DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

12 October 1999

Tuesday, 12 October 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.

PETITIONS

The Clerk: The following petitions have been lodged for presentation:

By **Mr Hird**, from 98 residents, requesting that the Assembly provide sufficient resources to support public education to reduce class sizes; allow successful integration of disabled students; improve community-based support to young children and families in crisis; support students "at risk" in high schools; improve the standards of school facilities; improve curriculum and teaching practices; and provide adequate teaching salaries.

By **Mr Hird**, from 480 residents, requesting that the Assembly gives favourable consideration to the Development Application and Draft Variation to the Territory Plan No. 94: Red Hill section 56 block 1 (Federal Golf Club).

The terms of these petitions will be recorded in *Hansard* and a copy referred to the appropriate Ministers

Public Education System

.
The petition read as follows:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that:
>
> > The ACT public education system delivers a vital service to over 70% of the student population in our community.
> >
> > The ACT public education system has been inadequately resourced for many years.
> >
> > The ACT public education system, together with all other States and the Northern Territory, has in recent years come under unprecedented attack by the Federal Government.
>
> Your petitioners therefore request the Assembly to support public education in the ACT by providing sufficient resources to:

Reduce class sizes to a maximum of 25 with priority being given in the early years of education.

Allow disabled students to be successfully integrated into mainstream settings.

Improve community-based support to young children and families in crisis.

Support students "at risk" in high schools.

Improve the standards of school facilities.

Improve curriculum and teaching practices to increase the number of students successfully completing their education.

Provide adequate teaching salaries to attract and keep high quality, professional staff.

Federal Golf Club

The petition read as follows:

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

The petition of certain residents of the Australian Capital Territory draws the attention of the Assembly that:

Development Application 986073 Block 1 Section 56 Red Hill and Draft Variation to the Territory Plan 94 are under consideration.

Your petitioners therefore request the Assembly to:

Give favourable consideration to this Development Application and Draft Variation to the Territory Plan.

Petitions received.

BELCONNEN LANDFILL - PROVISION OF REPORT TO ASSEMBLY
Motion of Censure

MS TUCKER (10.32): Mr Speaker, I ask for leave to move a motion of censure of the Minister for Urban Services.

Leave granted.

MS TUCKER: I move:

That this Assembly:

(1) censures the Minister for Urban Services for misleading the Canberra community on the extent of the government's response to the disposal of lead-contaminated metal flock at Belconnen Landfill and the extent of lead contamination of this waste material;

(2) calls on the Minister for Urban Services to assure the Assembly that the recent events at the Landfill will not occur again by providing a report to the Assembly by the first day of the December 1999 sitting period on:

(a) proposals to improve the environmental management procedures at the Landfill;

(b) procedures for checking the acceptability of waste delivered to the site; and

(c) the amount and appropriateness of interstate waste being disposed at ACT Landfills.

Mr Speaker, I have put forward the censure motion today because I am very concerned about the Government's performance generally in responding to the problems caused by lead-contaminated waste being dumped at the Belconnen landfill, which has resulted in the landfill being temporarily closed, workers at the landfill being exposed to high levels of lead over a prolonged period, and 2,000 tonnes of this waste having to be removed from the landfill. I am also concerned about the Government's attempt to avoid responsibility for this fiasco by publicly misrepresenting its role in detecting and responding to this problem.

Firstly, let me describe what has happened at the Belconnen landfill. For the last couple of years about three loads a week of floc have been dumped at the landfill. The floc is the residue from the recycling of car bodies and other metal equipment and contains a mix of various types of shredded plastics, rubber, glass, fibreglass and residual materials. The floc has been brought here from Sydney and Wollongong by a company called Metalcorp Recyclers. I understand that the floc was brought here as a backload for the transport of scrap metal out of the ACT region, under an agreement with the ACT Government. However, over the last three months the amount of floc suddenly increased to about five truckloads a day, much more than the amount of scrap metal being taken out of the ACT.

Workers at the landfill started becoming concerned about this increased amount of waste. Because the floc is light and fluff-like, workers were concerned about breathing in airborne pollutants while moving the floc around and some workers started complaining of sore throats and eyes. This came to a head on 31 August when one of the loads contained some metal waste that was not normally in the floc. The landfill workers called in their union, the CFMEU, and the union's OH&S officer raised their concerns with the management of ACT Waste. I understand, however, that the management was not very interested in investigating the union's concerns.

Therefore, the CFMEU placed a ban on the dumping of floc on the tip face and commissioned their own testing of the floc to find out what was in it. However, they were not in a position to stop the floc being delivered to the landfill, so the trucks continued to dump their loads on a vacant area of the site. Over September some 2,000 tonnes of floc were stockpiled on the site while ACT Waste management sat back and did nothing. The test results were not received by the CFMEU until 21 September. The tests showed that the level of most heavy metals was less than the National Environment Protection Council guidelines for soil contamination, but that the lead levels were five to nine times higher than the guidelines. These results were forwarded to ACT Waste on 21 September. ACT Waste management finally acted two days later - not to accept the CFMEU's test results, but merely to commission their own tests. However, they did at least act to stop the acceptance of more floc at the landfill until the results of their testing were known.

The issue became public through an article in the *Canberra* Times on 24 September; but, rather than address the issue, the Minister went into damage control, putting out a press release on that day that totally misrepresented the situation. The release stated:

> ... on 1 September 1999 one load of this waste was found to have had some unusual characteristics ... and, in conjunction with OH&S officers, the material was collected for analysis.

Apart from the wrong date, there was no mention of the fact that it was the CFMEU, not ACT Waste, that had initiated this testing. It is also a fact that it was not just one load of this waste that was tested. The CFMEU OH&S officer who took the samples has advised me that he took samples from across some five truckloads of floc that was still exposed on the tip face that day. The release also said:

> ... previous testing before there was agreement to accept this waste showed the material was suitable for disposal at the rubbish dump.

However, I understand that this testing was not done by ACT Waste; it was done by Metalcorp and the results were supplied to ACT Waste. It seems that ACT Waste is quite prepared to trust the testing done by the company but not the testing done by the union. I also understand that there has never been any follow-up testing during the time that the floc has been dumped at Belconnen. The release also said:

> The load in question has been quarantined at the rubbish dump ...

It would be very hard to describe the 2,000 tonnes of floc that was stockpiled at the tip as one load. The release also said:

> As soon as management was alerted by staff of this concern, it acted and undertook the process of testing the questionable load.

That is not correct. Management did not decide to do this testing until three weeks after the CFMEU raised concerns. In the meantime, some 2,000 tonnes of floc were being stockpiled, uncovered, at the landfill. Last Friday the results of the Government's testing

were released and confirmed the CFMEU's findings of unacceptably high levels of lead. ACT Waste management also acknowledged that they do not know how far back the lead contamination of the floc occurred.

I am glad that the ACT's Chief Health Officer, ACT Waste and Environment ACT are now working together to clean up the mess at the landfill and to test employees for lead exposure. But the Government must answer questions about how this fiasco occurred in the first place and this Assembly needs to make sure that similar incidents do not occur in the future. The question that has to be asked is why so much of this floc from interstate was being dumped in the ACT. What other interstate waste is coming here that we do not know about? Is the ACT becoming the preferred dumping ground of some interstate businesses?

The suggestion has been made that the low waste disposal charges here relative to Sydney have made this interstate movement in waste economical. Commercial waste disposal charges in the ACT are $25 a tonne. I have been advised by Waste Services New South Wales that in Sydney the charge for mixed waste is around $60 a tonne, depending on the tip. Waste requiring special handling, which this floc has turned out to be, is around $90 a tonne. In fact, waste with this level of lead probably would not even be accepted at a government landfill in New South Wales as the acceptable maximum level of lead contamination in waste there is 6,000 parts per million, whereas the floc has 8,000 to 14,000 parts per million. That raises a side issue of exactly where this floc will be taken if it is removed from Belconnen.

Another aspect of waste disposal charging in New South Wales brought to my attention is that there are different charges, depending on the type of waste, to encourage sorting and recycling of waste. That does not seem to occur in the ACT to the same extent. In fact, there does not appear to be any checking at the gate of the type of waste being brought to the landfills here. There is only general monitoring by workers of what has been dumped at the tip face, but that is too late to stop questionable waste being dumped at the landfill.

It is also odd that ACT Waste is so surprised that the floc could be hazardous. In the United States the disposal of scrap metal residues has been an issue since the early 1990s because of concerns over the material's toxicity. In fact, a magazine article that I have seen noted that lead contamination of floc can be a problem due to the presence of shredded PVC plastic and PVC sheathed cables, which contain small traces of lead. You do have to wonder how carefully ACT Waste examined the acceptability of this waste when it first started to accept it in 1996.

Let me make clear, however, that this motion is not just about the floc that is currently sitting at the tip. The CFMEU, on behalf of workers at the landfill, have been complaining for some time about poor management practices at the Belconnen tip, but these appear to have fallen on deaf ears in government. I visited the Belconnen landfill in mid-September and was appalled by the things I saw there. In 1996 the CFMEU first raised concerns about the public health risks associated with the sullage pond at Belconnen landfill which have still not been adequately addressed. When I was there the pond was close to overflowing and contained old tyres which apparently had been dumped there by accident. So much for the controls by ACT Waste over what is dumped in the pond.

About two weeks ago a flock of 30 dead ducks was found in the pond. When I was there I also saw some plastic bags labelled “radioactive waste” lying on the tip face. Admittedly, they were not in the area where the public were dumping waste, but they were not that far away, either. Surely it is against the operating conditions of the landfill to allow radioactive waste to be exposed like that. My understanding is that such waste has to be immediately covered.

I also asked whether there was a record kept of exactly where such waste was buried so that in future we would be able to determine where such substances were if, having a greater understanding of the implications of low-level radioactive waste, we saw the need to dispose of it in a different or better way. My understanding from talking to the union is that no real mapping is done of where this kind of waste is buried. I was also concerned to see the pollution control dams at the landfill nearly overflowing as my understanding is that their water levels are meant to be kept low to avoid incidents such as water flowing directly into the Murrumbidgee River without being properly treated.

As I understand it, there used to be a quite rigorous assessment of the quality of that water and the level in the dam. In fact, as I understand it, there was constant testing and, if it was looking as though it would overflow, alum or some other substances would be put into the dam to ensure that the sediment settled to the bottom and then the water would be tested, and only then would it be allowed to overflow. According to the union, that process has been let go and the water was overflowing without having the sediment settle or any testing done of what was allowed to overflow. I also saw black water seeping out of one side of one of the mounds now covered, which should not be happening at all. The black water should only go into the black water dam.

What I can say in conclusion is that the processes out there are inadequate. This incident with the floc has highlighted the lack of rigorous processes and policies out there. It may be to the health detriment of workers as the potential certainly is there. It could be to the detriment of the environment. If it were not for the union, we may not even know today that there was a problem and everything would be going on as usual. That is absolutely unacceptable.

The fact that the Government has failed to take responsibility and has actually misled the community about this matter is also of extreme concern. How can the community have any confidence in the integrity of a government which is so willing and anxious to avoid responsibility that it will bend the truth to that degree? The art of the spin is getting to the point where I believe that the credibility and integrity of the Government have been undermined to a serious degree. We do have in the community cynicism about politicians. This sort of action, the way the Government has responded to this matter, is obviously a reason for the community to be cynical and to feel powerless as well.

Those people who have been working at the tip face have been trying to raise concerns for some time. Their concerns have not been acknowledged, which is absolutely unacceptable. I ask members to support this censure motion today because I believe that it is important that the Government get a very clear message from members of this place, representing the concerns in the community, that the Government has a responsibility. Ministerial responsibility is still a concept which has value. No matter how hard

Ministers try to avoid taking responsibility, whether it is through outsourcing or privatisation or just misleading press statements, the buck ultimately stops with the Ministers.

In this motion, I am calling for the Government to conduct an immediate and urgent review of practices at the tip and come back to this Assembly with a report showing us how they are going to improve their performance. I thank members for their support, in anticipation.

MR SMYTH (Minister for Urban Services) (10.46): Mr Speaker, in 1996 arrangements were made with Metalcorp Pty Ltd, a publicly listed metal recycling company operating out of Sydney, to collect car bodies, whitegoods and similar goods from Canberra for recycling through its Sydney plant. It is a facility we just do not have in Canberra. In return, it was agreed that the waste product from this process could be disposed of at the Belconnen landfill. It is important that Canberrans take responsibility for the waste that they generate. Members might be aware that when we calculated our greenhouse gas emissions, for instance, we did not take into account just the emissions that were generated in the ACT; we actually took into account the emissions for which we were responsible from the power that is generated for us in Victoria so that the work that we have done in calculating those targets and those levels of output is true and accurate. It is the same with the waste that we generate.

