# DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

## HANSARD

25 August 1999

**Wednesday, 25 August 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.

## ELECTORAL AMENDMENT BILL (No. 2) 1999

**MS TUCKER** (10.32): I present the Electoral Amendment Bill (No 2) 1999, together with its explanatory memorandum.

Title read by Clerk.

**MS TUCKER**: I move:

> That this Bill be agreed to in principle.

This Bill amends the Electoral Act to establish a process by which how-to-vote material provided by candidates can be displayed inside polling places. The current ban on distributing how-to-vote material outside of polling places is not affected.

This issue goes back to 1995 when the ban on the distribution of how-to-vote material outside polling places was introduced by the Liberal Government. The Government argued that this was consistent with the Hare-Clark voting system, or, more correctly, in fact, with the Robson rotation aspect of the voting system, that limited the ability of parties to list their candidates in a preferred order on the ballot paper. This ban was, however, contested in the Assembly. There were concerns that this ban limited people's democratic rights to participate in the electoral process. The Labor Party actually put up an amendment to achieve the same objectives as this Bill, although, I should add, not with the level of detail proposed in my Bill, which was defeated.

However, the Pettit Review of the Governance of the Australian Capital Territory, released in early 1998, recommended that "voters should be able, if they wish, to obtain how-to-vote cards at polling places; such cards should be available in each polling place, even if the ban on distributing them outside is maintained". The review noted that it is perfectly reasonable of voters to want to vote in the order proposed by a party or grouping of their choice. After all, they may prefer to take their guidance from a body that has more information than they personally have about the candidates and that possesses the capacity to coordinate votes.

This view was confirmed in surveys undertaken by the Electoral Commissioner at the 1998 election, the first with the ban on how-to-vote cards. Market research found that 37 per cent of voters said that they found how-to-vote cards useful. At an exit poll on election day 15 per cent of voters found it a problem that how-to-vote cards were not

available to them. So there is a significant number of people in the community who feel disadvantaged by the lack of how-to-vote cards, which obviously affects their ability to cast an informed vote. I should add that our voting system already restricts the ability of parties to direct people's actual vote through the Robson rotation and the lack of the above the line voting as used in Senate elections. The ban on how-to-vote cards is somewhat superfluous in that regard.

It is an inherent feature of elections that parties attempt to influence people to vote for their preferred candidates. This is what election campaigning is all about. The fact that we have a preferential voting system also means that parties have an interest in where people place their preferences. There is no particular logic in stopping campaigning 100 metres from a polling booth. The argument that was put was that there is a value in banning how-to-vote cards outside polling places because of the potential for harassment of voters. The other argument was that it was a waste of paper, but we have seen that just as much paper is used. The Greens included this material with our ordinary election material, but the major parties used a lot of paper by putting how-to-vote material into the post pre-election. So we still had that coming from the parties.

The select committee that reviewed the recommendations of the Pettit report recommended that the present ban on how-to-vote cards at polling places remain. However, it did note that the ALP supported the introduction of how-to-vote cards, that the Greens supported the provision of how-to-vote cards inside polling places, and that the Government supported the provision of how-to-vote cards in polling booths subject to the ban outside polling booths being maintained. The Government also asked the committee to determine the most appropriate way to display how-to-vote cards inside polling booths. The Government's submission to the select committee's inquiry is quite clear on this point, but I note from recent media reports that the Government seems a bit confused about its position on this issue. Well, to help the Government sort out its position on the issue, we have worked out a feasible way to display how - to - vote cards within individual voting compartments by the provision of folders prepared by the Electoral Commissioner containing standardised how-to-vote material submitted by parties and independent candidates.

I should point out that this Bill was developed in consultation with the Electoral Commissioner who provided good professional advice on the practicalities of conducting elections. In this Bill we have made a point of minimising as much as possible any problems that the commissioner could face in implementing this proposal. Under the Bill each party or group of independent candidates and each ungrouped independent candidate in an electorate will be allowed one A4 page on which to place their how-to-vote material. Parties or independents can, of course, decide not to participate in this system. There is no obligation on them. The specifications for the how-to-vote material are fairly prescriptive in the Bill, but this is necessary to prevent candidates from using this process to include defamatory, obscene, misleading or irrelevant material under the guise of a how-to-vote card. There is also the need to standardise how-to-vote cards in terms of size and colour for ease of printing by the commissioner. The specifications are, however, broad enough to include all the things people would normally expect to see on a how-to-vote card.

The commissioner will make copies of the master sheets provided by candidates to produce folders containing each page of how-to-vote material in electorate and then column order. The commissioner is required to make a folder available in all voting compartments in all polling places from the fifth day before the election in a manner that minimises the risk of defacement or removal. While it is recognised that earlier pre-polling voters will not be able to access the folders, there are practical issues in getting the folders ready in time for pre-polling.

I should point out that parties or independent candidates will still bear the cost of producing the how-to-vote material as the commissioner will be able to charge candidates for the display of how-to-vote material. Obviously, though, the overall costs will be much reduced as candidates will not need to print hundreds of thousands of how-to-vote cards. Instead, the commissioner will only need to produce about 2,300 folders to cover all the voting compartments used in the election.

In conclusion, I believe that my Bill provides a sensible, fair, cost-effective and environmentally sound way of providing how-to-vote material in polling places to those people who want it without there being any imposition on people who do not want to look at this material. I commend this Bill to the Assembly.

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

## FINANCIAL MANAGEMENT AMENDMENT BILL (No. 2) 1999

**MR QUINLAN** (10.40): Mr Speaker, I present the Financial Management Amendment Bill (No.2) 1999, together with its explanatory memorandum.

Title read by Clerk**.**

**MR QUINLAN**: I move:

> That this Bill be agreed to in principle.

Mr Speaker, this amendment to the Financial Management Act arises from recommendation No. 5, unanimously accepted, I think, during the Estimates Committee hearings. It seeks to provide within the budget process base information to allow the Assembly members to consider the budget with the fullest possible intelligence that might be available.

In recent times, in one way and another, the Government has tried to set the scene or at least create the outward appearance that it wants the total involvement of the Assembly in budget preparation and pre-budget deliberations. This Bill will require the inclusion in the budget document of estimated outcomes for the current year as the budget for the next financial year is presented. If you examine the budget papers you will see that the budgets do include, in financial terms, estimated outcomes for the following year. This, of course, implies that analysis has been carried out and that there has been some examination of the year in total when we are well into the second half of that particular year. I have to say that the inclusion of monetary estimates in the budget paper without

the inclusion of quantified outcomes is pretty well a useless exercise because there is not much value in knowing that the bottom line of the Government, in financial terms, will be satisfied without knowing that the predetermined levels of service have been provided.

This amendment Bill will provide reasonable accountability and takes a step further towards enabling members of this Assembly to take a more informed view in their analysis of budgets and/or draft budgets, if we move to that particular process in the future, and in fact then makes useful some of the projected information that is within the budget paper.

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

## INDEPENDENT STATUTORY BODY ON OFFICIAL CORRUPTION - LEGISLATIVE REQUIREMENT

**MR KAINE** (10.44): I move:

> That the Assembly notes the need to legislate for the establishment and operation of an independent statutory body to investigate matters of official corruption in the Australian Capital Territory.

I seek leave to present a paper.

Leave granted

**MR KAINE**: Thank you, members, and thank you, Mr Speaker. I present the ACT Independent Commission Against Corruption Exposure Draft legislation. Mr Speaker, two weeks ago I released for public comment an exposure draft of a Bill, a copy of which I have now tabled, the object of which is to constitute an independent commission against corruption for the Australian Capital Territory and to confer on this body wide and powerful information-gathering powers.

Before going into the details of this legislation, I believe I should devote a few words to the rationale for and the objectives of this proposed independent commission. There has been some speculation about my reasons for wanting to set up this body. I have stated that official or public corruption is one of the great evils of our time and that, unfortunately, we cannot assume that the ACT is immune from this creeping cancer. As I said, the cost to the community is immense, not only in dollar terms but in the damage done to community confidence in public administration. In recent years there undoubtedly has been increasing community concern over disturbing revelations suggesting improper or dubious activities involving public administration.

I was somewhat dismayed that when I announced my intention to table this draft legislation the knee-jerk reaction from the Government, and specifically from the Attorney-General, was that there is no corruption in the ACT. Mr Speaker, I do not know what planet the Attorney-General has been living on, but saying there is no corruption in the ACT is, I submit, as absurd as saying that there is no sin in the ACT. In fact, as I have said previously, on occasions it has been obvious that - as was the experience in other jurisdictions like New South Wales and Queensland - existing statutory resources in the ACT have been insufficient to bring about full disclosure of such disturbing activities. In some cases there has been an unreal expectation that authorities like the Auditor-General or the Ombudsman can and will provide all the answers. Regrettably, the terms of reference for these bodies are not sufficiently wide to cover many probable contingencies. Furthermore, the resources available to them are limited. Thus they are not established to deal with matters that have confronted authorities in other jurisdictions.

In reality, only a powerful independent and extra-judicial body like an anti-corruption commission can properly perform such an essential role. What government can lay claim to legitimacy while real doubt about official capacity to serve the public interest remains? How can the community have confidence in the integrity of government, and that their grievances will be investigated fearlessly and honestly, while there is no powerful investigatory body to which they can appeal? This proposed legislation is simply an initiative to ensure the integrity of public administration and public institutions in the Australian Capital Territory. What could be more destructive of our democratic institution than a situation where the community has a failing confidence in public administrators and agencies that occupy positions of public trust? We must seek to ensure that the credibility of public institutions is maintained and safeguarded, and that community confidence in the integrity of public administration is preserved and justified.

Mr Speaker, my call for the establishment of an ACT ICAC is certainly not a political stunt. It is not intended to be a star chamber or a kangaroo court. It is not to create a body for the purpose of engaging in political witch-hunts. It is to serve the interests of the public. This draft Bill does contain a broad definition of corrupt conduct that includes behaviour that adversely affects, or could adversely affect, the honest and impartial exercise of official duties by any public official or any public authority. However, this proposed legislation also specifies that the conduct must be such as would constitute or involve a criminal offence, a disciplinary offence, or reasonable grounds for terminating the services of a public official. It has extensive application, appropriate to the broad range of the public sector. No-one has been exempted. Ministers, members of the Assembly, the judiciary, the police and the Public Service at large, although I understand there is some question about the applicability of this proposal to the police, would all fall within the jurisdiction of the ACT ICAC. But, in any particular matter, it will not be the commission’s function to lay charges or even to allege guilt. The task of the commission will be to use its extraordinary powers to get at the truth and then to report that information to the responsible authorities for any further action.

The independent commission will have jurisdiction to investigate corrupt conduct occurring before the commencement of the legislation, and I know that that may be of some concern to some. However, in deciding whether or not to investigate a matter, the commission will take into account whether the conduct occurred at too remote a time to justify investigation. Obviously there is no point in committing resources to investigating matters that are too old to be effectively pursued.

The independent commission is not intended to be a purely investigatory body, in the sense that it will also be expected to exercise an educatory role to make public officials and the community more aware of what it means to hold an office of public trust, and more aware of the detrimental effects of corrupt practices. In the long term, it is to be hoped that the educative functions of the commission will be far more important than its investigatory functions. A measure of its success will be the extent to which the commission raises community confidence in public administration in the Territory.

As I mentioned, this commission will have formidable investigatory powers. There is, of course, an inevitable tension between the rights of individuals accused of wrongdoing and the rights of the community to fair and honest government. To those who say this proposed legislation is an unjustified interference with the rights of individuals, may I stress this point: The commission will only be able to investigate the corrupt conduct of private persons in connection with public administration. The harsh glare of public exposure is on public administration and corruption in the public administration. It will not be the function of the commission to go rooting around in private houses on matters that are not of public significance.

Mr Speaker, if I may quote a former Premier of a neighbouring State:

> Corruption is by its nature secretive and difficult to elicit. It is a crime of the powerful. It is consensual crime, with no obvious victim willing to complain.

That, I think, is the difficulty with the kind of conduct that this legislation aims to direct itself to.

As I said before, saying there is no corruption is as absurd as saying there is no sin, and in this respect I was struck by a tongue-in-cheek letter to the editor of the *Canberra Times* earlier this week. The letter writer, a former senior public servant, was taking the newspaper to task over its backing of the Carnell Government line opposing the idea of an independent commission against corruption in the ACT. “There is nothing in Canberra which could induce impropriety”, the learned letter writer wrote. “There are only extensive land deals, expensive commercial development schemes, substantial incentive grants, lease purpose changes, environmental rulings, zoning decisions, outsourcing contracts, tendering procedures, consultancy arrangements, an incipient drug industry and similar innocuous activities of routine administration”. Mr Speaker, that is very Shakespearian but it is very pertinent, I think, to the point that I am trying to make.

Mr Speaker, today is not the time to go into a detailed explanation of the details of this proposed Bill. I think it warrants detailed examination. In brief, the proposed independent commission will be constituted as a statutory corporation comprising a single commissioner. The commissioner will be appointed by the Attorney-General. He or she must be a former judge, or at least qualified to be a justice of a superior court in Australia, and he or she may be assisted by one or more assistant commissioners. The draft Bill also provides for the appointment of an operations review committee whose function is to advise the commissioner, especially about any action that might be taken in respect of complaints about corruption. A third and most significant provision of the draft Bill is for the establishment of an ethical standards council, comprising members of this Assembly and a number of community members, which is not inconsistent with the recent proposal by the Chief Minister to establish an ethics commissioner, I think.

Mr Speaker, a lot of work has gone into this draft Bill already. Given its intricacy and, I grant, its controversial nature, a great deal more work is probably yet to be done, which is why today I am presenting an exposure draft to the Assembly, and which is why I have disseminated it widely, including to anti-corruption bodies in other jurisdictions. I expect that this Bill will have a long gestation period and that people will fully understand every aspect of it before it is even debated in this place.

The Carnell Government and the *Canberra Times* aside, the responses I have received by mail, email and phone over the past two weeks have been uniformly positive. Indeed, some correspondents have emphasised the urgency of the need for such a powerful investigatory body in the ACT, complementing those similar bodies in neighbouring jurisdictions. Regrettably, as I predicted, the response from our Attorney-General and our Chief Minister has been, shall we say, lukewarm, but I am more inclined to take note of comments from eminent individuals like the retiring Auditor-General of New South Wales and his counterpart in Victoria. Official corruption, they inform us, is rife. It is going on, as we speak, behind closed government doors, according to those officials, and, as I have said before, I do not see why the ACT is any different to Victoria or New South Wales. I repeat:

> Corruption is by its nature secretive and difficult to elicit. It is a crime of the powerful. It is consensual crime, with no obvious victim willing to complain.

To get at this cancer and to protect our community, I believe we must have in place the appropriately powerful investigatory mechanisms, and it is noted, in essence, Mr Speaker, by having such things as pricing regulation commissioners and discrimination commissioners. They both serve a useful purpose, and I believe so will this proposed commission.

The proposed Bill, which I have now tabled, will in due course be the subject of a true Bill, which I hope to table later this year, and it seeks to achieve the desirable end of having a powerful investigative mechanism in place to protect our community. Mr Speaker, I will commend it, when the time comes, to the Assembly. Thank you.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (10.56): Mr Speaker, I rise to indicate the Government's very serious reservations about the motion and about the Bill which Mr Kaine has tabled today. Mr Kaine said he found the reaction of the Government, particularly from me, quite predictable in that we were very lukewarm about his proposal. I think he failed to mention that there were others who were very lukewarm about the proposal as well, not just on this side of the house but also in other places such as the *Canberra Times* that he quoted before. The reason that he would have expected people to be lukewarm about it is the very many serious concerns that would be raised about the proposals that he has brought forward.

Mr Speaker, let me start though by trying to set a scene for this debate. It is an easy thing to make allegations in this place. All of us are aware, after sitting in this place for a relatively short time, that we have immense power to be able to say things and to have those things reported in the media; to have our views aired and our slightest comments, our throwaway remarks, our smallest contributions to a debate or to an interview, reported in television and radio bulletins and in the pages of the *Canberra Times* and other publications. I think, over a period of time, we develop a sense of caution about how we use those powers to make accusations, to accuse people or institutions, and use the privilege of this place to say things with immunity for the consequences that other people face when they say them out on the street or in other places. Therefore it concerns me greatly to hear Mr Kaine, who has been in this place for 10 years, and its predecessors for periods before that, talk about such things as the creeping cancer of corruption, disturbing revelations of corrupt behaviour and so on in a speech to the Assembly, but not put a single instance of such corruption before the Assembly.

**Mr Berry**: He doesn't have to.

**MR HUMPHRIES**: Mr Speaker, I argue that Mr Kaine does have to because he puts a motion before the Assembly which says:

> That the Assembly notes the need to legislate for the establishment and operation of an independent statutory body to investigate matters of official corruption ...

Where is the need? Surely, under privilege, Mr Kaine would have the capacity to indicate even one or two examples of corruption, official corruption, to give us the meat on which we might dine in this exercise.

Mr Kaine made reference to the situations in New South Wales and Queensland where such bodies have been established. It is quite appropriate to refer to those places because in those States there were very serious problems with corruption. The New South Wales Independent Commission against Corruption was established against the backdrop of the imprisonment of a former Chief Magistrate, Mr Clarrie Briese, and a former Cabinet Minister, Rex Jackson. There were trials of senior officials and the controversy surrounding the circumstances of the discharge of the Deputy Commissioner of Police at that time in that State. There was real public concern about institutionalised police

corruption. There was a real stench to do with corruption in the State of New South Wales. Everybody who had any involvement or any contact with public administration knew that there was corruption in New South Wales.

Similarly, in Queensland, the Queensland Criminal Justice Commission was established against a backdrop of prosecutions and convictions of members of the Government and senior police, the Fitzgerald inquiry and so on. Those things were evident. Everybody knew that things were rotten in the State of Queensland. There were more than enough examples for politicians and the like to be citing when the opportunity arose.

It disturbs me that someone has chosen to put the ACT in the category of New South Wales, a la 1985, and Queensland about the same period, a la the Joh era, when in debates in this house in the last year, or two years or three years, there simply have not been allegations of that kind made in the context of debates on this subject or in any other context. There have been plenty of opportunities where we might make those sorts of allegations; such as at the height of the VITAB inquiry, for example. It would have been extremely easy for members of the then Opposition to allege that some people had their hands in the till. Not only was there a problem with the waste of public money over a failed offshore betting agency, but also someone was on the take. There must have been some money flowing back to some officials or politicians out of all of that.

**Mr Berry**: There was no waste of money then, Gary. That happened later.

**MR HUMPHRIES**: And that allegation was never made, as Mr Berry would well know. He knows that was never made. No-one made those allegations because there was no substance to them. No-one doubts that those involved at the level of government acted with complete propriety about the matter, if perhaps with some foolishness**.** The same thing could be said about any of the other debates we have had about things that have gone wrong in the last few years. Bruce Stadium has been a matter of considerable concern to the Assembly. No-one has seriously suggested, I believe, that anybody in the Government or the bureaucracy has been taking money or acting corruptly in respect of Bruce Stadium. Again, perhaps people would say they acted foolishly.

**Mr Quinlan**: Arrogantly perhaps.

**MR HUMPHRIES**: Even arrogantly, I hear. I have some option for descriptions of that kind, but no-one has said that there is corruption there. But we have now an accusation from Mr Kaine that we have corruption in the ACT; that there is a creeping cancer; that there are disturbing revelations. What are the revelations? What has been revealed?

There was a time when we had allegations of corruption in this Assembly. That, unfortunately, goes right back to the very first Assembly at the time when Mr Collaery was in this place and made a very large number of allegations of corruption. At that time members of this place, particularly members of the Labor Party who were in the firing line of those claims, were quick to pour scorn on those suggestions, and the government of the day, the Labor Government, was joined by the Liberal Opposition. I want particularly to quote the then Leader of the Opposition, Trevor Kaine, MLA, in reference to a particular suggestion that there was corruption which needed to be investigated by some kind of high level inquiry. He said this:

> I do not accept unsubstantiated allegations that public servants in the ACT administration have been, or are, corrupt … I think it is unfortunate that the committee will be born -

this was the suggested committee from Mr Collaery, as I recall -

> under allegations of corruption on the part of certain public officials. I think it would have been better, if it is thought that corruption exists, to have put the evidence on the table, to have had it properly investigated - if necessary by the Australian Federal Police. But simply to keep asserting, without producing any evidence, that corruption exists, I think is unfair, and I would go almost so far as to say that it is improper, certainly from a member of this Assembly.

Mr Speaker, what difference is there between what Mr Collaery did at that time and what Mr Kaine is doing now? One difference is that Mr Collaery was making reasonably specific allegations at that time about particular people. Mr Kaine is not making specific allegations, but I do not believe that is any reason to view any more kindly the basis on which Mr Kaine has brought forward the suggestion that we should be setting up an ACT ICAC because at least Mr Collaery, however misguidedly, as I think it was, was putting forward what he believed were allegations of corruption. Mr Kaine has not put forward any allegations of corruption. He has talked of disturbing revelations, but he has not substantiated them. In fact, he has not even documented or referred to any revelations.

I do not mind if there is an allegation which comes forward which cannot be substantiated by a person who makes it. In a sense there are times and there are places for such things to take place. Sometimes it is the duty of a member of this Assembly to make an assertion which they cannot substantiate at the time that they make it. Let us face it; it happens all the time. But, Mr Speaker, we have not had even that today. We have not had allegations without substantiation. We have not even had any allegations. We have had no assertions of particular instances of corruption. Mr Speaker, I think this is a very dangerous exercise and I think that we should be very careful.

Mr Kaine made reference to the creeping cancer of corruption. A cancer is treated by chemotherapy, but chemotherapy is a pretty devastating form of treatment and it does great injury to the people who undertake it. The side effects are quite severe, such as hair loss, loss of weight, severe sickness, nausea and so on. Mr Speaker, you would not subject a patient to chemotherapy if you were not convinced that they had cancer, but Mr Kaine is asking us to do that. He is asking us to impose a form of chemotherapy on the ACT without the evidence of there being that cancer, and that is a very serious concern.

Mr Speaker, the situation in New South Wales and Queensland was substantially different, as I said, from what it is in the ACT today. There were frequent allegations of corruption in those States. There was, moreover, a very strong public perception of corruption. I do not think I speak with any naivety or any sense of defensiveness about

the government of the day, and I apply these comments equally to the previous government, but I do not believe there is any suggestion of that in the ACT. There is not one suggestion of it.

Those who have joined the fray on Mr Kaine's part in the last few weeks, people who have been participants in other debates in the past and perhaps have been a little bit burnt by that, have supported the need, but again have not substantiated any suggestions. We had one correspondent saying, "I know of lots of cases of this". That person has been challenged subsequently to substantiate such cases and has not been able to do so, as far as I am aware, Mr Speaker. But those people are a very small number of people in respect of this debate. I do not believe that they represent the view of the majority of people in the ACT.

Mr Kaine, I think, has also misled the Assembly about the absence of appropriate investigating bodies in the ACT at present. He said there is no powerful investigating body in the ACT. That is nonsense. There is a very powerful body. In fact, there are several very powerful bodies, Mr Speaker. One of them is the body that he and others have relied on very heavily in recent days to investigate matters concerning the Bruce Stadium affair, and that is the Auditor-General. Mr Kaine has felt that that is a particularly powerful and appropriate body to be looking at these matters, yet apparently he also feels that it is not sufficiently powerful to investigate matters of corruption. If the Auditor-General were to uncover instances of corruption in respect of the Bruce Stadium, and I am confident that he will not, does Mr Kaine believe that he would be unable to properly bring that to the public's attention, or unable to highlight that appropriately in his report to this Assembly? I am sure that thought would not enter Mr Kaine's head. Nor would it enter the heads of anybody else who is observing this debate today. So why is the assertion made?

Of course, we have the Australian Federal Police. As Mr Kaine said in 1989, almost exactly 10 years ago:

> I think it would have been better, if it is thought that corruption exists, to have put the evidence on the table, to have had it properly investigated - if necessary by the Australian Federal Police.

Now, there is your powerful investigating body. We also have the Ombudsman. We also have a number of other bodies, such as human rights officers, the Privacy Commissioner and other people who have powers to investigate and to make reports in an independent way. Why do we think that any of these bodies are inadequate for that purpose? Mr Kaine has not explained why any of those bodies are inadequate. He thought that the AFP was adequate in 1989. What powers has the AFP lost in 1999 to render it not the "powerful investigating body" that he thought it was 10 years ago? I do not know.

Mr Kaine quoted a former New South Wales Premier talking about corruption, but he did not name that particular former New South Wales Premier. I think I would be right in suggesting that the former New South Wales Premier was Mr Greiner. Mr Greiner's view about the Independent Commission Against Corruption would be very different today from what it might have been a few years ago. *(Extension of time granted)* People

saw very clearly there the extremely dangerous situation that occurs when allegations are made and people are tried and judged without proper evidence, and decisions are made before a full assessment of facts is made in an appropriate forum. Mr Greiner lost his premiership in circumstances that I think anybody would describe as being extremely unfair.

Mr Kaine says we should follow New South Wales and Queensland because, if they have corruption, we must have corruption. Let me ask him this question: If they had those sorts of results from their ICAC, why would we not have those sorts of results in the ACT as well? I would like to hear him answer that question.

Mr Kaine says a lot of work has gone into this draft Bill, but, with very great respect to the people responsible for drafting it, that does not appear to be entirely evident from the document before us. In fact, this draft Bill demonstrates a considerable amount of sloppiness in its drafting. As I started to read it, first of all I was appalled that so much time and effort had gone into the drafting of an exercise like this when I had some serious doubts about whether it would be passed by the Assembly. I was thinking of all the time that had been diverted from other tasks in creating this.

Then I was appalled by the mistakes that I started to see in the legislation, and I realised that this was not drafted by ACT Parliamentary Counsel at all. In fact, someone has taken the New South Wales ICAC Bill and simply changed the names as appropriate, or, in some cases, as inappropriate, because, Mr Speaker, there are all sorts of errors and omissions in this piece of legislation. There is reference, for example, to there being complaints that are made to the Commissioner of the Australian Federal Police, ACT Region. There is no such person as the Commissioner of the Australian Federal Police, ACT Region. Mr Kaine surely knows that. Mr Kaine is on the Justice and Community Safety Committee. Did he not read the draft Bill before he tabled it in this place?

There are other mistakes in here. We have references to the Removal of Prisoners Act 1968 and the New South Wales - there is a give-away - Prisons Act 1952. I understand that at least one of those two Bills has been repealed. It does not exist any more. There are references to Justices of the Peace employed in the Attorney-General's Department. First of all, as Mr Kaine well knows, because his committee shadows my department, there is no Attorney-General's Department in the ACT. There is a Department of Justice and Community Safety. As he probably also knows, there is no such thing as Justices of the Peace employed in that form in that department. This Bill is replete with errors of drafting. Someone who has put this together has not bothered to check whether the ACT is actually the same as New South Wales. So, I am sorry, but I dispute the assertion that a lot of work has gone into this draft Bill. If there has been a lot of work, it has been not particularly astute or attentive to detail.

Mr Speaker, I think Mr Kaine, if he is reading the pages of the *Canberra Times*, would be better advised to read the editorial of the *Canberra Times* that appeared on 16 August. The *Canberra Times* has been very quick to point the finger at particular people, particularly governments of the day in the past, when it has perceived that there has been an error or mistake on the part of public servants or someone has got something wrong. It has been very quick to do so. We have all felt the brunt of criticism in the *Canberra Times*. We all know of circumstances where there have been unfair

comments made in the *Canberra Times* and we have been accused of something which we were not really responsible for or whatever, so it would be very easy for the *Canberra Times* to support an allegation that corruption is a problem in the ACT; but, to its credit, it came in quickly in response to Mr Kaine's Bill and said in an editorial:

> The ACT does not need an Independent Commission Against Corruption, whatever United Canberra MLA Trevor Kaine might think.

It goes on to say:

> Mr Kaine himself rejected the concept when he was chief minister back in 1990, saying he didn't see a sufficient level of public concern with official decision-making to warrant such a body. All that has changed, he says. Correspondence to his office indicates a growing concern that government decision-making is not open to review.
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> It could well be, of course, that the reason Mr Kaine perceived so little public discontent when the issue was raised back in 1990 was that he was then *part* of the decision-making elite. Now that he is so far on the outer and such a public critic of his former Liberal colleagues, it is little wonder that the nature, tone and content of the correspondence received in his office has changed. Whether the scale of community dissatisfaction or alarm is truly any greater now than it was back then is a moot point. Perhaps only the targets have changed.

Mr Speaker, I will quote the last paragraph as well. It says:

> Mr Kaine would be better off tackling manageable reforms to government process. That is where the change is needed, and that is where it is achievable.

Perhaps that is also a fair comment.

Mr Speaker, I simply indicate to this Assembly that it is dangerous and unbecoming for us to break out a fresh set of allegations when we feel that we need to ratchet up a particular debate or add meat to a particular attack that might be launched against a particular government or whatever on the basis that we have a need for more ammunition and this is the handiest box we can turn to. It is a very dangerous thing, particularly when, in a sense, we take the good name of the ACT in vain in those circumstances.

By saying that this place is corrupt we are casting an aspersion on this community, on the public servants who serve us, on the people who have been elected to this house, and on others who have served this community in a variety of ways in public and non-public roles. There is no need to do that in order to support a piece of legislation. It should be supported on the basis of its strength and the evidence put to the Assembly about its need.

I hope Mr Kaine will use the opportunity of this debate either to clarify and put on the table his allegations of corruptions, if he has any, or to withdraw any suggestion of corruption that he might have made, as he has already done in respect of the Australian Federal Police. That would be, I think, a statesman-like thing to do, and I think, Mr Speaker, it would be good for us to be able to indicate that we have not yet had demonstrated, and the onus falls on Mr Kaine, a need for an ICAC in the ACT, which is what this motion refers to.

**MR STANHOPE** (Leader of the Opposition) (11.18): I had not intended to take the time to speak to this issue today, but, in the context of the very long presentation that the Attorney-General has made, perhaps it is appropriate that I say a few words. To some extent I think Mr Humphries' speech has been an endorsement of the fact that Mr Kaine has moved his motion for the purpose of allowing an exposure draft for the creation of an ICAC to be tabled and to generate Assembly and community debate on a matter of significant importance, namely, the arrangements that we have in place in the ACT to deal with allegations of corruption or misuse of power.

I share many of the concerns that have been raised by Mr Humphries, and I will not beat around the bush about that. I am not sure, as I stand here, that I or the Labor Party will support Mr Kaine's proposal. I am yet to be convinced, even on the question of the resources that the establishment of a self-standing commission against corruption would demand, that such a response to the sorts of concerns that Mr Kaine is raising is justified. But I have no fear of the debate.

I think it is probably very healthy for a community from time to time to look at and to debate its capacity to deal with allegations of corruption or allegations of the misuse of power. Of course, it is easy to stand here and say, "Look, put up or shut up. Tell us where the corruption is or withdraw from the field. How dare you raise the suggestion that we have an independent commission against corruption if you are not prepared at the same time to lay on the table those allegations that you think demand the creation". That is just a classic head-in-the-sand response. It is a bully-boy tactic in a way.

I am sure there are millions of residents of New South Wales and Queensland these days who look at the appalling corruption that was endured in Queensland and New South Wales and now say to their governments, their parliaments and their elected representatives, "Why didn't you do something at the height of that behaviour?". All of us now look back at the activities of respective governments in New South Wales and Queensland. We have looked back at what has been uncovered by the police royal commissions in New South Wales and we say, "How did those elected representatives, those parliaments, deal with that issue? Did not a single politician at any time stand up and say, 'What are we as a parliament going to do about this?'".

**Mr Moore**: John Hatton said it on many occasions.

**Mr Humphries**: Yes, there were many people who said it in those parliaments.

**Mr Smyth**: There were many people who said it.

**Ms Carnell**: That is because there was evidence.

**MR STANHOPE**: They did it and nothing happened.

**Mr Moore**: They put up evidence.

**MR STANHOPE**: But nothing happened, and we endured decades of the most appalling corruption and misuse of power. So from time to time it does not hurt to consider the issue; to look and see how we respond to these issues; to look and see how our laws have developed and are being administered, and how governments are operating.

Just in the context of how governments operate, operations do change. It is more difficult these days to utilise the Freedom of Information Act to obtain information about government activities. We have such a situation in this place at this moment. This Assembly asked the Government to table a range of documents in relation to Bruce Stadium and the Government flatly refused to do it. There is a motion of this house, I think dated last May, asking this Government to table a range of documents dealing with some contractual aspects at Bruce Stadium. The Government has said, "You cannot have them". The Government says, "They are commercial-in-confidence; you cannot get them". The Government responds to an FOI request by saying, "These documents are covered by a whole range of exemptions. You are not entitled to see the original tenders for the project management of Bruce Stadium". In an environment where the Government simply refuses to respond to a motion of the parliament that it table documents and refuses an FOI request to reveal documents, one is entitled to ask, "Are our processes adequate to scrutinise the activities of government?".

