levy. The money would have to be found. Our capital works budget is about \$89.8m, plus capital works which Territory owned corporations would be engaged in. You are looking at something like \$130m or \$140m so that close to \$300,000 would have to be found in our capital works budgets for this levy.

If it is not there, what happens? Do we have to knock out some projects? For example, do we knock out the Palmerston community hall, which is about \$500,000, or an issue very dear to some members in Tuggeranong, the Lanyon neighbourhood youth centre? Items like that might well be threatened because there is not the money for capital works. Those are some issues too.

Finally, I think members need to look at the history of this. Look at the fact that this is the only industry which we would be doing this for, but also look at just what has occurred in the industry itself. I go back to that situation where we almost did have industry agreement right across the board in 1996, and then that dissipated. That was reinforced when we set out the discussion paper and the various views of components of the industry came back. I do not think that is a terribly good start for imposing levies. It may well be a different question if everyone in the industry said, "Yes, government, let us do it". I think that would be a very different situation, but, for whatever reason, that has not been the case, Mr Speaker.

The Government will be opposing this Bill. If it gets to the detail stage we have a number of amendments to improve its operation. If members have had a chance to look at that, obviously the Bill does impose a significant amount of further administration in terms of just running the levy, which in itself is also an impost in terms of the particular industry.

**MR SMYTH** (Minister for Urban Services) (5.05): It is apparent from Mr Berry's presentation speech that he continues to refuse to acknowledge that key industry players remain polarised on the introduction of such a levy. He speaks about the groups that support the levy - the Master Builders Association, the National Electrical Contractors Association and the Civil Contractors Association, but, surprise, surprise, he misses some very large groups that have said that they are not interested in this levy. What he neglects to mention is that these are some of the key groups in the industry as well, and I would acknowledge the presence of a representative of the HIA here today.

Mr Berry is highly selective in the groups he mentions. While the Government accepts that some organisations in the industry support a levy, we would argue that generally it is not supported by the industry. The Housing Industry Association wrote to the Government only last week confirming its opposition to such a levy. They wrote:

Experience in other states suggests that there is a real danger of sectional interests capturing the fund and using it to fund their own activities and for their own benefit.

The letter continues:

HIA is concerned that an arbitrary levy would add to the cost of housing with a resultant decline in affordability ... one can expect that the full cost of the levy would be passed to consumers.

Mr Speaker, the ACT and Region Chamber of Commerce also opposes the Bill, claiming that the introduction of the Bill would increase the cost of housing in the ACT, increase commercial construction costs and encourage the industry to work outside the ACT. I quote:

Our priority is to encourage construction to return to Canberra, not drive it away.

That was said by the chief executive, Chris Peters, in a recent press release.

The ACT Chapter of the Royal Australian Institute of Architects is another organisation which does not support the introduction of a levy. In a submission to the earlier exposure draft, Tim Halden Brown, the chairman of the Practice Committee, wrote:

While a levy ensures that funds are available, imposed training may not result in good value for money, in respect of the trained operatives. A levy will be punitive to those wishing to develop or intending to build in the ACT, as it only adds to the cost of construction work ... This would appear to be morally indefensible, and is surely not politically attractive.

Finally, during that same consultation phase in late 1997, it was apparent that the Property Owners Council was opposed to the legislation, saying:

Council's view is that there should be no special funding impost on the industry of any sort.

These organisations represent a substantial sector of the industry.

Mr Speaker, the Government had decided not to introduce a levy, in part because of the lack of consensus within the industry. It is also not consistent with the Government's commitment to stimulate business activity and to reduce red tape. The proposed levy would impose a cost on residential and other building above \$5,000. The housing sector

represents about 48 per cent of ACT building and construction work. Home owners undertaking relatively small renovating projects would incur an additional cost. The levy would be seen by project owners, home builders and renovators as simply a tax on building and construction.

Mr Berry's Bill largely mirrors the previous government Bill. The reason the Government developed the Bill was to focus on the actual detail that would be required if a levy was introduced. This made clear the impact of its regulatory nature and the associated administrative costs, and, as the Minister has already said, this was a significant reason for not proceeding.

Mr Berry's estimate of the funds to be raised is overly optimistic. The Commonwealth has indicated that it is exempt from State taxes and charges and the levy would not apply to its building activity. The Department of Defence, for example, is responsible for 80 per cent of the Commonwealth's capital works in the ACT and has refused to pay the levy in any State.

Mr Speaker, it is estimated that administration costs could be as high as \$400,000. This estimate is based on the administration costs of similar schemes in other States and the ACT construction industry long service leave fund. These costs would make a significant dent in the \$1m revenue Mr Berry estimates the levy would provide.

The construction industry is characterised by a high level of subcontracting activity, a dynamic work force and a history of structuring business through informal avenues. Within this context, many of the provisions contained in the proposed Bill would be difficult to enforce, particularly those relating to calculating and collecting the levy. South Australia, for example, has a very low compliance rate in training levy collection, particularly in relation to small projects. Tasmania has resorted to the use of debt collectors to recover outstanding payments.

Mr Speaker, the levy is inconsistent with moves to minimise regulation in building processes. The Department of Urban Services is working to streamline the building regulation arrangements. The approach taken to implement the levy in the proposed Bill is not consistent with these reforms.

The Bill itself has significant financial implications for the Government, although Mr Berry, in his presentation speech, indicated that the Bill would have no impact on the budget. Mr Speaker, this is not correct. While the Bill exempts work carried out by a public authority, this does not cover work awarded as a result of public tendering. For example, if Totalcare successfully tenders to the Department of Education and Community Services to repave a school playground costing \$50,000, the levy would be payable.

Mr Speaker, as you just heard Mr Stefaniak say, given the size of our capital works program and the works carried out through the departments, some \$140m, the levy on that would be around the \$300,000 mark. This, of course, has not been appropriated in the budget. So, I guess, we are then left with the unenviable task, because of Mr Berry's Bill, of working out what we have to take out of the capital works program to free up the money that would be necessary to pay this levy.

There are many projects that come in between \$300,000 and \$500,000. Perhaps the playground safety program could go. Perhaps the stage 2 refurbishment of Kippax could go. Perhaps the transportable classrooms at Lanyon High and Palmerston could go. Mr Speaker, something is going to have to go in the budget if this is passed. Perhaps the Palmerston community hall would not go ahead. Perhaps the Lanyon neighbourhood and youth centre would not be allowed to go ahead because Mr Berry has not thought this through properly.

Mr Speaker, let me reiterate that even the major players in the industry cannot agree on the introduction of this levy. In this climate, as we found in late 1997 when we looked at this option, it is inappropriate to go ahead with this. For this reason, Mr Speaker, it is inappropriate for the Assembly to force it upon us. The Government will not be voting for this Bill.

**MS TUCKER (5.12):** The Greens will be supporting Mr Berry's Bill. We will not be supporting Mr Stefaniak's amendments. I do not know whether he has moved them yet. Have you, Mr Stefaniak, moved your amendments? He is not listening. It does not matter.