Over the last four weeks the issue of contaminated waste has been an emerging one; it has evolved as we have gained more knowledge about the potential, then the actual, and then the scope of the problem. At every step the Government has acted promptly. Ms Tucker has stated that the Government failed to take immediate action to stop this dumping; if it had, there would not be 2,000 tonnes of contaminated waste that needed removal. She also implied that the Government was slow in reacting to the health and safety concerns raised by the union. Let us look at the facts in this regard, Mr Speaker. Let us take a quick look at the chronology of events.

Mr Speaker, on 31 August this year there was an OH&S meeting, attended by unions, management, staff and plant operators, and it was agreed at that meeting that samples of this material would be sent for testing. The union representative, who is also the OH&S officer on site, gathered the samples and sent it off for the initial testing. Mr Speaker, I have a copy of the minutes of the meeting. These meetings are minuted and what is recorded here, whilst it is brief, will confirm what I say.

Staff of the department had noticed that there had been a change in the content of the material that was being delivered to the site, with an increase in dust and steel wire cable. It was actually the steel wire cable that was of most concern initially because it is dangerous in regard to the use of plant. It can be caught up in the moving parts of machinery, it can cause cables which belong to it to be pulled, and it might catch somebody if the cables flip up. Also, there was the issue of the dust.

The CFMEU notified WorkCover and the Environment Management Authority of their concerns with the material and it was agreed by all parties that the testing would occur and they would await the initial results. Mr Speaker, it was also agreed on site subsequently that the material would not be handled and that all further deliveries would be isolated until the testing results were known. Why? It was because we did not know

what that material was. It looked like floc. Admittedly there was extra material in it that normally was not received, but you cannot look at something and say, "That has high levels of lead contamination". Testing needed to be done.

If I can actually read the relevant section, it says in regard to floc:

> R.B. -

Ray Brewer, the site supervisor -

> stated that Belconnen staff were concerned about the "floc" being a health issue as it is contaminated with wire and dust. There was even a report a while back about a vehicle and occupant being covered with the floc...
>
> Who polices the floc, is it acceptable in a dry form or should it be moist and often delivery times are early morning when there is only one staff member on duty.
>
> J.C. -

John Clyde of the CFMEU, the OH&S officer -

> will arrange for samples of the floc to be tested.

So much for Ms Tucker's allegation that concerns were not being listened to. It was raised in a formal meeting, a minuted meeting, where these issues were put on the table and action was taken, action that everybody at that meeting agreed to.

I understand that there were no concerns raised at previous OH&S site meetings in regard to the earlier deliveries of this material. So, when the issues were raised, action was taken. We do not know whether there is a problem. People have asked that we look at it and see whether there are things to be concerned about and we have gone and done some testing. It was also agreed that no action would be taken until the results were known.

On 21 September the preliminary results were received by the OH&S union representative. Those early results indicated that the floc material had high lead levels, ranging between 8,200 milligrams per kilogram and 13,400 milligrams per kilogram. A copy of those results was provided to ACT WorkCover, the body charged with OH&S issues in the ACT, which went to the site and confirmed that the floc should not be touched.

Mr Moore: A decision already made.

MR SMYTH: A decision made, already in isolation, that it should not be touched, confirmed by WorkCover, the people responsible. As soon as ACT Waste was advised of the possibility of the contamination, deliveries were stopped from Metalcorp pending further testing of the floc and four truckloads were turned away from the Belconnen landfill. The sample results were then provided to the Environment Management

Authority, which directed that further extensive testing across the 2,000 tonnes of material already isolated be undertaken. In other words, Mr Speaker, the correct authorities were notified immediately - both WorkCover in respect of OH&S issues and the Environment Management Authority in respect of environmental impacts were notified - and that is the process that should be followed.

The Environment Management Authority ordered further testing and that happened: On 24 September, sampling was undertaken by Ecowise and the samples were submitted to the Australian Government Analytical Laboratories for analysis because it is the body best able to do these tests. The story appeared in the *Canberra Times* and I issued a press release that we were carrying out further testing. That press release clearly says that there were 2,000 tonnes of this floc at the tip. There was no attempt to hide it. You cannot hide 2,000 tonnes of floc. But it was the loads that had large wire cables in them that really got people interested in what was in this material.

On 7 October, the results of the extensive testing were received and indicated that the floc material had consistently high levels of contamination throughout the 2,000 tonnes. The results from the detailed testing confirmed that there was contamination of the floc from metal recycling, showing lead concentrations in samples that varied from 2,500 milligrams per kilogram to 10,000 milligrams per kilogram, all of which are above the guidelines for inert lead waste of 1,500 milligrams per kilogram at landfills. That is the same as the standard which applies in New South Wales. ACT Waste made these results available to ACT WorkCover on the same day as part of an OH&S meeting. ACT WorkCover identified the need to keep the site dampened down and for staff to have blood tests - again, everybody acted properly upon scientific advice.

Mr Speaker, the Environment Management Authority then directed ACT Waste to continue the non-acceptance of any metal floc at the landfill and to remove material currently on site for appropriate disposal. The Environment Management Authority also advised the New South Wales EPA of the test results and the need to remove the material and of possible breaches in transporting this material in New South Wales and across the border. The next day, 8 October, an OH&S meeting was convened with ACT WorkCover to implement health testing of staff and further safety precautions to protect workers and the public.

ACT Waste advised Metalcorp of the tests and requested the removal of the material on site for appropriate disposal. ACT WorkCover then contacted the Chief Health Officer. The Chief Health Officer inspected the site that day and it was agreed with ACT Waste and the EMA to close the landfill temporarily due to the unacceptably high level of lead at the site which may provide a risk to staff and the public. The EMA said that the floc material in question was very stable and posed no immediate threat to the environment. Mr Speaker, while the material remains damp there is little risk of dust contamination.

On 9 October, a meeting was held between the ACT Fire Brigade, ACT Health and ACT WorkCover to finalise a safe working plan for the covering of the isolated material at the West Belconnen landfill. Following that - on the 9th, 10th and 11th, as we all know - appropriate action was taken to close the tip and to cover the waste with soil. Yesterday, 11 October, ACT Health, ACT WorkCover and the EMA confirmed that, subject to completing the construction of a temporary fence around the isolated site, the landfill could reopen this morning. That has occurred and the landfill is now open.

Mr Speaker, yesterday meetings were held with all the staff, including ACT Waste and ACT Health, to brief them on the health tests required. The concern is for people who have had a long period of exposure. The Chief Medical Officer, Dr Shirley Bowen, said in a release on 8 October that she thought it extremely unlikely that any of the employees would require treatment. A meeting was also held between ACT Waste, the EMA and Metalcorp to discuss the removal of the material. It was further agreed that the material would not be handled and all further deliveries would be isolated until the test results were known.

Mr Speaker, we have to consider the standards Ms Tucker is referring to in this case compared with how we have reacted in other situations. Members might remember comments that the then director of the Conservation Council, Mr Craig Darlington, made in 1997 about the Totalcare facility in Mitchell. If the Government had acted then in the way that Ms Tucker is suggesting now, the Mitchell facility simply would have been closed down prior to any proper testing. Mr Kaine might have been the Minister then. He acted responsibly; he did the testing and took appropriate action.

What if a former Minister for the environment, Mr Wood, had applied the same logic to the contaminated sites in Theodore? If anybody remembers, initial testing there showed that there was arsenic in the soil under people's houses. What did Mr Wood do? He called for a further round of scientific testing to determine the scope of the process. He acted upon scientific testing and acted when that testing was completed. The houses were evacuated, and that was proper process.

Mr Speaker, the principle here is that when you have scientific knowledge that defines the scope of the problem, you can act and you can act appropriately. You do not act simply because Kerrie Tucker or Craig Darlington says so; you get the facts, and you get the full set of facts. We received the results of comprehensive testing on 7 October, which was last Thursday. We called together the relevant parties. On Friday the tip was closed. The Government got the scientific information and we acted appropriately. Ms Tucker also criticised me for implying originally that only one load of the floc was contaminated. I think it is appropriate that I read a brief - - -

Mr Stanhope: You did not imply it; you stated it. There was no implication; it was a statement.

MR SMYTH: It is curious, Mr Speaker. Ms Tucker herself says, and she said it early in her speech, that there was one particular load with a large amount of cable in it that came to everybody's attention. She also talks about one load. The press release talks about the fact that there were 2,000 tonnes of floc there - we make no bones about the fact that there were 2,000 tonnes of it - and that we were doing testing. This is the advice that I was given by the department - - -

Mr Stanhope: Oh! So it was the public servants that misled you.

MR SPEAKER: Order!

Mr Stanhope: The coward's defence.

Mr Hird: I take a point of order, Mr Speaker.

MR SPEAKER: Order! The house will come to order. Sit down, Mr Hird.

Mr Hird: Stop him interjecting.

MR SPEAKER: Both sides of the house should stop interjecting. You will have your opportunities to speak when the time comes.

MR SMYTH: Mr Speaker, that is odd, because most of these public servants are probably the ones who advised Mr Wood in his handling of the arsenic issue and the contaminated sites. Mr Speaker, I have confirmation of the advice that was given to me by the department, and I will read it into *Hansard:*

> **Purpose**
>
> To clarify previous advice on the sampling of contaminated metal floc at the West Belconnen landfill.
>
> **Background/Issues**
>
> On 24 September 1999 your office was advised that results of testing "one load" of metal floc at the landfill had returned results that were positive with high levels of lead contamination. Furthermore, it was advised that this load was identifiable in that it included quantities of steel cable -

that sounds very similar to what Ms Tucker said -

> The advice that only one load was in question and being tested was based on reports from field staff at the landfill that John Clyde, CFMEU had taken a sample from a load of metal floc for testing and the results from only one sample were returned.
>
> As it has transpired, it appears that the "one load" was a series of loads of similar material. The loads in question included large quantities of steel cable, material distinctly different to the floc normally delivered, and were dumped together in the one location. This discrepancy in the number of loads involved has only been drawn to my attention today. Photos of the "wire" floc and "normal" floc are attached.
>
> At the time my concern was focused on the material that was obviously different to the floc previously delivered. Wire cable is not normally associated with the recycling of car bodies and white goods and I was of the opinion that any contamination was most likely confined to this load(s).
>
> Subsequent testing was undertaken of the loads containing the wire as well as including samples from other heaps, representative of the material stockpiled at the site.

> Although my concerns related to the load(s) that were different, it was always explicit that there were 2000 tonnes of the floc stockpiled on site and we subsequently took 10 samples from across the stockpile.
>
> **Recommendation**
>
> It is recommended that you note this...

That was from the manager of ACT Waste.

Mr Stanhope: When did you note that brief?

MR SMYTH: The brief came up on 11 October; it came up yesterday. *(Extension of time granted)* I think it is important to say that I am not passing the buck on this issue. The buck does stop with me. All of us on this side of the house take ministerial responsibility seriously. I have not deliberately misled anybody, but I accept responsibility for the information provided to me by my department.

Ms Tucker used her favouring expression - best practice. ACT landfills operate under the best practice guidelines issued by the New South Wales Environment Protection Authority. Immediately following the positive test results, an OH&S working group convened with ACT WorkCover to implement health testing of staff and further safety precautions to protect workers and the public. Mr Speaker, following the positive test results on 7 October, Belconnen landfill was closed while the contaminated floc material was covered.

ACT Waste have indicated in the last two days that they will now be conducting a review of procedures at Belconnen and ACT Waste have formally requested from Metalcorp full details on what they have been dumping and the source of this waste. The New South Wales EPA have been requested to investigate the source from which Metalcorp gets this waste material and ACT WorkCover has formally requested New South Wales WorkCover to investigate the activities of Metalcorp in New South Wales. ACT WorkCover and the EMA will conduct reviews to help improve work practices at ACT landfills.

As members will recall, the Environment Protection Bill was passed by this Assembly in August. Among other things, it has a requirement for people wanting to move controlled waste into and out of the ACT - the metal floc material falls into that category - to obtain a licence. That Bill has yet to come into effect, but it will soon. Mr Speaker, the Environment Management Authority has requested an assessment of floc material already disposed of at landfills to determine the amount, location and potential contamination levels.

Ms Tucker casts doubt on what is occurring at the West Belconnen tip. West Belconnen is a state-of-the-art landfill in that it is lined and has a leachate control system. Under the ACT Waste operating licence, the EMA will require that an environmental management system be developed for the facility. One of the aspects of the environmental

management system will be ensuring that for large volumes of waste there is an understanding of the source generating the waste, thus minimising the risk of unacceptable contamination.

Ms Tucker asked why we take waste from other States. We take waste from other States because waste management in the ACT cannot be considered in isolation from the broader regional and waste management issues. Clearly, when we talk about greenhouse gases, we take responsibility for gases generated on our behalf in Victoria, for instance, as is appropriate. WorkCover will continue to investigate the matter, along with the Environment Management Authority. Indeed, the New South Wales EPA is currently investigating whether Metalcorp Recycling has breached the laws that govern the transport of waste within New South Wales.