I simply use that as a very pertinent and recent example. Are our processes adequate to scrutinise all the activities of government? Obviously they are not when the parliament passes a motion requesting the Government to table documents and the Government just says, "No, you can't have them. You, the parliament, are to be denied access to these documents". That is what this Government has done. Then you stand up here today and say, "Look, all of our processes are adequate. We can be scrutinised. Just trust us. There is no corruption; just trust us".

Yes, that is what this Government is saying, and in that environment it is appropriate that we investigate how we do deal with these issues; that we consider whether all of our laws are appropriate; whether the organisations we depend on, such as the Auditor-General, the Ombudsman and the Australian Federal Police, are appropriately resourced; whether or not their powers are adequate, and whether or not there are some adjustments that we can make. I am quite happy about that and I look forward to that debate.

As I said, I am not sure that Mr Kaine's approach is appropriate, and I am not at all sure that the Labor Party will be supporting it. However, I am more than happy to look at his exposure draft. It is an exposure draft, and to simply make some minor criticisms of the style of it and about whether or not it has a few typos in it is really to miss the point completely. It makes one wonder whether the Government is prepared to look at the issue seriously at all. To make those sorts of nitpicking and puerile points about the

quality of the exposure draft really just misses the point completely. The Labor Party is certainly happy for Mr Kaine to seek to lead a debate on the need for this. He will have a hard row to hoe to convince the Labor Party that it demands the Labor Party's support, but we are quite prepared for him to seek at least to make his case.

**MR SMYTH** (Minister for Urban Services) (11.26): Mr Speaker, for the benefit of some here, I will read the motion. It says:

> That the Assembly notes the need to legislate for the establishment and operation of an independent statutory body to investigate matters of official corruption in the Australian Capital Territory.

**Ms Carnell**: Mr Stanhope said he has not been convinced it is needed. He will have to oppose it.

**MR SMYTH**: Mr Speaker, it is curious that the Leader of the Opposition would stand when there is such a serious motion on the table and say, "Well, look, I'm not prepared and I really wasn't going to speak". What does the Labor Party stand for? What are they going to do later today when we have to vote on this issue? This motion says that there is a need to legislate. What Mr Kaine is proposing here is a solution looking for a problem. There is no evidence of a problem. Mr Stanhope says, "How dare the Attorney-General get up and raise these points. How dare you do that. We are here to facilitate a debate". But that is not what the motion says. The motion says there is a need to legislate to investigate matters of official corruption.

Mr Speaker, this is a slur on the entire community that is Canberra. Canberra is a very compact community. Canberra is a very tight community and Canberrans, more than any other community in this country, know what is going on in their city. The networks that operate in the ACT are some of the most effective. Why are they effective? They are effective because we are a very well-educated body of people who deal with this material every day. Canberrans deal with legislation. They deal with government. They know what is right and wrong. They know how the system works. They know that we have an Auditor-General, they know that we have the right to conduct inquiries, and they know that we can set up royal commissions should there be a need. Mr Kaine claims that this is not to be a star chamber or an inquisition, but what he is proposing is a solution to a problem that does not exist.

Mr Stanhope said, "How dared the governments of New South Wales and Queensland tolerate official corruption. They should have done this long before". He said that nothing was done. But, as Mr Moore pointed out, Mr Hatton, for instance, in New South Wales called long and hard. There were voices there and when appropriate they should have been acted upon. But there are no voices here. There is no corruption here.

Mr Kaine says, "I have spoken to lots of the people in the community and apart from Kate Carnell and the *Canberra Times* everybody is in favour of it". Well, I have spoken to a lot of people who are really upset at the slur that he cast, particularly police officers.

They took it as a personal affront that he would suggest that there is corruption. It is a well-known and well-respected police force that we have here in the ACT. We have to distinguish between the community that is Canberra and what Canberrans will tolerate as a community and what happened in other States.

In other jurisdictions where corruption commissions were established there was clearly a need. There is no need here, Mr Speaker. For instance, the New South Wales ICAC was established against the backdrop of the imprisonment of a former Chief Magistrate, Clarrie Briese, and a former Cabinet Minister, Rex Jackson, and there were trials of senior officials and controversy about the circumstances of the discharge of the Deputy Commissioner of Police. Public concern about institutionalised police corruption was such that even with an ICAC in place there was then a royal commission.

In Queensland the Criminal Justice Commission was established against a like background. There were prosecutions and convictions of members of the Government and senior police. The Fitzgerald inquiry looked at all those issues. But what do we have here? We have a solution looking for a problem. We have something that is trying to create a smell, something that is trying to taint a community in which this level of corruption does not exist.

You would think, Mr Speaker, that when someone puts a motion on the table saying that the Assembly notes the need to legislate, we would get evidence. You would think there would be public outcry and that you would hear reports. Given that we have legislation protection and we have people in Canberra who are often willing to come forward and point out failings of government or corruption, where are all these reports that obviously should be in the *Canberra Times*? There are none. The opportunity to put one or two cases on the table to create a sense that there is an epidemic of crime or corruption out there was not taken by the man that puts forward this legislation. Why? Because he cannot. It just is not there.

Canberra is a very special community in respect to our knowledge and our understanding of the law, and all the MLAs here could testify to the willingness and the keenness, in some cases, of their constituents to come forward and point out the failings of the system. I am certainly not being inundated by those.

Mr Kaine called it the creeping cancer of corruption. We all know how cancer is treated, Mr Speaker. Cancer is treated by a couple of means. You ignore it, you give it a dose of chemotherapy or you hit it with surgery, or you use a combination of all of those. There is nothing to ignore here, Mr Speaker, because there is no hint of a creeping cancer. Where is the side effect of this cancer that is pulling our society down? Where is the side effect of Trevor Kaine's creeping cancer of corruption that is destroying the moral fibre of the people of the ACT, of its police force and of its public servants? Mr Speaker, it does not exist. But Mr Kaine wants to issue to us as a community a dose of legislative chemotherapy to fix something that does not exist. We all know that, like chemo, the cure is often worse than the disease in terms of how it affects you. We know about the sickness, the weight loss, the hair loss and all those other horrible side effects. We know about the miserable time that people go through when they are under chemotherapy. But Mr Kaine is willing to dose up the ACT with his legislative chemo.

I think this is simply an attention grabber. He wants to create the taint. He wants to create the smell. He wants to force the people of Canberra to put up with something that does not exist. Mr Speaker, it is terrible.

What is even more terrible is the blatant toadying of the Leader of the Opposition, who is willing to suck up to Mr Kaine because they need his vote, in saying, "We will consider this". If Mr Stanhope thinks there is anything that indicates that there is official corruption in the ACT, he has the right and the protection of this place to stand up and say so, and he should. But what was Mr Stanhope's opening line? He said, "Well, I wasn't actually going to speak on this. The Labor Party hasn't a position on this. We are not sure what we are going to do". He then says to the Attorney-General, "How dare you criticise Mr Kaine for what he's doing". Mr Speaker, it is terrible.

Mr Stanhope's allusion was that there is some sort of corruption because we will not release some documents. Well, we have given them to the watchdog. How many watchdogs do you want? How many levels do you need to protect the special society that is Canberra? The Auditor-General has those documents. The Opposition knows that there are certain documents under certain categories that are given in-confidence, and we have processes and procedures in place to protect that confidence so that society can continue.

Who in their right mind would want to deal with a government that throws its private and commercial documents willy-nilly across an Assembly? Business and individuals are entitled to a level of protection, and certainty of that protection, but that is not what is before us here today. We have done the right thing. We have sent the Bruce Stadium documents to the Auditor-General. We have given them to the watchdog, and we will await that decision.

You have to consider the issue here, Mr Speaker. The issue here is that Mr Kaine's motion says that the Assembly has to note the need to legislate. Well, let us hear what the need is. Let us have the evidence that suggests, shows, alludes to or, hopefully, proves there was corruption because where it is found we will stamp it out. What we have is nothing but a hint. What we have is a smell that is turning into a bad odour in that Mr Kaine says that we need to give the ACT a dose of legislative chemotherapy to treat a problem that he cannot even prove exists. Now, that does not mean that we will ignore corruption where we find it. There are obviously instances where individuals will perform acts that are unacceptable. When they are caught they are prosecuted; they are dismissed or they are treated within the law. But, Mr Speaker, there is no such hint of an epidemic of corruption in the ACT. If there was we would all know of it. There is no allusion.

On behalf of the police, I would have to say that the Australian Federal Police is widely regarded across the country as a clean police force. It is already subjected to scrutiny by the Ombudsman pursuant to the Commonwealth's Complaints (Australian Federal Police) Act 1981, Mr Speaker, and all police officers should be aggrieved. I hope the Opposition spokesperson for policing issues stands up and loudly makes his claims of support for the AFP, because Mr Kaine needs to hear that.

Mr Speaker, there is no evidence of widespread or even sporadic official corruption. Given the size of the ACT and the level of scrutiny to which the ACT administration and governance is exposed constantly daily, every year, it would be impossible to conceal corruption in this city. What we have here is an attention grabber. What we have here is innuendo and accusation without any substance. What we have here, Mr Speaker, is an attempt by Mr Kaine to slur the Territory. He should withdraw his draft legislation. He should withdraw this motion because it is inappropriate.

**MR OSBORNE** (11.37): I must admit to being a little bit perplexed at the wording of this motion. I have had discussions with Mr Kaine about his idea and I have indicated to him that I have no problem with any member raising any issue in this Assembly. If he wants to raise this issue, fine. If he wants to have a look at it within committee, fine. I would be happy to assist and that is what I have indicated to Mr Kaine.

I have to say, though, after seeing the wording of this motion, that, if I was forced to vote before there had been any investigation by the committee or before the legislation is even on the table, I would vote against it because it says quite clearly that this Assembly notes the need to legislate for the establishment of this body. Quite clearly, there has been no thorough investigation, nor any acknowledgment by a majority of members in this Assembly that there is a need. Dare I suggest, perhaps, that a bit of Mr Kaine's mischievous nature is shining through here in wanting to have this motion supported today, but I could not do it. We have seen the exposure draft but we have not had the legislation tabled, let alone had a proper look at it, so, if forced to vote today, I would vote against it. I understand, though, that the Labor Party wish to adjourn this debate. If that is the case, that is fine, but I must admit to being reluctant to support a motion worded the way that Mr Kaine has worded this one.

**MS CARNELL** (Chief Minister) (11.39): Mr Speaker, I think many of the things that needed to be said today have been said, but I would like to add just a few things to the debate. I think it is important to restate, as Mr Smyth did, what exactly Mr Kaine's motion says. The Assembly, if it supported this particular motion, would agree that there was a need to legislate for the establishment and operation of an independent statutory body to investigate matters of official corruption in the Australian Capital Territory. Mr Stanhope certainly indicated that he was not convinced there was a need to legislate. He said his mind was open and he was happy to have the debate, but he was not convinced that there was a need to legislate. Therefore, you would assume that the Labor Party would oppose this motion.

Similarly, look at what has happened since self-government with regard to allegations of corruption. There have been allegations, as Mr Humphries has said. In some of the letters that we have seen in the *Canberra Times* there have been allegations of corruption in areas such as land deals and planning approvals. Well, some of us certainly will never forget the Stein inquiry. I am sure that Mr Moore and others who were here will not forget it because we did have an inquiry into exactly those things. Stein asked for evidence to be produced in a very free-ranging fashion to substantiate the allegations that had been simmering, shall we say, in the ACT since self-government.

**Mr Berry**: What about the contracts for Bruce Stadium? Why don't you give them to us?

**MS CARNELL**: What happened as a result of the Stein inquiry? No evidence. There was no substantiated evidence of corruption, even after we had had an inquiry. Similarly, when Mr Collaery brought allegations of corruption early on in the first Assembly, no substantiated allegations came forward. As we know, in this Assembly we have a capacity to have an inquiry under the Inquiries Act. We have a capacity to have a royal commission. Both of those entities have very wide-ranging powers to request information, to take evidence, or to subpoena witnesses - all of the sorts of things that an ICAC or a CJC or whatever we want to call it would have; yet no member of this Assembly has put forward a request or a requirement for an inquiry under the Inquiries Act into anything.

Those opposite made some comments on Bruce Stadium, and Mr Berry did it again a minute ago. They have every capacity, if they want to and if they believe that there was any corruption or any misuse of funds, to bring forward an inquiry under the Inquiries Act if they have any evidence of wrongdoing. The fact is there are no allegations of corruption or wrongdoing with regard to Bruce Stadium. There are not even any allegations, Mr Speaker. That is where it comes down to, a balance, as it always is in any parliament - a balance between the evidence of need and the cost of any proposal.

I think it is important to look at what ICAC costs in New South Wales to the taxpayer. I think last year it cost $15m. In Queensland it was $20m last year. Now, that sort of money would not be a problem if it actually produced outcomes, but remember that that is $20m or $15m that is not being spent on health or education. So you have to be confident in any parliament if you go down that path. Even if you assume that in the ACT it only costs $5m, what could we do in police for $5m, Mr Humphries? For a start we could have more police out there on the beat making our society a safer place. What could we do in health? We could have - - -

**Mr Quinlan**: Five thousand seats at Bruce.

**MS CARNELL**: Absolutely. All of those things are benefits to the taxpayer, whether it be a sporting stadium, whether it be disabilities, mental health, police or education. On the other side of the agenda, nobody has put forward any benefit to the community generally as a result of this proposal because there are no allegations. This is truly silly. From Mr Kaine's perspective, I have to say you really wonder about the politics. Mr Kaine was Chief Minister of this place. Where was the proposal then?

**Mr Moore**: Well, where is Mr Kaine now?

**MS CARNELL**: Where is Mr Kaine now? He has gone. Mr Kaine was a Minister. I am sure Mr Humphries would agree that Mr Kaine never put forward a proposal for this sort of legislation. Mr Kaine was a Leader of the Opposition. You can say, "Well, you do not bring forward these things when you are in government", but he was Leader of the Opposition. Did he bring it forward then?

**Mr Humphries**: No.

**MS CARNELL**: No. There was not even a bit of a chat about it in the party room. There was never any view that this was the sort of thing that should be done.

Mr Humphries read out some comments that Mr Kaine had made with regard to Mr Collaery's request for this sort of a body, saying that this should not happen unless there were real allegations and real evidence. That has always been Mr Kaine's view on this. It is the reason he did not bring it forward as Leader of the Opposition or as Chief Minister or as a Minister, so why now? What are the allegations? What is the evidence that makes it different now? Mr Kaine has to come up with those if anybody in this place is to take this seriously. This motion simply cannot be supported because it indicates that there is a need to legislate in an area that will involve significant expenditure.

One of the things that members of this place must take into account is that once you establish an entity like this you can never get rid of it, you can never limit it, and you can never control its budget, simply because it must be at arm's length from the Government. It is looking at official corruption so it has basically an unlimited budget, an unlimited breadth and a life that lasts forever.

You never set up anything like that unless you have evidence because we are entrusted with making sure that taxpayers' money is spent to achieve the best outcome for the taxpayer. In New South Wales and Queensland there was evidence on the table. There was evidence everywhere. There was evidence in the courts of corruption, and therefore the expenditure could be regarded as in the public interest. There is no evidence here and no cases in the court. There are not even any allegations, Mr Speaker. So, as we weigh the costs and the benefit, as we should on every single issue in this place, it is very hard to see any benefit but very easy to see large costs.

Again I come back to the bottom line here. Why has Mr Kaine changed now? He did not ever believe this was important before when he was in a position to implement this approach. You have to come back to thinking that maybe this is really just about politics, Mr Speaker. Unfortunately, this sort of approach could go a long way further than that and it could be quite a significant impact on our budget. It could have quite a significant impact on community services, health, education and police, and all of the other quite significant requirements for money for funding in the Territory.

**Mr Humphries**: Mr Speaker, under standing order 47, may I correct a reference I made in my speech? I referred to Chief Magistrate Clarrie Briese, and I should have referred to Chief Magistrate Murray Farquhar. I just want to put the record straight.

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

## SUBORDINATE LAWS AMENDMENT BILL (NO. 2) 1999

**MR STANHOPE** (Leader of the Opposition) (11.48): I present the Subordinate Laws Amendment Bill (No. 2) 1999, together with its explanatory memorandum.

Title read by Clerk.

**MR STANHOPE**: I move:

> That this Bill be agreed to in principle.

Mr Speaker, this Bill amends the Subordinate Laws Act 1989 to require any subordinate law proposed by a Minister to have been approved by the whole Executive and for one of the signing Ministers to be the responsible Minister. The policy objective to be achieved by the Bill ensures collective and individual responsibility by the Executive for the making or signing of regulations. It is also to ensure that the intention of any Act empowering the Executive to make regulations for the purposes of the Act is first supported by the whole Executive.

I have been forced to do this because the current requirement that any two Ministers who are members of the Executive may sign regulation into effect is being used to breach that clear intention that any two Ministers signing regulations are clearly interpreting the will of the Executive. In addition, the Westminster convention of collective and personal ministerial responsibility is being further undermined by this practice.

The Attorney-General has stated that he intends, with the assistance of the Minister for Urban Services, to introduce regulations concerning an important policy issue, namely, abortion. The regulations are to be made under an Act administered by the Minister for Health, not the Attorney-General or the Minister for Urban Services. The Minister for Health has publicly stated that he will not make any such regulations, and he has further stated that if they are made he will vote against them.

The Attorney-General has also stated that he has no intention of seeking the approval of the Executive in order to make the regulations. He is content with the notion that any two Ministers are, for the purposes of exercising the regulation-making power, the Executive. I believe this is clearly a fiction and has the capacity to completely undermine the checks and balances provided in the self-government Act in relation to the making of regulations.

It is true that the proposed regulations that have prompted my amending Bill cover a policy area that is subject to a conscience vote. If this Government paid any heed at all to the need for members of the Executive or Cabinet to accept collective and personal responsibility for its decisions or actions, then the Attorney-General and the Minister for Urban Services would be legislating by regulation on a conscience issue.

Governments, through use of their Executive power, should not, and indeed cannot, legislate on a conscience issue. They should seek to achieve their purpose in the usual way for such matters by introducing a private member's Bill. What we are witnessing in Mr Humphries' and Mr Smyth's proposed use of Executive power to adjust our abortion law can be interpreted as a crude and crass political manoeuvre to save Mrs Carnell and Mr Moore from the apparent embarrassment that their stand on this issue is causing them.

The Bill requires the Executive to take full and collective responsibility for all regulations in a number of steps. First, an Act of the Assembly must authorise or require the Executive to make regulations. Secondly, the Executive - the whole Executive - must approve the making of regulations. When regulations are made, they must expressly state that the Executive has approved their making. That is, whenever regulations are drafted, the Parliamentary Counsel must be instructed to include a regulation stating that the Executive has approved the regulations. Finally, one of the two Ministers who sign the regulations must be the responsible Minister who is defined as the Minister being responsible for administering the Act.

I am aware that the Administrative Arrangements Order made by the Chief Minister has a general provision allowing any Minister to act for any other Minister. That provision is designed to allow government business to proceed during the absence of any particular Minister. I would expect that if the Minister responsible for administering the Act is present in the ACT then that Minister must sign the regulations. I would not expect the responsible Minister to deliberately absent himself or herself so that some other Minister could sign the regulations. The responsible Minister cannot abdicate his or her responsibility.

I had considered including similar amendments to the Administration Act in relation to other instruments but decided not to proceed with them at this time. Usually the most important government policies are given effect through Acts and regulations, and I am hopeful that through these amendments the Government will accept the need for collective and individual responsibility and that collective and individual responsibility will be enforced in relation to them. That is not to say that other instruments will not be closely scrutinised and subject to disallowance if the Government attempts to use those instruments to avoid its responsibility for important policies.

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

## DISCRIMINATION AMENDMENT BILL 1999

**MR STANHOPE** (Leader of the Opposition) (11.54): Mr Speaker, I present the Discrimination Amendment Bill 1999, together with its explanatory memorandum.

Title read by Clerk.

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

> That this Bill be agreed to in principle.

A Bill on this matter has also been foreshadowed by the Attorney-General. I guess it is regrettable to some extent that there has been a crossing of wires by the Attorney and me. It is just that I had instructed Parliamentary Counsel some time ago on a matter that the Attorney has also decided to support. It is pleasing that there is bipartisan support on the need for legislation to make it unlawful to discriminate against a woman on the basis that she is breastfeeding a child.

I look forward to the Attorney's response to this particular Bill, having regard to his announced intention to legislate on the same subject. It may be that the Attorney would have approached the matter slightly differently than we have in our instructions. That is something that we would be pleased to negotiate with the Attorney on.

Mr Speaker, this Bill makes it unlawful to discriminate against a woman on the basis that she is breastfeeding a child. Breastfeeding is a natural part of life and is to be encouraged. As the Nursing Mothers Association slogan says, "Mothers' milk. Perfect anywhere. Anytime". This Bill will give effect to that slogan and ensure mothers' rights to feed their children, whether they are at home, at work or in some other public place, without fear of discrimination.

Nursing mothers are justifiably proud of their efforts when making the natural choice to breastfeed. In times past, no choice needed to be made. A mother gave birth and then breastfed the baby. In more recent times, mothers were led to believe there was choice between breast milk and prepared baby foods. Breastfeeding was not always encouraged. In fact, many people in the community objected to the sight of a mother feeding her baby in public. This latter attitude was unjust to the mother and the baby, as there are many advantages to both from breastfeeding.

For example, for the baby, breast milk contains all the nutrients that the baby needs for at least the first six months of life. In the first few days the baby receives colostrum, and later breast milk develops. Both contain antibodies that will help increase the baby's resistance to infection. Ensuring that the baby only has breast milk for at least six months may help lessen allergy problems. Breastfed babies have a higher resistance to disease and are less likely to become sick. Apart from the health benefits, this means fewer doctors' visits and less time in hospital. Breastfeeding has been shown to reduce the risk of SIDS. Breastfeeding may lower the risk of developing diabetes and reduce the incidence of heart disease.

For the mother, breastfeeding is normally easy and convenient. Breastfed babies have instant, pre-warmed, ready-to-serve food available wherever the mother goes. Ongoing research is showing that breastfeeding may lessen the incidence of cancer of the breasts and ovaries, heart disease and osteoporosis in the mother. Breastfeeding delays the return to menstruation. Breastfeeding helps the body return to its pre-pregnant state more quickly. Many women also find they lose excess weight when breastfeeding.

This Bill does not promote breastfeeding - that is the task which the Nursing Mothers Association does well - but the Bill will prevent discrimination against what can be seen as a preventive health policy that will result in reduced health care costs in the long term. In addition, breastfeeding is friendly and poses no cost to the environment in terms of production and is to be encouraged. Mr Speaker, I commend the Bill to the house.

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

## CHILDREN'S SERVICES AMENDMENT BILL (NO. 2) 1999

**MR STANHOPE** (Leader of the Opposition) (11.59): Mr Speaker, I present the Children's Services Amendment Bill (No. 2) 1999, together with its explanatory memorandum.

Title read by Clerk.

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

> That this Bill be agreed to in principle.

This Bill changes the age of criminal responsibility in the ACT from eight to 10 years of age. Apart from Tasmania, the ACT is the last jurisdiction in Australia to do this. In Australia's first report under article 44(1)(a) of the United Nations Convention on the Rights of the Child in December 1995, it was stated that a model criminal code would be developed for application in all jurisdictions. Under the model code, the age of criminal responsibility was to be standardised at 10 years or more. The new age in relation to Federal offences came into effect on 16 September 1995. In New South Wales, Queensland, Victoria, Western Australia, South Australia and the Northern Territory, the age of criminal responsibility is set at 10 years.

The Government has not brought forward a Bill to change this age limit within the past 3½ years. I note that even in the Children and Young People Bill 1999 introduced on 1 July the issue has not been addressed. The Minister has in fact said that he hopes to be in a position to be able to announce the measures for consultation with the community on wider reforms within the next 12 months. While the Minister is taking 12 months to prepare announcements for measures for consultation, we have acted to ensure that eight- and nine-year-old children are not forced into the criminal justice system.

Such young children deserve better than to be branded as somehow criminal. Whatever their age, the notion is that the best interests of children and young people should be the paramount consideration for all decision-makers, including parents. It cannot be in the best interests of eight- and nine-year-olds to be placed before the court. Such young children are more properly disciplined within the context of appropriate parenting or, if for some reason the parents are incapable of doing that, under the jurisdiction of welfare officers rather than the criminal justice system.

Mr Speaker, the Bill does provide for the arrest of a child under the age of 10 but only for the purpose of taking the child back to its parents or to some other suitable person. This is the current provision for children under the age of eight years. This Bill also changes the age at which documents may be served on the child notifying him or her of proceedings for a declaration that the child is in need of care. It has often been acknowledged that adults have difficulty in understanding documents commencing legal proceedings, so it seems inappropriate that children as young as eight be served with them.

The Bill does not amend those provisions of the Act relating to when a child voluntarily enters a place of safety. There will still be a requirement that the occupier or person in charge at that place seek the child's permission to contact a parent or other guardian. This is to ensure that the safety of the child is not unnecessarily jeopardised.

Mr Speaker, I put the Government on notice that I expect my reform in relation to the age of criminal responsibility to be carried through to the Children and Young People Bill 1999. If the Government does not amend its current draft of the Bill, I will be pleased to do so.

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

## LONG SERVICE LEAVE (CLEANING, BUILDING AND PROPERTY SERVICES) BILL 1999

Debate resumed from 30 June 1999, on motion by **Mr Berry**:

That this Bill be agreed to in principle.

Question (by **Mr Smyth**) put:

That the debate be adjourned.

The Assembly voted -

| *AYES,* 6 | *NOES,* 8 |
|---|---|
| Ms Carnell | Mr Berry |
| Mr Cornwell | Mr Hargreaves |
| Mr Hird | Mr Kaine |
| Mr Humphries | Mr Osborne |
| Mr Moore | Mr Quinlan |
| Mr Smyth | Mr Stanhope |
| | Ms Tucker |
| | Mr Wood |

Question so resolved in the negative.

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

Leave not granted.

**Suspension of Standing and Temporary Orders**

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

> That so much of the standing and temporary orders be suspended as would prevent Mr Humphries making a statement on the management of Assembly business.

I have to indicate that the Government is gravely concerned about the way in which the management of business on the floor of the Assembly has gone in the last few days. Unfortunately, it is a reflection of what was occurring over a number of weeks in the last period of sittings. The Government has tried to be flexible about management of business.

**Mr Berry**: I take a point of order, Mr Speaker. He does not have leave.

**MR HUMPHRIES**: I am giving you a preview of what I want to talk about in my statement, Mr Berry, so you know why I need to be able to make this statement. Mr Speaker, we have here the issue of fairness in the management of the Assembly's business. Yesterday the Assembly was confronted with a notice paper which included a reasonable amount of government business. There were four significant Bills on the program - the Environment Protection (Amendment) Bill, the Electricity (Amendment) Bill and two gambling Bills. Other Bills which had been put down provisionally for that date had been put over at the request of members who wanted more time to consider them. We had pared back government business to four Bills.

We had indicated last Wednesday, almost a week before, that the Government wanted to debate those four Bills and asked at that time for an indication of what members views were about those Bills. The night before the debate was to begin on those Bills, we had indications from members that they were not ready to deal with two of them. So the electricity Bill and the environment Bill went off for adjournment maybe to the next day, maybe to the next week, maybe to a date later than that. Half the Government's business went in one fell swoop. Then the only two Bills the Government had remaining on the program for yesterday were further delayed because amendments we had not yet seen came forward. The net effect of that, Mr Speaker, was that in the course of yesterday the Government was not able to deal with any Bills.

Mr Speaker, we acceded to the request to adjourn those two Bills - somewhat reluctantly, I concede - on the basis that members are entitled, within reason, to come back to this place and say, "I am not ready to deal with the Bill", and have the extra time they need to be able to deal with a Bill because some pertinent matter has come forward.

As late as this morning we had a further request from the Labor Party for an adjournment until next week of the tobacco legislation, which the Government has had on the table now for quite some time, since last year. Requests of this kind are coming frequently from those opposite.

Today the Government asks for the same privilege in return. The Government asks for the right to adjourn the Long Service Leave (Cleaning, Building and Property Services) Bill. We ask for the same privilege to be extended to us that has been extended to people on that side of the chamber and on the crossbenches in the last few days. And what happened? We were told, "No, you are not having an extension on that". We pointed out in the course of these discussions that there is an application before the Industrial Commission today that touches on the issues in this Bill. That is a very good reason, I would have thought, for having an adjournment. Yet we are told, "No, sorry, no adjournment".

What are the rules in this place? When is it all right for a member to ask for an adjournment and when is it not all right to ask for an adjournment? Is it okay to ask for it when you are in the Opposition or on the crossbenches and not okay when you are in the Government? Mr Speaker, what has happened in the last few days, unfortunately, has been a reflection of what has happened for a number of weeks in this Assembly. It has been perfectly all right to adjourn government business. We have had some days when no government business whatsoever has been dealt with. Tuesdays and Thursdays are put aside, theoretically, for government business. Now we find this happening again for this particular session of the Assembly. It simply is not reasonable or equitable, and I think members should reconsider their position.

**MR BERRY** (12.13): Mr Humphries went to the issue of Mr Smyth requesting an adjournment of the matter currently before the Assembly. Mr Smyth came to me this morning and said that there was a matter before the Industrial Relations Commission in which employers effectively had sought to include a scheme for long service leave in awards in the ACT and that that was a good reason to delay this Bill. It is a disgraceful ruse. You are in concert with the employers to try to stop this from happening.

Mr Smyth, being trained in Mr Reith's office, would know exactly what goes on there. If he looked at the third wave of industrial relations legislation, he would quite easily see that it is the intention of Reith to knock long service out as an allowable matter. Great little game! I would not mind if you people were being fair dinkum about the issue, but when Mr Humphries rose to his feet he said, "We are paying you back because we could not proceed with one of our Bills yesterday". But in this case it is a complete and utter ruse.

The employers ought to be ashamed of themselves. They have been completely dishonest and disingenuous in their approach to workers in the industry. You, Mr Smyth, are in concert with employers and you have engaged in the same sorts of tactics. Hopeless! You have tried to mislead me into believing that something was happening which might well be in the interests of cleaners. It is never going to be in the interests of cleaners. This is merely an attempt to delay the matter, no more than that. You know, Reith knows and the bosses know that it is the intention to knock long service leave back.

**MR SPEAKER**: Do not debate the issue. Be careful, please.

**MR BERRY**: I only need to refer you to the explanatory memorandum which goes with the third-wave legislation. In schedule 6, paragraph 89A(2)(f), item 4 would remove long service leave from allowable award matters. You little disgrace!

**MR OSBORNE** (12.16): Mr Speaker, I intend to support this legislation, whether it is done today or next week. I understand that Mr Rugendyke has given agreement to Mr Berry to support it. I understand Ms Tucker is going to support it, and I think Mr Kaine will support it. Quite clearly, the legislation is going to get through, but I do think that Mr Humphries does have a point, in that there were a number of issues yesterday which the Labor Party and other members sought to have adjourned because they did not have enough time.

The Environment Protection (Amendment) Bill was perhaps a mistake of the Government. However, we were approached at around 10 o'clock and asked to adjourn the electricity Bill. We agreed to do that. I have had discussions with the industry. Employees claim to have found out about it only yesterday or today, so I think it is only fair that we give them another week. I think the result will be the same. I take on board what Mr Humphries had to say, and I will support an adjournment.

**MR MOORE** (Minister for Health and Community Care) (12.17): Mr Speaker, this is a continuing theme. We are bending over backwards to try to work with other members. This morning we intended to debate Mr Kaine's motion through. The Labor Party indicated that they had misunderstood. We said, "Okay, we will back off and allow the adjournment". Mr Berry claims that this is just a tactic. We are trying to work with the Labor Party. Perhaps the Leader of the Opposition should look at who is managing these negotiations. That might be where the problem is. We would certainly welcome a change there. We are working constantly to try to make the business work. We are prepared to be flexible about that, and we are requesting the same flexibility.

**MS TUCKER** (12.18): I have also reconsidered my position on this. My initial response was similar to Mr Berry's, in that it is just an extremely offensive stunt. If Mr Smyth is not aware of what Mr Reith's agenda is, the rest of us are. The working conditions for women, mainly migrant women, who work in the cleaning industry are enough to make anyone passionate and very angry. That is why I responded in the way I did this morning. But listening to Mr Humphries, I acknowledge the points that he has raised.