**MR SPEAKER:** We are still at the in-principle stage, Ms Tucker.

**MS TUCKER:** I am aware of Mr Stefaniak's amendments. Anyway, we will not be supporting them. Industry training, we believe, is vital to the improvement of standards and worker competence, particularly in the construction industry. Mr Berry's Bill is a positive step in this direction. This Bill has the support of employee and employer representatives and, as I understand it, the board will comprise employer and employee representatives and an independent member. This is a good cooperative arrangement and it will certainly be to the benefit of industry.

It is difficult to understand why Mr Stefaniak would want to take it out of the hands of those who are best qualified and then give it to VETA. It is quite clear that VETA may have construction industry expertise on it at the moment, but that is not necessarily always going to be the case, and it is really important that industry expertise is represented on the board that implements these sorts of training programs. The Construction Industry Training and Advisory Board is a tripartite entity, and I would understand Mr Stefaniak's concern if this was not the case; but he seems to be saying that VETA has greater capacity to deal with the construction industry than they do themselves. As I said, I do not know that VETA would have the expertise in its membership.

I think these amendments of Mr Stefaniak's are damaging to the cooperative approach which has been taken by the construction industry in what I believe have been years of discussion. The Greens support an industry controlling this levy and having its expertise there to inform how that levy is utilised.

**MR BERRY (5.14), in reply:** Mr Speaker, I would like to respond to a couple of things that have been said in the course of the debate by the Government. I thank members for their support for the legislation.

One of the things that have happened in the course of this is that there has been some close consultation with industry. Whilst Mr Smyth claims that generally the industry does not support it, that is quite contrary to my assessment of my consultation with industry and representatives of workers within the industry. Indeed, Mr Speaker, this is a matter that has been consulted to death. It was, in fact, a commitment from the Government before the last election, which subsequently evaporated. I made that point earlier and I need not re-emphasise it. I merely say that this has been a U-turn of monumental proportions.

One of the organisations that were mentioned, the HIA, did come and see me and, yes, they did inform me that it was contrary to their policy. At the same time, they made representations in respect of the board and the fact that, in their view, it did not accommodate them or their involvement in this sort of an arrangement. I took their views into account, Mr Speaker, and the amendments that I have circulated ensure that the HIA, if the Minister chooses to appoint them to the board which is proposed under this legislation, will be part of that board, along with the MBA or any other organisation that the Minister chooses to invite.

The administration of building and construction industry levies in the past has always involved the industry. When it was managed by the Long Service Leave Construction Industry Board that board was representative of the industry and workers in it and there was an appointee of the Government. We have learnt from that history that it can be successfully carried out by that sort of arrangement, and it should continue to do so.

Mr Speaker, I will deal with the amendments when we get them. I need say nothing further in relation to the motion. I thank members for their indication of support, and I urge those who are still wavering to support the motion.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

*AYES, 10*

*NOES, 7*

Mr Berry

Ms Carnell

Mr Corbell

Mr Cornwell

Mr Hargreaves

Mr Hird

Mr Kaine

Mr Humphries

Mr Osborne

Mr Moore

Mr Quinlan

Mr Smyth

Mr Rugendyke

Mr Stefaniak

Mr Stanhope

Ms Tucker

Mr Wood

Question so resolved in the affirmative.



Bill agreed to in principle.

### **Detail Stage**

Clauses 1 and 2, by leave, taken together, and agreed to.

Clause 3

**MR STEFANIAK** (Minister for Education) (5.21): Mr Speaker, having spoken to Mr Berry, I think we can probably speed this up a little bit. Fundamentally, there are a number of amendments which relate to the Vocational Education and Training Authority becoming the body that regulates this. He would prefer, of course, his amendments in relation to that. I understand he does not have a problem with some of my other amendments later as they just assist the operation of the Bill. The only other amendment he has which is different from what we are proposing relates to the limit, Mr Berry's amendment No. 6 and my last amendment. I do not know whether that helps but there seem to be two areas of contention. The other amendments are not.

Most of the amendments which I am moving relate to inserting the Vocational Education and Training Authority as the appropriate body. The Government has a number of problems with what Mr Berry is proposing. Whilst I note he has improved it by including two extra people - I assume that is to enable the HIA as well as the MBA to go on - we have a problem with supporting the creation of yet another statutory body when quite clearly it is not necessary.

We would like the administration of this to be the responsibility of the most appropriate body in the area, and that is the Vocational Education and Training Authority. The board of that body is an entirely credible body. It comprises members of the ACT business community, union representatives, training providers and community representatives, including parent associations. It is also at arm's length, which is terribly important here because, even with the better amendments Mr Berry is now proposing, you still have people who are very much involved, and I think there are some significant conflict of interest situations that could be a problem here.

The better body would be the Vocational Education and Training Authority Board. It is the Government's main advisory body on training matters. It would make sense for it also to advise the Minister on matters to do with the fund.

Mr Speaker, just to give you an example, its current representation shows a good mix between union and employers. It has some experienced people in this field. It is chaired by Mr Laurie O'Donnell. He has been the chair for some four or five years. Jeremy Pyner, secretary of the TLC, is an employee representative, as is Fiona MacGregor from the AEU. It has Christopher Peters, chief executive of the ACT and Region Chamber of Commerce; Paul Rayner, director, Employment and Remuneration Branch, Chief Minister's Department; Peter Veenker, chief executive, Canberra Institute of Technology; John Gleeson, director, Priority Management, a private training provider; Bruce Duke, a community representative; Bob Taylor, chair of the

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Joint Industry Training Council; a representative of the P&C in David Hill, and also the chief executive officer of the Department of Education and Community Services, Fran Hinton. It is an eminently qualified body to deal with this fund. It has the benefit not only of being the premier body in the training area but also of being at arm's length, and I think that is important in terms of the administration of this fund.

I do not know whether we can speed this up and deal with my amendments first, or whether you want to go through the sheet you have, Mr Speaker.

**MR SPEAKER:** We must follow the sheet.

**MR STEFANIAK:** Well, we could do that.

**MR SPEAKER:** You are asking for leave to move amendments Nos 1 and 2 as circulated. Is that right?

**MR STEFANIAK:** I am. I seek leave to move those together.

Leave granted.

**MR STEFANIAK:** These amendments relate to the insertion of the Vocational Education and Training Authority Board. I move:

Page 2, line 8, insert the following definition:

“ ‘authority’ means the Vocational Education and Training Authority established under the *Vocational Education and Training Act 1995*;”.

Page 2, line 9, definition of “Board”, omit the definition.

**MR BERRY (5.25):** Mr Speaker, Labor will be opposing these proposed amendments. They fly in the face of the Bill and the amendments which I circulated earlier but which I am yet to move.

As I mentioned in the in-principle stage, the history of the management of a training levy in the building and construction industry is very firm in the sense that the construction industry and workers from the industry have managed that as they did when they were managing the Long Service Leave Construction Industry Board. That board was made up of representatives from industry and an appointee from the Government, the same sort of proposal which I am putting forward in relation to this Bill, except that in the case of this Bill I have taken into account the views of the HIA. Others who have an interest in this matter have accepted that the option for the HIA, or another organisation if it does not wish to be involved, should be available within the legislation. That is why I have moved to alter the board to ensure that there is broader representation in relation to it and so that as many people from within the industry as is reasonably possible have an input into the management of the fund which arises from the training levy.