Mr Speaker, the ACT exports a substantial stream of materials for recycling in other States. For example, in 1998-99 we exported 7,093 tonnes of glass, 4,328 tonnes of metal, 41,974 tonnes of paper, 1,565 tonnes of plastic, 3,172 tonnes of motor oil and 3,500 tonnes of liquid paperboard. On the other side of the balance sheet, the ACT accepts material, such as 9,550 tonnes from Queanbeyan's domestic waste and, of course, the metal floc that is the issue of this debate today.

Mr Speaker, in essence, this censure motion is a waste of the Assembly's time. If the standards that Ms Tucker is now attempting to apply had been applied to previous Ministers, perhaps Gary Humphries and Bill Wood should have been censured for acting only when they had scientific evidence. The opinion of Kerrie Tucker is not scientific evidence. As I look around the chamber, few of us would have the scientific knowledge or ability that would allow us to look at a pile of floc and determine what it was.

Mr Speaker, when the Government got scientific evidence it acted; not before and not after. What Ms Tucker seems to be neglecting here is that a firm has dumped the contaminated metal at the Belconnen tip without approval. It would appear that the company has broken environmental guidelines and its commitments to ACT Waste. That is why, as soon as the Government found out the contents, the company was requested to remove this material. The reality is that, while we can educate people on what should and should not go into landfills, we cannot check every piece of rubbish that the community puts in its bins and into the tip. But we can check suspicious rubbish.

Mr Stanhope: This is thousands of tonnes of rubbish.

MR SMYTH: That is exactly what happened here.

Mr Moore: I take a point of order, Mr Speaker, just before Mr Corbell starts, so I do not interrupt him. There has been quite a bit of interjecting coming from the Opposition so far, Mr Speaker. If they want a censure motion to be taken seriously, they should treat it as a serious matter as well, which is a normal process in dealing with a censure motion.

MR SPEAKER: I do uphold the comment.

MR CORBELL (11.06): Mr Speaker, the smooth and reassuring tone that just wafted over the chamber was an attempt by the Minister for Urban Services to get all members to think no more of this issue, to dismiss it from their minds and get on with the business of the day. That was the Minister's tactic this morning, Mr Speaker. It is a tactic which this Assembly should not accept because the motion this morning is not about whether the Minister acted on scientific advice. That is not what the motion is about. The motion this morning is a motion of censure of the Minister for Urban Services for, firstly, misleading the Canberra community on the extent of the Government's response to the disposal of lead-contaminated metal floc at Belconnen and, secondly, misleading the Canberra community on the extent of the lead contamination of that metal floc. That is what the censure motion is about this morning. It is not about censuring the Minister for acting on scientific advice or not acting on scientific advice. It is for misleading our community on the extent of the Government's response to the contamination and misleading the community on the actual extent of the contamination. That is the issue that we are debating this morning, Mr Speaker.

It is important that this motion be supported by the Assembly because, as a community, we entrust the Government with a duty of care. We entrust them with a duty of care to make sure that our environment, firstly, is protected and, secondly, is safe for people. The Government has failed on both counts at Belconnen, for the following reasons: First of all the Minister, in his media statement of 24 September, said:

> As soon as management was alerted by staff of this concern -

that is, the concern about the waste -

> it acted and undertook the process of testing the questionable load.

Mr Speaker, that is completely untrue, that is completely misleading. What occurred was that the union advised management at the Belconnen landfill that it was concerned about the load of metal floc, that it was putting bans on any further movement of that material by workers at the landfill, and that it was going to undertake its own testing. I am advised by the union representative involved that the response from management at the Belconnen landfill was that they could not stop the material from continuing to arrive and that, if the union wanted to undertake its own testing, that was its business.

Mr Speaker, that is a completely unsatisfactory response. More importantly, it gives the complete lie to the claim by the Minister in his media statement on 24 September that as soon as management was alerted by staff it acted and undertook the process of testing the questionable load. The management did not test the questionable load; the union did. That is the first piece of misleading, Mr Speaker. The management did not test the load; the union did. Secondly, he said that, as soon as management was alerted by the staff of their concerns, it acted. It did not; it continued to accept the material. It continued as though there was nothing wrong, as though there was no problem, as though there was no potential risk whatsoever. That is what the Government did for three whole weeks. Yet the Minister claims that they acted immediately and they tested the load. That is completely untrue, Mr Speaker, and the Government has failed in its duty of care in that regard.

Mr Speaker, the other key point of this censure motion this morning is that the Minister misled on the extent of the lead contamination of this floc material, and he did. His own press statement is titled "One load of metal car waste being tested at Belconnen tip".

Mr Moore: That is accurate.

MR CORBELL: The Minister for Health interjects across the chamber that it is accurate. It is not accurate. It is not accurate because the Minister himself has confirmed that the advice and the testing undertaken by the union was for a series of loads dumped at the tip and that the lead contamination could not be confined to one load because the tests came from more than one load. Again, the Minister has failed in his duty of care to the environment, to the workers at the Belconnen landfill and to the ACT community. He has a duty of care. He has failed to meet that.

Perhaps we should be asking some more questions about the situation, Mr Speaker. Those are the grounds on which the Minister should be censured today. He misled us on the extent of the contamination and he misled us on the extent of the Government's response. But there are further questions that we need to be asking today, including why it is normal government practice for the union to initiate the testing of material on behalf of management at the Belconnen landfill.

If we accept the Minister's claim that it was agreed that the union would do the testing, the question that has to be asked is why it was that the union had to do the testing. Why is the responsibility not on the management of the Belconnen landfill? Why is it not on the Department of Urban Services? Why is that responsibility not on the Territory? Is it simply another way of saving on costs? It seems a very strange way, a very strange way indeed, of going about managing waste to rely on tests undertaken by the Construction Forestry Mining Energy Union rather than the management charged with responsibility for the landfill.

Mr Stanhope: Or tests done by the dumper.

MR CORBELL: Or, as my leader points out, tests done by the person disposing of the waste. Do we rely on that as a guide to the safety of the waste or do we have our own system of checking? Clearly we do not, and that should be a matter of serious concern for everyone in this place.

Mr Speaker, the grounds for censure are clear. The Minister misled on the extent of the contamination of the waste and he misled on the extent of the Government's response. Why wait three weeks? Why pretend that nothing was wrong, that there were no potential concerns? Why ignore the fact that bans had been placed on the material by the union because of the concern? Why ignore all of that, exposing workers to an additional three weeks, potentially, of contamination from this dangerous material?

Let us not forget the extent of the seriousness of this matter. People who work at the Belconnen landfill are, potentially, being poisoned by lead. There is a risk that that has occurred. We all hope that that will not be the case. We all hope that those people have not been put at risk. But we will not know until they have had the medical tests that the Minister has outlined. That is the bottom line here. People have been exposed to a dangerous substance. They should not have been exposed for the period that the

Minister was aware of the problem; yet he failed to act. He misled the community on the extent of the contamination and he misled the community on the extent of the Government's response. That is an unacceptable situation and he certainly deserves to be censured for it.

MR SPEAKER: Mr Kaine has an amendment and I think it would be useful to allow it to be moved, and then we can have a more general debate.

MR KAINE (11.16): Thank you, Mr Speaker. First of all, I would like to indicate that I do not support the motion in its present form. I do not believe that either Ms Tucker or Mr Corbell has actually made out a case against the Minister for Urban Services that would justify a censure. I think we need to be careful in debates such as this that we do not become tools for the trade unions. If the trade union had a concern about what was happening there, its proper course of action, surely, was to go to management and have the matter dealt with. The Minister says that that is what did happen. If the trade union went outside the normal - - -

Mr Berry: That is an abrogation of his responsibilities.

Mr Stanhope: A complete abrogation.

Mr Moore: I take a point of order, Mr Speaker. The interjections are still continuing.

MR SPEAKER: Order! Mr Kaine has the floor.

MR KAINE: Thank you, Mr Speaker. I will not be put off by the interjections. If the trade union chose, for political reasons, to go outside the normal processes of resolving such an issue, you have to ask why they did so. Were they attempting to create a situation where they could confront the Government on this issue? What did they hope to achieve by it? Mr Corbell is ably putting the position of the trade union; perhaps he would like to tell us why the trade union did not go to management. He is asserting that there was no negotiation with the Government. If the people working on the job notice a potential problem, their responsibility is to go to management and have that issue addressed, not to go to the trade union and have the trade union attack everybody concerned outside the system.

Mr Corbell: They did go to management and management ignored them.

MR SPEAKER: Order! Mr Corbell, stop interjecting.

MR KAINE: I told you, Mr Speaker, that I was not going to be put off by interjections. Mr Corbell had his chance and he did not make his case. The point is that he failed to make his case. He had an opportunity to blacken the Minister and he failed to do so. I was not persuaded by Ms Tucker's attack on the Minister, either. I am merely saying that, having heard both sides of the argument, I am not prepared to support a censure motion.

Mr Speaker, I have circulated an amendment to the motion of censure. It will still require the Minister to meet some of the wishes of Ms Tucker. It will require the Minister to table in this place a report that deals with proposals to improve the environmental

management procedures at the landfill - Ms Tucker is concerned about that and I am prepared to support her on that - and, secondly, a report on the procedures for checking the acceptability of waste delivered to the site.

If the Minister does both of those things and rectifies any current omissions or flaws in the process, I think that ought to satisfy the issue. To accept the argument put forward by Ms Tucker and Mr Corbell, you would have to assume that everybody in the management chain connected with that landfill failed somehow in their public duty to have recognised, or ignored, the fact that there was a problem. From what the Minister has said, I do not believe that was the case. I believe that the matter was brought to the attention of the subordinate management there and that appropriate action was taken.

It is absurd to suggest that the Minister, sitting in his office in this building, ought to be on top of everything that happens at the landfill on a day-to-day basis or an hour-by-hour basis. He has to be advised and informed by the people who are responsible for management there. He was so informed and he has told me that certain action had flowed which, in my view, was appropriate. I am prepared to accept that. As I say, I do not want to get into the middle of a cat fight between the trade unions and the Government which surely has some political objective. I am not interested in that, but I am interested in preserving the public interest in terms of the health and the wellbeing of people who work at the landfill. Mr Speaker, I move the amendment. I hope that it will satisfy the complainants. It ought to. If my amendment fails, I will vote against the censure motion.

MR SPEAKER: There are, in fact, two amendments, not one. Is leave granted for Mr Kaine to move both amendments together?

Leave granted.

MR KAINE: I move:

> (1) Paragraph (1), omit the paragraph.
>
> (2) Subparagraph 2 (a), after “Landfill;”, add “and”; subparagraph 2 (b), after “site;”, omit “and”; and subparagraph 2 (c), omit the subparagraph.

MR WOOD (11.2l): Mr Smyth is in trouble today because he is careless with words. It is not the first time in this Assembly that he has faced a censure on those grounds. Perhaps that is why in the public domain he is increasingly falling back on the use of a spokesperson when there are difficult circumstances to be met. He has been loose with words again today. My specific response will be in relation to his claim that he has acted in the same way as I did in respect of the contamination at allotments in Theodore. In fact, I acted very differently then from the way he has acted now.

The Minister said, “We found problems and then we undertook further testing to get to the full extent of those problems”. So we did; there is no question about that. He said later in his speech, “We acted only when we had scientific evidence”. Here we have the difference, and it is the key difference. He has picked a very poor example to try to defend his position. When we found that there was arsenic contamination of sites where people were living, I acted immediately as Minister. We had evidence of a problem. We

did not know the full extent of the problem, but I acted immediately and those people were out of their houses within days, as rapidly as we could do it. It certainly was not three weeks.

He delayed for three weeks, threatening the workers' health. I said, "If there is a problem there, if there is a chance that the health of families will be affected, those people are to go immediately", and they were out within days and into rented accommodated that we provided. Further testing over a long period, quite extensive testing, proved that there was a problem and those people did not go back to their homes. That is the difference. Mr Smyth did not act in the way that I did. That is why he is being condemned today. He did not have regard to the health of those workers, as I did and the government of the day did in respect of Theodore. He has picked a perfect example for us, quite validly, to criticise him, because he has not acted with regard to the health of those people. That is the reason he is standing condemned.

At the time I took the precautionary approach of saying, "If there is a potential for a problem, act now; do not wait". Those who were around at the time will remember that I was accused of overreacting. Whilst I received good support in this Assembly, the *Canberra Times* said that I had overreacted as I did not need to do it. I think the subsequent testing showed that I had not overreacted and that our decisions were right. Mr Smyth, on this occasion, certainly did not overreact. He grossly underreacted.