Mr Osborne made the statement that it was not correct that we forced an adjournment of the environment legislation. We were told - and I showed it to Mr Humphries in black and white - that it was down for Thursday in draft government business. We assumed that it would be debated on Thursday. That may have been a misunderstanding, so that legislation should not be included in the list. It was on that timing that our office worked with the Parliamentary Counsel on our amendments to that Bill. I will not accept that that we were somehow at fault in adjourning that Bill.

I acknowledge that the Government did work with us in requesting an adjournment of the gaming Bill. For that reason and to try keep things reasonably civilised in this place, we accept the proposal to adjourn this legislation until next week.

**Mr Humphries**: Mr Speaker, in light of the views of members, I seek leave to withdraw my motion to suspend standing orders.

Leave granted.

**MR BERRY**: Mr Speaker, I seek leave to make a short further statement. Something has just dawned on me in relation to this matter.

Leave granted.

**MR BERRY**: Once this matter gets before the Industrial Relations Commission this mob will be back next week saying that we cannot deal with it because it is before the Industrial Relations Commission. That is what they are going to say. Then they will say that the Industrial Relations Act is superior legislation to the self-government Act and we will be inhibited in our approach because the Industrial Relations Commission is dealing with the matter.

It is well known that the Industrial Relations Commission will not deal with matters States have legislated on. They do not override State legislation willy-nilly. This is a tactic to come back to this place next week and say that we cannot deal with it now because it is in front of the Industrial Relations Commission, and there will be a further delay.

**Mr Humphries**: That is not true, Wayne.

**MR BERRY**: Mr Speaker, members need to be aware of that. I remain opposed to this adjournment. It is a tactical adjournment. It has nothing to do with the outcome. I wager that that will be the argument next week if we allow this adjournment to go ahead.

**MS TUCKER**: I seek leave to speak again.

Leave granted.

**MS TUCKER**: I have just heard Mr Humphries interject, "Not true". I want to hear a commitment from government that they will not do that.

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

Leave granted.

**MR HUMPHRIES**: I do not know what is going to happen in the Industrial Relations Commission today when this application is heard, but the matter is already sub judice. It is already before the commission. That does not stop us from debating the Bill either today or next week if members wish to do that. The fact that the matter is sub judice

does not stop us from doing that. There are principles about this. Members might care to consider those principles. They are no less relevant or more relevant today than they will be next week.

If members feel inclined to debate a matter which is also being pursued in the Industrial Relations Commission, which is a decision we can make either today or next week - it has no bearing on the timing of the thing - then we can make that decision and go forward and have the debate. If we regard it as improper to have a debate on a matter which is sub judice, then we should not have the debate today either, any more than we should have it next week, Mr Speaker.

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

Leave granted.

**MR CORBELL**: The Government has not given this Assembly any reason why the fact that this matter is before the commission affects their ability to deal with the legislation today. I have not heard any government MLA stand up in this place and say, "Because the matter is in the commission we are unable to deal with it for X, Y or Z reason". They have not given us any reason at all. Why are they proposing today to delay this matter? It is an absurd proposition. It is a ruse. It is a deliberate attempt to indefinitely delay the legislation passing through this place. They have not given us any reason why putting it in the commission affects their ability to deal with it on the floor of this place. Until they do that, we should not be supporting the adjournment today.

Mr Humphries made some comments about other delays in this place on an earlier day. I draw it to your attention, Mr Speaker, that perhaps all does not lie at the feet of non-Executive members in this place. When the Government issued its draft program last week, it had down for debate yesterday an amendment to the Land (Planning and Environment) Act. That amendment was to change the level of betterment from 75 to 50.

It was not until the Labor Party drew the attention of the Government to the fact that that Bill could not be debated because the Assembly had already made a decision on that matter that they rescheduled their business, bringing on the Environment Protection (Amendment) Bill. That was not done until early this week.

Then, obviously, there were problems with members not expecting that Bill to be debated on the Tuesday but quite legitimately, because it was on the Government's draft program, expecting it on Thursday. If the Government cannot manage its own business, that makes it very difficult for the rest of the Assembly to respond.

The Government has given no legitimate or valid reason why they are unable to deal with the Bill today simply because the matter is before the commission. Explain to us why you are unable to deal with this Bill today because the matter is in the commission. Do not just say it is in the commission. Give us a reason.

**MS CARNELL** (Chief Minister): I seek leave to make a statement.

Leave granted.

**MS CARNELL**: I can give a very good reason. We have not said we will not deal with it because it is in the commission. We have said we will not deal with it because we are not ready. The Bill has not been to Cabinet.

**Mr Corbell**: You have changed your reason now?

**MS CARNELL**: No. That is the reason we have given all the way through. We are not ready to deal with it. It was brought down on 30 June. It has not been to Cabinet. We have not had a chance to consult with the industry. We have not done a business impact study as we do on all the legislation we bring forward to Cabinet. If Mr Corbell and others want a reason, it is that the consultation has not been done, the industry has not been spoken to, the Bill has not been to Cabinet and the Government is not ready.

Why we are not ready to deal with it is quite simple. The fact that it is in the Industrial Relations Commission is a good reason for this Assembly to support adjourning it but not the reason the Government wants to adjourn it.

**MR KAINE**: Mr Speaker, I seek leave to speak.

Leave granted.

**MR KAINE**: There appears to be some doubt about the Government's ability to go ahead with this debate at the moment. I have heard the Attorney-General give an undertaking that the matter will be brought on again next week if we adjourn it. For those reasons, Mr Speaker, I formally move:

> That so much of the standing and temporary orders be suspended as would prevent the question on the adjournment of debate being again put.

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

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

**Sitting suspended from 12.28 to 2.30 pm.**

## QUESTIONS WITHOUT NOTICE

### Bruce Stadium

**MR STANHOPE**: Mr Speaker, my question, which is addressed to the Chief Minister, is in relation to the user agreements between the Government and the major tenants of the redeveloped Bruce Stadium, the Raiders, the Brumbies and the Cosmos football teams. Will the Chief Minister tell the Assembly whether the original contracts with these tenants included a commercial-in-confidence clause preventing their public disclosure? If so, would she be able to provide the Assembly with a copy of the wording of the respective clause in each of the contracts?

**MS CARNELL**: Mr Speaker, it is my understanding that they do not have a clause along those lines, although I will check that. I will find out. What I think is important here is that we wrote to the hirers and asked them whether they were happy for their contract with the ACT Government to be released to this Assembly, and guess what they said? No. They said no because I assume that they felt that those opposite would probably play politics with it. It is hard to believe that that would happen, Mr Speaker. It is very, very hard to imagine. One of the things that it is important for those opposite to remember is what Mr Berry said and what others in the then Government, the Follett Government, said when we asked for the VITAB contract, a contract that went on to cost the ACT many millions of dollars. Mr Speaker, what was - - -

**Mr Corbell**: Not as much as Bruce Stadium.

**MR SPEAKER**: Order! There were far too many interjections yesterday. I do not intend to tolerate the same level today.

**MS CARNELL**: What was said by Mr Berry and others in the then Follett Government was that the VITAB contract would never be released under any circumstances. They went on to say how could a government expect to continue to do business, continue to operate, if they could not enter into contracts of the nature of the VITAB deal without a commercial-in-confidence capacity. That is what those opposite - - -

**Mr Corbell**: Did you agree with that at the time?

**Mr Quinlan**: No.

**Mr Corbell**: No, you didn't.

**Mr Moore**: I take a point of order, Mr Speaker. Mr Corbell continues to interject in the same way as he did yesterday, although not quite as vigorously as yesterday, but I think you have made the point already.

**MR SPEAKER**: I have indeed.

**Mr Wood**: This is today's campaign, is it? You discussed it this morning, did you? I didn't hear you defending us when we were sitting over there.

**MR SPEAKER**: Order, Mr Wood!

**MS CARNELL**: Thank you very much, Mr Speaker. Those opposite had a set of rules when they were in government and they were about respecting the views of the other party. When they spoke about the VITAB contract they said they could not release it because the other party to the contract was unwilling to allow it to be released and that it would be inappropriate behaviour of the Government to release it under those circumstances. We are using their rules, Mr Speaker. We have written to the other parties and they have said no, they do not want the contracts released. I have to say from an ACT Government perspective that we have no problems. Along the lines of the rules set by the Follett Government, when the other party - - -

**Mr Stanhope**: So you are scrapping your discussion paper on commercial-in-confidence information. You are scrapping it.

**MR SPEAKER**: Order! Mr Stanhope, you have asked your question. You will have a chance to ask your supplementary question if you wish when the Chief Minister has finished.

**MS CARNELL**: When the other party to a contract does not want that contract released because they believe that some of the information may in some way prejudice their position in the marketplace, then the Government of the day should respect that, just as the Follett Government did when they determined not to release the VITAB contract. There is any number of references on this in *Hansard*, Mr Speaker. It is about time that those opposite stopped being so hypocritical in these sorts of areas and operated on their own rules.

**MR STANHOPE**: I have a supplementary question. Will the Chief Minister admit that it was only after the Assembly demanded that the Government release these documents relating to Bruce Stadium that the major tenants were asked whether they had any commercial-in-confidence objections to the release of the contracts? Did the Government make any serious assessment of its own about whether the contracts fell within its own definition of commercial-in-confidence?

**MR SPEAKER**: I will allow the question.

**MS CARNELL**: Mr Speaker, I think it is extremely lucky that those opposite will never run this Territory. If they did, Mr Speaker, business in this town would come to a screaming halt because they obviously have no understanding of the concepts of contracts or business at all.

**Mr Quinlan**: Have a look at your own business record. Dear, oh dear.

**MS CARNELL**: I am very happy to look at my own business record.

**MR SPEAKER**: Settle down.

**MS CARNELL**: Mr Speaker, with regard to whether we approached the other parties to the contracts prior to the Assembly asking us to, why would we? In the debate when those opposite asked us to release all of the documents to this place, I said that I would approach and write to the other parties to the contracts we had entered into and ask them whether they would mind the contracts being released. I gave an undertaking to this place that, if they said they had no problems, the contracts would be released, because the Government had no problems at all. Mr Speaker, I said in this place that we would approach the parties after that motion was passed.

**Mr Stanhope**: How much are we paying Rupert Murdoch? How much does News Ltd get out of this?

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

**MR SPEAKER**: Come on now. Just a moment. I would ask that that be withdrawn, please.

**Mr Moore**: It is not only that, Mr Speaker. It is the constant interjections. They are lifting again.

**MR SPEAKER**: Yes, but there was a definite imputation in that, Mr Stanhope. I ask you to withdraw.

**Mr Stanhope**: There was no imputation at all, Mr Speaker.

**MR SPEAKER**: You said, "How much is News Ltd getting out of this?".

**Mr Stanhope**: Yes, it goes to News Ltd. They actually half own the Raiders, Mr Speaker.

**Mr Humphries**: Come on, Mr Speaker; you made a ruling. He should withdraw.

**MR SPEAKER**: I have made a ruling, Mr Stanhope.

**Mr Stanhope**: I am happy to withdraw any imputation as long as it is clear that the Raiders is half owned by News Ltd, and this money goes to them.

**MR SPEAKER**: Thank you. Nevertheless, you have withdrawn any imputation. Thank you.

**MS CARNELL**: Mr Speaker, I think it is very sad that those opposite do not support the Raiders or the Brumbies in this town.

**Mr Quinlan**: Patriotism is the last refuge of the scoundrel.

**MR SPEAKER**: Come on; settle down, please. Order!

**Mr Stanhope**: Mr Osborne supported the motion too.

**Mr Kaine**: Do you have season tickets or do you go on freebies?

**MR SPEAKER**: Order, please! Members, you seem to forget that the Speaker has the right to suspend the sitting for as long as the Speaker wishes if there is too much noise.

**Mr Wood**: Well, do so. Can I ask whether this was discussed at the party meeting this morning?

**MR SPEAKER**: I am quite prepared to do it. I have no doubt the Government is not the least bit fussed about it.

**MS CARNELL**: No, the Government is not the least bit fussed.

**Mr Moore**: Mr Speaker, referring to your suggestion there, we have had just two people really, Mr Stanhope and Mr Corbell, who have been constantly interjecting, and standing order 202 (e) does work quite effectively.

**MS CARNELL**: Mr Stanhope cannot say for a moment that he does support the Raiders when he makes comments like that about their ownership. The Raiders, as we know, are worth over $19m a year to this city and provide a lot of jobs. More than that; they provide a lot of benefit in terms of our sense as a city and how other people view us. So do the Brumbies, Mr Speaker. It is about time those opposite got behind this city, got behind the things that make a difference, and stopped being just spoilers attempting to destroy the things that matter about Canberra.

## ACTEW

**MR QUINLAN**: Mr Speaker, my question is also to the Chief Minister. Can the Chief Minister please bring the Assembly up to date on the current status of the ACTEW merger report and advise on a date for intended presentation of the report to this place?

**MS CARNELL**: Mr Speaker, I am happy to bring the Assembly up to date. As I think I have said publicly, the working party report is with the New South Wales Government. Mr Quinlan may like to get in touch with his colleagues in New South Wales, but I do not think they talk to those opposite very often, Mr Speaker. The report is with New South Wales. When it comes out it will be available for release. It has been there for a couple of weeks and we hope that that timeframe will not be too long now. I understand that the Treasurer in New South Wales has been on holidays for the last week or so. The view was that when he gets back it may be ready for release at that stage.

**MR QUINLAN**: I have a supplementary question, Mr Speaker. At the same time as we were initiating that particular study, we also called, in about April, for expressions of interest from people who might be interested in strategic alliances with ACTEW. Can the Chief Minister advise this Assembly as to when the Assembly as a whole will be advised of the contents of those expressions of interest received, and whether any of them have been followed up?

**MS CARNELL**: Mr Quinlan would know because we briefed his committee on the outcome of those.

**Mr Quinlan**: And they said you had to come to the Assembly.

**MS CARNELL**: Mr Speaker, we briefed Mr Quinlan's committee because it is the appropriate Assembly committee. I think Mr Quinlan suggested that none of these would happen except over his dead body, or one of his usual negative statements on all of these issues. He also said that he was not interested in his committee being part of this process; that we had to go to every member of the Assembly, not use the committee process at all.

Mr Speaker, I have not brought this up; nor have I got stuck into Mr Quinlan for his view on this. He brought it up right now. I think it is the role of Assembly committees to be part of this sort of procedure. This is about a government wanting to be open and wanting the committees to be part of decision-making processes, but Mr Quinlan has decided that he did not want his committee to take any responsibility whatsoever for the process, and that the Government would need to go to the whole Assembly prior to - - -

**Mr Stanhope**: Absolutely.

**Mr Quinlan**: What a good idea.

**MS CARNELL**: The Government would have to go to the Assembly. Mr Speaker, as we have said the whole way through this process of calling for expressions of interest, those expressions of interest would be weighed up against the merger proposal. So the working party report on the merger would be weighed up against the expressions of interest that came from the tender process to determine which was best for the Territory.

At this stage, as Mr Quinlan knows, we do not have the working party report on the merger to weigh up against the other entities, but I understand that the board of ACTEW did determine the top four or so of the expressions of interest and they were run past Mr Quinlan's committee, but he did not want to be part of it.

**Mr Quinlan**: Mr Lilley was involved in this as well.

**MS CARNELL**: Yes, I asked him to.

## Legal Practitioner - Complaint by Attorney-General

**MR KAINE**: My question is to the Attorney-General and de facto Chief Minister, Mr Humphries. Mr Humphries, about three months ago - in fact, it was on 5 May - you acknowledged in answer to a question that you had lodged a complaint with the Law Society about the behaviour of a practising barrister in this town. Has there been any resolution of that matter yet?

**MR HUMPHRIES**: Mr Speaker, I thank Mr Kaine for that question. Yes, that has been resolved, as Mr Kaine no doubt is aware. He indicated on the previous occasion that he had not had any contact with the particular solicitor concerned, but I suspect that that is not the case. The Law Society has resolved not to uphold the complaint. I am disappointed in that fact. I maintain that the matter is one of some concern and seriousness to the Government, and certainly to me personally. I hope that the practice of solicitors going out and making comments of that kind in the context of particular claims that their clients may or may not be bringing is not a practice which remains or which becomes widespread in this community. My firm view is that that would be a most unfortunate state of affairs.

**MR KAINE**: I have a supplementary question. In your earlier answer to the question you claimed that there was some level of confidentiality about this because it was the Law Society. Is it not a fact, Attorney, that when you lodged your complaint you did not do it as a private citizen; you did it as the first law officer and Attorney-General of the Territory? Would you not agree that in so doing you in fact put the matter in the public arena, whether the Law Society operates with rules of confidentiality or not?

**MR HUMPHRIES**: No, Mr Speaker, because complaints that I or anybody else make are dealt with confidentially, and there is no reason that anything that I complain of to the Law Society should become evident to anybody except the Law Society and presumably the complainant. If a person such as, let us say, the complainant chooses to give, let us say, a member of the Assembly information about that matter in breach of the provisions of the Legal Practitioners Act requiring confidentiality, then that is a matter for the consciences of the practitioner and the hypothetical member of the Legislative Assembly. The fact that the Attorney-General makes a complaint is no reason to cause the matter to be public, any more than a private citizen making the same sort of complaint.

## Canberra International Dragway

**MR CORBELL**: Mr Speaker, my question is to the Minister for Urban Services and it relates to his failure to make the necessary declarations for Canberra International Dragway to be re-opened. Will the Minister acknowledge that the legal advice from the Australian Government Solicitor dated from 1995, which was the subject of some media coverage last week and obtained under freedom of information by the Canberra International Dragway, confirms that, for the purposes of the Commonwealth, the Territory, and therefore the Minister, has the power to act on its behalf in relation to declarations to allow the Canberra International Dragway to have a new lease?

**MR SMYTH**: Mr Speaker, I thank Mr Corbell for the opportunity to speak to this matter because what we see from Mr Corbell is a growing series of incidents where - - -

**Mr Corbell**: Last week you said it was sub judice.

**MR SPEAKER**: Order! Mr Corbell, you have asked your question and if you continue to interject you will be dealt with.

**MR SMYTH**: He misrepresents and quotes out of context. The perfect example occurred yesterday with the dogs. I believe that Mr Corbell misled this place when he told the Assembly that he had not released Mr Ellis's name - - -

**Mr Corbell**: I raise a point of order, Mr Speaker. If Mr Smyth wants to make a substantive allegation against me about misleading this place he should do it through a proper motion, and I ask him to withdraw that comment. I have not misled this place.

**MR SMYTH**: Mr Speaker, I am happy to withdraw, but what I will do is table Mr Corbell's press release and the attached documents that name the public servant and ask that they be included in *Hansard*. Mr Corbell denied that in this place yesterday and he should be ashamed of himself.

**Mr Corbell**: I take a point of order, Mr Speaker. Relevance, Mr Speaker. The Minister is yet to mention the Dragway once.

**MR SPEAKER**: I am happy to allow the Minister to table that document. Go on, Mr Smyth.

**MR SMYTH**: How quickly, Mr Speaker, he jumps for relevance. We know it hurts when he goes straight to relevance. Mr Speaker, on Friday Mr Corbell put out a press release that quotes some legal advice. You have to remember that the main issue is before the court, and I will not talk about the leases and the dragway. Mr Corbell quotes from this document. It is legal advice from 1995 about the dragway and the use of lighting. Mr Corbell chose to quote out of context one line from one point out of 25 points and misrepresented the issue. Mr Corbell ought to be ashamed of himself.

**MR CORBELL**: I have a supplementary question. I am glad the Minister is across the issue, Mr Speaker. As the Minister would be well aware, the legal advice that I referred to last Friday was in relation to the powers of the Territory to make declarations. It was a footnote on legal advice relating to another issue, but it was nevertheless relevant to the case. Mr Speaker, I ask the Minister why he has failed to act on that advice, the advice we are referring to, which states:

> It is interesting and unfortunate that the powers of the kind which might be relevant are able to be exercised under the Crown lease by the Territory.

Why has he continued to refuse to make the necessary declarations?

**MR SMYTH**: Mr Speaker, if Mr Corbell had simply managed to read clause 17 he would know that it says that the advice then makes it clear that the Commonwealth can exercise these powers, has the administrative authority to do so, and should do so.

**MR SPEAKER**: Mr Smyth, I understand that you asked that the media release be incorporated in *Hansard* as well as tabled.

**MR SMYTH**: Yes. That makes it quite clear.

Leave granted.

*The document read as follows:*

CARNELL GOVERNMENT PAYS
FORMER EXECUTIVE'S DOG
KENNELLING TAB

"The cost incurred by the former Director of Budget Management Branch, in the Chief Minister Department for kennelling his dog and In relocation costs to Sydney after he resigned wore picked up by the Carnell Government", Simon Corbell, Labor, Shadow Minister for Public Administration revealed today.

"The payments were apparently contrary to the relevant Public Sector Management Standard and the Public Sector Management Act that operated at the time", Mr Corbell said.

The payment consists of:

Relocation costs: $3,316

Kennelling Dog: $140-00 (without a receipt).

Standard 14 Rule 10.8 allowed for the payment of a settling out allowance for Executives at the completion of a fixed term appointment, engagement or term transfer.

"The former Director resigned from his fixed term contract with the Carnell Government on 25 May 1998 before the completion of his five year term but he still received the support of the Government with one final handshake that was apparently contrary to the relevant Standard", Mr Corbell said.

"This stark example highlights the inconsistencies of the Government's treatment of Executives and other staff in the ACT Public Service", he said.

"The Carnell Government is pursuing disciplinary action against School principals who amend enrolment figures whilst authorising questionable payments for former Executives", Mr Corbell said.

"The Government is also quick to take action under the workplace relations legislation to stand down school bursars for airing their legitimate grievances", he said.

"I have referred this payment that was apparently contrary to existing Public Sector Management Standards to the Auditor-General to determine if any futher action should be taken", Mr Corbell concluded.

Copies of the relevant documentation are attached.

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CONFIDENTIAL MINUTE

To: Paul Rayner
From: Director, Financial & Budgetary Management
Re: Relocation to Sydney
Date: 30 March, 1998

Paul, I have accepted a position in Sydney and as a result tendered my resignation today.

Per our arrangements when my family relocated back to Sydney last year, would you please make arrangements for the costs associated with this relocation to be reimbursed to my normal Salary account at your earliest convenience.

A copy of the quote and invoice (noting payment has been made) is attached. The cost of the relocation was as follows:

| | |
|---|---|
| Pack & ship house contents | $2,440 |
| Insurance on contents | $ 876 |
| | Total $3,316 |

Note, that we negotiated the quoted insurance down from $1.50 per $100 to $1.20per $100.

I understand that I may also be entitled to other costs associated with the relocation, eg: per km rate for Nicole and the boys to drive back to Sydney. For your calculation of this the distance was 240km in a 2lt Mazda 626. We also incurred costs in kenneling our dog at the time of the move of $140, however I do not have a receipt for this item.

Would you please advise of other arrangements/benefits to resolve this relocation issue at your earliest convenience, eg: my relocation at the end of my notice period.

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PART B: RULES

TEMPORARY ACCOMMODATION

| | |
|---|---|
| 10.7 TAA ceases when a home is purchased | TAA ceases when a fixed-term SES appointee or term transferee buys a home at the new locality, or moves into staff housing. |
| 10.8 Resignation or retirement | At the completion of a fixed-term appointment or engagement or term transfer, SES officers who were relocated to take up duty and who resign or retire are entitled at the completion of their service to receive a settling-out allowance as if they were transferring in the interests of the ACT Government to another locality. TAA is not provided for any accommodation or living costs incurred by former officers following departure from the locality at which they resigned or retired. |

11. Relocation expenses (including sale and purchase of homes)

An officer is entitled to be paid relocation expenses in the circumstances and according to the conditions and rates. set out in Determination 1983/10 made under the Public Service Act 1922 (Commonwealth) as if the relevant parts of that Determination were part of this Standard and as it references to officers, Secretaries and other persons, bodies and things were references to the persons, bodies and things under the Act and Standards that most nearly correspond to. their Commonwealth counterpart

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To: Executive Director, OSP

Director, E&R

Manager, Workplace and Executive Management

From: Contract Co-ordinator, Executive Management Group

Date: 8 April 1998

Subject: Geoff Ellis - Entitlements

Purpose

To seek you approval to the payment of relocation expenses associated with Mr Ellis' resignation.

Background/Issues

Mr Ellis tendered his resignation last week giving the required eight weeks notice ie. the date of effect would be 25 May 1998. (He has advised, however, that Mr Lilley is liaising with Mr Ellis' new employer in Sydney in an attempt to defer the date of resignation.)

In the meantime, Mr Ellis has requested reimbursement/payment of entitlements associated with his and his family's move back to Sydney (refer attached minute).

Mr Ellis' family relocated to Sydney in July fast year whilst he remained in Canberra as an officer with but unaccompanied by dependents. He advised at the time that he would claim removal expenses in respect of his family at the end of his contract.

Mr Ellis has provided a paid invoice (attached) in respect of his family's re-location to Sydney last year. The amount of $3,316 includes insurance and is under the $4,000 benefit limit associated with removal expenses. He has advised that he will not be claiming additional expenses in relation the removal of the personal effects that are still in Canberra,

Mr Ellis is entitled to mileage allowance associated with his family's return to Sydney. His claim in respect of 240 kilometers is considered reasonable and is within the benefit limit.

He has also claimed $140 in respect of kenneling of the family's pet dog at the time of the family's move last year. Although a receipt has not been provided, the. removal of pets is an entitlement and as the $140 covers a period of eleven days, it is considered a reasonable expense.

Recommendation

It is recommended that you approve:

the reimbursement of the $3,316 for removal expenses;

the reimbursement of $140 in respect of kenneling of the pet dog; and

payment of the mileage allowance.

Kerry Gulliford
8 April 1998

———

Mr John Parkinson
ACT Auditor-General
Scala House
11 Torrens Street
BRADDON

Dear Mr Parkinson,

I am writing in reference to the matter of a payment that was made to a former Executive in the ACT Public Service.

I have received correspondence about the matter that raises a number of concerns about the particular payment. Copies of the relevant correspondence are attached.

The former Director of the Budget Management Branch received reimbursement of relocation costs to Sydney after his resignation.

However, the applicable Public Sector Management Standard, Standard 14, Rule 10.8, that operated at the time appears to only apply when an Executive has completed a fixed term appointment, engagement or term transfer and not upon resignation.

I would be grateful if you could investigate this matter to determine if the transaction was in accordance with:

The terms and conditions of the contract of employment
The applicable legislation governing the employment: and
The departmental guidelines.

I look forward to your reply.

Yours Sincerely

SIMON CORBELL MLA

AUSTRALIAN LABOR PARTY

## Canberra International Dragway

**MR BERRY**: My question is to the Treasurer. Yesterday the Government introduced an Appropriation Bill that includes $7m for a V8 supercar race, which will have a significant impact on the ACT economy, by way of the appropriation and, if you take any notice of the Government's claims, the outcome. The Government has made the decision to go ahead with it anyway. We hope it succeeds, but, on performance, we reserve our rights, I think. At the same time, the Government's intransigence over the lease for the Canberra International Dragway will cost the Territory, in terms of its tourism industry, $2m per annum - money which would come to the ACT at no cost to the Government, no cost to the Territory taxpayer. On 25 March, Mr Speaker, in this Assembly, the then Treasurer, Mrs Carnell, said, "If those opposite want to join us in writing to the Commonwealth to get them to extend the lease, I would be in it". She said that. Is the new Treasurer going to fulfil this unfulfilled commitment of his predecessor and secure a continuing benefit to the tourism industry of $2m per annum, and significant job opportunities and income to the tourism industry, which comes at no cost to the Territory taxpayer or to the Government?

**MR HUMPHRIES**: Mr Berry sends a very ambiguous signal about the Opposition's view about this particular V8 supercar race. He says he hopes it succeeds, but the signal he sends to the rest of the community is one of great reluctance, great concern, and opposition to the Government's proposal - nothing but negative comments. I heard Mr Berry say yesterday that the Opposition has said nothing negative at all; that it was very positive about unemployment figures. It is funny that every time the Opposition gets quoted in the newspaper, or on the TVs, or on the radios, it is always having a go at the Government about unemployment figures and why something is wrong with them from some point of view or another. Mr Berry, if you want to speak clearly on behalf of your electorate and your constituents you should make clear where you stand on this particular proposal.

**Mr Corbell**: The dragway?

**Mr Berry**: Oh, the dragway. I think you should sign up for it straightaway.

**MR SPEAKER**: Sit down.

**MR HUMPHRIES**: The Government has made a decision about V8s. It has looked at the evidence available to us. We have indicated very clearly that we think this is a worthwhile concept, and we have put in a serious - - -

**Mr Corbell**: What are you doing for the dragway?

**Mr Stanhope**: We are talking about the dragway.

**Mr Berry**: He won't answer the question.

**MR HUMPHRIES**: Mr Speaker, I really don't feel like shouting over those opposite.

**MR SPEAKER**: Actually, the question related both to the V8s and the dragway. The Minister is answering the question.

**Mr Berry**: Mr Speaker, I take a point of order. You are mistaken. The question was not in relation to the V8 supercar race. The question was specifically in relation to the dragway.

**Ms Carnell**: Well, what did you mention V8s for?

**MR HUMPHRIES**: No, Mr Speaker, it was about V8s and the dragway. It was about both.

**Mr Berry**: I was merely drawing attention, Mr Speaker, to the fact that - - -

**MR SPEAKER**: It must have been the long preamble. It slipped my mind.

**MR HUMPHRIES**: Is Mr Berry saying it is all right for him to refer to V8s in his question, but not all right for me to include the V8s in my answer? Is that what he is saying?

**Mr Berry**: A point of order.

**MR SPEAKER**: Will you sit down?

**Mr Berry**: To clarify it, I will just read the question bit again.

**MR SPEAKER**: Just sit down. The Minister is answering the question as he sees fit.

**Mr Moore**: On the point of order, Mr Speaker - - -

**Mr Hargreaves**: Michael, sit down. You are not the guardian.

**Mr Moore**: Actually, I am. Standing order 117 (a) says:

> Questions shall be brief and relate to a single issue;…

Perhaps Mr Berry's question is out of order?

**MR SPEAKER**: I could do that, but I will say that it relates to motor racing. I suppose that is the common theme.

**MR HUMPHRIES**: Mr Speaker, the Government has made it clear that it supports the holding of that V8 supercar race in Canberra and is working closely with other parties to make sure that that occurs if we are chosen by the organisation which runs that event. We have similarly indicated a disposition towards the dragway which I think is nothing but favourable. We are perfectly happy to see dragway operations in the ACT, but there is a difference between these two situations, a very important difference. In the case of

the supercar race, the National Capital Authority, which has responsibility for the land on which that race will be held, has indicated its support for the concept. The ACT Government and the NCA are working together to make sure the race can occur on that location.

With respect to the dragway, the Commonwealth agency responsible for that land, which is the Department of Defence, has indicated that it is not prepared to see the raceway given security for continued operations on that site by way of a 10-year lease. Mr Speaker, we are quite happy to work with other government agencies, particularly at the Commonwealth level, but we do not have the power to force Commonwealth agencies to do something they do not want to do, much as we would like to on occasions.

So, Mr Speaker, our position remains the same. We are not opposed to the dragway, we are not opposed to the concept of having that kind of motoring activity take place in the ACT, but we have to accept the limitations of our capacity to act. We have worked together with the NCA and we would like to work together with the Department of Defence, but we have to recognise the bottom line that they have indicated to us, which is that they will not give a 10-year lease to the dragway.

**MR BERRY**: I have a supplementary question. Why is the Government so opposed to the extension of this lease for the dragway? Why is it standing in the way of this happening? Can the Treasurer explain to the Assembly why the Office of Asset Management has not responded to the management of the dragway following a meeting to discuss an alternative site for the dragway that occurred 13 weeks ago, again delaying an opportunity to return $2m per annum to the tourism industry in the ACT, to the Canberra economy, and the provision of jobs at no cost to the ACT taxpayer and the Government?

**MR HUMPHRIES**: Mr Speaker, this is a why won't you stop beating your wife type question. I have indicated very clearly that we are not opposed to the dragway continuing. We are prepared to work together with the people who wish to see that sort of activity continue in Canberra. We are quite willing to work on alternative locations if the dragway people wish to acknowledge that they have a limited capacity to continue on their present site and wish to find an alternative site in the ACT.

Mr Speaker, those opposite would be quick to tell us when some bright idea of theirs came along that was not accepted, and what limitations there were that prevented them being able to act on that should they come into government one day. Our view is that we will work together constructively with the necessary government agencies, but I am not able to work miracles, and I am sure that if Mr Berry was in government he would not be able to work any better miracles than we can.