Mr Speaker, what the Minister proposes is an organisation which could in some circumstances not have anybody at all from the construction industry involved in it, and that is to be avoided. It would be the worst option for the management of this levy. I heard Mr Stefaniak referring to the more efficient arrangement that might prevail, but there is also an issue of quality here and commitment from the industry. You could not possibly put in charge an organisation which in some circumstances might end up with no-one at all from the construction industry.

Under the proposal which is in the Bill it is very clear that all of the representatives bar one have to come from the industry. VETA has no similar requirements as far as the construction industry is concerned. In fact, the public sector is represented on VETA, and I cannot for the life of me see what interest they would have in a Construction Industry Training Levy Bill for the private sector.

**Mr Smyth:** Surely it is about training.

**Mr Stefaniak:** They are going to fund a fair bit of it.

**MR BERRY:** It is for the public sector. That person might not necessarily be from the construction industry either and, might I say, the major players that have always been associated with this issue are strenuously opposed to that approach. Even the HIA would be opposed to VETA managing the matter, I would argue. The MBA are definitely opposed to it, violently opposed to it, because they want to have a say in the management of the levy and the fund which is collected from their members, the same as workers involved in the industry want to have a say in the way that training is delivered and the quality of the training that is delivered to their members. It makes a lot of sense. What the Minister is proposing makes no sense in relation to the appointment of VETA to manage this board.

**MS CARNELL** (Chief Minister and Treasurer) (5.30): Mr Speaker, I find absolutely remarkable Mr Berry's comment that somehow VETA does not have what it takes to run what is a vocational education program, apprenticeship and traineeship. That is what they do. Having people from a wide range of different backgrounds in business and in the public sector is the whole basis of balance in this area.

In what other areas would this Assembly suggest that people with maybe vested interests in various parts, and maybe in a very narrow part of a particular industry, should make the decisions with regard to what training looks like, where people might go, or where they might be trained in the future? Would we accept a scenario, Mr Speaker, when we look at, say, IT training in our school to industry program that we only deal with IBM? That we put IBM on the committee and IBM decide? I am just making a comment. Yes, it is important to have industry input, but this industry is somewhat narrow, not broad, and it is important to remember that.

If the industry as a whole supported this approach, the Government would support it too, and that has always been our position; but that is not the case. The industry as a whole is not represented on the body Mr Berry has put forward in this legislation. It is a part of the industry. VETA, though, does run training programs.

Mr Speaker, I think there has been a fair amount of hypocrisy in this debate already. Today we have been debating, yet again, the Bruce Stadium issue. Yes, you would say, "What has this got in common?". Well, I have to say, within certain parameters at least, a certain level of hypocrisy. Those opposite have said time and time again that, shock, horror, the Government has spent money that it has not appropriated, has not put through this Assembly in black and white. Well, I have to tell you, by passing this legislation today, that is exactly what we are going to do in this place - spend unappropriated money, and a lot of it.

**Mr Berry:** It is hypothecated money.

**MS CARNELL:** I know Mr Berry thinks that does not matter, but he thought it mattered an awful lot when it came to Bruce, even though the money that we have spent and will be funded by private sector financing is all out there on the public record. Mr Speaker, here, is it out there on the public record? By passing this legislation we have just spent \$300,000-plus in our capital works budget that has not been appropriated. That is what this 0.2 per cent costs us, the Government - \$300,000 or possibly \$500,000 in this coming year's budget that is not in the budget. Now, Mr Speaker, that is fine. Mr Berry would probably say, "Then don't spend it", because you would not spend money you do not appropriate, would you? Heaven help us if we do that. Okay, we will not do that. We will not spend money we have not appropriated, so what will we do? We cut out a program worth \$300,000 to \$500,000.

In this year's budget, the one that is on the table now, the one that has gone through the capital works process in this Assembly, the one that people have looked at and approved, Mr Speaker, we can get rid of the playground safety program for \$500,000. Let us get rid of it because we cannot spend the money because this Bill costs us 0.2 per cent more than we have in the budget. End of deal. Now, we can still spend it unappropriated, if that is what Mr Berry thinks; but he does not. We do not either because, in reality, you do not spend more than the capital works program.

What else do we have? We have stage two of the refurbishment of Kippax, \$550,000. We have the Civic Square redevelopment, some of that, \$550,000. Look, there are some really good programs here we could get rid of. We could get rid of the Lanyon neighbourhood youth centre. John is over there. That is fine.

**Mr Moore:** Mr Osborne is right out there.

**MS CARNELL:** Paul Osborne is out there. Mr Hargreaves is obviously in favour of getting rid of the Lanyon neighbourhood and youth centre. That is \$780,000. So \$500,000 goes. The district park upgrade, \$500,000. What about the Palmerston community hall, Mr Corbell? We could get rid of that. That is \$500,000.

Look, this is not a joke. The reality is that this Bill - please read my lips - costs 0.2 per cent more on top of the programs that we already have, 0.2 per cent more than we have appropriated for capital works. This is actually the effect it has all the way through the industry, but just look for the moment at what it does to the Government's capital works program. It means we are up to half a million dollars short on the program we have on the table. So what do we do?

**Mr Humphries:** Cut something.

**MS CARNELL:** Cut something. That is the only option, Mr Speaker, because we do not spend unappropriated money on this side of the house. We have to cut something. I have not heard anybody tell us what it is. Is it the Palmerston community hall? Is it the Lanyon youth centre? Is it the Gowrie bicycle park? Is it the Lanyon Valley sport and recreation facility?

**Mr Moore:** Find something in Belconnen.

**MS CARNELL:** Well, there are. We can get rid of the refurbishment of Kippax, stage two. No problems at all. Something has to go. Maybe the point that needs to be made here is this: Get rid of the hypocrisy. Accept that the decisions we make in this place have ramifications. It might be very easy for everyone to say, "Look, ho hum, ha ha, yes, Wayne's Bill. Yes, we will have a few more trained apprentices; really nice". Well, yes, maybe, but what it does up front, in ramification terms, is that it costs the capital works budget up to half a million dollars more this coming year, which means a project has to be cut. It also means, of course, that everybody who builds anything, any building and construction project, costs 0.2 per cent more to build.

Now, quite seriously, is that what we want to do? Do we want to cut one of those projects? By passing this Bill, that is what will happen, because it must happen. You cannot spend more money than you have. You cannot spend more money than is in the capital works program.

**Mr Kaine:** You have proved that you can. You just go and borrow it, then bank it the next day.

**MS CARNELL:** If Mr Kaine is suggesting we borrow the money for the Palmerston community hall, put it on the table. Go for it. All I am suggesting, all I am urging, is that all members of this Assembly accept that there are ramifications. It is not simple. Legislation like this has ramifications. The ramifications are that capital works programs will have to be cut in the coming year. It is that simple. You have to ask the question, "For what?". If you can answer that, go for it, you guys.