If he had been Minister at the time, based on what he did out at the tip, he would have heard about the contamination of those allotments at Theodore and he would have said, "We do not know that there is a problem. Okay, we will get stuck into the extensive testing as quickly as we can". That took months and months. I think it took about nine months in all. He would have had those people still living in those houses for nine months and then he would have had them moved out. If he had acted at Theodore as he acted at Belconnen, that is what would have happened. He is, again, loose with his words today because he has given, for his purposes, an extremely poor example. It is an example that condemns him. That is why we should be supporting this motion.

I do not have the advantage of speaking after Mr Moore, who will be speaking next. Mr Moore ought to go back and look at the censure motions he has spoken to and ought to dwell on the words he has used there. I particularly remember a censure motion against me as Education Minister. He ought to think about the words he used in those other motions before he speaks today. He seems to adopt a different position now that he has some new friends.

Mr Stanhope: Has he ever supported a censure motion?

MR WOOD: Indeed he has. I know well the words that he has used in the past. I suppose I am being unfair to Mr Moore. I should not anticipate his actions. I am sure that he is going to get up and, with others in this Assembly, severely criticise Mr Smyth for the way he has carried on in this regard. He does deserve the censure of this Assembly.

MR MOORE (Minister for Health and Community Care)(11.27): Mr Wood was inaccurate when he suggested that I would stand up and oppose this censure motion. I will continue to do what I have done from the early stages of this Assembly and that is be fair. You know that when you were in government, Bill Wood, - through you, Mr Speaker - there were many occasions when I opposed censure motions.

Mr Wood: I remember the one against me.

MR MOORE: I believe I put the one you refer to. Mr Wood, I believe that when I explain a couple of things to you you will feel that you will need to oppose this censure motion now. Whether your caucus colleagues will allow you to do that is another question. What you just emphasised was the precautionary principle. You said that this Minister should have acted immediately, as you did in relation to the contaminated sites; what he should have done was take immediate action. In fact, there was immediate action taken.

As the Minister explained to you in his speech earlier, Mr Wood, when the site was identified as having something peculiar about it, material was sent off to be tested. It was agreed by all parties - there was no dictation - that first of all they would await the initial results. Secondly, it was agreed that there would be no further material come into the tip. That was immediate action. Thirdly, the material would not be handled. That was immediate action. Exactly the same issue - - -

Mr Corbell: That is not right, Mr Moore. From 1 September until 24 September they continued to accept waste. You do not know what you are talking about. You had better correct the record.

MR SPEAKER: Order! Mr Moore has the floor.

Mr Smyth: They did keep receiving material.

MR MOORE: Mr Smyth indicates to me that in fact more material was received. I accept that.

Mr Corbell: You want us to forget about that argument.

Mr Wood: Sit down and start again.

MR SPEAKER: Order, please!

MR MOORE: Mr Speaker, I think it is also important to listen to what Mr Wood suggested about Mr Smyth being careless and loose with words. This is just semantics. Now, how careful does somebody have to be with words? Remember, lawyers sit down with contracts worth millions and millions of dollars. They spend weeks and weeks being very, very careful with words. Other lawyers then unpick them. We do exactly the same in here. We use words in the best way we can. The question is: Was there an intent by Mr Smyth to mislead the public? Of course, there was not.

Mr Berry: What about if it was just reckless?

MR MOORE: Mr Speaker, I must say that this is a very difficult issue. Ms Tucker put up a censure motion. Clearly it has support from Labor, and yet Mr Berry constantly interjects. He makes it incredibly difficult to concentrate and to deal with what is an important issue. Do they consider a censure motion - - -

MR SPEAKER: I uphold your complaint, Mr Moore. I can only assume it is an attempt to drown you out, and I would be very suspicious of anybody who attempted to do that. Please be quiet.

MR MOORE: Thank you, Mr Speaker. The other issue raised by Mr Corbell that I think is particularly important is why was it necessary for the union to do the testing. That is a question I asked myself. It seemed to me to be rather strange that the union would do this first bit of testing. The picture is that it was drawn to the attention of an occupational health and safety officer - I understand it was John Clyde, a member of the CFMEU - that there was a load that was unusual. There was then a meeting of the occupational health and safety landfill working group. It was held on 31 August and the minutes were written up on 6 September. Those minutes indicate that there was general agreement that this material needed to be tested, and John Clyde said he had arranged for samples of floc to be tested. The occupational health and safety landfill working group agreed that he would do the testing because at that stage it was just a question of a suspicion.

When that test came back it was clear that there were very high levels of lead in the load. Now, remember that the load was suspicious. It was different in that it contained steel cable. When the test came back it showed that there were high levels of lead in the material. Then, of course, the department undertook to do the testing, not just of that individual load but of the 2,000 tonnes.

Talking about semantics and so forth, Mr Corbell quoted from the press release that Mr Smyth put out. The third paragraph of that press release makes the situation very clear. It states:

> There are approximately 2000 tonnes of this waste stockpiled at the Belconnen Landfill and previous testing before there was agreement to accept this waste showed the material was suitable for disposal at the rubbish dump.

Mr Corbell: One load of this waste.

Ms Tucker: Keep reading.

Mr Berry: Read out the next bit.

MR MOORE: It says:

> However on 1 September 1999, one load of this waste was found to have had some unusual characteristics - - -

The press statement does identify that we are talking broadly about 2,000 tonnes out there. It is interesting that you people opposite raise the issue of process, care and so forth. I would like to raise another issue of process and care on the part of the person who raised the censure motion.

Ms Tucker: Here we go.

MR MOORE: Ms Tucker, there are some questions. It is always easy to point to somebody else and say, "Your process is entirely inappropriate and unacceptable, and you haven't acted properly". There is a newspaper article, Ms Tucker, containing a photograph showing you standing on top of the load at the contaminated site at the time that you knew there was lead there. This article says:

> Greens Member Kerrie Tucker said yesterday that union officials had discovered high levels of lead in the 2000-tonne pile of waste.

It said that the union had intervened a couple of weeks ago to stop the waste being dumped on the tip face until it was tested for hazardous material, and so on. Now, Ms Tucker, when you knew that there was lead in this area did it occur to you that there may be some health and safety issues associated with your being on the site? The question of proper process comes up. Once you knew that there was lead on that site should you have gone there and should you have taken the media with you? Did you wear appropriate safety - - -

Mr Berry: Ah, you should have kept it quiet.

Mr Stanhope: You should have covered it up, Ms Tucker.

MR MOORE: There go the interjections, Mr Speaker. You have warned Mr Berry on a number of occasions.

MR SPEAKER: I have indeed.

MR MOORE: Ms Tucker, there are really important questions here. Did you wear appropriate safety gear? Did you use the appropriate shower because, of course, after dealing with lead, that is entirely appropriate. I notice that Ms Tucker is leaving the chamber at this point when I am about to ask questions of her of how she follows process.

Mr Hargreaves: With leaden heart.

MR MOORE: Mr Speaker, I have to recognise that interjection. That one had a bit of mirth in it - with leaden heart. That is the sort of interjection that ought to be acceptable as opposed to the constant pap we get from over in the back corner there.

I highlight these issues because sometimes people act without thinking through the process properly. In fact, the Minister has followed a proper process. What happened was that people were saying, "Something is wrong about this site. Something is different about this. Let's agree to some testing. Yes, the union is going to do it. That will be okay.

We'll find out what they say because, after all, we have an occupational health and safety landfill working group. Why don't we work together and go through that process? As soon as that result comes back, let's do extensive testing right across the site and find out what the reality is. Let's find out if it was just this particular single load, this single batch that was tested". That is the normal process. It is the same sort of process that Mr Wood used in ensuring that he was going to test all those sites that we thought might have arsenic in them, and I remember that process very well. So there are questions about how you go about the process.

There are also questions about what the Minister knew, the advice he took and his intent in putting something into the media. Each of these questions raises the issue of whether or not he has acted in such a way that he should be censured. What is very clear is that he has not acted in a way that he should be censured.

What happened when the testing material came back? A very clear series of actions were taken. Occupational health and safety actions were taken. The Chief Health Officer was involved. *(Extension of time granted)* Environment was involved. I sat down on Friday afternoon with a group of all of those people, in Mr Smyth's absence, and went through what we would consider to be the proper process. At no stage did we consider that there was enough of an environmental threat to close the tip. It is really important to understand this. The tip was not closed on environmental issues. The tip was closed on health issues, on occupational health and safety issues. It was a Workcover issue. Also, a verbal directive was given by the Chief Health Officer under the Public Health Act that the tip would be closed until certain remedial action had been taken. That has been taken and I believe the tip was due to be reopened this morning after a final test. I understand that it did reopen this morning.

I think we have to be very careful in pointing the finger at others that we apply these same standards to ourselves in terms of the way that we act and the way we involve other people, particularly, Ms Tucker, when you knew there was lead contamination on that site. According to you, that was the case.

Ms Tucker: Well, if you knew it was a problem, why didn't you close the tip, Mr Moore?

MR MOORE: We did know that there was lead there. What we did not know at that stage was the extent of the problem. You claimed there was over 2,000 tonnes. We said, "No, we are going to test this further so that the process is entirely appropriate".

It seems to me, Mr Speaker, that this just follows a long list of censure motions. Mr Kaine clearly recognises that censure motions are being debated. It really is a problem when you devalue censure motions. I believe this is the third or fourth censure motion moved against Mr Smyth. In fact, censure motions have a very important role to play in this Assembly, but if they are used on matters like this they become devalued considerably. This matter certainly does not warrant a censure. What it does warrant – I think Mr Kaine has touched on this - is our saying, "Okay, with the wisdom of hindsight, how can we make sure that our processes are right and are in place and that we can do things more effectively next time?". That is what Mr Kaine's amendments will achieve. The Government will be comfortable about accepting those amendments. With the wisdom of hindsight, we should always look at what is the best way we should act.

Ms Tucker, I have to ask you this: With the wisdom of hindsight, having identified lead, which you believed was widespread, I gather, by the way you reacted, would you have gone onto that site without protective clothing and without adopting the appropriate process? It is an interesting question.

MR STANHOPE (Leader of the Opposition) (11.40): Mr Speaker, this is an important and very serious issue. I am intrigued at the attempts which the Minister and Mr Moore have gone to to downplay the seriousness and significance of lead contamination, and the attempts by both Mr Moore and Mr Kaine to shoot the messengers in relation to this. Mr Moore attacked Ms Tucker for daring to draw attention to the fact that we have a serious public health issue at Belconnen. Mr Kaine condemns the CFMEU for showing concern about the health of its workers. They were quite intriguing approaches to this very serious issue by both Mr Moore and Mr Kaine, it seems to me - to attack those who seek to protect the health of the community and the ACT's environment.

This issue needs to be looked at at two levels. In the first instance, we need to look at the policy that this Government has adopted in relation to the acceptance into the ACT of waste, and the processes that it used in this particular case. As the Minister said, it was three or four years ago that the ACT Government entered into this arrangement with this company to import into the ACT bulk loads of a certain type of waste.

The Minister told us in his release that the waste stockpiled at Belconnen - he conceded at that time that there were 2,000 tonnes there - was previously tested before there was agreement to accept it. It appears, from what we have heard this morning, that the testing of this waste before the ACT entered into its agreement with Metalcorp Recyclers was undertaken by that company. The situation is that we have been accepting thousands and thousands of tonnes of waste over the last three to four years on the basis of tests which, we understand, were conducted by the company importing it into the ACT.

Mr Berry: One test.

MR STANHOPE: One test at the time the agreement was entered into. That is what we are led to believe here this morning. We are led to believe that at no stage since the Government entered into this arrangement in 1996 has it bothered to test this waste. I find this quite incredible. It appears from the numbers that are being quoted here that since 1996 we have literally accepted into the ACT tens of thousands of tonnes of waste seriously contaminated with lead, and at no stage since 1996 have we had a process in place for the objective testing of that waste by the ACT or any authority engaged by the ACT for the purposes of testing waste. We have been accepting into our landfill areas in the ACT, in Belconnen, tens of thousands of tonnes of waste without once testing it.

Of itself, that is a matter of significant alarm. This is the basis on which we in the ACT, this Government, have been accepting waste for years without once inquiring of its content and of the dangers inherent in it. We now discover this three years later, after goodness knows how many tens of thousands of tonnes of this stuff have come into the ACT since 1996. We do not know how much has come here since 1996. We know that at one point in September there were 2,000 tonnes stockpiled.

Conceding that this stuff has been coming in since 1996, how many tens of thousands of tonnes have come in, and why did the Government not once ask, "What is in here? What are the health risks inherent in importing this material into the ACT? What are the health risks to the workers and to residents of Belconnen, and what are the environmental implications of burying that amount of lead contaminated material in the landfill at Belconnen?". There is an interesting process issue there which reflects extremely badly on this Government and on the Minister in that never once did he or his officers say, "Look, let's have a serious look at this". What they did was rely on a test provided to them at the time of signing by the company wishing to import the material into the ACT.