**Mr Berry**: Want to bet?

**MR HUMPHRIES**: Yes.

## ACT Housing

**MR WOOD**: Mr Speaker, my question is to Mr Smyth, the Minister for housing. Minister, up to the present time, how many ACT Housing properties have been formally and finally transferred to the community housing sector, and is your program for this on target?

**MR SMYTH**: Mr Speaker, Community Housing Canberra is working very closely with ACT Housing to provide an alternative provider for public accommodation in the ACT. With that in mind we have been offering them a number of houses that they can look at and assess as to their needs. I do not seem to have the final details of the exact number with me. I will take the member's question on notice and get him a firm number.

**MR WOOD**: I have a supplementary question. One of the concerns that I have expressed about that transfer is the capacity of some groups that have been approached to manage housing, since it is not their field. Can you indicate now or in your later information what training has taken place or will take place for new organisations coming into this area?

**MR SMYTH**: Mr Speaker, since the proposal was announced there has been a lot of interest from a large number of community groups and we are working with them as part of the $200,000 grant from the Federal Government. It is to set up a model that can be applicable anywhere to improve the number of community housing organisations around the country. I will ask for further information on what has occurred with those groups and give it to the member when I have it.

## ACT Budget

**MR HIRD**: Mr Speaker, my question is to the Treasurer, Mr Humphries. I refer to the recent announcement that the ACT budget is now on track to go genuinely into the black within the next 12 months for the first time since self-government. Can the Treasurer confirm whether this remarkable improvement in our financial position was based upon the proceeds of a merger of the ACTEW Corporation as has already been claimed by the Leader of the Opposition?

**Mr Wood**: Just sell it off anyway.

**Mr Stanhope**: When did I say that?

**Mr Kaine**: This only happened since the Treasurer took the job over two days ago.

**MR SPEAKER**: Order!

**MR HUMPHRIES**: I am glad there is such interest in the question, Mr Speaker, and I thank Mr Hird for that question.

**Mr Wood**: You raided it to the extent of half a billion dollars, Harold. That is what happened.

**MR HUMPHRIES**: Mr Speaker, if I can be heard above the rabble - - -

**Mr Wood**: He could have asked me and I would give him the answer, you see.

**MR SPEAKER**: Well, he will not have a chance very shortly because you will not be here, Mr Wood.

**MR HUMPHRIES**: Mr Speaker, it was with great pleasure that I was present at the National Press Club the other day when the Chief Minister announced that we were to move into a surplus situation in the very near future; that we were to achieve as a government something which no government has yet achieved in the decade since self-government began in the ACT. That, Mr Speaker, is a very important achievement - moving the budget of the ACT genuinely into the black for the first time and eliminating our operating loss.

We inherited from Labor just on five years ago a $344m operating loss. That loss is to be reduced in this financial year to just $9m, assuming the second Appropriation Bill passes. Next year we expect a surplus of $62m, rising to a healthy $110m in 2001-02, Mr Speaker. I do not care which way you look at this news - backwards, frontwards or upside down - it is unquestionably very good news for every citizen of this Territory. Every person who lives in this Territory has much to be glad about on hearing that news. It indicates a capacity as a community to be sustaining and to be sustainable, which surely should be the way in which we proceed as a community in the future.

Mr Speaker, in the last 4½ years the Labor Party has been opposing every measure that we have used as a government to get to the point where we are now moving, finally, into the black. The Labor Party appears to have opposed every reduction in outlays. The Labor Party has opposed every increase in revenue. As well as that, they have called for us to spend money on a whole range of areas where we have not spent money. Mr Speaker, the ACT community owes very little to those opposite for the fact that today we are in the position where we are very close to achieving an operating surplus for the first time, so it was rather disappointing to see in Mr Stanhope's media release of the other day the following claim:

> Mrs Carnell also made some glowing predictions about the Territory's finances over the next couple of years.
>
> The projections are good, but the basis is - as always - missing.
>
> If Mrs Carnell bases her projections on, for instance, the merger of ACTEW and the repatriation of hundreds of millions of dollars by mortgaging the new organisation, then they are optimistic in the extreme.

Well, Mr Speaker, I suppose people who have done their best to prevent the Territory moving to the position where we are in an operating surplus for the first time would be very anxious to find some reason - - -

**Mr Stanhope**: Table the ABN AMRO report.

**MR HUMPHRIES**: If you would be kind enough to listen to what I have to say, Mr Stanhope, you might learn something. Mr Speaker, those who have done so much to wreck that course of action obviously would be very anxious to make sure that the Government did not achieve that result, and when we do achieve the result they are prepared to ascribe false reasons to the fact that we have done so.

Mr Speaker, at the time of that statement we tabled a revised operating statement – I table that revised operating statement now - indicating very clearly that the Territory was not going to achieve an operating surplus based on the merger of ACTEW. As the Opposition well know, from having asked questions about it at question time today, we do not have any indication at this stage of whether a merger will be possible because of the lack of clarity of the position of New South Wales at this time, or this Assembly for that matter. Our surplus is not based on merging ACTEW with some organisation in New South Wales. It is based on our hard work. It is based on what Towers Perrin found was a reduction in our unfunded superannuation liability, which in turn is due to a number of things, particularly to our effort to downsize the Public Service, strict controls of the staffing numbers that have occurred under this Government, and the containment of growth in wages through enterprise bargaining agreements.

In the past three years alone the size of the ACT Public Service has been reduced by approximately 2,000 positions, or 10 per cent. Labor has bleated loudly at every one of those jobs being reduced, every downsizing. I might say that it was reduced through natural attrition, not through sackings. They bleated about all of those reductions in the size of the work force, but that is why today we can say optimistically to the citizens of this Territory that we have an operating surplus on the way and better news for the Territory in terms of its capacity to be sustainable into the future.

There is an irony in this, of course, Mr Speaker, in that those opposite, who have attacked every painful step of the way, every step the Chief Minister took as Treasurer of this Territory to get us to the point where we have an operating surplus, were the first ones out with their plates, their knives and their forks and telling us where we should be spending the surplus we have now achieved. They say, "Now you have done all the hard work, here is how we are going to spend the money", while rubbing their hands. No doubt that is the approach we will see from this Opposition.

Mr Speaker, that approach is dishonest. We are here today because we have made hard decisions. We are here today because we have raised revenue, such as emergency services levies, and because we have reduced expenditure on things like the School of Arts. We made those hard decisions that have not been popular, but we made them in order to achieve an important goal, to achieve an operating surplus.

Now, why are we looking for an operating surplus, Mr Speaker? It is not because we want to gladden the hearts of accountants and financial analysts the length and breadth of the country. That is not the reason we are doing it. We are doing it because it gives us the power as a community to be able to make decisions about our future. It gives us the chance to enhance our social capital as well as our financial capital, if you like; to get to the point where we have the money to be able to make decisions about important new

projects and important new developments in the operation of our Territory. I think that is pretty worth while. That is something which is worth working towards. The gain, I think, is worth that particular pain.

Mr Speaker, I hope that the result of this Government's efforts is that the ACT never has to go into the red again once we have achieved the black, and that those who have done so much to oppose us getting to this stage do not allow us to slip backwards again in the future, back into the red. I have heard a lot from the Labor Party about management in the last few months, but what we have achieved in the last few years speaks for itself. Management of the ACT's economic position is perhaps the most important responsibility that falls in the hands of the Government, and I think great credit is owed to the Government, in particular to the Treasurer who brought the Territory to this point, Mrs Carnell.

**MR HIRD**: I have a supplementary question, Mr Speaker. It is good news, but when the Treasurer was identifying the steps up to the year 2001 there was much interjection over there and I could not hear the figures. Could I ask the Treasurer to re-emphasise the good news? What are the steps and what are our targets to the year 2001?

**MR HUMPHRIES**: I thank Mr Hird for that supplementary question. Of course, we expect - - -

**Mr Stanhope**: That was snoring, Harold, not interjections.

**MR HUMPHRIES**: It says a lot about the ACT Opposition, Mr Speaker, that they are prepared so assiduously to pour cold water on information on figures which are pretty important to every one of their constituents.

**Mr Quinlan**: Self-flagellation is what we are pouring cold water on, mate.

**MR HUMPHRIES**: Self-flagellation might be deserved if the result of it is something that every one of us and every one of the people out there will get benefit from. You people are going to find one day that you are going to want to spend money on projects, if you are ever back in government, and I have my doubts, and you are going to be thankful for the surplus that this Government created in reaching that position. The figures, Mr Speaker, were a $9m operating loss this financial year, a $62m surplus next financial year, and $110m in 2001-02.

## Winnunga Nimmityjah Aboriginal Medical Service

**MR OSBORNE**: My question is to the Minister for Health and it is about funding for the Winnunga Nimmityjah Aboriginal Medical Service. Minister, have you formally responded to the Commonwealth Department of Health's request for agreement with the Commonwealth over funding for this service? Further, are you aware that this matter is causing delays in the release of operating funds vital to this service? Are you able to inform us of when this matter is likely to be resolved?

**MR MOORE**: Thank you for that question, Mr Osborne. I will give a little bit of background information because I know that quite a number of members have been interested in this area. It is one of the areas where I have worked quite cooperatively with Mr Stanhope and his office. Members of the Aboriginal community raised concerns with the department in late 1998 about a range of financial issues and also the claim that the annual general meeting of the Winnunga Nimmityjah was not valid. There was a lack of accountability and inadequate service provision.

Since the application to the Supreme Court by a number of members of the Winnunga Nimmityjah Aboriginal Health Service, an administrator was appointed and conducted a new election of the board for Winnunga. A new board has been elected. It is chaired by Mary Buckskin and it has resumed control over the management of the service. The department commissioned an audit of the service and the audit concluded that, while management and systems at Winnunga are generally satisfactory at present, major improvements have been made in the last six months and the situation prior to December 1998 may not have been satisfactory. Several recommendations for improvement were made in the body of the report and the department has been liaising with Winnunga to address those areas of concern. Winnunga has been cooperative in that process.

I think this comes to the nub of your question. The department no longer will be directly funding Winnunga through funds passed on by the Federal Department of Health and Aged Care as it has done in the past. Negotiations between the two departments were concluded in June and July of this year and a decision was made by the Commonwealth to fund Winnunga directly. The ACT will remain involved in guiding the service provision through the making of government policy and the funding of strategic projects from time to time. This outcome is merely an administrative arrangement and does not reduce in any way the ACT Government's commitment to providing effective health services for Aboriginal and Torres Strait Islander people in the ACT. However, from now on the reality is that the Commonwealth has taken over that funding and is doing it directly, so that is where the responsibility lies in relation to the question you asked.

**MR OSBORNE**: I have a supplementary question. Are you able to inform us how much money the Commonwealth will be providing to this service, or are you not aware? Are you able to provide that figure?

**MR MOORE**: I have taken up the specific level of funding on issue and will find out from the Commonwealth. My understanding is that there was no reduction in the level of funding, but I will find out whether that is accurate. I will find out the exact figure for you and let you know.

## Drug Injecting Place

**MR HARGREAVES**: My question is to the Treasurer. Given the Government's introduction of the Drugs of Dependence (Amendment )Bill (No. 2), legislation introduced by Mr Moore last December to facilitate the establishment of a drug injecting place in Canberra, and the fact that this issue is neither unexpected nor unanticipated, can the Treasurer tell the Assembly why there was no provision for such a facility in the 1999-2000 budget?

**MR HUMPHRIES**: Mr Speaker, I am sure that if a budget had been brought down in May which contained funding of this kind there would have been a very severe reaction from some people in this place, probably from the Opposition in particular. Anticipating that, it is important for the Assembly to have a chance to consider whether it wants to go down the path of a safe injecting place before money is made available for that purpose. The cost of a safe injecting place is not necessarily very large. It is not necessary to have a very significant commitment from somewhere else. It is possible for the Treasurer's Advance to be able to meet that cost if the Assembly decided it wanted to do that. The Chief Minister, as the former Treasurer, has already announced that she intended to deal with that issue in that way.

I am not sure what Mr Hargreaves is saying. Should we have put money in before a decision was made? Should we have not made a decision to do this until there is an appropriation to that effect? What is he saying? I think he is playing a very close game. Whatever we do is what they will disagree with, I suspect, at the end of the day, Mr Speaker. We have taken a cautious approach with this. We have not put money aside. If the Assembly decides to support the concept in the future - in other words, if a few people get off the fence and you decide what you want to do about the matter - we will be in a position to be able to make a decision and to decide whether funding should be put to that project.

**MR HARGREAVES**: Mr Speaker, yesterday I congratulated the Minister for Urban Services on the brevity of his question, and I congratulate Mr Humphries for ducking that one. Mr Speaker, my supplementary question is this: Will the Minister now categorically confirm what I understood he just said - that he will not be bringing forward a supplementary Appropriation Bill to cover the cost of this safe injecting place? Also, when does the Government propose to proceed with Mr Moore's plan?

**MR HUMPHRIES:** As far as the second part of the question is concerned, you should ask the Minister for Health about that. I am not the Minister for Health and that is properly a matter for him. As far as the first part is concerned, you ask me to confirm what I have already said. Well, I confirm what I have already said. We anticipate dealing with this matter by way of a Treasurer's Advance. The cost is not likely to be significant. If the Assembly sees fit to support the proposal it is not likely that a second appropriation would be required, or a third appropriation, as that is what it probably would be.

Mr Speaker, I might indicate that the possibility of having to come back for further appropriations for significant projects cannot be ruled out at any stage. The project is of a significant size. The Government has to reserve the right, within the parameters of what the Assembly has already said to us about appropriating money for projects, to come back and appropriate money separately. It may be that in the context of the debate someone says to us, "We want you to appropriate separate money for this exercise". We have learnt our lesson well enough to know that we are not going to defy that kind of approach if that is what the Assembly wants us to do. We are working within that framework. We are waiting for the Assembly's view on this matter before we make a decision about the allocation of money and how much.

**MR MOORE**: Mr Speaker, perhaps I can add a little on the issue of the timing of this matter. The Government has said that in October we will bring down a broad drug strategy. But there is an urgency, Mr Speaker. I think it is illustrated by a conversation I had in my home in the last couple of days, and I think it is really rather poignant. We were discussing the notion of self-cleaning toilets. My son thought it would be a very good idea to have self-cleaning toilets in bathrooms, and one can understand why. I said, "We do have a similar thing with the Excel loos in Civic". He said, "Oh, yes, I was going past one of those the other day on my skateboard and I saw somebody who was dead, and he'd OD'd". I said, "How did you know that?". He said, "Well, the police were there and they were taking photos". I do not know what time he was referring to. I should have asked. My older son said, "See, dad, you really have to get your safe injecting room going because that is a life that is lost while we are taking too long to get this up".

## Canberra Tourism and Events Corporation

**MS TUCKER**: My question is directed to the Chief Minister in her role as being responsible for tourism promotion in the ACT and it relates to the publication called "Canberra's Top Secret Tour" which describes a self-drive tour of places in Canberra linked to defence and intelligence activities. The tour was originally put together by the late Fred Daly. This book states that it is produced by Tourist Tours Australia Pty Ltd. I understand that Tourist Tours Australia in fact is not a company but is a business name owned by another company called the Radio and Television Academy. This company happens to be fully owned by David Marshall and his wife, Christine Marshall. David Marshall, as you would know, is also the Chief Executive of the Canberra Tourism and Events Corporation. I think if you look carefully it even looks like David Marshall is the spy on the cover of the book. Chief Minister, do you think it is appropriate for the Chief Executive of CTEC to have his own tourism business on the side which produces a book that is being sold at CTEC's Canberra Visitor Centre and whose web site is also linked to the CTEC web site?

**MS CARNELL**: Mr Speaker, the Government is very well aware of Mr Marshall's involvement in this company. He has made it clear right from the beginning. I think the rule that exists in, I suspect, every public service around Australia is that we expect full disclosure from people like Mr Marshall in these sorts of areas. I do not believe there is any conflict of interest at all. There probably is a synergy, shall we say. Mr Marshall is out there attempting to improve tourism for the ACT. That is exactly what his job is.

**MS TUCKER**: I have a supplementary question, Mr Speaker. Chief Minister, do you also think it was appropriate for David Marshall to be quoted as the Chief Executive of CTEC in a *Canberra Times* article on 16 January promoting this book with no acknowledgment that he is also the publisher of the book?

**MS CARNELL**: Mr Speaker, I do not think that is a matter for me to make a comment on. I am very well aware of Mr Marshall's involvement in this company. As I say, it has not exactly been a secret from anybody. As Ms Tucker commented, it is on the front page of the book involved. Some public servants do have an involvement in other

business activity. We require them to make that activity evident up front. We then determine whether that could detract in any way from their job. I would have to say in this case that there is just no way that I can see that this detracts from Mr Marshall's job.

I come back again to comments I made yesterday about mentioning public servants by name in this place. Ms Tucker could have approached me directly on this issue to determine whether the Government knew. She chose to raise it in a public forum. That is just having a go at public servants again.

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

## Bruce Stadium

**MS CARNELL**: Mr Speaker, I would like to give some more information about a question I answered in question time with regard to the confidentiality clauses. I am advised that the Brumbies contract has no explicit confidentiality clause, but they were approached after the Assembly motion, as I said, and they answered no. The Cosmos and the Raiders contracts do contain confidentiality clauses.

## Eco-Land Development - McKellar and Fisher

**MR HUMPHRIES**: Mr Speaker, I want to clarify an answer I gave yesterday to the question from Ms Tucker about the granting of leases to Tokich Homes Pty Ltd. I told the Assembly yesterday that Tokich Homes Pty Ltd had paid market value for the land close to the McKellar shops and, in addition, will undertake revitalisation works to the value of $100,000 at the shops. I have become aware that this part of my response was incorrect and I wish to take the opportunity to correct the answer.

In assessing the market value to apply to the leases the Australian Valuation Office took into account the cost of the revitalisation works. The value of those works, therefore, was deducted from, rather than in addition to, the market price paid, and I apologise for that unintentional misleading of the Assembly. I appreciate that the answer given to question on notice No. 104 may have been misinterpreted for the same reason. I wish to confirm in respect of that answer that the cost of the revitalisation works was taken into account in assessing market value.

The valuation methodology applied in this case is consistent with long-standing methodology and the valuations undertaken by the Australian Valuation Office and applies not only to direct grants but also to leases sold by auction or tender. The Government's support for the direct grant of leases to Tokich Homes Pty Ltd was on the basis of the project's contribution to revitalising the McKellar centre at a time when there was little interest in local centres. It provides a residential development to support the local centre and it was supported in community consultations. We have no regrets about that aspect of the proposal.

Mr Speaker, I appreciate that the long-standing practice that was applied in determining the impact of associated works on market value may not always be appropriate. It is my view that we should review the practice in this area to see whether it is consistent with

a policy which balances both accountability through competition and the encouragement of innovation in such proposals. I hope to be able to do so and report in due course to the Assembly.

## PERSONAL EXPLANATIONS

**MR QUINLAN**: Mr Speaker, may I make a personal explanation under standing order 46?

**MR SPEAKER**: Yes, proceed.

**MR QUINLAN**: In responding to my question earlier, the Chief Minister quoted me, I think. I have no recollection of saying, "Over my dead body". I would like the Assembly to know that. I find it curious that the Chief Minister would know nothing about the evaluation of the expressions of interest that we were talking about, but would know what I said.

Further, let me make a personal explanation in relation to what I said or what the committee decided. The committee was advised by the representatives who came to make a presentation to the committee, which included the Under Treasurer, that the Government could not set aside the expressions of interests simply because it had given a hastily cobbled together presentation to the committee. The committee, not necessarily me, quite rightly advised that the Government had a responsibility to apprise the whole of the Assembly, and it is the whole of the Assembly that is the appropriate committee to receive this particular information. In fact, what the committee was saying to those three gentlemen - Mr Mackay, the chief executive of ACTEW, and the ABN AMRO representatives, was: "You cannot sweep this lot under the table by bunging on a very quick presentation", as we suspected was being attempted.

**MR KAINE**: I seek leave to make a personal explanation under standing order 46.

**MR SPEAKER**: Proceed.

**MR KAINE**: Mr Speaker, during question time in answer to a question the Attorney-General implied that I had been in communication with or discussed a matter with the accused in a case of which the Attorney-General was well aware. He made a similar implication in May when I first raised the matter. I said then, and I say again for the record, that I have not had any communication with the accused in writing, verbally or in any other way on this matter. Indeed, as far as I know, he is not aware that I was even raising the question today. I want that on the record.

**Mr Humphries**: What about your staff?

**MR KAINE**: If Mr Humphries is going to continue to make these snide assertions, I invite him to make them outside this place rather than inside it.

**MR BERRY**: I seek leave to make a personal explanation pursuant to standing order 46.

**MR SPEAKER**: Proceed.

**MR BERRY**: Thank you, Mr Speaker. In question time, the Chief Minister laid into me for not volunteering to provide commercial documents as a result of a request which she made some years ago. Mr Speaker, I was under no direction from this Assembly to provide those documents, which is quite in contrast to the position of this Chief Minister. A motion was passed by this Assembly which very clearly required the Chief Minister to supply contracts - - -

**MR SPEAKER**: That is not a personal explanation.

**MR BERRY**: Mr Speaker, this is completely different.

**MR SPEAKER**: It is a personal explanation insofar as you are concerned, but not the Chief Minister.

**MR BERRY**: Mr Speaker, I never held this place in contempt. I was never directed to supply documents. This Chief Minister has and she has been holding this place in contempt.

**MR SPEAKER**: Thank you. That is it. You have made your personal explanation. Sit down.

## STUDY TRIPS
### Papers

**MR SPEAKER**: For the information of members, I present a report dated 17 August 1999 of a study trip undertaken by Mr Hird to Perth, and a report dated 6 August 1999 of a study trip undertaken by Mr Stanhope to Melbourne.

## AUTHORITY TO BROADCAST PROCEEDINGS

**MR SPEAKER**: For the information of members, I present, pursuant to section 4 of the Legislative Assembly (Broadcasting of Proceedings) Act 1997, authorisations to receive sound broadcasts of Legislative Assembly and committee proceedings given to specified government offices, subject to certain conditions.

## QUAMBY - ADMINISTRATIVE RESPONSIBILITY

**MS TUCKER** (3.30): I move:

> That this Assembly calls on the Chief Minister to remove from the responsibility of the Attorney-General the administration of all matters relating to the powers of the Executive in relation to the Quamby Juvenile Detention Facility and allocate those powers to the Minister for Education, pending the presentation to the Assembly of the Standing Committee on Education's report on its inquiry into Quamby.

Yesterday the Assembly resolved that the Standing Committee on Education inquire into recommendations 1 and 3 of the report of Coroner Somes on the inquest into the death of Mark Watson. Given that, it is important that the recent change to take Quamby from the responsibility of the Department of Education and Community Services to the Department of Justice and Community Safety be reversed until the committee has reported.

As I stated yesterday, I am unsure which department is the right one to administer juvenile justice. I do not have a set view on it. But after the change was announced, I was contacted by many people in the service sector and community organisations who are very concerned about this announcement of the Government. Basically, they were not consulted or asked for their view on it and have serious concerns about it. It appears that this change was ad hoc and one recommendation of the coroner was selectively quoted to justify it. The response from the community is that one recommendation from the coroner is not enough to justify such a change.

Certainly, it is an important recommendation and one that deserves consideration, but many members of the community who have expertise and experience in the area feel that they should have been asked about this issue. I have had concerns expressed to me by the ACT Council of Social Service, the Youth Coalition, the Winnungah Aboriginal Health Service and Janet Rickwood, who is the ACT Official Visitor. A number of people contacted me after the media publicity and, interestingly enough, some of them were individuals who had worked in the sector. One chap who had worked as a custodial officer as well as a youth worker had particular concerns about what was happening that he wanted to see addressed. His concerns were quite different in a way, but seemed very legitimate and thoughtful, from the concerns that have been expressed by other groups. Obviously, there are people in the community with different views about this matter and they all have a right to put those views, given the experience and expertise on which they speak. That is why it is really important that we not make these changes without listening to these people.

The other comment I have to make is that we have a minority government here, but there was no consultation with other members of the Assembly about this move. It was done between sitting periods and we were all taken by surprise. Once again, it appears that I have support today for objecting to that in terms of the support for this motion.

Most members of this Assembly expect to be consulted on such a major social initiative and want to give the community an opportunity to have their views heard on such a matter. That is why I am hoping to get support today from a majority of members.

Concerns have been expressed that, in fact, this move is in breach of the spirit of the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child. There are also some really big issues around the Aboriginal deaths in custody report and the Government's response to it. For the information of members - Mr Osborne might like to listen to this - I would like to quote a couple of recommendations of the Aboriginal deaths in custody report. Recommendation 235 states:

> That policies of government and the practices of agencies which have involvement with Aboriginal juveniles in the welfare and criminal justice systems should recognise and be committed to ensuring, through legislative enactment, that the primary sources of advice about the interests and welfare of Aboriginal juveniles should be the families and community groups of the juveniles and specialist Aboriginal organisations, including Aboriginal Child Care Agencies.

The response of the Government reads:

> Efforts are made by Family Services, through established networks, to consult Aboriginal and Torres Strait Islander community groups during the course of statutory involvement with Aboriginal and Torres Strait Islander juveniles.
>
> The ACT Government, through the Family Services Branch, continues to support the involvement of Aboriginal and Torres Strait Islander families, community groups and specialist organisations in the welfare of young Aboriginal and Torres Strait Islander juveniles within the welfare and juvenile justice system.

Recommendation 62 is also very important. It reads:

> That governments and Aboriginal organisations recognise that the problems affecting Aboriginal juveniles are so widespread and have such potentially disastrous repercussions for the future that there is an urgent need for governments and Aboriginal organisations to negotiate together to devise strategies designed to reduce the rate at which Aboriginal juveniles are involved in the welfare and criminal justice systems and, in particular, to reduce the rate at which Aboriginal juveniles are separated from their families and communities, whether by being declared to be in need of care, detained, imprisoned or otherwise.

The ACT Government's response reads:

> The ACT Government strongly supports all initiatives to prevent separation of young Aboriginal peoples and Torres Strait Islanders from their families and to address young peoples' special needs. The bail supervision scheme conducted by the ACT Juvenile Justice system prevents unnecessary entry into custody of juvenile offenders. The ACT is the only jurisdiction which provides such a scheme. The community work order scheme is conducted under the guidance of one of the local Aboriginal and Torres Strait Islander groups.
>
> The ACT's child welfare principles and practices recognise that a child should remain with his/her family or extended family wherever appropriate. The ACT Government recognises that this is of particular significance to Aboriginal and Torres Strait Islander families.

The Aboriginal community is offended by what this Government has done at this point. The Government, in its response to the Aboriginal deaths in custody report, expressed good sentiments about how it should be dealing with these issues but, unfortunately, has not put them in place in this policy decision. It is really important that we get this right. It is a major decision. We believe that the Department of Education and Community Services must resume responsibility for Quamby until the committee has reported.

Queensland in particular encountered difficulties when it removed juvenile justice from the Department of Family, Youth and Community Services and placed it with the Queensland Corrective Services Commission in 1996. Queensland found that the anticipated efficiencies from applying the adult corrections model to juvenile justice were not viable. That was because the adult system relies less on staff and more on electronic systems to manage inmates. Juvenile offenders require higher staffing ratios because of the relational nature of the custodial role. In Queensland the creation of a separate bureaucracy for juvenile justice led to significant undermining of linkages and duplication of services across departmental boundaries. There were also problems with the case management of young people in the community and resource issues as juvenile justice was only a small part of the much larger corrections service.

We know from committee inquiries that have been carried out here that ongoing difficulty is being experienced by government in seeking to ensure an interdisciplinary approach to issues. I am hearing from the majority of the members of the community who are concerned about this policy move an acknowledgment that there have been dreadful issues for Quamby while it has been under Education, but they are concerned that separating it is not going to deal with the issues. There is already after the inquest and the coronial recommendation a need to seek urgently to improve how Quamby is working and to seek to find how to implement best practice in the area. As the Official Visitor said in correspondence to Mr Humphries and Mr Stefaniak, referred to yesterday, she is concerned as well that imposing more change is not going to be useful in terms of getting the outcomes that we all want to see.

I believe that we have a responsibility in the ACT to allow full and proper analysis and public discussion on these matters before any changes are made. Yesterday, Mr Humphries said in debate that, if the committee found that Quamby was better left with Education, it could be moved back again. That would not be until after the

reporting date of June 2000. One has to wonder about this Government's approach to policy-making because, as I have said, Quamby is already undergoing major change which is very much needed. As the Official Visitor commented:

> How can stability and positive outcomes be achieved if the Centre which is just starting to recover its morale is in a constant state of flux.

The decision to move Quamby was not informed by consultation with the key stakeholders, let alone members of the Assembly, and it is important to recognise the impact of constant change on workers and institutions. We want to see this institution improve its performance urgently. It is poor management style to say that we can just move back in eight or nine months as if it can be done willy-nilly and not have an impact on the workplace culture. It may be that it is the right thing to do to move juvenile justice into adult corrections, but we need to have an opportunity to look at those issues with the community.

Some people in the community feel that this is just about the Government's agenda to privatise corrections, with the new prison being built. We need to have an opportunity to discuss that possibility and hear the Government's response to that suggestion. The process has shown a disregard and disrespect for those people who are working in the area and I urge members of the Assembly - I am sorry Mr Osborne has not been listening, but he said he would be listening - to support this motion.

**MS CARNELL** (Chief Minister)(3.41): The Government will oppose this motion, for some very important reasons. Mr Stanhope, if he does ever plan to be Chief Minister of the Territory, should listen to those reasons. The motion fundamentally ignores the basic responsibilities of the Chief Minister and the obligations of the Executive under the Australian Capital Territory (Self-Government Act) 1988. It is that simple. The Act provides the Chief Minister with the authority to appoint Ministers and to assign portfolio responsibilities to the Ministers. The Act does not give the Assembly the right to do that, Mr Temporary Deputy Speaker; it gives the Chief Minister the right to do that. Quite simply, that is what the Act says. That is the law. The Government has exercised its legitimate authority. Any challenge to that authority must be of concern to any future government in this place.

Mr Temporary Deputy Speaker, much has been said in this place about making sure that we follow the letter of the law. In fact, those opposite have made lots of comments about this statement recently, particularly about administrative law. I come back to the ACT (Self-Government) Act 1988, Mr Temporary Deputy Speaker. The Act clearly provides that the Chief Minister does have the authority to appoint Ministers and to assign portfolio responsibilities to those Ministers.

Mr Temporary Deputy Speaker, in making those decisions, any Chief Minister would look at a number of issues. In this circumstance, I looked at the coroner's report brought down recently. Of course, the Assembly has just had the Government's response to that. The coroner recommended that only one government division should take responsibility for Corrective Services in the Territory. The coroner also indicated that further consideration of this recommendation might usefully be part of an Assembly inquiry.

The Government has accepted the recommendation about establishing a single government division for corrective services. The possibility of transferring these responsibilities has been a topic of informal discussion for some time. It has been in the public domain since the coroner's report and the community has been on notice that this was the approach that the Government was likely to take.

Mr Temporary Deputy Speaker, in a jurisdiction the size of the ACT, co-location of corrective services does provide an opportunity for better management and for efficiencies in the area. It is certainly true that this Government takes very seriously the very different issues involved in juvenile justice and, for that matter, adult justice. Some areas are the same. Issues involving indigenous people in our justice system are issues that the Government takes very seriously. The Government, by the way, is not alone in its approach to moving both of these areas under the same jurisdiction. In fact, the Northern Territory, another small jurisdiction, does it the same way, as does Western Australia, where adult and youth corrections fall under one ministry.

Mr Temporary Deputy Speaker, I come back to the core issue here. I, as Chief Minister, made a decision to allocate a particular ministerial portfolio, something that I have the right to do under the Act. I did that based upon the coroner's report, based upon a number of discussions that we have had in this area at the Executive level and based upon what we believe will be the best outcome for the community. That is the responsibility of the Chief Minister and the Executive in this place. We have also undertaken to go down the path of having an Assembly inquiry look at a number of the issues that the coroner has recommended we look at. We are very happy to do that and we have indicated that that committee should report by, I think, the middle of next year.

I think that a government that takes note of a coroner's recommendations and looks at the issues to determine what is in the best interests of the Territory should be supported in this place. Most importantly, Mr Temporary Deputy Speaker, if this Assembly were to move away from the self-government Act and start telling the Chief Minister how to align portfolio responsibilities and administrative arrangements, I would have to say that the whole basis of self-government in the ACT would start to fall apart.

This motion calls on the Government not to go down a particular path. We have already done so. Responsibility for Quamby has already changed and the gazettal notice has been tabled in this place. I take my responsibilities as Chief Minister very seriously. I would have to say that I believe that those responsibilities have been exercised appropriately and we will be sticking with that gazettal approach.