**MR BERRY (5.38):** I will give you a quick answer. Spot on. I will tell you one to cut. Cut the \$570,000 party at the end of the year. That is not a bad one to cut.

**Ms Carnell:** It is not in the capital works budget.

**MR BERRY:** Your budget has not been passed yet, Treasurer, in case you have not noticed, and I wish you would have taken the trouble to read the relevant legislation before you came down here and launched into this debate. Have a look at the VETA Bill. Do not scurry out of here. Face the music. Mr Speaker, I just thought I would throw that one in.

Mr Speaker, talk about VETA. The authority shall consist of the following members: A chairperson, right, nominated by the Government. Two persons appointed after consultation with the Trades and Labour Council to represent the interests of employees, not just employees in the construction industry but employees across a wide selection of callings, not guaranteed to be from the construction industry. Two persons appointed after consultation with employer organisations to represent the interests of employers, one only of whom shall be appointed to represent the interests of public sector employers. So one has to come from the industry broadly, not the construction industry. The director of the Canberra Institute of Technology, who is responsible for training across a wide range of training areas which the institute has to deal with. A person appointed to represent the interests of private employers of vocational education and training. A person who, in the opinion of the Minister, is of good standing in the community. A person appointed after consultation with Joint Industry Training Council to represent the interests of industry training advisory boards, not just the construction industry. A person appointed to represent the interests of the ACT Council of Parents and Citizens Association, not from the construction industry. The chief executive.

Mr Speaker, that shows the hollowness of the Chief Minister's argument. We heard her, the Treasurer, give us a little lecture on how you could not expend money this way because we had criticised what she had done at Bruce Stadium. This will be a motion of the Assembly. That is the difference. Bruce Stadium was not a motion of this Assembly. We did not vote in this Assembly to spend \$20m or \$30m, or to borrow it. We never voted for that. This will be a motion of this Assembly which requires the collection of a levy which the Government has to take into account in its budgeting processes.

The budget has not been passed, Mr Speaker, and it is up to the Government to structure its budget to take account of laws which are passed in this Assembly. So do not give us that rot. For the Chief Minister to wander in here and take the line she took in respect of this demonstrates again that she will do anything to put an argument, and it does not have to have anything to do with the facts.

Mr Speaker, this is sensible legislation which is about restoring training in the construction industry where a vacuum has been created because of inaction by these people opposite. An expectation was built up with the industry and workers in the industry by this Government, with the circulation of an exposure draft by the industry which was generally accepted, despite the arguments of Mr Smyth. The fact is that the industry generally accepted it. Even the HIA, though their national position is against these sorts of things, argue that if it gets up they want to be in. I have taken that into account, and they will be in so that they can be in there helping us with the management of construction industry training in the ACT. So do not give us any of that rot, and, for heaven's sake, next time you come down here read the legislation first.

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (5.42): Mr Speaker, I want to respond to the comments made by Mr Berry in respect of appropriation. The point needs to be made that the Bill before the Assembly at the moment is not appropriating any money. It is requiring the spending of money. It is not appropriating the source of that money from anywhere.

There is no source identified for the money that will be spent by the Government in complying with the legislation which Mr Berry has put forward. Fair enough; we have to find the money from somewhere else. That is clear enough.

It is also perfectly true that our budget has only just been presented and we have the chance, obviously, to amend it in some way to reflect the requirement which would be imposed upon us by this legislation. That also is fair enough. But that does not get around the fact that the money has to be found from somewhere.

Mr Speaker, we have already put a budget on the table. The Chief Minister and Treasurer has gone out into the public and told the public of this Territory very emphatically about the bottom line in the budget. I can tell you now that we are not going to change the bottom line in the budget. We are not going to change the bottom line in this budget. That is the end of the story. Full stop. So, unless members want to amend the budget for us, we are going to have to find from within the appropriation already contained in that budget the money necessary to cover this new Bill.

This Bill will cost the ACT in this coming financial year at least \$300,000 - a good day's work if you can get it - and maybe as much as \$500,000, and it will cost us that much each year subsequently. Each year that rolls past, assuming we have a capital works program of about the same size, it will cost us about that amount of money.

Mr Speaker, the only responsible course of action I could recommend would be to go back and trim the capital works program to accommodate the fact that each item already in the program will be more expensive than it was when we brought down the budget. Each item will now be more expensive because an extra amount will have to be added to it. Rather than simply add that to each item and have a capital works program which will blow out at the end of the year, it makes more sense simply to take something off that capital works program in order to be able to do that. That, Mr Speaker, is rather unfortunate.

**MR STEFANIAK** (Minister for Education) (5.45): I will close the debate on those amendments, Mr Speaker. Given that we have all had a bit of a go on that, there are a number of consecutive amendments which we probably will not need to speak on.

I just want to reiterate one thing which I do not think my colleagues have actually said, although one of them might have, and that is that the Government's position on this has always been quite clear. If there was industry agreement we were quite happy for the Bill to go ahead. There has not been full industry agreement at any stage and that is why, at the end of the day, the Government has opposed it.

Coming back to the detail stage, I will close the debate in relation to my amendments. I reiterate the expertise and the appropriateness of the Vocational Education and Training Authority and its board. This is a Bill about training people and that is the body that is responsible fundamentally for training. By providing for that, you do not have the problem, first, of creating another statutory body, and, second, because of the nature of the Vocational Education and Training Authority Board, any problems which there might be in relation to possible conflicts simply do not arise. I impress that upon members.

5 May 1999

Question put:

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

The Assembly voted -

*AYES, 6*

Mr Cornwell  
Mr Hird  
Mr Humphries  
Mr Moore  
Mr Smyth  
Mr Stefaniak

*NOES, 9*

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

Amendments negatived.

Debate interrupted.

#### **LEGAL PRACTITIONERS ACT – COMPLAINT BY ATTORNEY-GENERAL - PUBLICATION OF DOCUMENTS**

**MR HUMPHRIES** (Attorney-General, Minister for Justice and Community Safety and Minister Assisting the Treasurer) (5.50): Mr Speaker, I am sorry to interrupt but I want to seek leave to move a motion in relation to a matter of privilege which is an urgent matter.

Leave granted.

**MR HUMPHRIES:** I thank members, Mr Speaker. I move:

That, in any reporting of a publication of the documents tabled today by Mr Kaine after question time, privilege be withdrawn from any naming of the woman referred to in the last paragraph of Mr Collaery's letter.

Mr Speaker, I do this because news time is coming up. I would not like any publication of this person's name to be referred to in the evening news. I am concerned about an allegation made in the last paragraph of the letter from Mr Collaery which is not material to the matters which were the subject of the correspondence which has been tabled, which makes a serious allegation against a member of my staff which, I record for the benefit of members, she denies. I ask, Mr Speaker, that the person concerned not be named in documents or the publication of that material which has been tabled on the floor of the Assembly.



**MR BERRY (5.51):** Labor will agree to the proposition that has been put by Mr Humphries.

**MR KAINÉ (5.51):** Mr Speaker, I support the motion. Had I anticipated when I tabled the documents in the first place that they would have been published, I would have moved that, or in fact deleted the name myself before I tabled them. I thoroughly support Mr Humphries' motion.