There is an overriding issue here about duty of care and the responsibility of this Minister and this Government to show that level of concern not only for the health of people working at the tip but also for the residents of Belconnen. Let us not assume that this is just a health problem limited to workers at the Belconnen tip. On the basis that tens of thousands of tonnes of this material may have come into the ACT over the last three years and nobody has ever questioned whether or not it is safe - it is floc, and it is susceptible to burning and being blown around - who knows how much of this floc has blown over Belconnen? These are issues that never seem to concern the Government or the Minister.

Accepting the general criticisms that could be laid at the feet of the Government for its curiously innocent approach to the burial of waste in the ACT, let us look at the particular issue of the discovery after three to four years that, yes, this stuff is seriously dangerous; that it contains lead at a level 10 times above the accepted level. Let us ponder the fact that it has taken three years to discover, after a single test provided by the person dumping the material three years ago, that in fact this stuff is incredibly dangerous. We have a three-year hiatus here during which the Government took no action and made no tests. We do not know how much of this stuff we have accepted. We do not know how much of it is buried.

At this point, three years after we began to accept the material, the union, the representative of the workers, investigated some health problems being experienced by its workers. Let us not gloss over this. The CFMEU did not just say one day, "I think we might test this floc". The union tested the floc because workers at the tip were complaining about irritated throats and being ill. The CFMEU, faced with workers expressing concerns about the nature of this material, tested it, and yet we have Mr Kaine bagging the CFMEU for showing that level of concern for its workers.

Mr Kaine was suggesting that the CFMEU was trying to make some political point, and that this just involved some political grandstanding. In fact, it was the CFMEU that discovered that the Government has been accepting into the ACT tens of thousands of tonnes of seriously contaminated material. They should be applauded, not condemned; just as Ms Tucker should be applauded for the work that she has done in exposing this problem and alerting the Canberra community to the fact that we have a serious issue here. What was Mr Moore's response to that? It was basically to bag Ms Tucker; to shoot the messenger; to deride her for alerting the Canberra community to a very serious public health issue - something that one would have hoped that maybe he would have had an interest in.

I turn to the specifics of Mr Smyth's response to having been caught out. Mr Smyth's response to having been caught out was to issue this press release. It is instructive to go through this press release. This press release is designed to minimise the nature and scope of the problem. This press release is designed to suggest to the people of Canberra, "Don't you worry about it. There is nothing to worry about". Look at the heading. It says, "One load". Both Mr Moore and Mr Smyth have paid significant attention to the fact that we are talking about 2,000 tonnes of stockpiled waste. What is the heading to Mr Moore's press release? The heading is "One load" - - -

Mr Corbell: Mr Smyth's.

MR STANHOPE: The heading to Mr Smyth's press release says, "One load of metal car waste being tested at Belconnen tip". That is a heading designed to mislead. We should go through this press release paragraph by paragraph. There were 2,000 tonnes - Mr Smyth concedes that - of material which was previously tested. The previous testing was done by the company dumping it. I do not say there is anything misleading there; it is simply a case of not giving the full picture. But the Minister went on to say:

> … previous testing before there was agreement to accept this waste, showed the material was suitable for disposal at the rubbish dump.

That previous testing was done by the company dumping it. That is not a particularly objective basis on which to accept tens of thousands of tonnes of waste into our Territory, into my community. The press release continued:

> However on 1 September, one load of this waste was found to have had some unusual characteristics - - -

We have now discovered that that was not the case. It was not one load. Samples were taken across the loads. So that statement was not true. The one load claim was repeated in the next paragraph of this press release. It says:

> An initial basic test indicated a higher than anticipated level of lead in this one load.

The continuing theme is the suggestion: "Look, we have this one little load. We have got it quarantined. We are sticking it off to the side. It's all under control. One little load; previously tested; no problems; nothing to worry about; we've got it under control. You can trust the Government". *(Extension of time granted)*

Then there was a suggestion that there will be further testing by ACT Waste and Environment ACT. The next paragraph commences with the words "The load in question". Once again there is the same theme: "Look, let's just feed them a bit of bulldust here; a bit of the old mushroom treatment. Keep them in the dark. One small load. It's all we have to worry about". The suggestion is: "Look, we have it quarantined. It's off to the side. There is nothing to worry about. There are 2,000 tonnes of it, but we are only worried about one small load. Not the 2,000 tonnes; not the lot of it; not the fact

that we have been accepting this stuff since 1996 and we never once sought to find out what was in it. We have this one small load. It is just an aberration; nothing to worry about. We can deal with this one small load".

Then the final paragraph says:

> There are strict procedures for handling and accepting waste. As soon as management was alerted by staff of this concern, it acted and undertook the process of testing the questionable load.

Once again there is reference to the singular - this single questionable little load off to the side: "There is nothing to worry about. We have it under control". The testing, of course, was not done by Mr Smyth, or his staff, or government agents. The testing was done by the CFMEU. That was another misleading statement.

The Government did not have it under control at all. It was the CFMEU that took action as a result of concerns brought to it by its workers, the people it represented. Even at that stage the Government was not doing anything. Mr Smyth has now conceded, as a result of Mr Moore's attempts to convince us - - -

Mr Berry: Mr Moore's gaff.

MR STANHOPE: Yes, that is it. As a result of Mr Moore's gaff, Mr Smyth interceded to say that, in fact, they did not do anything for three weeks. They kept accepting the stuff. They did not rely on the CFMEU. The Government was not prepared to rely on the tests undertaken by the CFMEU, so they kept accepting the stuff for another three weeks. As a result of that, Ms Tucker, in seeking to draw attention to the fact that this was a serious issue, visited the tip.

Now, remarkably, quite staggeringly, Ms Tucker is being upbraided in a quite puerile way by the Minister for Health. The Minister for Health upbraids Ms Tucker for bringing this matter to the attention of the Canberra community and forcing this Government to act on a serious health issue. The Minister upbraids Ms Tucker for seeking to protect the lives of people working at the tip and the environmental integrity of our community. How amazing. How absolutely staggering for the Minister for Health to take that attitude to this serious issue.

This is a serious issue and this is a serious censure motion. There is this move around this place to downplay and to downgrade the significance of any censure measure. I know that Mr Rugendyke in the past has had some difficulty accepting some notions of how high the bar needs to be raised in relation to these issues. I say to Mr Rugendyke: Mr Rugendyke, this tip is in your electorate. These workers are workers from your electorate. These workers had their lives endangered by this Government's inaction and this Government's incompetence. It is in your electorate that this floc has been flying around in the air for the last three years. Highly contaminated lead polluted floc has been flying over Belconnen, affecting the lives and the welfare of your constituents. How high or how low do you want the bar on something like this? I ask you that, Mr Rugendyke. This is your electorate. These workers vote for you.

The Minister deserves to be censured for this. The Minister has shown a high level of incompetence. This is a serious health issue. This Government has not taken seriously the importation of seriously contaminated product into this Territory. The Minister's press release is seriously misleading. The Minister has sought to downplay this serious health issue to such an extent that in his attempts to seem to be on top of it and to be above it he has misled the community through this press release in a most serious and damaging way. He deserves to be censured.

MR HIRD (11.55): Mr Speaker, I join with the Leader of the Opposition in using the phrase "caught out".

Mr Stanhope: It is your electorate too, Mr Hird.

MR HIRD: Mr Speaker, I listened without interruption to the Leader of the Opposition. I ask for the same courtesy, sir, and I ask for your protection. I will use the Leader of the Opposition's words, "caught out". The Minister has done nothing, nothing at all. He has taken the correct procedures. I join with our colleague Mr Kaine. Mr Kaine ought to know these procedures because he was the Minister for Urban Services, and a good one too, an excellent one.

Before I get into that aspect of our debate, let me say to the workers and the residents of my electorate, Mr Rugendyke's electorate, Mr Stefaniak's electorate and Mr Berry's electorate, that they should have been first and foremost paramount in our minds, but apparently they were not. Once the Minister heard of the problem he took the appropriate action, as Mr Kaine indicated. But that was not it. As I said earlier, this is a case of political opportunism which I believe has backfired on the Greens, on Kerrie Tucker, and I will tell you why, sir. The Minister for Health has been accused by those people opposite of using this debate as an opportunity to bag and to downgrade the issue, and certainly to downgrade Kerrie Tucker. I put it to you, sir, that that is not the real issue.

We knew that the site was contaminated. We knew that the Minister needed to close the tip, and he did so immediately it was brought to his attention. But what happened? There may have been a breach of the law. The Minister for Health was quite right to point out to the publicity - seeking opportunist, Ms Kerrie Tucker, that she may have endangered Dean McNicoll, the photographer from the *Canberra Times*. I notice that she has gone quiet. She may have endangered him and she may have endangered herself.

What happens if she becomes ill as a result of taking this opportunity to gain publicity by standing on top of what she says in her motion is land at the Belconnen landfill contaminated by waste material? She is pictured on top of the waste material said to be contaminated by lead. I think that both Ministers are to be commended, and in particular the Minister for Health for his concern for the health of one of the citizens of the ACT. I must admit that she is shown with her arms folded, Mr Speaker, so she is concerned, I suppose.

Why was she there, and has she breached any legislation? That is the question I ask. She may well have breached that legislation. It might be all very well for Mr Corbell, sitting opposite, to just sweep it under the carpet, but this was a serious breach of procedure at

a tip. Those opposite do not understand the significance of someone going into a contaminated site and exposing someone from the media, a photographer. It is a matter of some significance.

Let me tell you what the Government has done over the last five years. Waste sent to landfill has been reduced by 40 per cent and resource recovery levels have almost trebled. By the turn of the millennium, which is just around the corner, there is an expectation that the ACT community will be halfway to becoming the first waste-free society in the world. We may well ask what the former Government did in respect to this, and so may Ms Tucker, who is contaminated. I hope Ms Tucker does not turn the lights out tonight. She may well glow in the dark.

What has this Government done over the last five years? Well, we have reduced the amount of builders' spoil deposited in landfill by up to 50 per cent. We have trebled the recovery rate of demolition waste.

Mr Rugendyke: I take a point of order. Mr Speaker, I am attempting to listen to this debate intently. It is a very serious debate. I would ask that the chamber be silent so that I can hear.

MR SPEAKER: Thank you. I uphold the point of order. Let Mr Hird be heard in silence, please.

MR HIRD: We have tripled the recovery rate of demolition waste - Mr Rugendyke, I know you are interested in this - from 44,000-odd tonnes in 1993-94, when we were under their command, to 154,000-odd tonnes in 1998-99. We have increased the recovery of garden waste from 33,000-odd tonnes in 1993-94 to more than 107,000 tonnes in 1998-99. Does that indicate that we are doing something about it, that we are fair dinkum? We installed the methane extraction plants at the two ACT Government landfills, in conjunction with ACTEW. We implemented calico bag trials to discourage the use of plastic bags. That is a great incentive. We established the Canberra Resource Exchange Network and trained almost 200 people in earth works. The Minister is to be complimented for that, as is the Minister for Education.

We have established a resource recovery estate and have progressed the establishment of a no-waste education centre. We have established the Development Control Code for Best Practice Waste Management in the Territory. I notice that Mr Corbell is not in the chamber. I would like to give him some red-hot information. Members know that in the former parliament I supported the development of the proposal for the resource recovery and waste transfer station in Mitchell. This will not only help Gungahlin residents but also the residents of North Canberra.

There are many other innovations. The list goes on and on. The future success of the no waste by 2010 strategy lies in our ability to recover our resources. Disposal of waste at landfill is now generally accepted as inefficient and unnecessary. I go back to the construction of the resource recovery and waste transfer station at Mitchell. It is scheduled to be turned on in the year 2000. The station, which is regarded as a pilot project for future resource recovery and waste handling infrastructure in Canberra and in other parts of Australia, is designed to replace traditional forms of disposal like landfilling. A resource recovery estate has been established in West Belconnen.

Mr Berry: What has this got to do with it?

MR HIRD: Listen, Mr Berry. This is in your electorate. You should be proud of what this Government has achieved since it came to office. You certainly would not be very proud of your term in government. Increases in resource recovery levels have had a corresponding influence on job creation in the waste management industry in the last five years. Over 140 jobs have been created in the resource recovery industry alone by this Government.

The Development Control Code for Best Practice Waste Management in the ACT, due for release next month, has the capacity to reduce large volumes of waste going to landfill. The code requires developers to submit a waste management plan, before their development application is approved, detailing the alternatives to landfill disposal. *(Extension of time granted)* Mr Speaker, as there was some talk earlier about initial testing at these sites I seek leave to table the result of tests carried out in 1996 by a company registered by the National Association of Testing Authorities.

Leave granted.

MR HIRD: I go back to what I said at the beginning. This is an example of political opportunism on the part of a member on the crossbench who seeks to frighten and scare Mr and Mrs Average and the workers. I see this as a cheap political stunt. As a local member, I received some phone calls from families living in the immediate area who wished to express their concern. I know that my colleague Mr Stefaniak also received complaints. Ms Tucker, it was not right for people to go and dump their rubbish on the weekend, but it was all right for you to go and stand on top of it. I rest my case.