**MR WOOD** (3.47): The Opposition will be supporting Ms Tucker's motion. I will not go through the arguments as to where Quamby should finish up in the end. That is now appropriately the task of a committee to inquire into and report on and for subsequent debate in this Assembly.

I will make one comment about Quamby and it is one that I think will please the Government. All the reports I have had on Quamby in recent times have been very favourable. The reports I get tell me that under the new administration and under the new directions Quamby, as it was then under Education, has been going along very much better and is on the way to doing a very good job in this very difficult field.

Another matter, for what it is worth, is that most of the groups I have spoken to who have an interest in this area would prefer to see Quamby remain with Education. They will get their chance to make that comment to that Assembly committee of inquiry. It is pleasing that Quamby appears to be doing very well indeed, very much better than formerly.

I am not convinced by the Chief Minister's argument that we would be moving away from the ACT self-government Act if we gave a direction to the Chief Minister that she had to put this agency where the Assembly wants it. For over 10 years, and I know Mr Moore will agree with me, this Assembly has been very adept at expanding its range of interest and its ability to direct government. It has been doing that over many years. Let me raise just one example of that - the ability to make appointments to various bodies. It was Mr Moore, I believe, who introduced that into the Assembly. Under standard government arrangements, that is strictly a job for the government to do. We extended the boundaries. That is not exactly comparable with this one, I know, but we extended the boundaries. A further extension of that principle, I would suggest, would see the Government having no difficulty in accepting a direction on this matter.

This Assembly, as I have heard Mr Moore say many times, has been an innovative Assembly. It has looked at new and different ways of doing things. Goodness me, I think I can hear my head ringing from the Chief Minister saying that herself on many occasions. She says, "Let us do things differently". But not today. She does not want to do things differently today; she wants to do them the way she wants. I do not think it makes a vast degree of difference either way for the moment, but I think it is better, on balance, for Quamby to stay with Education, mainly because of the very good record in recent times with Education.

Yes, the administrative arrangements have been made, but I would not expect that the physical relocation always following changes has yet been made, and I think it would be rather easy for a very quick reversal of that administrative arrangement to be made to enable Quamby to stay with Education for the period of this inquiry. If that inquiry comes up in the end with the proposal that that is where it is best suited, there is minimal disruption to organisational procedures.

The Chief Minister wanted it both ways on one matter relating to the coroner's report. She used as an argument the fact that the coroner recommended that there be one agency to look after all correctional facilities, all correctional arrangements. She also noted the coroner's argument that there might need to be an inquiry around that. The Chief Minister took the one initially but not the other. She used one to incorporate Quamby into Justice but did not at that time take on the argument about the inquiry to think about it. That was accepted only yesterday in the Assembly.

**Mr Humphries**: No, we moved it ourselves yesterday. It was our intention to move it yesterday.

**MR WOOD**: I am not sure. I think that initially you did not go down that path. We will have the inquiry, as the coroner suggests, and that inquiry is the appropriate arrangement for the Assembly to decide where Quamby should be finally located. There is no difficulty in extending our boundaries, and I acknowledge that it is an extension, for the Assembly to say to the Chief Minister, "Under the terms of the self-government Act you have authority here and the Assembly says to you that you should exercise that authority to put Quamby into Education", or somewhere else. There is no impediment to that. To hint, as I think would be the word, that somehow we would be in contravention of the self-government Act if we allowed this to happen is simply nonsense. This is a reasonable way to proceed and I urge the Assembly to do so.

**MR MOORE** (Minister for Health and Community Care) (3.53): As I listened to Mr Wood I heard him say that I, in particular, was responsible for extending the powers of the Assembly. Indeed, that is correct, but always respecting the self-government Act. Calling on the Government to do something does not conflict with the self-government Act; so I am not suggesting for one minute that there is a conflict there. Intending in any way to take over that power would indeed conflict. If you had "the Assembly requires", for example - I note that you carefully chose the word "call" - it would be a different thing.

But there is a contra to that and that is that the Government should consider the call of the Assembly as just that - a call of the Assembly, an expression of opinion to be taken into account and considered by the Chief Minister. The self-government Act states very clearly at section 43(1):

> A Minister shall administer such matters relating to the powers of the Executive as are allocated to that Minister from time to time by the Chief Minister.

It is quite clear that this power is entirely in the hands of the Chief Minister - not by any action of this Assembly, but by the self-government Act, by a constitutional issue. The irony of having Bill Wood standing there and say that we need to expand these things is that we so constantly hear his leader, Jon Stanhope, say, "It is not Westminster; it is a break away from Westminster". What we have to work out is whether they stand for anything or whether they are always just opposing or just agreeing to a particular case - or whether it is just blatant toadying, as we saw this morning.

We saw this morning from Jon Stanhope blatant toadying towards Trevor Kaine, probably trying to see whether he could support Mr Kaine in a motion so that Mr Kaine would be on side later. In this case Bill Wood was just toadying to Ms Tucker to make sure that there would be enough quid pro quo for her to stay on side and give her support, whereas the matter really does not mean a great deal to members of the Labor Party individually.

I understand where Ms Tucker is coming from on this issue. She believes that it is appropriate that Quamby be within the responsibility of an area other than the criminal justice area, and anybody who thinks about this issue would understand why she would think in that way.

But the reality is that the coroner made a recommendation and the person charged with the responsibility under the self-government Act of making a decision on that has made that decision. If she determines to continue with that decision, she should do so. But that does not stop a motion being moved in this Assembly saying, "We call on you". It does not stop Ms Tucker going to the Chief Minister and saying, "Look, Chief Minister, I really think this is a bad mistake for these reasons", and that is the sense that I get of the motion here. That is the sense I get of the motion, which is why Ms Tucker has used the words "We call on", rather than "We require you to".

I have noticed that a number of the motions on the notice paper today actually use the words "The Assembly requires the Government", as opposed to "calls on the Government". It would be inappropriate for the Chief Minister completely to ignore the call. If the majority of this Assembly says, "That is what we feel", it would be inappropriate for the Chief Minister completely to ignore the call, but it would also be inappropriate for the Chief Minister to deliver just because that is what the Assembly called on her to do. It is still her responsibility, charged under the self-government Act, to make this sort of decision.

**Mr Wood**: Nobody else can make it.

**MR MOORE**: Mr Wood correctly interjects that nobody else can make it. I think that it is important to recognise that it is her decision to make. It is appropriate for her to listen to what the Assembly says and then, having listened to it and, remember, having listened also to what the coroner has said, either verify her decision or say, "The Assembly has made a point. There have been such strong arguments put forward that we will act differently". But I think it is important to make sure that all members understand that it is entirely and completely the Chief Minister's decision. This is not one of those motions where you can come back and say, "The Chief Minister ignored the Assembly; therefore, we should take further action". It is much more in the sense of being advisory.

**MR HARGREAVES** (3.58): Mr Temporary Deputy Speaker, I reckon that this motion is most appropriate. What we are seeing here is the Government actually pre-empting the results of the inquiry that it has said is going to be a worthwhile one. That is unfortunate. In fact, what has happened here is that we have had a recommendation from the coroner and the Government has picked up that recommendation and run with it and yet still included it in an inquiry. The inquiry will only check out whether the Government made the right decision. There is no rush about this matter.

**Ms Carnell**: It is already done. It was done yesterday.

**MR HARGREAVES**: For the Chief Minister's benefit, I will rephrase it. There is no need to have rushed it. There is plenty of reason to say, "Okay, we have made a slight mistake. We will just fix it", as simple as that, "to avoid the obvious criticism that is going to come". If this Government is serious about having the issue examined and serious about having it out for community consultation, why bring something on and then inquire later? It is only paying lip-service to the inquiry process.

Let us look at this Government's record on corrections, particularly corrections in the area of young people. It is not a question of confidence in one department as opposed to another. It is a question of whether this Government is forward thinking or backward thinking. Look at it from two points of view: The recent history of Quamby and the Government's record so far on the development of a prison for the ACT, because at the end of the day it is an issue of how we actually change behaviour in young people and stop them going into the prisons and the corrections system.

When the crisis of Mark Watson's death raised the seriousness of the activities in Quamby in September 1996, what actually occurred? The Government at that time made a rare but good decision. Maybe I have got that round the wrong way; it was a good but rare one. The administration of Quamby at that time was part of Corrective Services and it had a corrections mind-set; it had the prison officer culture. The Government spotted that Quamby is not about the incarceration of kids; it is part of Children's Services. If we are to be successful in preventing kids from going into the adult corrections system, we need to have Quamby managed with a service to kids mind-set, not a punishment mind-set. That worked at Quamby.

Thanks to the expertise of Michael White, until recently the executive director of Children's, Youth and Family Services in the Department of Education, and Frank Duggan, the current manager of Quamby, the staff culture is starkly different from what it was then. Do we want to go back to what it was before? I do not think so. When we think about how to stop kids actually getting into the system, I think we all acknowledge that the success of our youth centre services and our services to young people generally has a direct effect on whether these people go into the judicial system.

That was proven in Queensland, as I think I have mentioned in this house before. A few years back there was an upsurge in the number of people being put in prison - something like 30 per cent - and people thought then that there was a crime wave on. When it was checked out it was found that that was not the case. In fact, we had spoken about that in our prison journeys. The problem stemmed from a reduction in resources for youth centres around Queensland brought about by the then Bjelke-Petersen Government; it was tracked back to that.

The up-to-date thinking is that if we plough our resources and our mind-set into the problems that the kids are experiencing at an early age, we can actually prevent them from ever going into the system and keep the numbers down in that way. It is an investment. I see the services at Quamby as being at the tail end of that. Where our youth centre services have not worked so well for particular kids, Quamby is in fact the last stage. It is incredibly important that we not have the prison mind-set in that area, because it is after all the last chance some of these kids are going to get.

One of the things that worry me is that the move from Education through Children's, Youth and Family Services can be seen as an expression of lack of confidence in Mr Stefaniak's administration of his portfolio. I, for one, would like to congratulate Mr Stefaniak for facilitating the work of Michael White and Frank Duggan in effectively changing the culture there, and their efforts are starting to bear fruit. I am concerned that we will go backwards from that.

This Government has not progressed the development of our own prison all that well. For example, we are still concentrating on siting, we are still concentrating on whether it is going to be public or private, we are still talking about who is going to manage it, and we are still getting piecemeal crumbs from the table about things such as mental health and suicide programs. We are not seeing a concerted and consolidated approach to this matter, and that is where I think we are falling down. I have been asking about this matter for some considerable time. We have got it round the wrong way. We need to be saying, "What are the programs going to do? How are they going to achieve the outcomes of restorative justice?". But no, this Government continues to drag the chain and say, "We are going to build this prison and stick the programs in it".

Mr Temporary Deputy Speaker, you know only too well the comments that have been made to us interstate by people who have been forced to put their programs into an existing building or a building that was built and then there was a contract change and in they would go. We have heard about the difficulties that they have had. Indeed, that was part of the problems that existed at Port Phillip. One of the things pointed out to me very clearly by the man in charge of Fulham Prison was that if he had been able to do something in a certain way he thinks they would have had a better outcome and a quicker one. But we do not do that. What we have with this change to the corrections system at Quamby is the same sort of mind-set.

Why the Government would want to pre-empt the Assembly's inquiry is something that is beyond me. Perhaps it is because they intend to ignore the result or are hoping like heck that it will give them what they want. I want the inquiry to look at whether the corrections mind-set embraces the whole continuum of justice from arrest to successful restoration. I want to see a system which is better than the one provided by Michael White and Frank Duggan, who were trying to stop kids from going into the corrections system at all.

Quamby has experienced the death of a young person, a needless death. I am asking the Government to concur with Ms Tucker's motion and put the responsibility for Quamby back into Children's Services, where progress has been made, and not go back to the very structure which allowed Mark Watson to take his life. Allow the community through this inquiry to advise whether it is indeed okay for Quamby to be a subset of the prison system. We all know that the Belconnen Remand Centre has a reputation for being an unpleasant place. Let us not wind back the clock on Quamby. I call on the Government to abide by the process. Let the inquiry go on. Do not hide behind the self-government Act.

If changes are recommended by the committee, implement them then. Let us not play around with the lives of kids. Let us not ignore the process. I might say that ignorance of the process seems to be a regular facet of this Government's modus operandi at the moment. Mr Temporary Deputy Speaker, the precedent that an inquiry can be pre-empted under the protection of the self-government Act is a nonsense. It is our role to say to the Government, "You have made a slight mistake; please fix it", and for the Government to say, "Yes, we will". We are saying, "Do not rush, do not anticipate", and they are saying now that they have. We are saying, "Let the inquiry further advise on the issue".

This is a rushed decision and there is absolutely no reason for it. I commend Ms Tucker's motion to the Assembly and trust that Mr Osborne will put the kids first and vote for the motion.

**MR KAINE** (4.08): I have been listening quietly to this debate, trying to take in what everybody has said. It seems to me that the issues here have been set aside in favour of a debate about where power resides and how it is exercised. The Chief Minister rests on the assertion that the legislation gives her the power and she has exercised it. That is true, but in exercising that sort of power there is due process and I think that it is a little bit arbitrary for any Minister simply to say, "Because the legislation gives me the power, I have done it or I am going to do it", because there are lots of other people involved in this issue and a lot of them have different views about what the outcome should be. In fact, next Monday I will have people coming to see me who have real concerns about the Government's actions.

**Ms Tucker**: And they know a lot more about it.

**MR KAINE**: I suggest that they probably do know a lot more about the issue. In spite of the fact that they are aware that the matter may well be disposed of today, they still want to come and talk to me about it next week. That is the community - the interested community, the concerned community - wanting to express their view. When a government has this power, there is the question of how you exercise it. Certainly the Chief Minister or any other Minister can say arbitrarily, "I have the power and I have done this". They can do that if they are prepared to weather the whole gamut of responses - the media's response, public opinion, debate in this place and approval or non-approval - and, finally, of course, if they are prepared to tolerate the response that they get from the people who are most directly concerned by that decision.

The correspondence that I am getting is not favourable to the Chief Minister and the Government. The Chief Minister can take that decision if she is prepared to weather all of that at the end of the day and say, "It is my responsibility and I did it". I do not think that that is a sensible way for any government to go.

**Mr Hargreaves:** You do not have to.

**MR KAINE**: And it is unnecessary because the decision seems to rest on a coroner's recommendations. First of all, the coroner's recommendations are not binding on the Government. Secondly, in this case there was a qualification which the Chief Minister and the Government seem to have conveniently set aside, and that qualification is that there should be an inquiry. The Chief Minister has chosen to ignore that bit and say, "We are going to do this anyway and then we will look over the shoulder and see where the shrapnel falls". I think that is, to put it mildly, unwise on the part of the Government. There are real issues here which I believe the Government should take into account. The Government has made its decision. That is not a decision that cannot be undone.

I suspect, Mr Temporary Deputy Speaker, that prudence would dictate under the circumstances that the Government review that decision and set it aside until all of the interested people have had an opportunity to express their view and have those views heard and taken into account before the decision is implemented. I can only say that

I support the motion that Ms Tucker has put forward, but I think that sensibly the Government should review its position and at least hold its decision in abeyance until there is an inquiry which allows people to express their viewpoint and then it is incumbent upon us in this place to take into account those views before we endorse or reject the Government's decision in this matter.

As I say, I think it is a matter of prudence, I think it is a matter of equity and I just think that it is unwise on the part of the Government to force an issue like this when they do not need to do so. So I will be supporting Ms Tucker's motion.

**MR SMYTH** (Minister for Urban Services) (4.13): Mr Temporary Deputy Speaker, the coroner in the inquest into the death of Mark Watson at Quamby recommended that one government division be responsible for corrections. That was a very sensible suggestion from the coroner. The coroner also suggested that there should be an inquiry. The Government agrees with both. The Government has now made one government portfolio responsible for corrections as per the coroner's suggestion and the Government has agreed to an inquiry into the whole issue of corrections. I am not sure what is the difficulty with this matter.

This Government has said in relation to corrections that we think that there is a lot of work to be done on the issue of the adult prison. We do not see it simply as a centre where people will be incarcerated. We see it as a tremendous opportunity to allow those people to be incorporated back into society. Mr Moore has been to the prison at Mount Gambier and we have had the committee look at other prison sites. There is a tremendous opportunity for the ACT to do something special in terms of corrections. I think it is incumbent upon us to do so because as a jurisdiction we have always shown a willingness to embrace new methods, new tactics and new techniques to get the best outcome for the people most at risk and for the people who deserve that special attention from where it is they find themselves.

**Mr Hargreaves**: Lip-service.

**MR SMYTH**: Mr Hargreaves mutters about lip-service as he stands up and walks out, but Mr Hargreaves does not know what he is talking about. He saunters back.

**Mr Hargreaves**: I take a point of order, Mr Temporary Deputy Speaker. I ask for the member to withdraw that. I have not walked out. I just turned my back on him.

**MR TEMPORARY DEPUTY SPEAKER (**Mr Hird**)**: Order, Mr Hargreaves! Mr Smyth has the floor.

**MR SMYTH**: Mr Temporary Deputy Speaker, for the sake of Mr Hargreaves, I will withdraw the statement that he walked out. He started to walk out, but turned around. It seems that he has come back for a second go. That is just time wasting. Instead of treating this subject with the seriousness that it deserves, we have the childish interjection of "lip-service" from Mr Hargreaves. It is not lip-service. The whole issue of corrections is a very serious issue. Those of us who have young children coming into

adulthood hear of the adventures of their friends. We, as members of this place, understand how some kids get themselves into trouble; indeed, how some kids have no hope as their personal situations lead them to end up in such situations.

**Mr Hargreaves**: You have not got a clue.

**MR SMYTH**: Mr Hargreaves interjects that I do not have a clue. Mr Hargreaves has no idea. It sounds to me that Mr Hargreaves will simply sit over there and interject for the sake of interjecting. It is the sort of comment that we get continually from the Labor Party on any attempt by the Government to improve services to the people of Canberra. They stand in the way of everything that this Government does. For instance, we heard today in question time how good the situation is with the budget being in the black and how good the situation is for unemployment with the numbers going down on unemployment, yet we get no credit for that from the Opposition. It is never good enough. The reason it is never good enough is that they are content to stand in our way because they are bitter that they are still on the Opposition benches when they all thought they would be swanning it over here in government.

The reality is that what we have here is a government that is well able to progress issues because it believes that it has responsibilities to a clever, caring capital. We believe that the suggestions that the coroner has made are reasonable suggestions. That is why we are following them. We have put Quamby into the one portfolio for corrections because we believe that it is appropriate to do so. Mr Temporary Deputy Speaker, this recommendation was made after an extensive inquiry by the coroner himself, the person responsible for looking into the death of the young gentleman. It is his suggestion, it is his recommendation, that the Government is responding to.

I can imagine what would have happened if we had not responded to it. We would have been accused of being arrogant and out of touch and of ignoring what the coroner has said. We actually do it and what are we being accused of? Of being arrogant and out of touch and of not agreeing with what the coroner has said. The coroner is the person who has inquired into this matter in great detail and the Government has looked at what the coroner has said and has simply said, "We agree". What happens? We get beaten up for agreeing with the coroner. If we had disagreed with him, we would have been beaten up as well. You have to ask why. The coroner simply said that corrections should be in one portfolio and we agreed.

The new administrative arrangements made reflect the coroner's recommendation. We have done what we believe to be a good thing, the right thing and the correct thing in this matter. This Government is a government that will look at the whole issue of corrections to make sure that we get it right because we actually do care. We do care about this matter and we have strategies in place in terms of how we look at the whole approach. We have an active community policing approach where the police are in the schools dealing with all children and encouraging them to be good citizens.

Our approach is that we would certainly like to see people not go to prison. We do not want people in prison. In many cases, it should be avoided. But then there are cases where people deserve to go to prison, where judges will sentence young people to Quamby and they will sentence older people to prison. With that in mind, we have made

the decision to put it into the one portfolio. We believe that this is a valid decision. Ours is a small jurisdiction and I think that one of the reasons why we get on and we are so innovative is that we are a small jurisdiction, a city-State, a city-Territory, as it were. With that we have had great leadership from the Chief Minister, from Mr Humphries and from Mr Stefaniak. I note Mr Hargreaves' praise of Bill Stefaniak and some of the reforms that we have been able to set in place. I would thank Mr Hargreaves on behalf of Mr Stefaniak, who is not here.

**Ms Carnell**: It makes up for the times that they have got stuck into him over Quamby.

**MR SMYTH**: Except for the times that they have got stuck into him over exactly the same issue. It is somewhat schizophrenic of the Labor Party. We are thankful that Mr Hargreaves has the honesty and the integrity to stand up and thank Bill for that.

Mr Temporary Deputy Speaker, it is very important that we get this matter right. We believe that we have got it right. We believe that this is the way to go. We endorse what the coroner has said. In doing so, we offer a path forward for those who, unfortunately, get into the correctional regimes, but what we will offer them is a better path out when we prove through these changes that we know what we are doing.

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

## NURSING WORK CONDITIONS AND PAY - NEGOTIATIONS

**MR OSBORNE** (4.20): I am most disappointed that the Minister is not here.

**Mr Smyth**: I raise a point of order, Mr Temporary Deputy Speaker. I think the Minister is responding to what it is that Mr Osborne has just been on the radio about while we have been having another debate and giving Mr Osborne the charitable time to do his own work. Mr Osborne should extend that charity to the Minister.

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

**MR OSBORNE**: I move:

> That this Assembly requires the Government to immediately commence negotiations with representatives of the Australian Nurses Federation over work conditions and pay for nurses employed in the Canberra public hospital system.

I would like to read from *Hansard* of earlier this year. I was commenting to my office last night about whether or not forcing the Minister to become actively involved in what was happening at the hospital was the right thing to do. I recall the Labor Party moving a motion. I forget the wording of it. It was not a censure motion; it was the next one down.

**Ms Carnell**: It was expressing grave concern.

**MR OSBORNE**: Thank you, Chief Minister. I recall very soon afterwards the Health Minister positively crowing because a section of the motion calling on him to stand aside from all dealings with the hospital was removed. The next day, Mr Moore said:

> I am very pleased that the indication from this Assembly yesterday, after a long debate, was that I need to keep my hand strongly on the tiller.

Mr Berry then said:

> No, it was not.

Mr Stanhope said:

> That is a very artful interpretation.

Mr Moore said:

> Labor may forget that this Assembly removed from the motion they put out that I was not to meddle. I have to keep a strong hand on it.

I thought we should remind the Health Minister of his own words of not too long ago. I have moved this motion within the context of a dispute between the nurses and the hospital and the Government dating back to at least June of last year, about 15 months ago. During the ensuing time several wards of the Canberra Hospital have closed and nearly 150 hospital beds and about the same number of nursing positions have gone, apparently for good.

In October last year the Government said that it would not rule out selling the hospital and then in a letter to staff just a few days before Christmas implied that it could privatise if the proposed management framework agreement was not accepted. I even recall at the time having conversations with people in the Government who were adamant that the deal that was put to the nurses would be accepted. From memory, it was resoundingly defeated.

I could count at least five times that industrial action has been taken by the nurses out of frustration and three times that both sides have been in front of the Industrial Relations Commission. On all those occasions it appears the nurses won. The Minister returns. I have noticed from his comments in the *Canberra Times* this morning that he seems to think this motion is an endorsement of the style of negotiation which his department has been using to date. Nothing could be further from the truth. It appears that hospital management are willing to come to the table only after the industrial action that the nurses have undertaken has stopped, and the nurses are not prepared to stop the industrial action until the hospital begins serious negotiations.

In moving this motion today I have not laid before the Assembly a course of action beyond getting the right people from both sides of this dispute together in order to work out a suitable wage and workplace agreement. I am confident that if both sides approach a genuine negotiation in good faith then a suitable agreement will be made, and one we

can all live with. It is sad for me to have to do this. However, I have no assurance that the Minister, if left to his own devices, will take the proper initiative. I am sure that the majority of members thought Mr Moore would have taken care of this matter many months ago. Instead, we face the very real possibility of this dispute dragging on even into next year.

I appreciate that Mr Moore is loath to become involved in negotiation personally and would rather leave this portion of his portfolio to subordinates at the hospital. However, as I relayed earlier, I have noted several statements made by Mr Moore, some dating back as far as 1992, that Ministers should involve themselves in problem areas of their departments, and I know that he considers himself a hands-on Minister. Now that Mr Moore is back with us, I once again read from *Hansard* his response to the "grave concern" motion last year when the issue was deleted. He said:

> I am very pleased that the indication from this Assembly yesterday, after a long debate, was that I need to keep my hand strongly on the tiller.

You also said, Minister:

> Labor may forget that this Assembly removed from the motion they put out that I was not to meddle. I have to keep a strong hand on it.

He then went on:

> I have to tell you that what this means ...

Quite clearly, the Minister does like to be involved. It is my understanding that Commissioner Deegan has said that all players need to be at the negotiating table. Mr Moore has said previously that industrial action was an internal hospital matter with which he would not interfere. Considering the history and context of this dispute, I disagree. The health budget has blown out considerably, although no-one can say for sure how much of it has been capped by the Government. Surely the person who needs to come to the table is the one who knows and has responsibility for carrying out the riding instructions of the Executive within the framework of budget cutbacks, bed closures and job losses.

It is important for the welfare of the Canberra community that this dispute be settled as quickly as possible. The work of nurses is vital yet greatly undervalued. When a person is admitted to hospital, the nurse is the health professional they will encounter most often. It is therefore essential that nurses be appropriately paid for their work according to their individual responsibilities and that sufficient resources be allocated for them to do their job properly. Given the series of measures which have been implemented over the past 12 months or so to rein in the costs, it is time that this matter be settled to the general satisfaction of both parties and that it be done by those who have the real power to negotiate.

As I said earlier, I did not want to have to move this motion, but I believe that government is about leadership and I believe that the Minister responsible to this Government needs to be involved in this negotiation, needs to show some leadership and, for all of the Canberra community, needs to see an end to this dispute. I commend the motion to the Assembly.

**MR MOORE** (Minister for Health and Community Care) (4.28): Not so long ago this Assembly passed a motion expressing grave concern not about my management of the hospital but about the financial issues surrounding the hospital. The motion stated:

> That this Assembly, noting:
>
> (1) the increasing blowout in The Canberra Hospital budget;
>
> (2) the alarming increase in elective surgery waiting lists;
>
> (3) the Minister for Health and Community Care's inability to deal positively with staff of The Canberra Hospital;
>
> (4) the replacement of the Chief Executive of The Canberra Hospital; and
>
> (5) the Minister for Health and Community Care's interference in the day to day management of The Canberra Hospital;
>
> expresses its grave concern at the inability of the government and the Minister for Health and Community Care to effectively manage the health system.

Damned if you do, damned if you don't. In the previous motion the Assembly, noting the Minister for Health and Community Care's interference in the day-to-day management of the Canberra Hospital, expressed grave concern. That is the motion that was passed. Now Mr Osborne puts up a motion which I am quite comfortable with but which narrows down into something quite different.

His motion requires the Government to immediately commence negotiations with representatives of the ANF over work conditions and pay for nurses employed in the Canberra hospital system. I am very happy to do that. In fact, we have been trying to do exactly that very thing. The Government is made up of a number of people. We have delegated this negotiation to the particular agency concerned, the Canberra Hospital, and rightly so, so that the manager of the Canberra Hospital can deal with the workers, represented in this case by the union.

I think it is important to say that everybody here respects the work done by nurses at the Canberra Hospital. We also recognise that there are concerns at the Canberra Hospital. We are not so naive as to think that they are just pretending. Of course we know that when nurses walk off the job they have real concerns. It is those real concerns that the hospital hopes to deal with.

The Industrial Relations Commission said, "There is room to negotiate. Get to the negotiating table". The Canberra Hospital management said, "Yes, we will come to the negotiating table". It took the recommendation of the Industrial Relations Commission seriously, but unfortunately the Nursing Federation decided that they would prefer to go down the path of industrial action.

Hopefully, the motion will be seen as an expression by this Assembly that it believes that negotiations are the proper place for resolving disputes between employer and employee. That is the right way to do things. No doubt the Industrial Relations Commission would agree. It is exactly what it recommended a fortnight ago.

Finally, this motion should be seen as echoing the Government's call that negotiations should take place instead of disruptive industrial action like that initiated by the ANF. I expect that all members, except perhaps Mr Stanhope, who has joined in strike action with the ANF, will agree with me in that. Mr Stanhope, every single Health Minister in this Territory has been in exactly the same position as I am in at this moment in dealing with the Nursing Federation.

**Mr Berry**: You are getting off lightly, Michael.

**MR MOORE**: I think it is every single Minister, Mr Berry. I can see the smile on your face as you chuckle. You can remember the time you were dealing with them and had to call in mediation, and indeed the hospital - - -

**Ms Carnell**: That was mediation with the VMOs.

**MR MOORE**: That was with the VMOs. I apologise if I was slightly inaccurate. But it is not inaccurate to say that you had major conflict with the Nursing Federation. It is appropriate to give members a full history of the negotiation of this EBA. The previous EBA began in 1996 and its nominal expiry came in February this year. In fact, the Canberra Hospital attempted to conclude a new EBA months early, during 1998. As attempts to reach agreement with the ANF did not succeed, the hospital put the vote directly to staff in a democratic ballot held last December.

The offer was based on substituting salary rises with access to salary packaging, generating an effective pay rise of up to 10 per cent at no cost to the ACT taxpayer. Unfortunately, the ANF campaigned against this agreement. The campaign, I believe, was characterised by misinformation and scare tactics, and staff voted the agreement down. It is worth mentioning that the failure of that ballot has denied nurses an increase in take-home pay of hundreds of dollars a month. Of course, that can never be recovered.

In February the ANF presented a log of claims to the department, demanding a whole-of-portfolio agreement. This ambit claim was seriously unacceptable to all agencies in the portfolio and was rejected by the department on behalf of all agencies. The cost of the ambit bid was extraordinary, even by ANF standards. In answer to a question yesterday I mentioned costs for the Government of up to $11m.

The period from the expiry of the old EBA in February until early August was characterised by extensive efforts by the Canberra Hospital management to grapple with an expenditure overrun beyond their budget which was originally estimated at $10m. During this period there were informal approaches by both sides but no formal negotiations. During July the parties began to communicate more vigorously about the need for a new EBA. In due course the Canberra Hospital presented the ANF with a draft agreement, on 4 August. It expected that serious negotiations would commence immediately.

To this date my understanding is that the ANF has still not given the hospital a formal response to this draft. Instead, the ANF responded by convincing its members to begin bans at the Canberra Hospital workplaces. These included administrative disruptions but also refusal of nurses to cooperate in normal practices of deployment between wards to relieve in areas of higher activity. In response, the Canberra Hospital sought the involvement of the Industrial Relations Commission, which recommended:

> I do, however, recommend that such action not proceed in advance of further, more meaningful negotiations between the parties.

It also said:

> In my view further negotiation is warranted before any industrial action is taken. That negotiation should proceed immediately and should include all parties necessary to enable an agreement to be concluded, if such agreement is, in fact, possible.

Mr Osborne, that is the negotiation you would have expected to take place. That is when the hospital was ready to negotiate, and the ANF decided they would ignore the recommendation of the Industrial Relations Commission. After they put their case and the hospital put their case, the referee said that that is what should happen. The hospital was prepared to do it.

The Canberra Hospital management's current position is that although negotiations should be joined as soon as possible they should not commence until industrial action - stoppages and bans on deployment between wards - ceases. However, during this period the ANF has subjected the hospital to a significant range of industrial actions, all of which disrupt service to patients. These disruptions have been totally unnecessary. A four-person negotiating team consisting of senior nurse managers has been waiting for some time to continue that negotiation. Furthermore, the Nursing Federation has rejected out of hand advances by the hospital on a number of occasions to commence negotiations.

Mr Speaker, I table copies of the Industrial Relations Commission recommendation, along with the correspondence between the Nursing Federation and the Canberra hospital, to demonstrate to members how hard the Canberra Hospital has worked to seek to have negotiations continue. A further step was added today when the Nursing Federation wrote to the Chief Minister, Ms Carnell - sending copies to me, to Professor Ellwood, the acting CEO, to Peter McPhillips, chairperson of the committee in the ACT Community and Health Care Service Board, to Mr Stanhope and to Mr Osborne - to put their offer on the table.

I have been in touch with the Canberra Hospital, and less than an hour ago they informed me that they are preparing a counter-offer to the Nursing Federation. The counter-offer will be based on the matter raised by the Nursing Federation in the letter referring to New South Wales rates. The counter-offer by the hospital is not one that will satisfy the federation, but it is a genuine counter-offer which is a starting point for negotiation.