Question resolved in the affirmative.

**BUILDING AND CONSTRUCTION INDUSTRY TRAINING LEVY BILL 1999**  
**Detail Stage**

Clause 3

Debate resumed.

**MR SPEAKER:** The question is that clause 3 be agreed to. Mr Berry, you have an amendment, I think.

**MR BERRY (5.52):** Mr Speaker, I move:

Page 2, line 10, insert the following definition:

“ ‘chairperson’ means the chairperson of the Board;”.

This is part of a package of amendments which goes to the issue which I referred to earlier in relation to the addition of a further person from the construction industry and a further employee from the construction industry on the board which is being established for the management of a building and construction industry training levy. I need say nothing further on the matter.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 4 to 6, by leave, taken together, and agreed to.

Clause 7

**MR BERRY (5.53):** Mr Speaker, I seek leave to move amendments Nos 2 and 3 together.

Leave granted.

**MR BERRY:** These amendments in relation to clause 7 go to the additional persons who would be on the board. I need to say nothing further on the matter. I move:

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Page 3, line 9, paragraph (1)(b), omit “a person”, substitute “2 persons”.

Page 3, line 10, paragraph (1)(c), omit “a person”, substitute “2 persons”.

Amendments agreed to.

Clause, as amended, agreed to.

Clauses 8 to 12, by leave, taken together, and agreed to.

Clause 13

**MR BERRY** (5.54): I seek leave move my next two amendments together.

Leave granted.

**MR BERRY**: I move:

Page 5, line 5, paragraph (1)(b), omit “1”, substitute “2”.

Page 5, line 6, subclause (2), omit the subclause, substitute the following subclause:

- “(2) At a meeting of the Board a quorum consists of 3 members, of whom  
—
- (a) 1 shall be a member who represents the interests of employers in the building and construction industry; and
  - (b) 1 shall be a member who represents the interests of employees in the industry.”.

Mr Speaker, I could say ditto, but I should say that this again is to add additional persons to the board, a matter which I have referred to earlier in the debate. I need say nothing further.

Amendments agreed to.

Clause, as amended, agreed to.

Clause 14 agreed to.

Clause 15

**MR STEFANIAK** (Minister for Education) (5.55): I move:

Page 5, line 33, definition of “exempt work”, paragraph (c), omit “\$5,000”, substitute “\$20,000”.

Basically, Mr Berry is proposing that the threshold go to \$10,000 and we are proposing that it go to \$20,000. I recall that in one of the drafts that went out, Mr Speaker, the figure of \$20,000 was mentioned, and we suggest that for very good reason. A threshold of \$5,000 - we would say even \$10,000 - is far too low. The problem would be to make this levy applicable only if building work of a reasonably substantial nature was involved.

I propose a threshold that triggers the applicability of the levy to be set at \$20,000 because there is a real need to remove minor works, especially very minor housing renovations. Even a figure of \$20,000 is pretty low, Mr Speaker. I think in some other States it is more than that. But at least that would remove things like people putting up a very small extension, a pergola, a garage or something like that. Even \$20,000 might catch a large number of small extensions, but at least it takes out of the equation a lot of small renovations that people do on their houses.

It would still catch any major renovations or building work done to houses and certainly is well and truly below the cost of building any sort of dwelling whatsoever. It still does take into account large renovations, and that in itself might be a bit of a problem because these days \$20,000 does not get you too far. I think it is about \$10,000 a square or something like that, so it is still relatively low, but it does take out those minor works. Anything lower would be caught.

I do not think it has ever been the intention of anyone who has put forward this type of legislation that those types of works be caught. The purpose of this particular levy is to train. It is not to make a ridiculous impost on the average householder who might be considering a fairly minor building renovation. We say that \$20,000 is a more realistic limit than what is being proposed.

**MR BERRY** (5.57): Labor will be opposing the proposition put by the Minister. During debate earlier, one of the Ministers - I think it was Mr Smyth - talked about how much revenue might be soaked up in administration in relation to this matter, although I would dispute the numbers that he used. What Mr Stefaniak is arguing is that there be even less revenue to soak up. Increasing it to \$20,000 would result in revenue not being collectable for the running of this scheme.

It has to be said that for a \$100,000 construction this is not a large impost. For a \$100,000 construction it is a couple of hundred dollars. For a \$10,000 construction it is \$20. What you have to keep in mind in all of this is the principle that, no matter how small the job, qualified trades persons are going to be needed for that construction, and the aim of the training levy is to ensure that there are adequately trained people within the industry to carry out construction in the future. It has been argued before that a shortage of tradesmen is going to lead to a rise in costs in the industry in due course. I do not think there can be any argument against that, so, Mr Speaker, I think this ought to be retained.

I have to say that in my Bill the sum of \$5,000 appears and in my budget speech I said \$10,000. I meant what I said. For some reason, \$5,000 slipped through. That is a mistake I am prepared to acknowledge and I have set it at \$10,000. The industry approached me in relation to this and they said \$5,000 is a bit low and they would prefer \$10,000, so I have agreed to accept \$10,000. The industry have not approached me on the basis of \$20,000, so I cannot argue for \$20,000 on their behalf because they have not put it to me. I am prepared to accept what they put to me, \$10,000, and I trust that if at some time in the future the industry wants to change it for a variety of reasons we would be perfectly happy to do that. I cannot base my judgment on anything else but what the industry talked to me about, and they seem fairly relaxed about \$10,000.

In relation to this legislation as a whole, once it has been running for 12 months or so I cannot see any reason why we should not be asked to look at a few things in relation to it. I would not rule out changes in any respects if that is what the industry and the people involved in it ask for. Whether it is \$10,000, \$20,000, \$30,000 or whatever does not affect me philosophically. I say again that that was the figure that was seized upon by those who came to see me and that was the figure I accepted. I would argue, Minister, given that the industry want that sort of a figure, that we should leave it alone. If at some time in the future the industry comes forward with a calculated argument to reduce it or to increase it, I would be happy to consider it.

Question put:

That the amendment (**Mr Stefaniak's**) be agreed to.

The Assembly voted -

*AYES, 7*

Mr Cornwell  
Mr Hird  
Mr Humphries  
Mr Moore  
Mr Rugendyke  
Mr Smyth  
Mr Stefaniak

*NOES, 8*

Mr Berry  
Mr Corbell  
Mr Hargreaves  
Mr Kaine  
Mr Osborne  
Mr Stanhope  
Ms Tucker  
Mr Wood

Amendment negatived.

**MR BERRY** (6.05): I move:

Page 5, line 33, definition of "exempt work", paragraph (c), omit "\$5,000", substitute "\$10,000".

Amendment agreed to.

Clause 15, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole

**MR STEFANIAK** (Minister for Education) (6.06): I move amendment No. 7 circulated in my name. It reads:

Page 7, line 6, clause 18, subclause (2), definition of “value of the work”, paragraph (b), omit “person”, substitute “qualified valuer”.