MR HARGREAVES (12.07): I will be very brief. Mr Hird has just used up a fair amount of time telling us how wonderful the Government is in terms of its no waste by the year 2010 strategy. Really, he was just detracting us from the real issue. Just to debunk that for a second, we have to realise that this Government intends to close it. We also know that the Government has all but eliminated the recycling businesses which sit around the periphery of the tip. There were at least six businesses out there, three of which I know for a fact were recycling businesses. They are no longer there.

One of them, Aussie Junk, went in there about a year ago and was paying a peppercorn rent of $1, only to find that for the 1999-2000 year the Government wants $10,635.75 for a year. The greed of this Government has eliminated that recycling plant. So much for the elimination of waste by 2010. What is happening with all of that stuff, car bodies and bits and pieces like that, is that it is being stuck in a big hole known affectionately as Belconnen tip. So much for this Government's wonderful record on waste reduction. I think it is absolute rubbish, and there will be more said about that particular debacle later on.

Mr Speaker, the issue is one of Executive and ministerial responsibility. This is another example of this Government having all care, no responsibility, and blaming the public servants when things go wrong. Well, we have to make an example somewhere down the track and make sure Ministers realise that when you get a significant public health issue

like this, as Ms Tucker quite properly put it, the buck has to stop somewhere. It cannot just go revolving around the hallowed halls of power and the bureaucracy; it has to stop with this Minister.

What we are seeing here is a really significant public health issue, and it is not the first one at Belconnen. There have been at least three that I can think of. This one stands out like a beacon. I think if anything is going to glow in the dark, Mr Hird, it is going to be Belconnen tip. Perhaps this Government ought to have been a little bit more alert to this. When the issue first came to light this Minister should have said, "Right, close it, and then we will do the testing". He should not have let it go on for three more weeks. That is a truth denied by this Government. Mr Moore suggested that that was not the case, but then corrected himself. It went on for another three weeks. That was nothing short of irresponsible. You can say that if a Minister does not know about it because his advisers have not told him, fine; but in this case he knew about it three weeks before. He allowed the people to go in here.

We saw the picture of Ms Tucker sitting up on top of the hill. How come? It was because a whole stack of people down at the bottom of the hill were still dumping rubbish or collecting it. Because there is no recycling they take it home again. I think that was an absolutely stupid thing to say, and I ask people to support the original motion.

MR RUGENDYKE (12.10): Mr Speaker, this motion seriously devalues the concept of the censure motion. It makes a mockery of the odd occasion when this Assembly finds the need to censure the Government on more serious matters. Mr Corbell claims that people have been poisoned by lead.

Mr Corbell: No, I said it was a risk. I did not claim that.

Mr Kaine: Lead does not glow in the dark.

MR SPEAKER: Order! Mr Rugendyke, please continue.

MR RUGENDYKE: Mr Speaker, about 25 years ago I was a roof plumber and I dealt with sheets of lead this size on a daily basis.

Mr Quinlan: And it has not affected you.

MR RUGENDYKE: I hope I am okay. I hope I have not been poisoned by lead. I certainly doubt that I have been poisoned by the little bits of stuff that have been chewed up, dumped there and hosed down and covered up. I do not think they would hurt me when I am tipping out my rubbish. I do not think Mr Stanhope was quite correct in saying that this stuff has blown all over my electorate. I think it is a fairly long bow that he has drawn there. Mr Speaker, what about pensioners who are living in houses with lead based paint? I brought that to the attention of the Minister and those houses are being bulldozed.

Mr Speaker, I believe it is appropriate at this point to move my amendment to Mr Kaine's amendments. I move:

Add the following words:

"(3) And omit from paragraph (2) the words 'assure the Assembly that the recent events at the Landfill will not occur again by providing' and substitute the word 'provide'.".

Mr Speaker, that phrase, "assure the Assembly that the recent events at the Landfill will not occur again", adds nothing. What is it that we are supposed to call on the Minister to assure this Assembly of? Is he supposed to assure us that ducks will not drown in oil, that black stuff will not seep out of the side of the hill, or that the dam will not overflow in rain? Those are several things that Ms Tucker mentioned, but there is no reference to them in the original motion that I can see. Or is it that he must assure us that toxic substances will not be dumped at the landfill by unscrupulous operators? Mr Speaker, my amendment seeks to make sense of Mr Kaine's sensible amendments.

Mr Kaine: I thought they were pretty sensible to begin with.

MR RUGENDYKE: They were. I agree. Mr Speaker, the Minister has told us that he will be negotiating with that errant company to take their waste elsewhere. So, all that remains to be said is this: Get the floc out of here and let us get on with business.

MR BERRY (12.14): Mr Rugendyke's contribution to the debate may well have been humorous at the end, but it did not pay attention to the issue which really is at the core of this motion, and that is the misleading nature of the Minister's statements to the community. You cannot forget, Mr Rugendyke, that there has been a pattern of misleading remarks and claims by this Minister. You may well have forgotten an attempt to censure Mr Smyth some time ago. I think it was in March 1999. There was one in September 1998 in relation to misleading statements that the Minister had made. On one occasion the Minister apologised for misleading the Assembly. I think that was on the first occasion, and the censure motion was eventually withdrawn. Subsequently, the Minister was found guilty of misleading this Assembly and he even voted for a motion of grave concern about his own ability. So we have here a pattern of misleading this Assembly. It is not a pattern which should be ignored.

Ms Carnell: I take a point of order, Mr Speaker.

MR SPEAKER: Yes, it had to come, did it not?

Ms Carnell: Yes.

MR SPEAKER: Withdraw it.

MR BERRY: Withdraw what?

MR SPEAKER: Look, the motion is in relation to this particular topic. It is in relation to metal floc at the Belconnen landfill. It is not a general attack on the Minister, and your suggestion is that he is constantly misleading the Assembly.

Ms Carnell: The motion does not say anything about misleading the Assembly.

MR BERRY: Mr Speaker, could I direct you to the motion? It says that this Assembly "censures the Minister for Urban Services for misleading the Canberra Community". I am merely drawing attention - - -

MR SPEAKER: Excuse me, Mr Berry. On the extent of the Government's response - - -

MR BERRY: Do you want to enter the debate? Why do you not get out here and enter the debate?

MR SPEAKER: The motion refers to the extent of the Government's response to this particular issue, not to a general condemnation of the Minister for misleading the Assembly at all times. Withdraw the implication, Mr Berry, that it is a general misleading of this Assembly. Concentrate on the matter of the Belconnen landfill. If you wish to say that the Minister has been misleading the Assembly on that, that is perfectly in order because it is part of the motion.

MR BERRY: May I respond, Mr Speaker, in order to clarify my position? I was merely drawing attention to two previous censure motions which have been moved in this place in relation to this Minister misleading the place. They are matters of fact. Surely I cannot be prohibited from mentioning matters of fact in this place.

MR SPEAKER: Not matters of fact, but the implication - - -

Mr Kaine: I raise a point of order, Mr Speaker. This motion makes no mention of misleading. I do not know how it has got in the debate at all. It is not part of Ms Tucker's motion.

MR SPEAKER: The motion states "misleading the Canberra community". That is in Ms Tucker's original motion.

Mr Moore: On the point of order, Mr Speaker, there are two things. First of all, Mr Berry today has been asked by you, quite a number of times, not to interject. Now you have asked him quite a number of times to withdraw. Standing order 202 (e) certainly does provide that he has to do that. On the specific issue, Mr Smyth has never been censured by this Assembly. There were two attempts, and neither of them was successful. Here is a third attempt.

MR SPEAKER: Thank you, Mr Moore.

MR BERRY: May I say this? I withdraw any imputation that Mr Smyth has misled the Assembly by statements made in this place on this occasion. I draw attention to the pattern of censure motions that have been moved against this Minister in the past for misleading the place. Where there is smoke there is fire. Mr Speaker, I acknowledge that neither of those motions was carried, but I would also like the Assembly to acknowledge that Mr Smyth even voted for a motion of grave concern that he had made certain statements in this place. I also draw attention to the fact that on an earlier occasion or on another occasion he had to apologise to this Assembly for misleading it or for giving it misleading information. Those are the facts of the matter.

Ms Carnell: I raise a point of order, Mr Speaker. Mr Berry is reflecting on previous votes of this Assembly, and in a very inappropriate manner.

MR BERRY: No, I am not. I am not reflecting on it.

MR SPEAKER: Mr Berry, would you mind just addressing the motion before the house.

MR BERRY: Mr Speaker, I merely draw attention to that pattern - - -

MR SPEAKER: Stop trying to provoke.

MR BERRY: Mr Speaker, I am not the one under attack here.

MR SPEAKER: You will be if you keep this up.

MR BERRY: Well, thank you for the threat, Mr Speaker. So I draw attention to that. The issue is about misleading the community about a serious public health matter. Mr Moore tried to deride Ms Tucker about her attendance at the tip for a brief time. I assume she was allowed into the tip by tip management. If there was a danger there, and it seems that Mr Moore and Mr Hird both think so - they acknowledged that there was a danger there - why were Ms Tucker and others all allowed into the tip? That is a breach of their duty of care, if they take the time to read the legislation.

Mr Moore might also question his own standing as a Health Minister when he can stand up here and say it is a problem for Ms Tucker to go in there for a few minutes, but it is not a problem for people to go there and work there for four years. As his health officer said, it becomes a problem after long exposure. So let us be fair dinkum about it. This is a serious matter of long exposure.

Mr Speaker, I was surprised today at the acknowledgment that this has been going on for four years. Some figures have been tabled today. I suspect that was in response to a proposed motion that I had circulated which set out the one set of tests that were conducted in relation to these lead levels in 1996. Those documents acknowledge the existence, among other things, of lead in the loads, Mr Speaker, and that is a significant admission, in my view, that there is a problem and that further testing might well be required. Mr Speaker, those tests were not conducted, as far as I can make out from this debate. Now, that is not really the issue here. The issue is whether the community was misled in relation to the matter and whether people went along, unknowingly, and were exposed to toxic amounts of lead.

Workers have been working with this contaminated waste for four years that we know of. There are thousands and thousands of tonnes out there and they have certainly been exposed to it one way or another. Mr Speaker, the community have been exposed to this over a period of years. I do not say this from any expert view in relation to the matter, but I think it is fair to say, on the basis of what the Chief Health Officer says, that there would probably be very little danger to people who visit it but there is, nevertheless, a hazard. It may be small or large, depending on how many times you visit the tip.

Ms Carnell: No.

MR BERRY: The pharmacist over here says, "No, there's no danger", but the tip has been closed. Why has it been closed? It is because there is a problem. That is why. Now, let us go to the Minister's statements. The Minister said in his press statement:

> There are strict procedures for handling and accepting waste.

Not in this case. There was one test four years ago. That is misleading. That is dangerous. The Minister's statement continued:

> As soon as management was alerted by staff of this concern, it acted and undertook the process of testing the questionable load.

Not true. It continued to accept unacceptable loads for three weeks. Mr Moore tried to rely on this statement earlier on but abandoned that part of his argument in the end, sensibly, I say, because it in itself was quite inaccurate.

Mr Speaker, this is about a Minister who has form. It has been noted in this place before, and it is on the record in this place before. Issues around misrepresentation have been dealt with in this place and decided upon. Mr Speaker, how much longer have we got to put up with this sort of stuff? Can this Minister wander out with honeyed words any time he likes and say what he likes, then come into this place and apologise or try to create an impression that everything is okay and that we should let him get away with it?

At one time Mr Moore would say that that would be a bit reckless and he should be censured if he recklessly misleads us, but things change when you swap sides. In this case this Minister for Urban Services has very clearly tried to create the impression out there in the community in relation to a serious public health matter that everything was okay and he was doing something about it. The fact of the matter is that everything was not okay. This Minister has done nothing over the period of his ministry. Four years have passed and there has not been significant testing in relation to the matter.

Mr Speaker, now I want to turn to Mr Kaine's comments. *(Extension of time granted)* Mr Kaine entered the debate earlier on. I suspect that he might have been a Minister for some period of this since 1996. The dates evade me for the moment. He complained that we might be seen to be used as tools of the Construction Forestry Mining and Energy Union were we to censure this Minister for misleading the community. Mr Speaker, it is pretty clear, on the face of it at least, that the union had been forced to get testing done on this waste because management had not done so. The union does not spend its money for fun.

The evidence is pretty clear. Management had not done so until it was discovered that there was a problem. We end up with a situation where management, on investigating the waste, has now been forced to close the tip. That is a vindication of the union's action in the first place, Mr Speaker, and a clear demonstration that the Minister's claim that there are strict procedures was false and misleading. It misled the community on a serious public health matter. It also misled the workers on the site.