The hospital has informed me that they will offer the same salary, the same conditions and the same structure as New South Wales. If you want to look at New South Wales, they are comfortable about doing that. They are putting that in writing, and that will go to the federation as a counter-offer, as a starting point for negotiation. The Government is serious about negotiation. It has always been serious about negotiation. As for me having a hands-on role, while the hospital is making the decisions, while the hospital is the negotiator - that is, the employer dealing with the employee - of course I have been very aware of what has been going on. My office has been in contact with the hospital at least half a dozen times a day, probably more on most days.

Mr Osborne, I welcome this motion because it reiterates what we are doing. We are very keen to see negotiations. We are very keen to see the end of disruption, as indeed I am sure the nurses are. Nobody likes taking industrial action. They know the impact it has on their patients and the impact it has on their pay and so forth, but there is a genuine concern for the hospital to negotiate.

Of course, all the advances of the hospital have included the crucial principle that industrial action must cease as a precondition of negotiations, and so far the ANF has refused to cease such action, which I believe demonstrates a lack of good faith. You can have good faith negotiations only when industrial action ceases.

In another move to help resolve the situation, the Health and Community Care Service Board, the ultimate legal employer of the Canberra Hospital staff, has appointed an industrial relations subcommittee. This committee is chaired by board member Ms Prue Power, herself a former secretary of the Nursing Federation with great experience in industrial relations. Every member here, and I am sure every member of the Nursing Federation in the gallery, will remember the contribution that Prue Power made to the Nursing Federation and to nursing in this Territory.

Recognising the situation was at an impasse, as the ANF had backed themselves into a corner from which they were having difficulty extracting themselves, the industrial relations subcommittee determined to explore mediation. The olive branch was extended to the ANF on Monday. I think it was to the great discredit of the ANF

secretary that she began condemning the use of mediation within one hour, even though the hospital had not asked for a response for 48 hours, to give the ANF the chance to take stock and think about it. However, I must also add, to make sure the picture is complete, that the ANF did agree to meet and discuss with Professor Ellwood what was meant by mediation. My understanding is that that meeting took place either yesterday or the day before - I think it was the day before - to go through some of the issues.

Is the hospital being reasonable? The hospital's procedures and actions have been reasonable throughout. The offer which the Canberra Hospital put up included a salary packaging approach as a substitution for salary rises, which should have the effect of maintaining Canberra nurses at the top of national comparisons. It was a no-increase but packaging approach; it was not unreasonable. This same approach was accepted only two days ago by professional and administrative staff at the Calvary Hospital. It was accepted in spite of the approach taken by their union, the CPSU, demonstrating that hospital staff are prepared to accept a sensible approach that is put in that way.

It is an approach that deals with negotiations that are not just about demands but about trade-offs. What can we trade off? What can we give? How can we move? That is what negotiations are about. They are not just about one side demanding and the other side giving in. I think that is a critical part of how negotiations go. *(Extension of time granted)*

What is it the Government is trying to achieve? What does it want? The Government wants negotiations to commence immediately. The Government wants such negotiations to be backed by the immediate cessation of all industrial action which disrupts patient care. After all, patient care is our prime focus, and I understand that that is also the prime focus of nurses. I do not miss that and I have never suggested otherwise. The Government wants negotiations that cover means of increasing take-home pay, including salary packaging, but negotiations that include debate on increased salary. We do not mind debate on that issue. The Government wants parties to sit down together in good faith.

The Government wants discussions on the basis of staffing levels based on accurate data and sensible hospital practices. I see in the letter that was written today that there is an attempt to seek a way to find benchmarks. This is an appropriate thing to sit down and negotiate on rather than demanding that we agree with you before we negotiate. It is something to sit down and negotiate on.

Should Ministers negotiate personally? Certainly the ANF have sought to sidestep the Canberra Hospital management and negotiate with Ministers. They have implied that only Ministers can provide additional public money to comply with their demands. I think that Mr Osborne has implied that that is the meaning of his motion. I do not accept that as the meaning of the motion. The budget for 1999-2000 has already been passed by this Assembly and there cannot be an additional injection of money into an already well-funded hospital. It is a hospital that by all our measures, with one exception, is 30 per cent overfunded. The one exception is within the Canberra Hospital.

Obviously Ministers are not the proper party to negotiate details. An EBA should be an agreement between staff and managers reached after discussion of each other's position, reflecting a compact which each is willing to be bound by. EBAs involve extensive detail which is best negotiated by staff and managers who actually work with each other. An enterprise agreement, an enterprise bargain, is just that. It is absurd for political administration to work out such details. Rather, the role of Ministers is to ensure that parties have opportunities to negotiate in good faith and to give them encouragement to do so. If not on a daily basis on very close to a daily basis, for the last two or three weeks I have encouraged the hospital to do so in good faith and I continue to encourage it. Good public administration requires that we direct our agencies to be ready to negotiate, that data and negotiation position are prepared in proper time and that discussions are undertaken in good faith with a reasonable attitude. I have done all those things.

Members should be aware that the legal entity responsible for employment conditions is the ACT Health and Community Care Service. The service employs its staff as public servants under the conditions set out in the Public Sector Management Act. Negotiations for workplace agreements are therefore conducted by management within the service, in this case the executives of the Canberra Hospital, under the guidance first and foremost of the board.

The Government oversees all negotiations and provides support and advice to agencies through the Chief Minister's Department's industrial officers. The Government maintains a policy of agency-based bargaining so as to achieve flexible outcomes as negotiated by employers and staff at agency level in the same way as the administrative staff at Calvary accepted their agreement only a couple of days ago. This principle can apply even to the level of intra-agency programs, seven of which are currently being negotiated with ACT Community Care. However, when the federation came to talk to me, I did indicate that I would have no problem with the various managers across Calvary and Community and Care and the Canberra Hospital agreeing with the federation to a common part of an agreement, even where they had a difference, on an agency-by-agency basis.

The argument that Canberra Hospital's authority or ability to negotiate is limited by government policies, in particular the budget recently passed by the Assembly, is simply wrong. Canberra Hospital managers have the flexibility to negotiate as they see fit.

The Assembly should feel confident that the Government will take all steps to conclude negotiations on a fair and reasonable outcome. However, it is inappropriate for the Assembly to involve itself in the details of negotiations between parties. The Assembly has approved a budget for the Canberra Hospital and, accordingly, financial results anticipated in that budget constrain the Government and constrain the hospital.

Mr Stanhope has been in here on numerous occasions in the last few months making sure that we manage our finances according to the appropriations approved in the Assembly and under the Financial Management Act. The Assembly cannot by motion add to the expenditure of public money. The Assembly should be aware that imposing specific expenditure increases may well result in a worsening of efficiency in patient services.

The Assembly should also be aware that motions are useful for expressing its objectives, but in complex issues such as industrial relations I think it is not good policy either for me or for the Assembly to intervene in details. It is about a general conceptual notion.

Should the Assembly require the negotiations to proceed while industrial action continues? No, the Assembly should not. The only thing that can happen from that is that patients will suffer. It would be appalling if the Assembly gave such an endorsement to industrial action. The Canberra Hospital hopes to participate in negotiations, and these will be the same whenever they commence.

There are three harms to the public interest if industrial action continues. Firstly, the continuance of such action directly harms the public through disruption of patient services and possible adverse impacts on patient care. In saying that, I recognise that skeleton staff have been left on to protect patients, and I hope that continues. That is certainly appreciated. Secondly, the existence of background disruption adds pressure to the Canberra Hospital negotiating team and therefore may result in an outcome which is less favourable to the community as a whole. Thirdly, such a basis for proceeding is contrary to good industrial policy in that it encourages use of actions again in this and future disputes. There should not be incentives for the use of industrial action. There should be disincentives for the use of industrial action.

In conclusion, the Canberra Hospital is adequately funded to a level well above national averages, and no additional funding will be injected. This Assembly instructed me to ensure that I deal with that issue as carefully and as thoroughly as I possibly could. As you can tell by the budget, I have been achieving that. If you want to ask me about waiting lists and waiting times, I would be happy to answer those questions. They are turning around. It is happening, but it takes time and it takes effort. *(Further extension of time granted)* Whilst the level of funding is relevant to the task of the Canberra Hospital management and staff maintaining both performance and budget if an excessively generous EBA is agreed, it does not in itself limit negotiating flexibility. As the Industrial Relations Commission pointed out, it is a possibility to negotiate.

Mr Speaker, rather than read them, for the interest of members, I will table a catalogue of ANF dispute events which clearly describes the industrial action taken over the last few days. It shows the number of staff that walked out of specific wards and what had happened within those wards on Tuesday, 17 August, Wednesday, 18 August, Thursday, 19 August, Monday, 23 August and Wednesday, 25 August.

It certainly was disappointing to me that such short notice was given last night of industrial action being taken. Mr Speaker, I table these papers and ask that you have them copied immediately and circulated to members.

**MR SPEAKER**: It is so ordered.

**MR STANHOPE** (Leader of the Opposition) (4.52): Mr Osborne's hope, one which I share, is that this motion today will mark the significant turning point in the long-running industrial dispute between the Government and nurses working at the Canberra Hospital. It think Mr Osborne, in moving the motion, had the hope - and we certainly share the hope - that the Minister for Health, through this signal from the Assembly, would constructively address the industrial dispute that is so severely impacting on the provision of health care at the Canberra Hospital. Perhaps that will be the effect of Mr Osborne's motion. The response which Mr Moore has just indicated the hospital is now prepared to make to the offer tabled by the ANF today might lead to more fruitful negotiations.

I think the point of the motion is that, a year or so after it became quite obvious that there were serious issues between the nurses at the Canberra Hospital and the Government, and after a month of significant stoppages, rolling walk-outs and a continuing escalation of the dispute, the Government and hospital management are not prepared, it seems, to seriously address the root causes of the nurses' dissatisfaction with their working conditions at the Canberra Hospital.

**Ms Carnell**: You will live to regret this, Jon.

**MR STANHOPE**: The Chief Minister interjects. The Chief Minister, one must assume, is responsible to some extent for industrial relations matters. I looked just yesterday at the latest Administrative Arrangements Order to confirm the role of the Chief Minister in industrial relations. I could not find any reference to industrial relations in the Administrative Arrangements Order. That perhaps is a real comment on the seriousness with which the Chief Minister and this Government take industrial relations. There is no specific reference in the Administrative Arrangements Order to the subject of industrial relations.

As has been indicated by Mr Osborne in his history of this dispute, the nurses at the Canberra Hospital work under the auspices of a certified agreement that expired in February. Their union, the Australian Nursing Federation - I acknowledge the executive and members of the federation in the gallery today - began negotiations for a new agreement well before the expiry date of that certified agreement. As I have just said, almost a year on there has been so little movement towards settlement that the nurses have been driven to the direct industrial action they have taken.

It is of concern that the Government's attitude to the ANF, to the industrial dispute at the hospital and to the negotiation of a new enterprise agreement is characterised by those parts of the Minister's speech in which he accused the ANF in relation to the offer put by the Government late last year. I remember very distinctly Mr Moore daring the ANF to put the issue of salary packaging to its membership. I remember very well the interview that Mr Moore gave in which he dared the ANF to ask their membership to vote on salary packaging. The ANF called his bluff and they put that offer to their membership in a ballot, and their membership resoundingly rejected it. The membership supported the position put by the ANF and, of course, the Minister received a very significant rebuff.

It is of concern that the Minister, having not accepted that the nurses at the Canberra Hospital had so resoundingly rejected an offer that they did not think was appropriate, comes in here today and says that that result was achieved only by the ANF hoodwinking its members. He said that they had conducted such a campaign of misinformation that they had misled their membership into voting against the salary packaging proposition which then constituted the Government's only response to the serious issues raised by the nurses of the Canberra Hospital and which today continues to constitute, it seems, the only real offer the Government is prepared to make in relation to the claims made by the ANF and by the nurses. That is a matter of serious concern.

That position goes to the heart of the campaign being waged today by the ANF and by the nurses and staff at the Canberra Hospital. They do not believe there is a single signal from management of the hospital or from the Government that they have moved one jot from that position which was resoundingly rejected a year ago.

The Industrial Relations Commission - and the Minister makes great moment of this - has recommended that there be fruitful negotiations. That is more than just saying, "Go away and negotiate, even though those you are negotiating with simply refuse to offer you anything".

We come down to the crunch position of hospital management saying, "We have nothing to negotiate with. There is nothing we can offer you. There is no sense in us sitting down with you, because there is nothing for us to negotiate over". That is the situation which the ANF find themselves in and that is the position which they have consistently put.

The constraints applied to the hospital through its budget and through the determination to continually reduce the number of beds and to continually reduce the number of nurses are significant. In the last 12 months, as Mr Osborne said, there has been a reduction of over 140 beds at the Canberra Hospital, and in the last 18 months there has been a reduction of 147 nurses in that workplace. Those are significant issues.

Yet, as Mr Moore is so pleased to propound, the work rate has been maintained. In fact, it has been increased. The number of separations has increased. The throughput is there and the productivity is there, yet we have 147 fewer nurses doing the work than 18 months ago.

**Mr Moore**: And 145 fewer beds. Say what they said as well.

**MR STANHOPE**: There are 140 fewer beds, so there is a classic chicken and egg situation here.

**Mr Moore**: Wrong. There are not 140 fewer beds. Look at what I have tabled in the Assembly time after time. It is not there.

**MR STANHOPE**: Mr Speaker, I do not mind ignoring him, but it is just a little bit difficult to concentrate with the constancy of the nonsense.

**MR SPEAKER**: I call the house to order. Mr Stanhope has the floor.

**MR STANHOPE**: Thank you.

*At 5.00 pm the debate was interrupted in accordance with standing order 34; the motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.*

**MR STANHOPE**: Mr Speaker, I do not think it can be gainsaid that in relation to those bare facts - the reduction of such a significant part of the work force at Canberra Hospital - the nurses have a legitimate claim to put to their employers, as do all workers have claims in relation to work practices, claims in relation to wages and claims in relation to extra pressure as a result of work. They have a right to put these issues and they have a right to have them negotiated seriously. They have a right to claim a wage rise, if only to catch up with the everyday effects of inflation.

Nurses also have a legitimate claim to be consulted over staffing levels. They have a legitimate claim to be consulted about the way in which gaps in staffing are filled. The nurses are the workers at the coalface of the hospital. They are the ones who are most aware of the impact made by the cuts to hospital services by the Government.

In the context of a debate such as this, it is also relevant - and no doubt we are all aware of this - that in the 1995 election campaign one of the key planks of the Carnell Liberals' platform was a promise to expand the public hospital system to 1,000 beds by this year. It is always interesting to visit recent history. Only four years ago the Carnell Liberals ran to an election on a promise of 1,000 beds by the end of this year. The promise was to expand the system, not to shut down beds. It is interesting to reflect on that in terms of what we are doing with our public health system and what we as a community need to do and what we as a community should expect of our public hospital and our public health system. *(Extension of time granted)*

The response of the Carnell Liberal Government - or the Carnell-Moore Liberal Government, as it now is - to continue to reduce the system has been a reflection of this Government's inability to capably manage the Canberra Hospital budget. Year after year the budget blows out, and year after year Mrs Carnell and Mr Moore shut down more beds. Year after year the demands are greater on the front-line workers, the nurses.

Most recently, as we know, the Government has capped the hospital budget. We are all very aware of the difficulties that the Government has had with its budget and - this is the point I made before - it has given the hospital management its riding instructions: No increases in staffing levels to relieve the hospital's stretching seams and no pay rises to the workers who bear the brunt of the impact.

Yet it cannot be gainsaid that the nurses remain ready to assist hospital management in its efforts to make do with what the Government allocates. Since 1996 the nursing staff has actively worked with management to realise significant savings in workers compensation premiums, savings of more than $3.2m. The Government originally agreed to share the savings from improved work practices with the nurses but, as we all know, shamefully reneged. It was only a decision of the Industrial Relations Commission that forced the Government to honour that 1996 commitment.

Mr Speaker, the whole saga of industrial disputation, which is escalating and escalating, is a damning indication of the manner in which this Government conducts it industrial relations. For its part, the Nursing Federation has tried to advance the negotiations over a new workplace agreement. I believe they have genuinely attempted to advance those negotiations. But quite properly - and this is the point of the motion - the union recognises that it has to deal with decision-makers who have a capacity to negotiate, to talk and to advance the case. That is quite clearly not the situation that the ANF is faced with in the present dispute. They are dealing with government representatives who, because of their riding instructions, simply do not have the capacity to negotiate in a genuine way.

As the Minister has indicated, as recently as today the Nursing Federation has put a genuine offer to the Government in an attempt at least to get the ball rolling so that the matter can be resolved. The nurses have today put some issues on the table. We are in a very difficult situation. I do not believe the Government has taken the ANF seriously enough. We have a serious situation at the Canberra Hospital which must be resolved. I believe the ANF has taken a step today, saying, "Here are some issues. Give us a response". The Canberra Hospital has not yet responded, yet the Minister stood up in this place half an hour ago and said, "This is what I think the Canberra Hospital will tell you and you will not like it".

**Mr Moore**: That is not what I said.

**MR STANHOPE**: That is virtually what you said. I am simply making the point - - -

**Mr Moore**: No. I said, "It will not give you everything you want". It is a starting point.

**MR STANHOPE**: We can see that it is a starting point. It is good to see that the hospital might now step out and seek to consult with the nurses on the position they put today. But in the same breath you said, "I can almost virtually assure you that you will not like what they have to say". This motion is saying to the Government, "For goodness sake, get together. Get serious about this. Get together with the nurses". We can say the same to the ANF. We need this dispute resolved. We cannot allow it to fester. I do not think there is any real feeling in the community that this Government has made a serious attempt to resolve this difficult issue.

This Government has acted consistent with the style of industrial negotiation that has been adopted by the current Federal Government. It is the style that says, "Obfuscate; delay; do not deal; put it off; make them wait; hang them out". That is the style of industrial negotiation that characterises the Government on the hill, and it has spread down and infected this Government. "Offer nothing; say nothing; do not talk; do not deal; string them out; make them wait" - that is the style.

**Mr Moore**: Do not worry about the facts - that is your style.

**MR STANHOPE**: Do not worry about the facts - that is true. Offer nothing. It is time you got serious. It is time you abandoned the style that Reith and his cronies up there have imposed on you and that you have so readily accepted. Get genuine in your negotiations and in your relationship with your workers. Treat them properly and appropriately and talk to them. All this motion says is: "For goodness sake, talk to the ANF".

**MS CARNELL** (Chief Minister) (5.08): Is it not deja vu, Mr Berry? You went through it. I went through it. Mr Connolly went through it. Mr Humphries went through it. Mr Moore is going through it. They are all exactly the same issues. In fact, we can go back and quote *Hansard* until it comes out of our ears. We can go back and look at the grabs on television and radio and see exactly the same issues. They are exactly the same issues because in the public hospital system in the ACT our costs are about 30 per cent above national averages. They have varied a bit up and down, but basically that is where we are. That is probably where we were at self-government.

Why are they that far above national averages? We have had inquiries; we have had consultants. We have had different governments; we have had different Health Ministers. All of them have done inquiries; all have had consultants in. All have come to exactly the same outcome. Mr Berry did when he was the Minister. Mr Berry attempted to change nursing terms and conditions. He failed. Why? The nurses went on strike. That is not a big surprise. It has happened under every Health Minister.

Mr Berry attempted to do exactly the same thing that everyone has attempted to do, and that is to bring our costs in line, or at least basically in line, with the Commonwealth Grants Commission requirements. The Commonwealth Grants Commission only pay us according to national averages. Anything we pay above that has to come from own-source revenue. We know that.

What is own-source revenue? It is revenue from taxes, fees and charges on ACT taxpayers. Alternatively, the money has to come out of other services. The amount we pay in excess of the national averages has to be made up by increasing taxes and charges or, alternatively, cross-subsidising our public hospital out of other areas of government - education, police and so on.

**Mr Moore**: And then we get penalised by the Grants Commission.

**MS CARNELL**: That is absolutely true. The Grants Commission penalises us for overexpenditure in the area, which makes it even worse. What does any government do? What did Mr Berry try to do to get his health costs down to the Australian averages? What did he do when it came to nurses? He attempted to move terms and conditions into line with those in New South Wales. He tried to implement triple-eight rosters and other things to bring his costs down to the national average. Why did you do that, Mr Berry? You were attempting to get your costs down.

**Mr Berry**: No, you are wrong.

**MS CARNELL**: Okay. Was it Mr Connolly?

**Mr Berry**: No, it was not him either.

**MS CARNELL**: It was. Anyway, every government has attempted to get its health costs down to national averages or somewhere in the vicinity of national averages, simply because there is no alternative except, as I said, to increase taxes or to cross-subsidise. There is not another option.

When we have looked at all of the issues regarding hospitals, what have we found? We have found that the ACT is spending significantly above national averages right across the board. It is not all in administration. It is not all in doctors. It is not all in nurses. It is everywhere, including in nurses.

Mr Osborne has suggested that we need to negotiate with the nurses. I totally agree, but we have to negotiate inside the parameters that we have. We have to live within our budget. This Assembly passed a motion of grave concern in the Health Minister because the hospital was blowing its budget. Mr Moore was directed by this Assembly to get his budget back on track. That is all we are trying to do here. Has the health budget been reduced? No, the health budget has gone up every year since we have been in government. We have not cut expenditure.

I think it is important to talk about what we are paying nurses at the moment. Are our nurses hardly done by? Are our nurses paid less than nurses in New South Wales or, for that matter, anywhere else? The answer is no. When you take into account superannuation - and you have to, because that is part of a package - our nurses are the best paid in Australia. Not second best, the best.

Maybe we should look at the cost per casemix-adjusted separation; that is, the nursing cost per patient in our system, adjusted for acuity. Where do our nurses run? Second? No, they run first. They are the most expensive in Australia. It is a pretty big effort to beat the Northern Territory in this area but, boy, have we done it. These are not my figures. They are the Australian Institute of Health and Welfare figures for 1997-98, the latest available figures. We are up there. We have pipped the Northern Territory. Wow, we should be proud! I table those figures. Everybody in this place should look at them.

If we are paying more per patient than anywhere else in Australia for nursing services, we have a problem. Is there any indication that our hospitals are that much better than all of the others in Australia? They are good, but are they miles better than St Vincent's, Prince Alfred and all the other hospitals? On all the available benchmarks, no. We are good, but we are not miles ahead.

What are we getting for our money? What are we getting for having the highest paid nurses and the highest nursing cost per cost-weighted separation? At this stage we are getting a whole lot of terms and conditions that are out of kilter with the rest of Australia. We have a career structure that is out of kilter with the rest of Australia. In recent days members of this Assembly have been very interested in talking about the Auditor-General, suggesting that we desperately need to pay attention to the Auditor-General. I am very happy to do that. What does the Auditor-General say about nursing costs? The Auditor-General says that they are significantly higher than in New South Wales. We are paying more for nursing than the people across the boarder are.

The Auditor-General, or the consultant he used, asks why the terms, conditions and career structures in our hospital are out of kilter. Mr Moore said just a minute ago that if the nurses here today would like to accept the New South Wales terms and conditions, their 4 per cent increases, we will accept it now. The reason for that is that New South Wales set national averages, because they are the biggest State. Their effect on Commonwealth Grants Commission figures is significantly bigger than anybody else's. We could accept New South Wales terms and conditions and pay right now. Let us tie our nurses' salaries to New South Wales terms and conditions and pay. Let us start negotiation on that. We can do that, but that is not what is on the table. We can put that on the table right now. That is not a problem.

**Mr Berry**: That is a cut.

**MS CARNELL**: Mr Berry says that that is a cut. It certainly is in terms and conditions, and the career path is different. It depends on which bit you look at. It is not a cut in other areas. We are looking at a situation where in the ACT average salaries, when you include superannuation, and even when you do not, are significantly higher than in most parts of Australia. When you include superannuation, they are higher than anywhere else in Australia.

Are staffing levels at our hospital lower than in the rest of Australia? The Auditor-General said that they were very much in line with, if not above, the rest of Australia. We have no problems with having staffing levels in line with acuity and bed numbers. Mr Stanhope indicated that we had cut beds and we had cut nurses. He has got his figures wrong. If you had fewer beds, then you would need fewer nurses. That is a true statement. *(Extension of time granted)* Mr Stanhope also said that you could at least bring the nurses in line with CPI. The increase for nurses over the last EBA, in fact until just recently - that is, over a three-year period - was just over 13 per cent. CPI was 2 per cent.

**Mr Moore**: Two per cent per year.

**MS CARNELL**: No, because we had some negative CPIs over that period, Mr Moore. It was actually 2 per cent over the last three years. That means that salaries have increased faster than CPI. I do not have a problem with that. That was the EBA. But let us not pretend that anybody has slipped behind the cost of living here in the ACT. It simply has not happened. Let us negotiate but let us negotiate on a mature basis. Let this Assembly, for a change, not go to the deja vu situation where the Opposition gets up and says, "Shock, horror! The Government is not negotiating. The poor nurses". Let us not have the situation where the Health Minister has to go out there in that sort of debate.

Let us, as an Assembly, determine once and for all that we do need to bring our health costs to within at least 10 per cent of the national averages. We can only do that if we all work together. All Health Ministers, whether from the other side of politics or from this side, Mr Berry included, have had to deal with exactly the same situation. We have to bring our costs in line. That means we have to bring our staffing structures in line. We have to bring our capacity for flexibility across wards in line. We have to be willing to be very flexible.

That is what Mr Moore is attempting to do; it is what hospital management is attempting to do. Let us just get on with it. Let us get back to the negotiating table. Let us stop the industrial action. Let us start at least with the offer that Mr Moore put on the table today. Hospital management and the nurses are the people who should be doing this sort of negotiation. Let us make sure that we all focus on our patients in the future. That is what this should be about, not about politics.

**MR BERRY** (5.21): I move:

> Omit all words after "That", substitute "this Assembly requires the Government to immediately commence meaningful negotiations with representatives of the Australian Nurses Federation over work conditions and pay for nurses employed in the Canberra public hospital system and all other unions which have current claims with the Government for improved work conditions or increased pay. Furthermore the Assembly condemns the confrontationalist approach that has emerged in its negotiations with the nurses and other unions, an approach which was particularly evident in the attack on school bursars."

The issue here is the style of government. It is the style of the industrial relations system which the government works under. It is also their enthusiasm to adopt the style which has been adopted by the Federal Minister for Employment, Mr Reith. The Government does not have to adopt that style. It is true that all governments have been involved in the hurly-burly of industrial relations with various parts of its employment base since self-government. I have been involved as well when workers have made demands on their employers. I think traditionally employees expect more from Labor governments than they expect from Liberal governments, but they are certainly in a more defensive mood with Liberal governments because of the philosophical position the Liberals adopt.

There are two philosophies. Unions and their members are concerned about their job security and their wages and working conditions. The job of the union is to represent those industrial interests of the workers as well as their professional interests. It is the job of the Government to provide services. You have to weigh up in your head whether the industrial hurly-burly which is going on at this moment is worth the effect that it would be having on services in the workplace. It is all right for Ministers. They have just taken a healthy pay rise. If in relation to your own pay rise you had taken the approach that you have taken with the nurses, it might have been a different matter.

**Ms Carnell**: We did. We have got nothing, not one dollar, this year.

**MR BERRY**: In the last pay rise, you got 16 per cent for yourself, Chief Minister. It is not surprising that others in the workplace are concerned about the inability of the Government to provide. This simply arises because the Government made no provision for pay rises in the budget. It said to the workers, "If you want a pay rise you are going to have to cut conditions". That is a philosophical position that you have taken and it is not working out too well. The approach that you have taken in concert with that is to delay, do nothing, sit on your hands, deal with the strongest ones and the ones that are most problematic for you when you have to, not before. That means you are making savings all the time, because you have not given them a pay rise.

That is a tactic that has been quite clear in the course of negotiations and the confrontation throughout the government service in the ACT. Take the firefighters. The firefighters have a fair claim for a pay increase, in my view. The nurses have a fair claim for a pay increase. There will always be argument about the conditions under which pay increases are given. There is no closed door on change. Change is something we all have to deal with. If you see the Chief Minister and the Health Minister essentially taking the Government's argument out publicly in a provocative way, it is certainly not going to settle any industrial disputes. Minister, your job in these circumstances is to try to settle the industrial dispute and get services back to normal, not, as it seems, to have a win over the nurses. That might be a political thing that you want to do, but the political outcome is not important here. The nurses of course want a decent industrial outcome as well.

I want to turn to the approach that the Government has taken in other areas. Take its attack on the school bursars. The attack on the school bursars is an absolutely shameful piece of work. It is a complete and utter adoption of the Reith thuggery which is built into his industrial relations legislation. It is designed to cause confrontation. You do not have to mirror Mr Reith's views in dealing with industrial relations here in the Territory. It is not obligatory. It is not compulsory for you to behave as he does. It is not compulsory for you to deal with working people in the Territory in the way he does. I was going to raise this matter when the Education Minister came back, because his behaviour in relation to school bursars has been absolutely appalling. It has been a jackbooted approach if ever I have seen one. It was about crushing bursars - - -

**MR SPEAKER**: Mr Berry, I would remind you that the motion before the chair relates to nurses, not bursars.

**MR BERRY**: Indeed, and it is about the confrontation - - -

**MR SPEAKER**: And I am going to rule very shortly upon your amendment.

**MR BERRY**: Rule now, Mr Speaker. Do not muck me about.

**MR SPEAKER**: Very well. I rule that the second part of your amendment is not relevant to the motion.

**MR BERRY**: Okay. I seek leave to incorporate that in the amendment which I have moved. Bear in mind that I am going to move several motions if you do not go along with it. You can oppose the motion in the end if you like.

**MR SPEAKER**: I am sorry. What are you seeking?

**MR BERRY**: I seek leave to incorporate that in the amendment that I have moved.

**MR SPEAKER**: Just a moment. I have not finished. On 23 September 1996, I ruled an amendment that Ms McRae put forward relating to Canberra lakes and foreshores out of order because it did not relate specifically to the motion. A further amendment relating to the Moore Street Health building was ruled out of order because it did not relate directly to the motion. The way out of this dilemma for you, Mr Berry, if you wish, is simply to delete the second part of the amendment, which relates to bursars and not nurses.

**MR BERRY**: No, Mr Speaker. I seek leave to incorporate that in the amendment.

Leave not granted.

**MR BERRY**: I move that so much of standing orders be suspended as would prevent me from incorporating - - -

**Mr Moore**: Remember, you need an absolute majority.

**Ms Carnell**: You cannot get one.

**MR BERRY**: I accept your point. There would not be one.

**Mr Moore**: Just remove your last sentence and get your amendment up that way. The last sentence, starting with "Furthermore" is what you are talking about, is it not, Mr Speaker?

**MR BERRY**: It is an important part of the amendment. I will move it later.

**MR SPEAKER**: It has been ruled out of order, Mr Berry.

**MR BERRY**: No.

**MR SPEAKER**: All you have to do is to drop the last sentence and then it will be in order.

**MR BERRY**: That is fine, if you will not give me leave to incorporate it.

**Mr Moore**: We will not.

**MR BERRY**: Then I will move a further motion in relation to it later on.

**MR SPEAKER**: You may do that. That is perfectly in order.

**MR BERRY**: Thank you, Mr Speaker. *(Extension of time granted)* I seek leave to remove the final sentence.

Leave granted.

**Mr Moore**: Mr Speaker, can I just ask you to clarify the position? I believe that the last sentence, starting with "Furthermore" and ending with "bursars", is now deleted from Mr Berry's amendment.

**MR SPEAKER**: That is correct. Leave has been granted for Mr Berry to do that.

**MR BERRY**: The way that meaningful negotiations have been hindered in relation to this matter has been characterised by the confrontationalist approach the Government has taken to the nurses' negotiations.

**Ms Carnell**: You cannot require the Government to enter into meaningful negotiations with every man and his dog.

**MR BERRY**: Mrs Carnell asks what "meaningful" means. That means aiming for an outcome. The Government's approach has been characterised by confrontation in other areas. I refer to the school bursars. There was an attempt to crush the school bursars. The Government's approach in relation to the Nursing Federation has been expected. All I expect is that there be a meaningful outcome to the negotiations and that services to the community be returned to normal as quickly as possible.

**MS TUCKER** (5.31): I am not quite sure what the motion is anymore. Are we still talking about bursars or not?

**MR SPEAKER**: No, we are not, Ms Tucker. Mr Berry has deleted from his amendment the second sentence, beginning with the word "Furthermore".

**MS TUCKER**: I will just speak to the general intent of what I think is Mr Osborne's motion and probably what Mr Berry is saying now. We support the motion, for a number of reasons. We are concerned about the provision of health care at Canberra's largest public hospital. We also support the right of workers to work in a safe and healthy environment and to be remunerated appropriately. I understand that there have been real issues about the cost of the Canberra Hospital and that comparative to other

States, even taking economies of scale into consideration, the ACT has an expensive health service. But I understand also that working conditions and the strain that nurses have been placed under are untenable and that nurses have taken industrial action after enduring these conditions for a long time.