**MR BERRY** (6.06): Mr Speaker, on the face of it, Mr Stefaniak’s amendment makes sense. However, I have to say that I could not imagine the council appointing anybody to make a decision in relation to costing of building construction unless they were suitably qualified, and that person might not be a qualified valuer; it might be somebody experienced in the construction industry. So it troubles me without having first talked to the industry about whether or not we should require this qualification. On that basis, I shall oppose that amendment.

If at some future time the industry say to me that they want a qualified valuer, or some other set of qualifications, I would be happy to accept that, but I have not had time to consult with the industry in relation to that matter and at this point I recommend that members oppose it. On the face of it, it looks okay, but a valuer might not be somebody who has experience, say, in the construction industry or part of some construction that may or may not have been completed because they are talking about work that is abandoned before being completed, and so on and so forth. It strikes me that a valuer might not be the appropriate person. I am not qualified to make a judgment on who would be the most appropriate person, but I am sure the construction industry people on the board would. At this point I would recommend caution, leave the Bill as it is, and perhaps consider the matter at some future time.

**MR STEFANIAK** (Minister for Education) (6.08): I suggest it is simpler to do it now, simply on the basis that this was an amendment drawn to our attention by the Attorney-General’s Department in the draft, which indicated that the process of resolving disputes was unclear, especially in relation to who the Building and Construction Industry Training Fund Board, which has now been constituted, would appoint to arbitrate and what criteria would be used. The amendment simply makes quite clear who would be appointed. They must be a qualified valuer, which, surely, would be commonsense. I do not know whether anyone in the industry, and there are a couple present, would disagree with that. If Mr Berry has a problem he might like to consult with one of these two gentlemen here from the industry.

**MR BERRY** (6.09): I do not think it is an issue of such great moment, Mr Speaker, except that it will put that added requirement on it. I heard Mr Stefaniak say that the recommendation came from the Attorney-General’s Department. I do not know how many construction workers there are there, or how many construction contractors, but I suspect not many. Perhaps there are none. I would again urge people to oppose this.

I do not have a philosophical position about it, but the industry might have difficulty with those sorts of qualifications. I cannot imagine, for example, that unfinished work would be better assessed by a valuer than, say, a contract carpenter or a contract builder of some

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sort. It seems to me that it should be left at this point. At some point in the future, Mr Stefaniak, the industry might come back to me and say, "No, that is the sort of qualification we want", but I do not think they will.

Question put:

That the amendment (**Mr Stefaniak's**) be agreed to.

The Assembly voted -

*AYES, 8*

*NOES, 7*

Mr Cornwell

Mr Berry

Mr Hird

Mr Corbell

Mr Humphries

Mr Hargreaves

Mr Moore

Mr Kaine

Mr Osborne

Mr Stanhope

Mr Rugendyke

Ms Tucker

Mr Smyth

Mr Wood

Mr Stefaniak

Question so resolved in the affirmative.

**MR STEFANIAK** (Minister for Education) (6.14): Mr Speaker, I hope this amendment is one of the ones that are agreed to. Surely Mr Berry will like this one. I move:

Page 7, line 20, clause 19, subclause (4), omit the subclause, substitute the following subclause:

“(4) The project owner shall not cause work to which this section applies to be carried out unless the provisional levy in respect of the work has been paid to the authority.”.

**MR BERRY** (6.15): Mr Speaker, the amendment talks about the authority. Amendment No. 9 to clause 19, if that is the one we are talking about, reads:

omit the subclause, substitute the following subclause:

“(4) The project owner shall not cause work to which this section applies to be carried out unless the provisional levy in respect of the work has been paid to the authority.”.

An “authority” is not something that has been agreed to. “Board” is the language that we have agreed to.

**Mr Stefaniak:** That is fair enough. I accept that.

**MR BERRY:** I do not have any particular difficulty with the language, but if you have a look at the existing clause it says:

A person shall not commence or carry out work in relation to which this section applies unless the provisional levy in respect of that work has been paid to the Board.

So that is the language that should apply, the language that is in the Bill.

**Mr Stefaniak:** That is right. That is fine.

**MR SPEAKER:** Are you amending the amendment or withdrawing it?

**MR BERRY:** You will have to ask Mr Stefaniak about that, but we will oppose it.

**MR SPEAKER:** Are you amending it or withdrawing it, please?

**Mr Stefaniak:** I think if you delete “authority” and put “board” that would be correct.

**MR BERRY:** Then it would be exactly the same as the one that is in there.

**Mr Stefaniak:** No, I think you have “a person”, rather than a “project owner”.

**MR BERRY:** Oh, the project owner.

**MR SPEAKER:** Would you mind advising the Chair what you are planning to do?

**MR STEFANIAK:** (Minister for Education) (6.16): Mr Speaker, if you simply delete “authority” and write “board” on my amendment, that would be correct and it would be in accordance with the way the other amendments have gone. I seek leave to amend my amendment, Mr Speaker.

Leave granted.

Amendment, as amended, agreed to.

**MR STEFANIAK** (Minister for Education) (6.17): Turning to my amendment No. 11, Mr Speaker, you will note that the word “authority” appears there. I seek leave to change that to “board”, which would make it accord with the other amendments.

Leave granted.

**MR STEFANIAK:** I move:

Page 7, line 33, paragraph (2)(b), clause 20, omit the paragraph, substitute the following paragraph:

“(b) give to the Board such documents and information as the authority reasonably requires in order to assess the training levy payable in respect of the work.”.

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Amendment, as amended, agreed to.

**MR STEFANIAK** (Minister for Education) (6.18): We go to my amendment No. 27, Mr Speaker. I seek leave to delete “authority” and insert “board”.

Leave granted.

**MR STEFANIAK:** I move:

Page 9, line 30, clause 25, subclause (1), after “Council”, insert “and the Board”.

Amendment, as amended, agreed to.

**MR STEFANIAK** (Minister for Education) (6.19): I move:

Page 11, line 24, clause 31, subclause (1), omit “the land and any premises on the land during normal business hours”, substitute “during normal business hours the land and any premises, whether on the land or not, in which the inspector believes on reasonable grounds that documents or records relating to the work are kept”.

That is one of the ones we have agreed to in this place.

**MR BERRY** (6.19): Amendments Nos 33 and 34 go to the issue of a change in language which would make it more practical. The major change is that it changes the emphasis on land to land and premises so that inspectors and others can pursue matters in premises rather than just on land. They are sensible amendments and I am happy to accept them.

Amendment agreed to.

**MR STEFANIAK** (Minister for Education) (6.20): I formally move amendment No. 34 circulated in my name which reads:

Page 12, line 19, clause 33, subclause (1) omit the subclause, substitute the following subclauses:

“(1) This section applies where information is laid before a magistrate alleging that an inspector has reasonable grounds for suspecting that there may be –

(a) on any land – work in respect of which payment of provisional levy or training levy has not been made, or made fully, in accordance with this Act;

or

(b) on any premises –



- (i) a thing of a particular kind connected with a particular offence against this Part; or
- (ii) a document or record relating to work mentioned in paragraph (a);

and the information sets out those grounds.