If you take a look at the Occupational Health and Safety Act it will become very clear to you, Minister, that there is a possibility of a very serious breach of the relevant parts of the legislation, in particular that of the duty of care provisions. We have debated those issues before in relation to the hospital implosion, but there is also a responsibility for duties of persons in control at workplaces. I will just go through that. The Act says:

> A person who has, to any extent, control of -
> (a) a workplace:
> (b) a means of access to, or egress from, a workplace; or
> (c) plant or a substance at a workplace;
> shall take all reasonably practicable steps to ensure that it is safe and without risk to health.

The Minister knew it was necessary to test this stuff and he has not touched it for four years. Mr Speaker, there is a range of provisions in the Occupational Health and Safety Act that seem to have been ignored in relation to this matter. You could not possibly say, on reflecting on the Occupational Health and Safety Act and on reflecting on the Minister's performance and his words, that he has not misled the community. Saying that there are strict procedures in place for handling and accepting waste is patently untrue and misleading.

The Health Minister is responsible for public health in the Territory and for maintaining the future health of our community. For him to stand up and try to justify the actions of the Minister for Urban Services in relation to toxic contamination of a workplace or a place where third parties go is, I think, quite disgraceful. Mr Speaker, I understand that Mr Moore has to defend his Cabinet colleagues, but there are some times when he would be better off staying out of it. He should leave it to Mr Humphries to spin his little web about it, which I am sure he will do later on. But Mr Humphries, even if he chooses to, even in his best web-spinning mood, will not be able to argue that Mr Smyth's claim that there are strict procedures for handling and accepting waste was true. Mr Humphries will have to accept that that was misleading.

Mr Speaker, the community has been misled in relation to this matter. There is no doubt about that. The workers who have gone to work, day in, day out, have been misled into the belief that they were working in a safe place. It has been now proven that there are strong doubts about that and that the exposures that they have been faced with could possibly have been harmful to their health. We may not know to what extent for a long time because of the nature of some of these exposures.

Mr Speaker, this Minister deserves censure. If it were not for this attempt to mislead the community, it would be for having such terrible form on the question of misleading comments, both inside this place and outside. He should not be allowed to get away with his honeyed and misleading words any more. He should be censured.

MR STEFANIAK (Minister for Education) (12.29): Mr Speaker, I will be brief. I think it is the Opposition more than anyone else who is misleading. It seems to me that since this problem has become apparent this Minister has acted quite properly in terms of doing all he reasonably could be expected to do to address the situation. All we are seeing is a fair amount of petty point-scoring.

I will make just a couple of points, Mr Speaker, in relation to this debate. I have listened with interest. First, I think there is a lot to be said for what a couple of people have said so far, one by way of an answer to an interjection and the other one in relation to the nature of lead. I listened to Mr Rugendyke, who has worked with lead, and I heard in response to an interjection by the Chief Minister that she is a pharmacist, and I think that is something members should dwell on.

One thing I did not like was the scare tactic and some over-the-top comments by the Leader of the Opposition, Mr Stanhope, in terms of Belconnen being completely smothered in clouds of lead. For his benefit, a couple of members of this house live very close to the tip. My colleague Mr Berry, who has just spoken, does not seem to be suffering any ill effects from any of this. In fact, my place is directly in the line of any winds that come from the tip, being part way up a hill. I have not heard any great concerns from a number of people in Belconnen in relation to this. Comments like those made by Mr Stanhope do not assist here because, in my opinion, they are way over the top.

I think the two amendments moved by Mr Kaine, who has now accepted Mr Rugendyke's amendment, are probably the sensible way to go because they ensure that any reasonable fears that people still may have can be allayed by further action which this Minister will take anyway as a matter of course. Instead of the censure motion by Ms Tucker, the motion will simply call on the Minister for Urban Services to provide a report to the Assembly by the first day of December on proposals to improve the environmental management procedures at the landfill and procedures for checking the acceptability of waste delivered to the site. I think that is a sensible response by the Assembly to this problem that has cropped up, rather than the very obvious political point-scoring exercise indulged in by the mover of the motion and the Labor Party.

MS TUCKER (12.32), in reply: I would like to respond to a number of issues that have been raised in this debate. One thing I would like to get from Mr Smyth is his agreement to table the minutes of that meeting regarding the OH&S committee. Could I get a nod? Yes. Thank you. Mr Smyth has acknowledged that request and has said that he will table those minutes. I need to clarify that because the information we have been given is that that meeting occurred on 6 September, which was after in fact the time when the union decided to take action themselves and get the testing done. The union also has not seen the minutes of that meeting. I think it would be useful for the union to see those minutes and see whether it is in agreement with what the minutes say occurred at that meeting. The clear message that we have got from the union consistently is that it took action because it could not get an appropriate response to their concerns from waste management. That, obviously, is a very critical issue.

Turning to the substance of this motion, we have the issue of misleading the community. As Mr Stanhope correctly pointed out, you only have to look at the title of this media release to see what the aim of it was. It says, "One load of metal car waste being tested at Belconnen Tip". Basically, whether it was because the Minister was ill-informed or because there was an attempt to put a spin on the truth, the fact is that that was misrepresenting the situation. I seek leave to table this media release.

Leave granted.

MS TUCKER: Thank you. Mr Smyth claims that as the department gained more knowledge they reacted. The critical point of my concerns that I have been raising today is that it is not good enough to wait for information to come in this way. If it was not for the union the information would not have come. I heard Mr Smyth say to the media that there are checks and balances in place at the tip, but the Government does have to work in good faith with the business community as well. The Government also has a responsibility to work in good faith with people who are working at the tip. It has a responsibility to work in good faith with the ACT community when it puts out statements about what it is doing, and a responsibility to work in good faith with its publicly stated aims and commitments to the environment.

I might remind Mr Smyth, as Minister for the environment, of the precautionary principle. It is that the lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. The old argument that we do not have absolute scientific proof so therefore we will not act is at the key of environmental degradation on this planet. That is why we have such a thing as a precautionary principle. A totally unacceptable argument has come from the Minister this morning. It is particularly ironic as he is the Minister for the environment.

I think it was Mr Smyth who also was very concerned that I was asking questions about what waste is coming from other States. He did misrepresent what I am saying about that. I have never said at any point in time that we should not receive waste from interstate. What I have said is: "Why are we such a popular destination for interstate waste?". I am just asking that question. As I already explained in my speech, it appears from the research my office has been able to do that we are indeed attractive because of the price we are offering. We need to see the detailed information about that. In my motion all I am doing is asking that the Government give us some information about how much waste is coming in from interstate and the nature of that waste.

I am very disappointed that Mr Kaine wants to amend the motion and to take that out. It seems a fairly innocuous request. We are just asking for information which one hopes the Government has. If it has not got it, we ask it to get it so that we can see how that fits into its strategy for no waste by 2010. It is obviously a significant aspect of waste management in the ACT and we are really only asking for information. I cannot imagine why that is offensive to Mr Kaine or to anyone else.

Mr Smyth also said I like to talk about best practice. Yes, that is true. I do not know why that should be a problem. The reason I am raising best practice at this point is that it appears not to have been put in place. Mr Smyth, when he talked about working in good faith with the business community, also said there are checks and balances. The question is: What are the checks and balances?

We got an initial test or analysis of the floc from a consultant employed by the company. That is what we were given to begin with. There has not been any interest taken by waste management in terms of whether or not that analysis is correct, or whether or not the nature of the waste has changed. In other words, there are no checks and balances there for ensuring that the information that is given is correct and to ensure that what is coming in is as was stated at the beginning.

Why this is particularly of concern is that there already has been an incident at the tip with the sullage pond. Not very long ago, a couple of years ago, there was contamination at the sullage pond by hydrocarbons. After a fuss was made about the contamination in the sullage pond, once again by the union, there was a meeting held, after the fact once again. There was agreement that perhaps a better way of managing what is coming in to the tip is to have random tests. That was agreed. There would be random tests so that we could keep an eye on what is coming in. Now, if that was agreed, why has that principle not been applied to other substances such as this material which has been coming in for three years now? No-one looked at it until the union did.

Another question asked by Mr Kaine in this debate was: Why did the union not go to management? Well, we know that the union did go to management and we know that management did not respond. We know that there was an agreement made later after the union sought to get testing of the floc. All that was agreed to at that meeting basically was that yes, the union was getting tests done, and that the union was putting a ban on movement by their workers about floc. That was agreed to. There was not really a choice, I would have suggested.

What is really disappointing is that waste management did not themselves get in there and take a very proactive and precautionary approach to this potential hazard. The material did keep coming in from New South Wales. In fact, it was not stopped until the Government got its own test results which confirmed the results of the union.

Mr Moore brought a rather bizarre aspect into the debate. He suddenly tried to distract from the matters of substance that I had raised in this debate by trying somehow to make me personally liable for putting my own health at risk as well as the health of other people who were there. The point that obviously has to be made for a start is that his chief health officer says in the statement that lead poisoning becomes a significant health issue only after prolonged periods of exposure. I thought that was given and accepted. I worked on lead poisoning in my previous work and, as far as I knew, that in fact is the case.

If Mr Moore is saying today that I endangered my health and the health of other people there by standing between piles of floc - by the way, I was very careful not to walk on them or to disturb them - one has to ask the question, “Why was the tip open?”. There were members of the public very close to the floc who were dumping rubbish. I think Mr Moore has behaved quite irresponsibly in trying to defend Mr Smyth in an indefensible position by attempting to distract the debate in the bizarre way he did. He has made himself look quite silly as Minister for Health by doing that. *(Extension of time granted)*

I have not heard Mr Osborne speak at all about this. I also would like to refer quickly to Mr Rugendyke’s amendment. He is asking that we omit from my paragraph (2) the words “assure the Assembly that the recent events at the Landfill will not occur again by providing”. We are asking that there be provision of a strategy for improving practices at the tip. So Mr Rugendyke does not want to ask that the Assembly be given an assurance that they are going to improve their work practices so that we will not see this kind of incident occur again. It is very hard to understand why he would do that. I do not think he has argued it at all.

Mr Osborne has not spoken at all, so it is very hard to tell why he will be voting one way or the other, and, of course, I am concerned about that because I think the community has the right to know why people vote in a particular way.

In conclusion, I believe that this has been an appalling example of mismanagement. It has been an appalling example of a Minister and his supporters trying through various methods to escape responsibility for what has been a serious failure. I ask members of the crossbench to consider seriously how they vote on this matter because people in the community do expect that a workplace be well managed for the sake of the workers. Of course, with this particular work site, there are environmental implications for what goes on there. Whether or not this particular contaminant has an environmental impact, which obviously it can have, and it should be managed in a certain way, is not even the point. The point is that we do not have those checks and balances in there. We do not know what is coming in. Of course it is possible that there may be contaminants coming in.

Mr Smyth made statements about how it is best practice and that we have a leachate system. Yes, we are well aware of the leachate system, but how is it working? I saw, as I said, black water leaking out of a hole in one of the mounds covered by grass. I have serious concerns about the water management there. I raised all that in my initial speech, and that is why I am raising this issue and why I am asking for a proper response from the Government about how they are going to actually improve management of the tip. There are broader issues here as well. This is an important issue.

Mr Moore says I am devaluing a censure motion. He is devaluing the importance of best practice at this work site. He is devaluing the importance of workers' health and the management of environmental issues.

Question put:

> That the amendment (**Mr Rugendyke's**) to **Mr Kaine's** proposed amendments be agreed to.

The Assembly voted -

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

Question so resolved in the affirmative.

Amendments (**Mr Kaine's**), as amended, agreed to.

Motion (**Ms Tucker's**), as amended, agreed to.

Sitting suspended from 12.48 to 2.30 pm

PERSONAL EXPLANATIONS

MR SMYTH (Minister for Urban Services): Mr Speaker, I seek leave to make a short statement on something I said this morning.

Leave granted.

MR SMYTH: In her closing remarks this morning, Ms Tucker questioned some of the advice I was getting, as it conflicted with what the union was saying. She asked me to confirm whether an OH&S meeting had taken place, to tell her the date of the meeting and to table the minutes. I now table the minutes of that meeting.