The Australian Nursing Federation has a large membership at the Canberra Hospital and it is therefore a legitimate voice for nurses. Mr Moore states that the Government has never refused to negotiate. It seems unclear the terms under which they are prepared to negotiate. Is it only as part of the Government's $11m savings? Does the Government expect the nurses to find most of those savings? What savings have been made in recent negotiations with doctors? I would not mind knowing what the patient-to-doctor ratio at the Canberra Hospital is compared to other States.

We know that beds have been closed at Canberra Hospital and that full-time equivalent nursing staff has been reduced. I am not going to get into arguments about exactly how many, but we know that there has been a reduction and we know that that has been of concern, particularly to the nurses, who have to work in an environment where often they are not able to get leave when they want it. The patient-to-nurse ratio, as I understand it, has also been unsatisfactory.

I believe the ANF has put a proposal to the Government that will see them lift their bans and return to the negotiating table. I think I heard Mr Moore say before that he is interested in looking at the proposal to match New South Wales at 4 per cent. Maybe we will get a resolution. I am happy to support this motion. Everyone here is concerned about what is happening and we want to encourage the Government to negotiate in good faith and find a solution to the problem.

I have worked in hospitals as a nurse, and I know that the work is very stressful. From my discussions with the nurses, I think they have genuine complaints about some of the conditions under which they have been working, and I hope that the Government has indeed taken them seriously.

**MR OSBORNE** (5.34): I have given some thought to Mr Berry's amendment, but I will vote against it. My motivation for this motion today was to focus attention on the issue of the nurses and - - -

**Ms Tucker**: The bursars have gone.

**MR OSBORNE**: Yes, but I am still reluctant to support the last line, because I am unaware of what is happening with those other unions. I have had meetings with the ANF. I intended coming in here today to force the Government to the table with the nurses.

**Ms Tucker**: The last sentence has gone, Paul.

**MR OSBORNE**: Yes, I know, but I think I will stick with my initial motion. I thank members for their support. Very simply, a majority of members want to see the Government, in particular the Minister, resolve this issue. It is no good standing up

saying, "We will not negotiate seriously until the nurses stop their industrial action". I think all of us here want to see an end to it. I hope that the Government, and the Minister in particular, take on board what has been said today.

We sat through a number of very lengthy speeches from both the Minister for Health and the former Minister for Health giving us a history of what has gone on with the nurses, talking about problems with the budget, talking about how warm their tea was when they got it last night and talking about every other thing they could think of. But at the end of the day the issue for me is that this dispute needs to be resolved. The people who can make decisions should meet and negotiate with the nurses and put an end to their dispute. In saying that, I think there is a responsibility on the part of the nurses to act in good faith if the Government fulfil their end of the bargain. I have no doubt that if the Government and the hospital act in the proper way the nurses will act accordingly.

It is very clear that the majority of members in this Assembly want to see the hands-on Minister involved and show the enthusiasm he has shown in the past in being involved in problems at the hospital. I just hope that we can see an end to this dispute at the hospital. Once again, I thank members for their support, and I look forward to the motion being carried.

Amendment negatived.

## INTERNATIONAL AIRPORT AND VERY FAST TRAIN - PROMOTION OF CANBERRA

**MR HIRD** (5.38): I ask for leave to amend the motion standing in my name on the notice paper relating to the potential of an international airport and a very high speed train for Canberra. I wish to add a paragraph (2).

Leave granted.

**MR HIRD**: I move:

> (1) That the Assembly notes the importance that an international airport in Canberra and the very high speed train would have in promoting investment and employment in the Capital Region and providing the means for deferring the construction of a second Sydney airport;
>
> (2) that the Assembly agrees that this motion should be forwarded to the Commonwealth Minister for Transport and Regional Services, the Hon. John Anderson MP, advising him of the outcome of the motion for his consideration.

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

## HOSPICE - LOCATION

**MR STANHOPE** (Leader of the Opposition) (5.39): Mr Speaker, I ask for leave to amend the motion standing in my name on the notice paper to take account of announcements today. A revised motion is currently being circulated.

Leave granted.

**MR STANHOPE**: I move:

That this Assembly:

(1) noting:

(a) the decision of the Government to include the land occupied by the ACT Hospice in the Acton Peninsula/Kingston Foreshore land swap;

(b) the failure of the Government to successfully negotiate with the Commonwealth for the retention of the ACT Hospice on Acton Peninsula;

(c) the failure of the relocation study undertaken by ACT Health and Community Care to involve the community in an assessment of appropriate sites, or to identify an appropriate range of centrally located sites for assessment; and

(d) that the Government has now identified possible sites at Yarralumla Bay, Griffith and Garran;

(2) requires the Government:

(a) to consult with the Commonwealth, the ACT Hospice Palliative Care Society and the ACT Hospice to identify any additional centrally located possible sites for a hospice;

(b) to fully assess and prioritise all identified sites; and

(c) to fully consult the community before a final decision on a preferred site.

The motion that was on the notice paper was drafted by me in ignorance of the fact that Mr Moore had agreed to add an additional two sites to the relocation study for the hospice. I read about that in this morning's paper, but that was after I had put my motion on the notice paper. Mr Moore's announcement changed the thrust of the motion to some extent, and that is the reason I have changed it.

The basis of the motion is that the two most significant groups within the community delivering care to the terminally ill - namely, the ACT Hospice and Palliative Care Society and the ACT Hospice - were concerned to see a genuine assessment of hospice sites more centrally located than the majority of those identified in the relocation study that was undertaken by Mr Moore's department.

Mr Moore, through his department, has instituted a study of possible sites for the relocation of the hospice. Some of those sites are in the vicinity of Calvary Hospital, one is on the shores of Lake Burley Griffin and the one nominated by the Hospice and Palliative Care Society is at Yarralumla Bay. The society are most concerned that the hospice should be in a central location, a location readily owned by the entire ACT population and a location adjacent to public transport routes. To them, they are significant features of any replacement site. The society and significant members of the Canberra community who have been touched by the work that the hospice and the palliative care team do believe that another consideration should also constitute part of the relocation study - namely, that it should be a site of outstanding amenity.

Many people who have been affected by the work of the hospice, who have relatives or friends who are terminally ill and wish to utilise the service or who have utilised the hospice currently on Acton would like to see the pre-eminent nature of the existing facility replicated in any hospice we develop as a result of our losing our tenure on Acton Peninsula.

I think it is important that we outline some of the history so that we can best understand the issue we are facing today and the reasons that we are in the situation we are in. I will not go into too much detail. It is late in the day and time is pressing. We have a world-class hospice on Acton Peninsula. That is a statement that is not contradicted by anybody in the ACT or, as I understand the situation, possibly anybody in the world. The ACT Hospice is regarded as almost best practice in the provision of hospice and palliative care for people who are dying. It is an institution that has the very highest reputation, an unsurpassed reputation. There is no doubt about that.

Part of that is due the nature of the hospice. It is freestanding. It is not associated with other acute or subacute health facilities. It is managed by the Little Company of Mary, which is without peer in the care of the terminally ill. It is staffed by expert palliative care sisters. It has a close association with the Hospice and Palliative Care Society and the volunteers and carers they bring to the care of the dying. It is also closely associated with the home-based palliative care team of the Department of Health and Community Care. It provides an overall general holistic regime of care for people who are, unfortunately, dying and need the specialist care that a hospice or specialist palliative care professionals across all the range of professions that deal with the needs of the

terminally ill can bring to bear. That is the situation we have at the moment. We have this pre-eminent facility in a pre-eminent site, staffed and managed by staff and an organisation without peer in Australia.

It is vitally important that we maintain that level of excellence and expertise. The challenge facing this Assembly and this community is to ensure that the delivery of care to the terminally ill is not downgraded one iota. That is the challenge for each of us; it is the challenge for this Assembly; it is the challenge for this Government. There must not be a backward step of any order in the nature of the care that we provide to the terminally ill in this community. If there is one service which we as a community can provide, it is a service to those who are dying, those who are facing their mortality, more often than not those with cancer, who know that their remaining time is short or limited. Some know with precision, sometimes almost to the week or the day, how long they have to live. Their time is short and there is work to be done.

That is the situation we face. That is what we must replicate. That is the challenge facing us. We ask the question now: Have we engaged in a process here that allows us to face that challenge with any certitude? I do not think we have, the Hospice and Palliative Care Society do not think we have and I do not believe those professionals who work at the ACT Hospice believe we have.

I think the fact that the Minister has now agreed to the assessment of two additional centrally located sites is an indication that the process has not been as good as it should have been; that there has been an element of adhockery about it; that there has not been appropriate consultation with the primary consumer advocates, namely the Hospice and Palliative Care Society; that there is significant concern within the hospice and palliative care community that we are not going to deliver the very best facility that we can provide for terminally people within this community. Taking a backward step is a course we simply cannot contemplate.

While there are many people in the community - and I have constant representations to me on this point - who believe that a lake view is a very significant aspect of the success of the hospice, I think it is something which we as a community must take seriously. We must look seriously at the capacity we have to provide a location for our replacement hospice which replicates all the best features of our existing hospice.

We have a hospice on perhaps one of the most wonderful sites in the ACT, Acton Peninsula. We must do all we can to replicate that. It is a pity that we are leaving Acton Peninsula. Those in the Labor Party think that we should never have been forced into the position we have been. I will not go into that in detail. Rosemary Follett, as Chief Minister and as the person who negotiated initially with the Commonwealth about the land swap, was adamant about one thing in relation to the land swap. Rosemary Follett and a Labor government would not have swapped the hospice or its site. The paper trail is clear on that. Rosemary Follett was adamant that she would not swap the hospice or its site as part of a deal to exchange Acton Peninsula for Kingston. It was simply non-negotiable under a Labor government. That is one of the situations we need to take into account.

With that history and the Government having agreed to the exchange of Acton, including the hospice site, for Kingston I think it behoves this Government to ensure that it provides a site of equal amenity. That is a hard task because of the joint responsibility for the management and planning of national land. That is the problem we face with sites such as that at Yarralumla Bay which the Government has already chosen to assess. The Government, as part of this hospice process, did place the Yarralumla site in the range of sites that it would assess for a hospice. The Government has gone ahead and assessed that site and the Government has said that on the basis of the criteria given to its consultants the site would be an adequate, acceptable and good site for a hospice.

The one reservation that the Government's consultants expressed to the Government in its report on the assessment of the Yarralumla Bay site was that there was a significant planning issue insofar as the Commonwealth had overriding responsibility for planning issues in areas of national significance such as the Lake Burley Griffin foreshore. Of course this is the crunch issue for us. If we want a centrally located site for the hospice, a criterion the Hospice and Palliative Care Society think is vital, and if we also want what so much of the community wants for our hospice, namely, a site with lake views, then we have no option but to go for a site on the southern shores of Lake Burley Griffin. Every such site is on land designated as being of national capital significance.

We face this conundrum, this catch-22. If for the relocated hospice we want to replicate the pre-eminent site we currently have at Acton in a central location we have no option, it seems, but to place the hospice on land of national significance. If we do that, we run into the catch-22 that it will take six to nine months to progress through the planning steps an application to change the lease purpose or to get Commonwealth approval. It is a lengthy process, and rightly so, to the extent that it requires significant community consultation. Communities that may be affected, including the whole Canberra community, have a right to be consulted on any such plan initiative. Not just residents who live nearby and perhaps have some particular and personal objection but the Canberra community as a whole have a right to be consulted on any initiative of such significance. That is a catch-22 we face, but I think we need to work our way through it.

We have an obligation to the terminally ill in this community to ensure that we do everything we possibly can to deliver to them the best possible hospice and best possible regime for their care. We can only do that by providing them with the best possible facility.

This motion asks that the Government look seriously at the range of sites that might be available in central locations. The Government has already looked at Yarralumla Bay and is now suggesting that we look in addition at Griffith and Garran. But there has been no rigorous assessment of what other sites might be available. Surely we should be seeking to identify every possible site. This should be done through the ACT Government working cooperatively with the NCA, with the Hospice and Palliative Care Society and with the hospice to see what other sites there might be.

The Yarralumla Bay site was discovered by the secretary of the hospice society going for a Sunday afternoon drive, seeing a vacant paddock and saying, "That would be a lovely site for a hospice". It was as rigorous as that. I think we could be a little bit more rigorous than that in identifying and assessing a site with potential significance to

all the people of Canberra. We need to go through this in a rigorous, measured, methodical way. Let us identify the range of sites that might be available. Let us make a commitment to people who are dying. Ninety per cent of the people who die in the hospice die of cancer. Many of them are very young. This is not an old people's home. Let us do it rigorously and let us be open about what we are doing.

I understand that assessments were made on the basis that the site had to be big enough to cater also for potential expansion into a 60-bed aged persons complex. I think that is a nonsense proposal, and I would like the Government to be open about those sorts of secret initiatives so that we can deal openly and clearly with the issue here. We want a site for a 17- to 20-bed stand-alone hospice in a pre-eminent site. We want a rigorous, controlled, methodical, professional assessment of all the options. We want the Government to deal with the Hospice and Palliative Care Society, the main representatives of the consumers in this issues, namely, dying people, so that we get and maintain what we currently have.

That is what we want to do here. We want to maintain what we have - the best facility in Australia, staffed by the best staff in Australia, managed by a group without peer in the management of hospice facilities. I do not think the Government is delivering that. Mr Moore moved yesterday, in almost a knee-jerk way, to add a couple of sites to the equation, when the report had already been prepared, delivered and paid for. The report has already been completed, delivered and paid for, yet we now have two more blocks.

Let us be rigorous about this. Let us do it properly. Let us make sure that we do not downgrade what we currently have. Let us not take a backward step in relation to the care of the terminally ill. As a parliament, we owe no greater obligation than to look after that group of people.

**MR MOORE** (Minister for Health and Community Care) (5.55): Mr Speaker, I suppose I am going to constantly stand here and say, "Damned if you do, damned if you don't". This motion of Mr Stanhope's is appalling. It should be rejected out of hand because it is just pure politics. When we began this issue of the hospice, we had dealt with the Commonwealth, the Commonwealth had made its decision, and I went to Mr Stanhope and I said, "I am happy to consult with you. I am happy to work with you". I presented him with the full range of options that were available to us and the process that was going on. Within a very short while - I think within 24 hours - Mr Stanhope was out with a press release bagging me for going for the cheapest option, when I had explained to him very carefully that the cheapest option was to put a hospice in a spare ward at the Canberra Hospital. Just nonsense.

Then he comes in here and he misleads you by telling you that I have not been consulting. Perhaps I should choose my words a bit more carefully. I withdraw "misleads". He is not absolutely accurate in the way he presents the motion and his arguments. The first couple of points I do not care about because they are just politics. Subparagraph (c) of the motion talks about the failure of the relocation study undertaken by ACT Health and Community Care to involve the community in assessment of appropriate sites or identify an appropriate range of centrally located sites for assessment. The very reason we have had the centrally located sites is that the community were involved. That is the only reason.

Mr Stanhope says, "How did the Yarralumla site get to be considered?". He said it was because somebody from the Hospice and Palliative Care Society saw it and said, "This would be a lovely site". When they first presented it to me and said, "We would like further sites", my immediate reaction was: "I am pretty sure it would be covered by the National Capital Plan, because it is so close to the lake. I would be very surprised if it were designated for community purposes but it might be, and maybe it would be worth including". So I included it. We had already made a decision not to include it, but because the Hospice and Palliative Care Society wanted it looked at, we included it in the assessment. We paid attention to them and did what they asked. We had it assessed by Bruce Dockrill, along with a series of other sites that we had prepared as back-up. It was quite clear that that site was totally unsuitable.

Then the Hospice and Palliative Care Society looked at the sites and I said that my preferred site was Lake Ginninderra. Of all the sites we have gained, this is the one that fits the parameters that were set by the Hospice and Palliative Care Society, by the hospice and by Calvary Hospital with whom I have been talking by phone and meeting very regularly over the last two or three weeks. Mr Stanhope, you really ought to withdraw this motion, because it is not a sensible motion under the circumstances. I think you just do not understand what has been going on.

What have we done to consult? The feasibility study having been done, the Hospice and Palliative Care Society came to me and said, "We have seen the feasibility study. We understand the need for urgency. We still prefer Yarralumla". I explained to them the difficulties with Yarralumla, mentioning the meeting of the Yarralumla Residents Association and the fact that quite a number of residents from Yarralumla had contacted my office and made it clear they would oppose the hospice at that site at every step of the way and that this could delay it for anything up to two years, as we know can happen with both the National Capital Plan and the Territory Plan involved.

I said, "What is the problem with the Lake Ginninderra site?". They emphasised to me that a more important parameter than being on water was a central location. I argued that for someone coming from Tuggeranong the time difference between travelling from Glenloch Interchange to Lake Ginninderra and travelling from Glenloch Interchange to Acton Peninsula would be no more than two or three minutes. The difference in time would be minimal. Lake Ginninderra would be a little bit further for people coming from the Narrabundah-Red Hill area. I can certainly see that. There would be a significant advantage for people in Belconnen, North Canberra and Gungahlin.

They still said they would prefer a central location. I said that I would see whether I could find any other central locations that were consistent with the Territory Plan, and I found two sites. Who could be more responsive than that? That is real consultation. That was a genuine response to what they asked. Yet I am accused of not doing what they asked. I did not just leave it at that. I contacted Calvary Hospital and I spoke to Sister Berenice to verify that that was what the management of the hospice wanted.

**Mr Smyth**: You did.

**MR MOORE**: I think Mr Smyth was next to me when I phoned Sister Berenice. I spoke not just to the Hospice and Palliative Care Society but also to the management of the hospice. I went further. I spoke to Dr Michael Barbato, the chair of the Hospice and Palliative Care Partnership Team, to make sure I had tied everybody in so that we knew what all the stakeholders wanted. All the stakeholders told me that they were very keen on a central location.

With somebody from Planning in Mr Smyth's department and somebody from Health in my department, I drove out and looked at the sites that we had identified from the Territory Plan - a site in Garran and a site in Griffith. The site in Garran is absolutely lovely, with one exception - it backs on to Hindmarsh Drive and is very noisy. The site in Griffith seems to have significant appeal.

That is the process we have been through, and we are now having the same assessment done on the site in Griffith as was done on all the other sites - the methodical method that Mr Stanhope is talking about. That has been done. What I do not want the Assembly to do is require me to consult with the Commonwealth. There is no reason to consult with the Commonwealth on this issue. That was sensible, Mr Stanhope, as your original motion stood, when you believed that the Hospice and Palliative Care Society felt that Yarralumla Bay was the only site. Perhaps in drawing up your amended motion you may not have realised - and I understand this - that the Hospice and Palliative Care Society, along with the other groups, now believe that a better site is Griffith. They see it as a compromise but they understand that all the sites have pluses and minuses.

Yarralumla Bay is a beautiful site. There is no question about that, but the complexities in winning that site, with the uncertain outcome of attempting to change the Territory Plan and the National Capital Plan, make it unsuitable for now. The Hospice and Palliative Care Society understand that, because they realise that the hospice would need to be relocated to Canberra Hospital, where we have space, while that process was going on. They said, "That is a reasonable compromise. We appreciate the efforts you have gone to. We think that the Griffith site is a good compromise". Even today the consultant who assessed the other sites in a methodical way is doing the same with this site so that Cabinet can make comparisons and have a sensible basis upon which to make its decision. Cabinet will take into account the views of the Hospice and Palliative Care Society, the Hospice and Palliative Care Partnership Team, the hospice itself and Calvary.

Mr Stanhope, the frustration for me is that the things that you are requiring us to do have already been done.

**Mr Berry**: Somebody disagreed with you.

**MR MOORE**: The frustration is not because he disagrees with me. I am used to handling that. That is fine. The frustration is that this has already been done. The hard part, I suppose, is that I did not continue consulting with you. I deliberately did not continue consulting with you, because the last time I consulted with you I got shafted. If you say we can consult without you shafting me, then I do not mind consulting with you. But I will stop doing it if I get shafted in the process. Why would I continue it?

We are fully assessing and prioritising all the identified sites. That is all being done, and we are fully consulting  I have just had discussions with Mr Kaine and Ms Tucker about how you would define "fully consulting". We have already met that requirement. We have fully consulted the key stakeholders. We are already doing what the last part of the motion requires of us, with the exception of consulting with the Commonwealth. I do not think it is appropriate to consult with the Commonwealth any further, so you could delete that.

A much better idea is to simply knock this motion off. The premise upon which it is based is simply incorrect, including the political statements about the decision of the Government to include the land occupied by the hospice in the Acton-Kingston swap and the failure of the Government to successfully negotiate with the Commonwealth for the retention of the ACT Hospice on Acton Peninsula. The mistakes go right back to the time when Mr Berry put the hospice of Acton Peninsula. That is what the mistake was. We all know that is what the mistake was. I conceded some time ago that at the time I accepted Mr Berry's decision, although Ms Carnell will discuss that matter further. It seems that I have some faulty memory.

Mr Speaker, this motion is simply unnecessary. This Government has worked incredibly hard and I have worked incredibly hard to make sure that we can have the best possible hospice, with the best possible people, as Mr Stanhope correctly described them earlier, and that we can have it in the best location that suits all the stakeholders as well as the Government. We can prioritise the sites and make sure that there is not a conflict that can knock them off. That is the basis upon which Cabinet will make its decision. It is important that Cabinet make its decision on Monday. Unless we have the bulldozers on site at the beginning of next year, the hospice will not be completed on time.

**Ms Carnell**: And then they will complain.

**MR MOORE**: Of course, they will be first ones screaming, so do not stop it. Because we want to have appropriate probity, the process now is to call for tenders and get the project developers, the planners and the architects under way through the next few months leading to Christmas so that we can have those bulldozers on site on time. Even then, there is going to have to be a small amount of fast-tracking. The bulldozers will have to prepare the footprint while the final fittings and so forth are still being designed by the architects. So we really do have to make this decision on Monday. We have fully consulted, and we will continue to consult, with Calvary, the Hospice and Palliative Care Society, the Hospice and Palliative Care Partnership Team, and Sister Berenice at the hospice. Mr Stanhope, if you are happy to have another go at it, I am happy to have another go at trying to consult with you as well.

**MS CARNELL** (Chief Minister) (6.09): Mr Speaker, this Assembly cannot pass a motion that is simply untrue. I would ask Ms Tucker to listen for a moment as I am sure she listened to Mr Moore. Mr Stanhope, yesterday in the Assembly and again today, has made comments about the fact that when Ms Follett was negotiating for the land swap the hospice was definitely not part of it. That would be the case except that Ms Follett said on 13 October 1994, when we went into election mode:

> The Government is not presently pursuing an exchange of Acton Peninsula and West Basin for either cash or land at any other location.

She went on to make it clear that there was no way she was involved in any negotiations along those lines. I will be fascinated to see the paper trail that Mr Stanhope spoke about at length but that Ms Follett said did not exist. Yesterday Mr Stanhope indicated in the Assembly that it was this Government that, as it says in the motion, failed to successfully negotiate with the Commonwealth for the retention of the ACT Hospice site on Acton Peninsula.

Mr Stanhope yesterday indicated that the Labor Government had definite tenure of the site; that there were no problems with that; that the problem was that I did not negotiate hard enough. I will have to tell you what happened when we were negotiating. When we were negotiating, the current Minister, said, "Kate, I understand your problem, but the reality is that you always knew it was a temporary facility". I said, "I argued that at the time, but the government of the day went ahead and now we have a problem". He said, "No, no, no. You always knew. The previous Labor Government and now the Coalition Government made it totally clear".

Mr Stanhope this morning said that I was trying to confuse works approval with tenure on the site. I will now quote a letter that the Minister gave me when I was attempting to negotiate to keep the hospice on the site, saying, "Just look at this. You can see I have nowhere else to go. You knew from the beginning". In a letter dated 18 January 1994 to Jeff Townsend, who was then the Secretary of DELP, as it was at the time, from Gary Prattley, who was acting chief executive of the NCA, which was probably something else then, said:

> Dear Jeff,
>
> Acton Peninsula/West Basin - Site for Hospice
>
> I refer to your letter of 3 December 1993.
>
> At its December 1993 meeting the Authority confirmed its position on this matter as follows:
>
> . A temporary facility for the ACT Government Hospice could be sited on the Acton Peninsula in the Isolation Block and H-block.
>
> . In this instance, consistent with the Territory Plan, temporary is defined as a period of not more than 5 years.
>
> . In the long term, a permanent hospice or other community health facilities may be sited appropriately in the area focused on West Basin as part of a mixed use development.

> The Authority was however concerned that, if the National Museum of Australia proceeds on Acton Peninsula, the associated construction activity would create an environment that may not be compatible with a hospice and requested that you be advised of this concern.

**Mr Moore**: Is that the whole letter?

**MS CARNELL**: That is the whole letter. That is not out of context. Mr Speaker, there is any amount of other documentation to show that the Labor Party knew categorically, definitely, that it was a temporary facility. When I was negotiating with the Commonwealth for the retention of the ACT Hospice on Acton Peninsula, I was fighting a very difficult battle, because the Commonwealth was able to show me documents such as that letter that showed that when we got approval to go onto Acton it was for no more than five years, full stop. We may have been given - - -

**Mr Berry**: No, that's not true.

**MS CARNELL**: It is.

**Mr Berry**: The letter does not say that.

**MS CARNELL**: It does say that. It is categorical that it says that. Of course there were other documents, and I am sure that those opposite must have them as part of the FOI request, so they know what actually happened. They know that Paul Keating did announce in his cultural statement that they were going to put a national facility on Acton Peninsula. They knew already that the view of the National Capital Planning Authority at the time was that a hospice may not be compatible with that sort of development. That is exactly what it says in the letter.

Faced with that sort of negotiation, obviously I said, "I understand that but it was not us; it was the other silly mob. They went ahead. We are faced with the dilemma now that we have a wonderful facility on a great site, wonderful facility that cost the taxpayers of the ACT a lot of money. Therefore, we should be allowed to keep it". They said, "But, Chief Minister, you would agree, would you not, that the Government , whichever side it might have been, spent taxpayers' money knowing that you had a temporary facility?". Even the works approval said "proposed temporary hospice". Not "temporary works approval" but "temporary hospice" was all the way through the documentation.

They said, "If it was clear to the ACT government of the time that it was a temporary facility for not more than five years, you really cannot expect the Government now to compensate you for going ahead when you knew exactly what the rules were". I said, "It was not me; it was them". They said, "Excuse me, it also was not the current government; it was the previous Labor government. The previous Labor government here and the previous Labor government Federally gave approval for a temporary facility for not more than five years on Acton Peninsula, with information that if the museum went ahead on Acton Peninsula it may not be regarded as appropriate to keep a hospice on the site". There is no doubt. That is reality.

So there is no failure by this government to successfully negotiate with the Commonwealth for the retention of the ACT Hospice. There was a failure by the previous government to do a sensible deal. Any number of press releases, media statements, *Canberra Times* articles and editorials show that Mr Connolly, who made the final decision, and Mr Berry, who did all of the initial carrying on, made a dud decision.

There is no way we can keep a facility on Acton Peninsula, no matter who owns the land, when it is designated for national purposes. We all know that the Commonwealth can take back any land in this city at any time they want to. We are a territory, not a state. That is just reality, just the law.

I suppose the frustration of this whole issue is that those opposite, as the *Canberra Times* , every other media outlet and most commentators have indicated, made a short-term decision. That is fine. Governments can do that. But those opposite have to accept that that is what they did. It was not a long-term decision.

Those opposite have made comments about Mr Moore's position on this, saying that he has done a total backflip. I have here a *Canberra Times* article from 1992. It is headed "Libs criticise plan for Acton hospice". That was a very long time ago. The article goes through my position on the whole issue, then it goes on to say:

> Independent MLA Michael Moore agreed with Ms Carnell's assessment of the Acton site.
>
> "The first mistake on Acton was when the Liberals closed the Royal Canberra Hospital; the second mistake was when Labor failed to retain a community hospital on Acton Peninsula," he said.
>
> > "An ad hoc decision to put the hospice on Acton Peninsula could well be a third mistake.
>
> "The optimum site for a hospice is near Calvary as it may well be

*(Extension of time granted)* He then talked about Bruce Hostel and a number of other issues. Anybody who looked at the issue at the time, not just for five months or a couple of months but for years, knew that Acton Peninsula, as the Commonwealth said, was going to be a site of national significance. Our capacity to maintain a hospice on that site was always under a cloud, as is said in writing, as the *Canberra Times* said.

Mr Speaker, the first part of this motion, the part noting certain things, is simply incorrect. The Government is consulting with the ACT Hospice and Palliative Care Society. This Government, given an opportunity to do so, will ensure that another facility is ready before we have to vacate the Acton Peninsula site. Therefore there will continue to be a hospice facility in this city.

The Labor Party never managed to open a hospice during their time in government. The hospice was opened after they went out of government.

**Mr Berry**: No, Terry Connolly opened it.

**MS CARNELL**: Okay, I accept that. This Government is committed to ensuring that a hospice remains in the ACT. We are committed to consulting. We are committed to ensuring that the new site is at least generally agreed. Just let Mr Moore get on with it and stop the absolute garbage and untruths that have come forward from those opposite with regard to the hospice. Everybody knows the issues involved, and it is simply wrong for those opposite to attempt to pretend they are not true.

**Mr Berry**: Hang on a minute, Mr Speaker.

**MR SPEAKER**: Are you taking a point of order?

**Mr Berry**: I do not mind, because later on I can get on to the untruths that come from the other side.

**MR SPEAKER**: But you are objecting to the word "untruths"?

**MS CARNELL**: Mr Speaker, I am happy to withdraw anything that upsets Mr Berry's sensitivities.

**MR BERRY** (6.21): Next week Wayne Berry will be blamed for the Bruce Stadium. You can back it in. The feverish attempt to re-create history was undone by the letter the Chief Minister read. The third dot point makes it clear:

> In the long term, a permanent hospice or other community health facilities may be sited appropriately in the area focused on West Basin as part of a mixed use development.

True. It then goes on to say that construction activity could be a problem for the hospice. That has not turned out to be the case. The letter just raises it as an issue. We had a hospital blown up by you lot, and the hospice was able to manage . A little bit of construction activity would not bother them after that melee. Let us be serious about that.

Chief Minister, from day one you opposed that hospice because you knew the community thought it was a good idea and you wanted to blacken it. It was a plus for Labor, and you set out to blacken it because it was a successful move by Labor. It was on territory controlled land for community purposes - there is no doubt about that - and it remained secure until you came into the picture. Chief Minister, you set out to make sure that your criticism of the hospice on the Acton Peninsula site came true. That is to say, you are the one who negotiated the hospice away when you spoke with the Federal Government in relation to the matter. It was our land, and there is no doubt that nothing could be done about the hospice while ever it was our land. It could only be taken away when you negotiated away the right to operate the hospice. That is the only way it could happen.

Whether the existing building which is used as a hospice was to be a long-term hospice is a question that we will never know the answer to, but during the process of establishing a hospice there was planning for a new building on that site. I am sure that was what Prattley was referring to when he said:

> In the long term, a permanent hospice or other community health facilities may be sited appropriately in the area focused on West Basin as part of a mixed use development.

There is no avoiding the history in relation to this. Kate Carnell did not want the hospice on Acton, and she made sure it happened.

**Ms Carnell**: Why? Because it was going to be a waste of money - and it was.

**MR BERRY**: And you set out to prove that by negotiating it away without compensation. Let us not try to avoid the truth of the matter. That is the truth of the matter. The hospice could have stayed on that site indefinitely. It could have become the permanent hospice, or a new one could have been built there, had this Chief Minister not wanted to get rid of the hospice off the site. It was a straw man that she created herself. She argued that the hospice should not go there. Everybody else thought it was a great idea. Kate Carnell argued that it should not go there, then she set out to see to it, at great cost to this community. Three million dollars will be added to the waste that went with Bruce Stadium. I was not responsible for Bruce Stadium and never have been, but I expect to be blamed for it next week.

**Ms Carnell**: I am proud of it.

**MR BERRY**: I am proud of the hospice too, because it was put in the right place, and it would still be there other than for your actions. You have to take responsibility for the waste which has occurred as a result of your actions, and you have to take responsibility for the community concern about the negotiations for a new site now. They have the best site and you gave it away and cost this Territory $3m. Do not avoid the truth of the matter.