**(1A)** Where this section applies, the magistrate may, subject to this section, issue a search warrant authorising the inspector named in the warrant, with such assistance and by such force as is necessary and reasonable –

- (a) to enter any land or premises described in the warrant;
- (b) to search the premises for things of the kind mentioned in subparagraph (1)(b)(i) or a document or record mentioned in subparagraph (1)(b)(ii), as the case requires; and
- (c) to exercise any of the powers listed in section 34 in relation to a thing, document or record to which the warrant refers.”.

Amendment agreed to.

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

Bill, as amended, agreed to.

## **BRUCE STADIUM REDEVELOPMENT – PRESENTATION OF DOCUMENTS**

Debate resumed.

**MR BERRY** (6.21): Mr Speaker, I move:

After paragraph (3) add the following new paragraph:

“(4) On the provision of any of these documents and other information to the Speaker or in the absence of the Speaker to the Deputy Speaker, prior to 29 June 1999:

- (a) the documents shall be deemed to have been presented to the Assembly;

- (b) on receipt of the documents the Speaker (or in the absence of the Speaker, the Deputy Speaker) is authorised to give directions for the printing, circulation and publication of the documents; and
- (c) the Speaker shall present the documents to the Assembly at its next meeting.”.

The amendment goes to the issue of the provision of documents when the Assembly is not sitting, given an undertaking to the house by the Attorney-General in relation to the matter. The amendment provides that if, in a period when the Assembly is not sitting, the Attorney is in a position to release a class of documents referred in the original motion, he can make them available to the Speaker, who is authorised to give directions for “the printing, circulation and publication of the documents”.

Amendment agreed to.

Motion, as amended, agreed to.

#### ADJOURNMENT

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

That the Assembly do now adjourn.

#### **Budget 1999-2000 – Full Monty**

**MR BERRY** (6.22): Mr Speaker, we heard that the 1999-2000 budget was the full monty but, on a quick examination of it, in my view it is more like the three-card monty. If I can explain, Mr Speaker, by quoting from some information that was gathered off the Internet by one of my hawk-eyed staff:

Typically, Three card Monty scams consist of two or more people trying to find a designated card out of three shuffled cards. The shuffler is the most obvious member of this swindling bunch. There is also a planted swindler who plays the game and consistently wins. The two people work together to trick you into believing that it is easy to win, so they can bring you into the game. Supposedly, to win the game, you have to choose the correct card out of the three cards shuffled. The shuffler will purposely lose the first few rounds to you to get you to bet more money. At this point, if you take your wallet out, they will grab it and run.

Three card Monty games are usually played on a card board box on the busy sidewalks of New York City. Whenever a police car passes by, you can observe how quickly the game disperses.

Sidewalk card games are both illegal and fraudulent for some very good reasons:

The players know one another and have divided Times Square into areas. The players work together. The games are not spontaneous.

The dealers are not alone ... They work in racially integrated teams, men and women, people in business suits, and informal dress.

A person in the crowd, often nicely dressed, will “play” and win, convincing the public that they too, can win. They can’t.

The dealer will sometimes let a player win a little amount in order to rope him/her into betting higher amounts. Sometimes, when they see the wallet or purse come into the open, they will grab it and everyone will run.

Pick Pockets work the crowd around these cardboard box 3 card monty games.

And if by some fluke someone wins, the “lucky” winner is often followed and mugged.

The hand is quicker than the eye ... these are pros.

That tells us that the full monty budget could be something that we do not want to be involved in. In my view, the budget is a three-card monty budget and we have something to watch out for.

### **Journey of Healing**

**MS TUCKER** (6.24): I just want to acknowledge briefly that the motion on National Sorry Day was not able to be debated earlier today and we will not have another opportunity before the day has passed. The National Sorry Day Committee has invited the whole Australian community to join them in the Journey of Healing. The journey has three main elements: Recognition, by inviting local communities to discover and portray the history of the relationship between non-Aboriginals and the Aboriginals and Torres Strait Islanders in their region; secondly, commitment to implementing the 54 recommendations of the Bringing them home inquiry; and, thirdly, unity by bringing Aboriginal and Torres Strait Islander and non-Aboriginal people together, as happened on Sorry Day last year, to listen to each other. I will be participating in some of the events organised under the umbrella of the Journey of Healing and I commend the events to other members of the Assembly.

On a practical and local level, the Journey of Healing organising committee will be consulting local indigenous, government and community organisations to determine what local progress has been made in implementing the recommendations of the Bringing

them home inquiry. They will then refer their findings to the local indigenous community and then present them to the ACT community. I commend this work and encourage all members of the Assembly to make a contribution to this process. I also encourage and ask the Government to cooperate with this process and indicate their progress in implementing the recommendations of this landmark inquiry as a commitment to healing past wrongs and as a commitment to the reconciliation process.

### **Preschool Sandpits**

**MR STEFANIAK** (Minister for Education) (6.26): Recently there was some concern in relation to preschool sandpits. I sought information from the ACT Environment Management Authority. They advise that they are satisfied that the application of the chemicals used during routine spraying of preschools in the April school holidays - that is, roundup and simazine - is in accordance with Environment ACT's policies and the manufacturers' recommendations. Their further advice is that the concentrations of the chemicals remaining in the soil are very low, even for the spraying which occurred in the April 1999 school holidays.

A medical opinion sought from the Department of Clinical Pharmacology at the Canberra Hospital was that the acute risk of toxicity to children from exposure to simazine sprayed on the sandpits is negligible. The hospital advised that, for the simazine sprayed in April 1999, a child would need to eat one kilogram of sand to ingest 0.3 milligrams of simazine - the lethal dose being 5,000 milligrams per kilo of body weight. Sand in the three affected preschool sandpits has been replaced. Expert evidence has shown that all other preschools are safe. Fencing has been removed from all other sandpits and all preschool sandpits have been reopened.

### **Journey of Healing**

**MR STANHOPE** (Leader of the Opposition) (6.28): Mr Temporary Deputy Speaker, I rise today also in support of the Journey of Healing 1999 and National Reconciliation Week, commencing on 26 May. Since the release of the Bringing them home and deaths in custody reports, governments around Australia have commenced the implementation of a range of policies in an attempt to redress past wrongs. Much has been said in this Assembly about the need to recognise and acknowledge the injustices that have resulted from past forced removal policies. The theme for this year's National Reconciliation Week is "Reconciliation - it's up to us".

I would like to touch briefly today on what we as individuals and politicians can do to facilitate the reconciliation process and the importance of us actually remaining involved in this debate and this process. The Council for Aboriginal Reconciliation has a vision. The vision is:

A united Australia which respects this land of ours; values the Aboriginal and Torres Strait Islander heritage; and provides justice and equity for all.

In order to promote this vision the council has established eight key reconciliation issues and these are reconciliation issues that I invite this Assembly to keep foremost in its actions. The issues are: Understanding country; improving relationships; valuing cultures; sharing history; addressing disadvantage; custody levels; destiny; and formal document. Mr Temporary Deputy Speaker, I am sure that all members are aware that there is much to be done in relation to each of those issues.