**MR SMYTH** (Minister for Urban Services) (6.25): Mr Speaker, I will be brief. You have to admire Mr Berry when in the face of all the overwhelming evidence he can still talk such absolute rubbish. The Chief Minister has just read a document that made it quite clear that under Labor's stewardship of this issue it was agreed that the hospice was a temporary facility, a five-year facility. We can always go back to the *Canberra Times* editorial of Friday, the 29th - - -

**Mr Stanhope**: It was territory land.

**MR SMYTH**: Mr Stanhope interjects that it was territory land, but what he fails to acknowledge is that it was designated land under the control of the NCPA and that under the planning regime of the time - and it still exists - the NCPA had control of the planning guidelines over that area. You should learn about planning before you interject that it was territory land. It is all territory land, but some of it is under the control of the Federal Government.

**Mr Stanhope**: We occupied it.

**MR SMYTH**: You have got it wrong. Your motion is inaccurate and you should withdraw it. Mr Berry continues to rewrite history. He ignores the truth of the documents referred to by the Chief Minister. It is your mess. As always, we are left to clean up. Michael Moore has done a remarkable job with the progress of the hospice in such a short time. Fronted by the reality that the Federals would not allow the hospice to stay where it is because of the negotiations of the Labor Party, we have moved quickly and expeditiously to meet the needs of the Hospice and Palliative Care Society.

Their foremost requirement was that the hospice be near the water. With that in mind, we looked at sites. They then raised the issue of Yarralumla, and we looked at that site as well. Now the issue has shifted. Because of community consultation, because we listen to them, because we talk with them constantly, we are aware that now the issue for them is that the hospice be central. With that in mind, Michael Moore asked me to organise a meeting yesterday. We got a Planning representative up, we had people from his department up, and within an hour they were off in the Tarago looking at different sites. We found two very nice sites that met the changed criteria from the Hospice and Palliative Care Society.

We have been working well with them. Why? Because it is important. We want to build a facility that should have been built back in 1994 on a site that could have been identified in 1994, except that the then Health Minister was more interested in playing politics. Former Liberal MLA Trevor Kaine said on 24 February 1994:

> Mr Berry is going to spend a good slice of his $3m to upgrade that old building down on Acton Peninsula, and the NCPA has already told him that in five years' time the government of the day - not him, because he will not be there -

you were very wise, Mr Kaine -

> is going to have to produce another $3m, or perhaps by that stage $5m -

good call, Mr Kaine -

> to build another hospice somewhere else. How stupid can you get?

Mr Kaine was right then; he is right now. This motion should be withdrawn. It is an absolute travesty of justice.

**MR OSBORNE** (6.29): Mr Speaker, I had a meeting with the Hospice and Palliative Care Society either late last week or early this week, and I indicated to them my problems with the proposed Lake Ginninderra site for my constituency. It is all very well for the Minister, who lives in the middle of town, to say, "It is not too far. Go to Glenloch Interchange and you are nearly there". I happen to recall driving to Bruce Stadium in my life past. It is not a short distance. It is not central. My concern in this whole debate is that this facility should be as central as possible so that it can be accessed by the whole community.

**Mr Kaine**: Do you want to move the stadium to Northbourne Avenue?

**MR OSBORNE**: That is why I wanted to move the stadium to Northbourne Oval. That is why I indicated to Mr Stanhope that I would be happy to support some sort of motion which was in line with that. Having read the motion, I must admit that I do not particularly want to be involved in supporting 1(a) or 1(b). I think there is enough confusion over whose fault it is to warrant us not supporting them.

**Ms Carnell**: There is no confusion.

**MR OSBORNE**: The Chief Minister says there is no confusion. Even 1(c) is a bit grey. I know that the Health Minister has spoken to me a number of times about the potential site - - -

**Mr Moore**: And Sister Berenice many times.

**MR OSBORNE**: You keep dropping that one in, Mr Moore. I know he has had meetings with different parties. The point I want to make in this debate is that the hospice society and I felt displeasure at what we felt was the Government's preferred option. In the last day or two, further sites have come up at Griffith and Garran. I understand that Griffith is starting to firm up as the favourite. I will vote against subparagraphs (a),(b) and (c) of the motion.

**Mr Moore**: And I will commit myself to doing the proper consultation.

**Mr Smyth**: Continuing the proper consultation.

**Mr Moore**: Continuing, because I have already done it.

**MR OSBORNE**: We were dissatisfied and we would like some more work to be done on it, but I must concede that the Health Minister has certainly provided me with a lot of information about it. He has acted very swiftly in the last couple of days. I see Mr Stanhope acknowledge that with a nod. I think it is really lineball whether we should support the motion. Perhaps Mr Stanhope, in his summing-up, can convince me why I should support it.

**MS TUCKER** (6.33): I seek leave to move two amendments together.

Leave granted.

**MS TUCKER**: I move:

> Paragraphs (1) (a) and (1) (b), omit the paragraphs.
>
> Paragraph (2) (a), after "Commonwealth", insert "if necessary".

I do not particularly want to get into the discussion about the history. I do not have enough information with me to make a decision tonight. Labor has letters and the Chief Minister has referred to letters that I have not seen. I do not think the history is necessary for this debate anyway. That is why I have moved that paragraphs 1(a) and 1(b) be deleted.

I listened to Mr Moore's arguments about paragraph 1(c). My understanding of paragraph 1(c) is that it is a criticism of the initial study. Mr Moore - I am quoting him directly - said, "We had already made a decision but then we listened to the society and we looked at Yarralumla". "We had already made a decision", I heard him say.

**Mr Moore**: And we changed the decision.

**MS TUCKER**: But, as I understand it, Mr Moore, 1(c) is saying that the initial consultation for the relocation study was a failure. No-one is saying that Mr Moore has not consulted since then. We know he has. The point is that it is an ad hoc process that has occurred. The criticism in this motion, as I understand it, is of the initial relocation study. That is what is being criticised. I would like Mr Stanhope, when he wraps this debate up, to clarify whether that was his intention. I have been told by the Hospice and Palliative Care Society and other people that they were concerned about the initial process.

The other thing that I heard Mr Moore say - and I am quoting him directly - was that, having had the feasibility study, he was approached. Once again, he was acknowledging that a decision had been made; that a process had been completed. That is what I understood 1(c) to be about. If that is the case, 1(c) seems to be quite supportable, because it deals with the concern that has come to all members of the Assembly from the Hospice and Palliative Care Society

We know that Mr Moore has been listening since. We can give him credit for that. He does not have to be so terribly offended. We are acknowledging that since then he has been listening. But it has been an ad hoc process. These people went for a drive and they came up with a site. Is that good process? Is that a rigorous process? Then the Government said, "Okay, we will add Yarralumla". And now we hear them saying, "Okay, we will add this and that". That is not a good process. I think it is reasonable to have concern about that. If it had all been opened up - - -

**Mr Smyth**: Because the Hospice and Palliative Care Society kept changing what they wanted.

**MS TUCKER**: Mr Smyth interjects. It really shows that he has no idea what we are talking about. He says that it is because the Hospice and Palliative Care Society keep changing what they want. Of course they do. They have been put in the position where they have to come up with ideas suddenly because they were given a feasibility study and because a decision had been made. They are saying, "Hang on. Can we look for something else?". This motion is criticising the fact that they had to be reacting like that. It is saying, "Why was this process not opened up right from the beginning?". "We had already made a decision", Mr Moore said, "but then we listened". That is what the criticism is about.

My second amendment adds after the word "Commonwealth" in paragraph 2(a) the words "if necessary". Obviously it would be silly to require the Government to consult with the Commonwealth if it was not Commonwealth land. Paragraph 2(c) is about fully consulting the community. I imagine it means - and Mr Stanhope can clarify if I am incorrect - that if a site has an impact on people residing in the neighbourhood we will go through normal processes. As I understood it, that is what Mr Stanhope meant by that paragraph.

If my amendments are supported, I am happy to support this motion. The hospice is an important facility for the ACT. It is a lasting decision that we are making. We will have this hospice, hopefully, for at least 50 years.

I understand that in the initial discussions it was thought that it would be useful to have two hospices. I do not know whether that has been discussed since. That has come to me from a number of constituents since the hospice site has become a public issue again. They are asking, "Why is that not a consideration? Why are we not looking at two hospices so that we can accommodate people at the extreme ends of the ACT?". I was told by the palliative care people that there are people from Tuggeranong who now stay at Canberra Hospital because even Acton is too far for them. In the discussion, there is room for that possibility to be brought up again, but probably it will not be. I just raise it for the record, because it seems as though it is something that was raised and was dropped.

**MR STANHOPE** (Leader of the Opposition) (6.39): I think the issues have been fairly well traversed. There are a number of things I must do. For the benefit of members, I need to read the letter sent by Mrs Carnell to Paul Keating which sealed the land swap. It is a letter of 10 April from Mrs Carnell to the Prime Minister.

**Mr Smyth**: Incorporate it. Go for it.

**MR STANHOPE**: Thank you, Mr Smyth. That is most generous of you. This was the formal exchange of letters between the ACT Government and the Commonwealth on the Acton-Kingston land swap:

> The Commonwealth agrees ... to provide the ACT with Kingston. In return the ACT Government agrees to provide the Commonwealth with the whole of the Acton Peninsula site up to the ANU border minus the hospice and the cottage.

The next day, on 11 April, Mr Townsend wrote to Mr Prattley. A day later Mr Townsend was on his typewriter sending a letter to Mr Prattley of the NCA setting out the basis on which the ACT Government would agree to the land swap. In Mr Townsend's document to Mr Prattley, from the ACT to the NCA, the basis of agreement between the ACT and the Commonwealth, Mr Townsend says to Mr Prattley:

> Territory land to be transferred to the Commonwealth
>
> Block 1 Section 55 and part Block 17 Section 33 of the Division of Acton as identified in Attachment B, with the exception of the site of the ACT hospice and cottage.

And it goes on and on. We get this wonderful exchange between an official in the Prime Minister's Department and an official in the NCA. When they started to treat the ACT like the mugs they proved to be in relation to the land swap, this was the discussion about the hospice site. This is a minute from the NCA to PM&C, from Ms Diana Williams to Ms Vicki Buckley:

> Further to our discussions yesterday ... You will require some input from NCPA to answer the letter [from Mrs Carnell]. The comments regarding the Hospice and the cottage will need to be clarified since we have given the ACT Government a limited term ... land use permit for the Hospice.

Listen to this, Commonwealth officials getting together and dudding the ACT:

> Whilst ever the Hospice remains it will be difficult to change the land from Territory to National Land.

The Commonwealth officials knew all about it. The minute goes on:

> The Commonwealth needs to set the rules about what happens after the [time] is up.

The Commonwealth is saying, "We will beat these Territorians into submission. We will just show them how to negotiate. We will grind them into the ground. We will knock them off". It goes on and on. Of course, I could go on and on, because there is so much material about the extent to which the Commonwealth simply thrashed the ACT.

Just before the agreement was signed, the Government engaged a consultant, Morris Consultants. In October 1996, just before the agreement was signed, Morris Consultants were advising the ACT Government. Here comes the crunch:

> To simplify the Land Exchange, one option for consideration by both Governments -

that is, Mrs Carnell and John Howard -

> may be that the Hospice ... site be exchanged with the balance of the Peninsula. Under this option the Hospice would become a tenant of the Commonwealth ...

There it is - deal done. "Yes, no worries, John, mate, buddy, Howard. You can have whatever you want. You can have the land and you can have the hospice. We do not want compensation in return. We do not understand what we are doing. We have been dudded. We will just lie back and enjoy it". That is a little bit of history that I think we needed to hear.

There has been a very confusing process. In the midst of the relocation assessment there was a bizarre letter from Senator Reid, somebody for whom I have the utmost respect. Of all the Liberals in town, I probably respect Mrs Reid more than any other. Mrs Reid wrote to the hospice society in the midst of the relocation exercise to advise the hospice society, after they had gone to her to make representations about the possibility of the land at Yarralumla Bay being made available - and I paraphrase her - as follows: "I have been in contact with the Minister for Urban Services, Mr Smyth. He tells me that the ACT Government's preferred position is that the hospice go to Calvary Hospital. That is the ACT Government's preferred position". This is Senator Reid's letter to the society three weeks ago, in the midst of the process. Yet we are told that we have a clean, beautiful, wonderful process and there is nothing to worry about. Senator Reid, President of the Senate, informed the hospice society three weeks ago that, on the advice of Brendan Smyth, it was the Government's preferred position that the hospice should go at Calvary.

**Mr Humphries**: No, that is not true.

**MR STANHOPE**: That is what the letter said.

**Mr Humphries**: No. It said that his office advised that, as I recall.

**MR STANHOPE**: It was not Mr Smyth; it was Mr Smyth's office. Mr Humphries says that it was some poor staffer in Mr Smyth's office, some poor dunderhead in Mr Smyth's office who did not know what they were doing. It was not Mr Smyth who did not know what he was doing; it was some poor staffer in Mr Smyth's office who did not know what they were doing. I wonder which poor staffer that was.

That is some of the history. The process has been appallingly flawed. The one centrally located block that was identified and assessed was identified by the secretary of the hospice society frantically driving around on Sunday afternoon with her husband desperately trying to find a site that matched the amenity of the site which we have to abandon because Mrs Carnell gave the block away. She was simply outnegotiated, dudded, by the Commonwealth, by her mates up on the hill.

That is some of the history, and we have to accept that. But it is not relevant to what we are doing here now. We simply want the best result. That is what this motion is about. We can put the history behind us. Perhaps we have to discuss the history so we know why we are where we are. But let us put it behind us now. I am happy to drop those two

perhaps rather unnecessarily and antagonistic paragraphs from the motion. In retrospect, I am perhaps sorry they were in there. They have diverted us from the point of the motion.

The point of the motion is that I do not believe we can have any satisfaction that we are going to get the best result out of this process. The process has not been as good as it should have been. I am very concerned that if we simply go ahead to a Cabinet meeting next Tuesday this community cannot have confidence that it is getting the best possible result. I commend this motion. I think it is important that we take a deep breath and step back and that there be more consultation by Mr Moore. I do acknowledge the gesture that Mr Moore made yesterday and that was reported today. I do acknowledge that he did identify two other sites. I would like him to take a deep breath, step back and do it again a little bit more slowly so that we can make sure we get it right.

We should not pay a penalty now in having to wait a couple of more weeks as a result of the fact that, despite the fact that we knew that the licence to occupy the site was going to expire on 30 June, we simply did not get our act together. It cannot be disputed that that is the problem. We should not suffer in the future as a result of that failing. For us to crash this through on the basis that we have to be out of the hospice by 31 December next year is simply not good enough.

Amendments agreed to.

**MR SPEAKER**: The question now is: That the motion, as amended, be agreed to.

**Mr Moore**: Mr Speaker, I request that you divide the motion into two, the first part being 1(c) and the second part the rest being the remainder taken as a whole. I only want to oppose subparagraph (c). That would still leave a sensible motion.

**MR SPEAKER**: Is leave granted to divide the motion? There being no objection, that course will be followed. The question is: That paragraph 1(c) be agreed to.

Question resolved in the negative.

**MR SPEAKER**: The question now is: That the motion, as further amended, be agreed to.

Question resolved in the affirmative.

## FAIR TRADING (FUEL PRICES) (AMENDMENT) BILL 1999

Debate resumed from 2 July 1999, on motion by **Mr Osborne**:

> That this Bill be agreed to in principle.

**MR HUMPHRIES** (Treasurer, Attorney-General and Minister for Justice and Community Safety) (6.49): The Government supports this Bill. Mr Speaker, I seek leave to incorporate in *Hansard* some notes prepared for me indicating the Government's position in general on the legislation.

Leave granted.

*The notes read as follows*:

Government supports this Bill. It may benefit Territory motorists.

Support does not imply acceptance of Mr Osborne's assertions that major savings will result.

Best information available to Government, from CSIRO, is that saving may be 0.16% not 1% as claimed by Mr Osborne

CSIRO figures are that average sale temperature is 18.3* celsius and average delivery temperature is 19.6* celsius.

Osborne figures are based on example of sale temperature of 12* and delivery temperature of 20*

CSIRO figures are based on a limited sample

CSIRO figures seem consistent with information obtained from the Bureau of Meteorology internet site regarding temperatures for Sydney and Canberra

Matter has a long history

Ministerial Council on Consumer Affairs considered temperature correction at the retail level for several years

In 1996 Council concluded likely costs outweighed any benefits to consumers

Council was dealing with retail level across Australia, Mr Osborne's Bill deals with wholesale level in A.C.T. Government is prepared to accept different factors may apply at wholesale level in the A.C.T.

1992 Report of the A.C.T. Government Working Group on Petrol Prices considered this question and related question of evaporation

Report mentions that Mobil offered its retailers a “Mobil Meter Wholesale” scheme which compensated retailers for losses due to temperature change and evaporation

Report was unable to find any difference between prices charged to motorists by Mobil retailers and those charged by other retailers

Conclusion

Government supports Bill, but history of this matter suggests Mr Osborne's claims need to be treated cautiously.

Consumers should be aware that the Bill may not result in savings at the pump

**MR OSBORNE** (6.50), in reply: I thank members for their support for this Bill. I seek leave to incorporate my speech in *Hansard*.

Leave granted.

*The speech read as follows*:

Mr Speaker, I thank Members for their unanimous support.

I think this is important legislation for us in Canberra.

For the first time since, probably, Federation our service stations have a reliable and guaranteed method of recouping fuel losses which have occurred because of temperature variation.

Until now, service station owners and franchisees have been forced to cop most of this loss themselves, and as is the way in business, the loss is passed on to the motorist.

Given that temperature related fuel loss can total between 1 and 2 per cent of fuel delivered over the course of a year, it represents a significant amount of money.

I have noted attempts by the oil industry to talk down this legislation.

However, I have not yet been presented with an argument which would cause me to change my mind.

Much of what I have heard from the industry has been based on half-truth and irrelevant material.

I sat through an attempt yesterday by one oil company whose argument was essentially based on the problem of establishing a precedent for other jurisdictions.

I had to agree that if we establish temperature conversion in the ACT, it will be hard for the industry to resist demands from service station operators in the cooler areas of New South Wales, such as Queanbeyan, Cooma, Braidwood, Wagga and the east coast communities from Nowra to the Victoria border.

However, my view of this precedent is slightly different to that of the oil companies.

I believe that that their opposition is based on the fact that if they are forced to do the right thing here in Canberra, they may well be forced to do the right thing again in New South Wales and then the rest of the country.

I wish to remind Members that temperature conversion has no implementation cost as the figures required to make the conversion calculations are already readily available.

Mr Speaker, it is apparent that petrol retailing across the country is going through a process of great change.

Within that context, I accept that an attempt to negotiate an industry 0ilCode is already underway.

At present, fuel retailing in Australia is administered federally through two Acts, the Sites Act and Franchise Act.

There is a federal commitment to repeal these two Acts once agreement has been reached between all parties on an industry oil code, which would then be mandated under federal regulation.

0ilCode is to be a means of establishing a more flexible and responsive method of administering fuel sales across the country.

Depending on who you talk to, it is possible that a better method of addressing fuel losses which occur due to temperature variation than temperature conversion could be agreed upon after 0ilCode is in place.

Addressing fuel losses would not be specifically included in 0ilCode, however, once it was in place the way would be open for an informal industry-wide agreement to be negotiated and put in place.

If this happens, this legislation will no longer be necessary.

However, the future of 0ilCode has recently been put in grave doubt as at least two of the major players, the Motor Trades Association of Australia and a multi-party Senate Committee, have both gone cold on key aspects of the agreement.

> As 0ilCode is still several years away, I consider this legislation to be necessary.
>
> I don't believe that the historical integrity of the oil industry is anywhere near the level required of it to leave the matter of addressing fuel losses in their hands any longer.
>
> I have appreciated the assistance of John Riding-Hill of the ACT Branch of the Motor Trades Association and members of the National Standards Commission for their assistance in gaining an understanding all of the issues involved with temperature conversion.
>
> I would also like to thank Chris Dalton from Parliamentary Counsel for the part he played in developing the Bill, I think it has been an interesting journey for us all.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## ADJOURNMENT

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

> That the Assembly do now adjourn.

### Abortion

**MS CARNELL** (Chief Minister) (6.51): Mr Speaker, I will be very brief as I know that it is late. Mr Speaker, I thought it was important enough for me to rise in this place today to raise my concern with an approach that has been taken in this place by members opposite just too often, that is, to play gutter politics with the abortion issue. Mr Speaker, recently a newsletter was circulated by Mr Quinlan in which he stated that at the last abortion debate it was disappointing that Mr Moore and I had compromised our stated principles in seeking to win Mr Osborne's support for the ACTEW sell off and he said that that was taking politics too far. He distributed the newsletter quite widely.

Mr Speaker, I have never and will never criticise any member of this Assembly on the basis of their position on abortion or, for that matter, other conscience issues. I am really sick to death of politicians like Mr Quinlan trying to score political points on an issue that is complex and personal, and it is, Mr Speaker.

**Mr Berry**: Oh!

**MS CARNELL**: Yes, Mr Berry, it is. I believe that everyone in this place has come to his or her own position on this important issue and done so after much soul-searching. Mr Speaker, as a health professional, I have had a long involvement in this area with many people who have had to have terminations over the years. The position that I have come to is one that I believe in strongly. We will have debates on this issue in the future. Mr Speaker, I think it is important that all of us respect each other's views. Mr Quinlan has taken a position which is simply unacceptable.

I fully accept that on just about every issue we can play the man and not the ball, but not on issues of conscience. Mr Quinlan may have forgotten to tell his readers that Mr Osborne actually did not support the ACTEW issue; so, any thought of deals being done is simply ridiculous. I would never and I know that Mr Moore would never do a deal on an issue that we both take extremely seriously. Mr Speaker, we are now in our eleventh year of self-government; we have had our tenth anniversary. It is important that this Assembly become more mature and start accepting that there are certain issues on which you simply do not have personal goes.

**Mr Berry**: Why not?

**MS CARNELL**: Mr Berry says, "Why not?". It is because everyone in this place – Mr Berry included - has a right to his or her position on these sorts of issues. I do, as does Mr Moore. The sort of approach that Mr Quinlan has taken is simply unacceptable and it is about time, I have to say, that those opposite grew up.

## Death of Mr John W. Slater

**MR QUINLAN** (6.54): I have a nice compendium of press releases put out by the Chief Minister's office which I am prepared to send around to add a little balance to that issue, but I have actually risen on another matter, that is, to note the passing of John W. Slater, a former chief engineer of the ACT Electricity Authority and a former deputy chief executive. A highly professional engineer, he was one of many who worked to build the ACT electricity supply system to such a standard that it is now besieged by a few slavering carpetbaggers. He was involved in the installation of the 132 Kb subtransmission system when it was leading edge technology. Make no mistake, the legacy of a sound ACTEW today was not created overnight. It was men like John Slater who built the foundation.

There is a recently published history of ACTEW and inevitably, I guess, it has become a history as the current generation of people within ACTEW would like it to be remembered. I immediately add that it treats me reasonably kindly. But people like Mr Slater and many other genuine contributors have taken somewhat of a back seat to more recent participants. But enough of that. John Slater was always a positive man and deserves to be remembered as a positive and genuine contributor to the whole of the ACT as it is today.

## Death of Mr John W. Slater

**MR HIRD** (6.56): Mr Speaker, I join my colleague Mr Quinlan in his remarks.

**Hospice - Location**

**MR STANHOPE** (Leader of the Opposition)(6.56): In the course of my speech, Mr Speaker, I indicated that I would like to incorporate some documents in *Hansard*. I seek leave to do so.

Leave granted.

*The documents read as follows*:

National Capital Planning Authority
10-12 Brisbane Ave, ACT, Barton. GPO Box 373, Canberra 2601, Australia
Telephone: (06) 271 2888 Facsimile: (06) 273 4427

FACSIMILE TRANSMISSION

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Comments:
Ms Buckley

Further to discussions with your office yesterday - a copy of this letter was provided to the National Capital Planning Authority yesterday by the Secretary of the ACT Chief Minister's Department, Stephen Hunter. The comment was " we're still waiting for a response on this one".

You will require some input from NCPA to answer the letter since our organisation, on behalf of the Commonwealth, has planning control over both Acton and Kingston Foreshores. The comments regarding the Hospice and the cottage will need to be clarified since we have given the ACT Government a limited term (5 years) land use permit for the Hospice. Whilst ever the Hospice remains it will be difficult to

change the land from Territory to National Land. The Commonwealth needs to set the rules about what happens after the 5 years is up. No doubt Margaret Coaldrake of the National Museum will need to give you some input regarding the para on the ACT Aboriginal and Torres Strait Islander Cultural Centre. The funding of that seems a bit fuzzy on that element.

Please let me know what we can do to help you with a response to this letter.

———

DEPARTMENT OF THE ENVIRONMENT, LAND AND PLANNING

Creating a Quality Canberra
Today and Tomorrow!

Mr Gary Prattley
Acting Chief Executive
National Capital Planning Authority

Dear Mr Prattley

As discussed at our meeting of 2 May 1995, I have enclosed a draft paper setting out the ACT Government's understanding of the broad agreements surrounding the transfer of Acton Peninsula to the Commonwealth and the transfer of Commonwealth land at Kingston foreshores to the ACT. I would welcome your comments on the details before we seek a formal approval from our respective governments.

I look forward to a mutually satisfactory outcome for both governments on this exciting initiative and thank you for your assistance.

Yours sincerely

J.V. Townsend
Secretary

———

**BROAD AGREEMENTS**

**A.C.T. & COMMONWEALTH GOVERNMENTS**

**KINGSTON FORESHORES**
**ACTON PENINSULA**

## GENERAL

### 1. Timing of transfers

Transfers of land associated with Kingston Foreshores and Acton Peninsula will occur simultaneously at a time to be negotiated between the Territory and the Commonwealth Governments.

## KINGSTON FORESHORES

### 1. National land to be transferred to Territory

All Commonwealth land in Sections 7 and 8 of the Division of Kingston as identified in Attachment A. Sections 11 and 39, the site of the Canberra Railway Station, are not included in the transfer.

### 2. Affected Commonwealth Instrumentalities

Australian Government Publishing Service (AGPS)

AGPS occupies Block 4 within Section 7. The Department of Administrative Services is to provide advice on the timeframes for relocation of this facility. The ACT Government, through the Department of the Environment, Land and Planning, will identify suitable sites within the Territory for purchase by the Commonwealth for a new AGPS complex. In the meantime, if AGPS remains after the official transfer date it will become a tenant of the ACT Government, on terms and conditions to be agreed.

### 3. Site contamination

The ACT Government anticipates that contamination, if present, is most likely to be related to the areas occupied by ACT Electricity and Water and AGPS. The Territory will be responsible for addressing this issue. The Commonwealth will provide advice on contamination associated with AGPS operations. If major contamination is identified, the Commonwealth and the Territory will negotiate responsibility for and costs of eradication.

### 4. Planning Controls

The Commonwealth will retain planning control over designated land on the foreshores as agreed between the Chief Minister and the Prime Minister on 11 April 1995. The Commonwealth will ensure that the NCPA deals with the ACT Government with maximum flexibility.

## ACTON PENINSULA

### 1. Territory land to be transferred to the Commonwealth

Block 1 Section 55 and part Block 17 Section 33 of the Division of Acton as identified in Attachment B, with the exception of the site of the ACT Hospice and cottage. The need for the Territory to retain this hospice/cottage land will be reviewed at the end of the current agreements associated with the development of the Hospice.

**2. Demolition**

The Territory will demolish the structures associated with the former Royal Canberra Hospital. Precise definition of those structures to be demolished will be agreed between the National Capital Planning Authority and the ACT Department of Urban Services. That assessment will incorporate any heritage requirements. It is unlikely that the Territory will be asked to remove the road network or parking areas on the site. The Territory intends to focus its efforts initially on Bennett House and the hospital tower block.

**3. Child care facility**

The National Capital Planning Authority will preserve the existing child care centre on the site, subject to the impact of any Commonwealth construction activity.advise the ACT Department of Urban Services as soon as possible on the future of the existing child care facility.

**4. Sylvia Curley House**

Sylvia Curley House currently accommodates students from the Australian National University (ANU) and nursing and medical staff from the ACT Department of Health and Community Care. The Commonwealth will negotiate with the Territory on the timing associated with the demolition of this facility, noting the existing agreement between the Territory and the ANU and will take account of the need to provide alternative accommodation.

**5. Residential/commercial uses**

The Commonwealth will provide a written guarantee to the ACT Government that the Acton Peninsula will not be used for residential or higher order commercial uses, apart from legitimate ancillary retailing associated with museum or gallery activities.

**6. Gallery of Aboriginal Australia**

The Territory will provide the necessary infrastructure, up to a cost of $3 million, in support of the Gallery of Aboriginal Australia as part of the network of the National Museum of Australia. The ACT

Aboriginal and Torres Strait Islander Cultural Centre will be located upon Acton Peninsula due to its affinity with the other uses the Commonwealth proposes for the site.

**7. Australian National University boundaries**

The Territory notes that the ANU will propose to the Commonwealth an alternative to its boundary on the peninsula in the context of its own development plans.

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The Hon PJ Keating MP
Prime Minister
Parliament House
CANBERRA ACT2600

Dear Prime Minister

Thank you for meeting with me on 6 April 1995. I appreciated the time that you took to hear my vision for Canberra and for the consideration you have given to the Territory's transition to State type financial arrangements.

I am now writing to confirm my understanding of the agreements we have reached in relation to these matters. My understanding is as follows.

The Commonwealth Government agrees to provide additional Special Revenue Assistance to the ACT of $15 million in the 1995-96 financial year. Clearly this level of funding will be setting us a significant challenge.

As well the Commonwealth agrees to make available to the ACT Government all land on the Kingston Foreshore of Lake Burley Griffin. Those parts of that land which are currently under Commonwealth planning control will remain so and the Commonwealth will ensure that the NCPA deals with the ACT Government with maximum flexibility.

In return, the ACT Government agrees to provide the Commonwealth with the whole of the Acton Peninsula site up to the ANU boarder, minus the hospice and the cottage; to clear the site; and to provide necessary infrastructure up to $3 million in support of the Gallery of Aboriginal Australia as part of the network of the National Museum of Australia.

I also propose that the ACT Aboriginal and Torres Strait Islander Culture Centre be located on the Acton Peninsula due to its affinity with the other uses the Commonwealth proposes for the site.

I am pleased that we have had the opportunity to bring these matters to a conclusion.

Yours sincerely

Kate Carnell
ACT Legisilative Assembly

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Ms Linda Webb
Executive Director, Office of Public Administration
Chief Minister's Department
ACT Government
Facsimile (06) 207 5376

Dear Ms Webb,

**Acton / Kingston Land Exchange**

Thank you for arranging for Ms Diana Fenn and Diana Williams to provide the information I requested at our recent meeting. I am working my way through this information and I have spoken with a number of the contracts provided. This information has been of great assistance.

With respect to Acton Peninsula, could you please arrange for a copy of the license agreement between the ACT and the Calvary Hospital, for occupation of the old Isolation Block and the adjacent cottage for use as a Hospice, to be forwarded to me at the National Capital Authority, 10 - 12 Brisbane Avenue, Barton.

It is noted the Chief Minister's letter to the Prime Minister dated 10 April, 1995 identifies the Hospice and the cottage to be retained by the ACT. Further, the attachment to Mr Townsend's letter dated 8 May, 1995 to Mr Gary Prattley, then of the National Capital Planning Authority, notes the Territory's need to retain the hospice/cottage land will be reviewed at the end of the current agreements.

To simplify the Land Exchange, one option for consideration by both Governments may be that the Hospice/cottage site be exchanged with the balance of the Peninsula. Under this option the Hospice would become a tenant of the Commonwealth, just as the Australian Government Publishing Office is to become a tenant of the ACT upon the Land Exchange.

A review of the license will help determine, in the event this option is selected, whether the current license can be assigned to the Commonwealth or whether a new agreement would need to be drafted.

Thank you for your assistance,

Yours sincerely,

Jeremy Morris
18 October, 1996

_____

Mr J Townsend
Secretary
DELP
GPO Box 1908
CANBERRA ACT 2601

Dear Jeff,

**Acton Peninsula/West Basin - Site for Hospice**

I refer to your letter of 3 December 1993.

At its December 1993 meeting the Authority confirmed its position on this matter as follows:

A temporary facility for the ACT Government Hospice could be sited on the Acton Peninsula in the Isolation Block and H-Block

In this instance, consistent with the Territory Plan, temporary is defined as a period of not more than 5 years

In the long term, a permanent hospice or other community health facilities may be sited appropriately in the area focused on West Basin as part of a mixed use development.

The Authority was however concerned that, if the National Museum of Australia proceeds at Acton Peninsula, the associated construction activity would create an environment that may not be compatible with a hospice and requested that you be advised of this concern.

Yours sincerely,

Gary N Prattley
Acting Chief Executive
18 January 1994

Question resolved in the affirmative.

**Assembly adjourned at 6.57 pm**