Aboriginal and Torres Strait Islander people are as a group the poorest, unhealthiest, least employed, worst housed and most imprisoned Australians. In the ACT alone they have a grossly lower life expectancy - 28 years less than that of non-indigenous ACT residents - and are far worse off in almost all morbidity comparisons, including a much higher risk of diabetes and mental health problems. I am sure that the disparity in life expectancy between white Canberrans and their Aboriginal neighbours is something that, if most Canberrans were aware of it, would be truly shocking to them.

Data also shows that Aboriginal and Torres Strait Islander families earn a much lower weekly income and, because Aboriginal and Torres Strait Islander families are often quite large, the income must be stretched much further. ACT indigenous peoples spend less time at school than our non-indigenous population and have much higher unemployment levels and lower labour force participation rates. I am speaking there, of course, of Aboriginal people as a group.

Despite recommendations following the deaths in custody report, Aboriginal and Torres Strait Islanders are still being gaoled at incredibly high rates, and that includes the ACT. Recent ACT indigenous incarceration statistics show that, while Aboriginal and Torres Strait Islanders constitute just one per cent of our population, they represent 10 per cent of total arrests. The imprisonment rate of indigenous males is drastically higher than that of non-indigenous ACT residents, and juvenile Aboriginal males constitute almost 30 per cent of all juvenile arrests in Canberra. It is notable that 70 per cent of the indigenous detainees at the Belconnen Remand Centre have substance abuse problems.

I will just move on quickly, Mr Temporary Deputy Speaker. There is much more that I would like to say on this important subject. At the root of these issues, of course, is the need for adequate resourcing for the provision of sufficient services which will go some way to addressing the many disadvantages faced by Aboriginal and Torres Strait Islander peoples. But advancing the process of reconciliation is not simply about funding. It also includes a commitment to acknowledging past wrongs, to valuing cultural diversity, to sharing history and to improving relationships.

The key elements of the Journey of Healing revolve around recognition, commitment and unity. In the spirit of the lead-up to National Reconciliation Week in a few weeks' time, communities around the nation are being asked to explore the local impact of assimilation policies. I urge all Canberrans to do that and to involve themselves in local events and activities during National Reconciliation Week, which commences on 26 May. In making a commitment to participate as individuals and to acknowledge and accept indigenous accounts of history, we are laying the foundations for our journey towards healing and reconciliation.

### **Journey of Healing**

**MR SMYTH** (Minister for Urban Services) (6.32): Mr Temporary Deputy Speaker, I too rise to speak about the Journey of Healing. I have to start by saying that I am disappointed that the motion that Mr Stanhope had on the notice paper was not put and we did not get a chance to do things properly, instead of having hurried speeches in the adjournment debate. It is a shame that on private members day it was actually relegated to the adjournment debate. I think that is very sad.

It is very sad because of the three things Mr Stanhope just spoke about - recognition, commitment and unity. This is an important issue and it should not be relegated to the adjournment debate. It is a shame that we sought to do other things quickly, at the expense of this motion. I, like Mr Stanhope, had a substantial speech prepared for this debate and I will try to pull some of the elements together.

The Journey of Healing grows out of National Sorry Day, and 26 May this year is the first anniversary of that. All members, I am sure, have received the *Walking Together* magazine, a recent publication of the Council for Aboriginal Reconciliation. But, for the sake of the record, it is worth reading two short stories out of it. The first one is headed, "Tuggeranong publishes words of reconciliation", and reads:

Young people of the Tuggeranong Valley in the ACT have produced poems, short stories and other creations calling for reconciliation in a book called *Words of Reconciliation* published in December. The book idea was initiated by Lorne Parker-Doyle a Canberra poet, arts worker and counsellor, and Daniel Williams, an Aboriginal arts administrator and performer.

It is great that young people in Tuggeranong, for instance, are making a statement about how they feel on reconciliation. The other article is about Bruce Martin, the only Aboriginal student at Canberra Boys Grammar School, and he writes:

My name is Bruce Martin and I'm almost 16 and in Year 10 at an all-boys' Grammar school in Canberra. I was born in Cairns and lived with my Mum in a small Aboriginal community called Aurukun on the western side of Cape York. I lived there for the first five years of my life, and grew up speaking the language of the Wik people there, Wik Mungkan. I can still speak it.

Since then, I have gone to nine different schools around Australia.

My dad is an anthropologist ...

He goes on to say:

I was the first Aboriginal student ever to go to Canberra Grammar, and still am the only one there. At times it can feel a little lonely, especially after spending time with my Mum and the rest of my family in Queensland. I go up to Aurukun to visit my family two or three times a year - sometimes I go with my Dad or my little brother Rex, but usually I go by myself.

I will not read it all, Mr Temporary Deputy Speaker. I will just finish with the last paragraph, where young Bruce says:

I have a really busy and interesting life. I am lucky to have my Aboriginal family and language and culture. I also have the advantages of life in Canberra with my family here, like education and sport. For me, reconciliation is about all of us understanding how other people think and live their lives, and realising that we are connected to them too.

The Journey of Healing organisers have put out a precis of what it is about, and under "Recognition" it says:

It is a matter of healing wounds by embracing, rather than shunning, our history.

In that regard, I have received a media release from a group publishing a book called *Healing the Land*. I will read as much of it as I can and then seek to have the rest incorporated in *Hansard*. It says:

When Australia was settled after 1788 the impression given to most Australians today was that it had been a matter of forging into unknown territory, cutting down the trees and farming the unturned soil. These were the pioneering days. And much has been celebrated about this hard past. There is now a secret past that has been revealed that speaks of the desecration of Australian soil by the blood of the First nation's people as the white man came to this land. Over 1,300 massacre sites are listed that detail an Australian wide picture of what actually did occur in the last 210 years. The de-aboriginalisation of Australia had been complete until the Mabo decision in the High Court nullifying the legal concept of terra nullius in 1992. There are many survivors of these massacres who are aware of their history that has been hushed by the invaders. The heart of the Australian people is crying out to share this nation so that we can live together. To sit down and talk and be together. Government programs continually miss their target because they aim for the physical needs only when there is a spiritual cry for the healing of the past. We are more recently becoming aware of the true fact of the bloodshed and war that continues to occur since the invasion of this land during the last 210 years. This is a shocking story of subjugation and unnecessary fear of the First nation people of this land and the greed and selfishness of the new comers to the land. To share is a part of the First nation

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peoples inclusive nature but the new comers and other migrants have not surrendered what they believe to be their “right” for our nation to go forward into the new millennium together.

I seek leave to have the remainder of the press release incorporated in *Hansard*.

Leave granted.

*The remainder of the press release read as follows:*

Righting the wrongs has started but is only in it's infancy at this moment. The answer lies not only in political maneuvering but in the grass roots changing of the heart of the people and then and only then will we see justice for Aboriginal people of Australia. Join us as we travel through each state having a look at what has occurred there and asking ourselves how can we rectify the past - today. What can we do to renew Australia to bring honour to the Aboriginal people who are the heart of Australia. Respect for the Aboriginal people so that we can all care and share the 'song of the land' together.

Question resolved in the affirmative.

**Assembly adjourned at 6.38 pm**