Mr Speaker, during the debate I also said that the meeting had occurred on 31 August. I have since received a letter from the chief executive of my department to say that this was not so. It was in fact on 6 September. I will read the chief executive's letter, then I will table it for members' information. It reads:

> Dear Minister,
>
> During a debate this morning in the Legislative Assembly you stated that an OH&S Committee meeting had been held on 31 August 1999. This was on the basis of the information provided to you by my Department. This information that a meeting had occurred on 31 August 1999 was subsequently questioned and checked by the Department and confirmed to your staff.
>
> The purported date of the meeting appeared to be consistent with the statements that the CFMEU representative Mr John Clyde "will arrange for samples of the flock to be tested", which we know to have been done on 31 August 1999. However despite further checking in preparation for today's debate, attendees have now confirmed that the meeting was held on the 6 September 1999. The minutes of the meeting confirm this.
>
> I apologise on behalf of the Department to you and the Assembly for this error. There was no intention to provide inaccurate information. The question of why this inaccurate information was provided is now being investigated.
>
> Yours sincerely
>
> Alan Thompson
> Chief Executive

Mr Speaker, there are a number of copies for members. For the first time in this place, I am deeply disappointed with the advice I have been given. Given the conflict in the advice, I took it upon myself to ring John Clyde, the CFMEU representative, to ask him to confirm his recollection, and he was able to confirm that he did in fact collect the samples on the 31st and that the subsequent meeting was on 6 September. I apologise for passing on incorrect information to the Assembly. As I stated this morning, I am responsible for the information provided, and I apologise for inadvertently misleading the Assembly on this matter. I informed Ms Tucker that I would be making this explanation, and she said that she would listen in her office.

MR MOORE (Minister for Health and Community Care): Mr Speaker, I seek leave to comment on the same matter.

Leave granted.

MR MOORE: In the debate, I reiterated the date that Mr Smyth, on the advice he had, mentioned. I apologise to the extent that I inadvertently misled the Assembly on the same matter.

QUESTIONS WITHOUT NOTICE

Bruce Stadium

MR STANHOPE: I would like to say I stand by everything I said in the debate on this morning's motion. Mr Speaker, my question is to the Chief Minister. Documents acquired by the Opposition under freedom of information legislation reveal the original requirement of the International Football Federation for Olympic soccer venue capacity to be 15,000 seats, the original capacity of Bruce Stadium. On 2 October the *Canberra Times* reported the Chief Minister's spokesperson as saying the stadium was to be upgraded to 25,000 seats, not to meet any SOCOG requirement but to meet a National Rugby League requirement. On what basis did the Chief Minister's spokesman make that statement? Can the Chief Minister table in the Assembly any documentation from the NRL, Mr Kevin Neil or the Canberra Raiders Football Club to support the need for Bruce Stadium to be upgraded to 25,000 seats to meet the requirements of the NRL or the Raiders?

MS CARNELL: It is certainly true that the minimum requirement for Olympic football from SOCOG is 15,000 seats. There is no doubt about that. That has always been the case. That is the minimum requirement. But we were not a walk-up start to get Olympic football in the ACT. We were competing with Newcastle, Wollongong and other venues. It would appear that Mr Stanhope did not really want to get Olympic soccer. With the minimum, we simply would not have been in the hunt.

The NRL requires 20,000 seats, not 25,000 as Mr Stanhope said. Members would have seen in reports over the last couple of months decisions to be taken on which rugby league teams stay in the competition next year. Issues surrounding venues and their seating capacity, including undercover seating, have been widely mentioned. I have read about them in the newspaper if Mr Stanhope has not.

The old Bruce Stadium, at a squeeze, could have taken possibly 25,000, but has been known to take 20,000 on regular occasions. When you upgrade a stadium, do you upgrade it for the requirements of five years ago, for the current requirements or for the requirements of the next 10 or 20 years? This Government, when we go down the path of significant expenditure - and there is no doubt that the $34m that its cost for the upgrade is a significant expenditure - will be looking to the longer term. We looked at what we needed at Bruce Stadium today, tomorrow and in 10 years' time.

We were also very well aware of the requirements of the Raiders if we were to maintain our rugby league team in the ACT. Recently at the Raiders prize-giving Kevin Neil made that comment exactly. He said that if it was not for the ACT Government and the upgrade of Bruce Stadium they would - - -

Mr Stanhope: Kevin Neal said he wanted 25,000 seats?

MS CARNELL: That is not what I said. He said that the Raiders could easily not be in Canberra. It appears that those opposite could not care about that but I do and this side of the house does, because the Raiders produce something like $19m worth of revenue for the ACT every year. Similarly, the Brumbies produce significant revenue, significant enjoyment and significant jobs for this city. We have a stadium that is not only right for us now but right for the ACT in the future.

MR STANHOPE: I ask a supplementary question. I wonder whether the Chief Minister will confirm for the Assembly whether her Government's decision to upgrade Bruce was to win Olympic soccer events or to meet the requirements of News Ltd and the National Rugby League.

MS CARNELL: I just answered that question and I have answered it a lot of times. The reason for the upgrade of Bruce Stadium was a mixture of all of the above. It was for the Brumbies, the Raiders and the Olympic soccer and to ensure we had a stadium that would give the ACT the capacity to pull major matches or major events in the future.

I am sure that Mr Stefaniak and Mr Osborne remember that putting seats all the way around Bruce Stadium was not a new proposal. It has been on the wall in the Raiders box for as long as I have been going to Raiders matches, since the early 1990s. It is a plan that has been on the table for a long time. Everybody realised that in the longer term we would need to do it to ensure that the Raiders, the Brumbies and others had a stadium that was appropriate, that could produce corporate dollars and that would ensure that we kept an NRL team in the ACT and a Super 12 team as well. We have ensured that that is the case. I am proud of that.

It is not the Raiders that look like getting the chop, as some Sydney teams are. The Raiders are here because Bruce Stadium can meet all of the requirements of the NRL and achieve the corporate sponsorship that the Raiders need. Of course, the Government is right behind the team. I am proud of that. I cannot believe those opposite are not.

Family Services Database

MR OSBORNE: I feel honoured to be following that question about Bruce Stadium. I do recall there being crowds of over 20,000 at Bruce when I played rugby league. How long ago did I play? I think the first three or four records at Bruce Stadium were for games between the Raiders and St George, so I am in the record books for when I played for Canberra and for when I played for St George. Nevertheless, I will move on.

MR SPEAKER: There can be no preamble to a supplementary question but there can be no nostalgia in a question either.

MR OSBORNE: I am just dreaming, Mr Speaker. My question is to the Minister for family services, Mr Stefaniak. Minister, is it the case that the family services branch is implementing a database to contain details on all branch foster carers? Maybe I should have asked Mr Rugendyke this question. If so, what consultation did the family services branch have with foster carers? I should have asked that of Mr Rugendyke also. Who will have access to this database? What privacy provisions are there in place, and what details are to be included in this database?

MR STEFANIAK: I thank the member for the question. Some of it I may have to take on notice, Mr Osborne, to give you a full answer. There has been a database in Family Services and, I understand, in interstate agencies for a number of years. I think that is terribly important, given the nature of the institutions and the types of situations that do arise.

To answer the other part of your question, Mr Osborne, I understand that there are in place the arrangements one would expect, but I will take the question on notice and fully answer the various components of it. Whilst I am well aware of the database, to give you a full answer I would need to get some more information than I have now.

ACTEW

MR QUINLAN: Mr Speaker, my question is to the Treasurer. Last week the Government released the findings of the supposedly joint working party investigation into the proposed ACTEW-Great Southern Energy merger. That report recommended that a huge amount of cash could be extracted from the merged organisation, leaving it in debt to the tune of $1.35 billion. That would leave it with a debt-equity ratio of more than 60 per cent and with, I suggest, equity overstated through unrealised inflation of the overall valuation of the enterprise. Does the Treasurer agree with the international consultants ABN AMRO that a gearing ratio of more than 60 per cent is an acceptable figure for ACTEW, or for any public utility for that matter, for the future in whatever form ACTEW might take? If the Treasurer does not wholeheartedly endorse that very high ratio, why did he and his Government let this bizarre concept be communicated to the New South Wales Government as our proposal without qualification?

MR HUMPHRIES: I need to congratulate Mr Quinlan on having the courage to raise the ACTEW-GSE merger in the circumstances of what I understand were fairly caustic comments last week by his colleague the New South Wales Treasurer.

Mr Stanhope: He was referring to the Chief Minister.

MR HUMPHRIES: He might have been referring to the Chief Minister. Mr Egan was not referring to the Chief Minister in the comments he made last week, as I understand them. That is a matter for Mr Quinlan to take up, no doubt, in some sort of party meeting. Mr Quinlan referred to the report of the joint working party on the proposed merger of ACTEW and Great Southern Energy, and in particular to the 60 per cent debt-to-equity ratio recommended in that merger. That is a recommendation specific to the particular proposal which was being put forward in that scenario - that is, a merger between Great Southern Energy and ACTEW.

The recommendation was that there should be a debt-to-equity ratio of 60 per cent, and that a large amount of money could be repatriated to the relevant government or governments. Mr Speaker, I believe it would be quite fair to assume - in fact, it would be my view - that a lower ratio would apply for ACTEW as a stand-alone entity; that is, the 60 per cent which was recommended in respect of the merger was 60 per cent for that merged entity. It is quite unrealistic to expect that you can have a blanket figure and say, "Here is what we think is appropriate debt-to-equity ratio for ACTEW. It does not matter what alliance or merged status it might have. It is always 60 per cent". As far as I can see, the 60 per cent recommended for an entity merged with Great Southern Energy was an entirely reasonable ratio to adopt. I have no evidence to suggest that it was not. ACTEW as a stand-alone entity in the ACT, I suspect, would support a rather lower ratio of debt to equity.

I am surprised that Mr Quinlan asked the question, because his own colleagues in the Australia Institute recommended, in respect of ACTEW as a stand-alone entity, that there should be a repatriation of capital from ACTEW to the tune of $530m and, what is more, that that $530m should be serviced purely by earnings on water and sewerage from ACTEW. That would be a very significant ratio of debt to equity, I would have thought. Given the support Mr Quinlan lent to the Australia Institute report at the time, I would assume that at least at that stage he had some level of support. But it appears that that may not have been the case.

We believe it is important to make sure that ACTEW is not overburdened. I will not nominate what the level of debt should be until I know exactly what kind of future ACTEW will have. I suspect that ACTEW as a stand-alone entity within the ACT would have a lower ratio than 60 per cent, but exactly what it might be is a matter for determination as we chart the future for ACTEW. But either way one unmistakable message comes out of this debate; that is, that ACTEW does have some uncertainties in its future. The possibility of settling that uncertainty with a merger with a major power utility in New South Wales seems to have receded.

Mr Berry: That is the understatement of the week.

MR HUMPHRIES: You ask Mr Egan about whether he thinks it is still on the cards or not. It is not for me to say. It seems to me that it does not have much life in it. It is an ex-proposition, as Monty Python would say. I think that those opposite should ask themselves what they are doing to secure the future of ACTEW. What are they proposing? What are they putting up as the way in which we can make sure that

whatever level of debt ACTEW might have it is capable of operating in the future with certainty and with some chance of returning a healthy dividend to the people of the ACT?

MR QUINLAN: I ask a supplementary question. Would Mr Humphries concede that this level of cash repatriation might have had just something to do with the fact that New South Wales did not want to know about the merger?

MR HUMPHRIES: No, I would not. The proposal about the cash repatriation did not come from the ACT. No, it would not have affected their views about it. Why are you asking me why New South Wales pulled the plug on this? Ask New South Wales itself. In fact, look at the media. Look at what Mr Egan said on the television and in the newspapers about the reason they were pulling out of this. It was not because of debt-to-equity ratios. It was not because of some cloud hanging over the operational side of ACTEW. It was about what you, Mr Quinlan, referred to on the last occasion in the Assembly when you asked this question. It relates to regulatory risk, what Fay Richwhite talked about in its report. That was what Mr Egan was talking about and that is what you, as much has anybody else, have a lot to do with. I think you ought to ask yourselves why that level of risk was considered unacceptable by one of the parties to this proposed merger.

Supercar Race

MR CORBELL: Mr Speaker, my question is to the Chief Minister. Chief Minister, briefing notes supplied to members of the Assembly by the Canberra Tourism and Events Corporation on 15 July this year and subsequent media reports outlined that the ACT Government was to enter a five-year contract with AVESCO, the Australian Vee Eight Supercar Company, to conduct the street car race around the Parliamentary Triangle. Chief Minister, can you confirm that a contract has now been signed between the Government or CTEC and AVESCO?

MS CARNELL: I will find out whether the contract has been signed. It is my understanding that it has, but I will find out what the date is.

MR CORBELL: I ask a supplementary question. Chief Minister, can you tell the Assembly what AVESCO's company status is? Can you confirm that the company was voluntarily deregistered by the Australian Securities and Investment Commission on 23 December last year and, if so, what the effect of that deregistration is? Chief Minister, are you further aware of an investigation by the Australian Competition and Consumer Commission into the affairs of AVESCO? Can you assure the Assembly that the company's affairs are in order and that the ACT is at no risk from its contractual dealings with AVESCO?

MS CARNELL: Mr Speaker, AVESCO, as I understand it, run the whole V8 car series right around Australia. It is a very successful entity. As I personally have not done a company search of AVESCO, I will take the question on notice.

Bruce Stadium

MR KAINE: Mr Speaker, my question, through you, is to the Chief Minister. It relates to the failed marketing campaign for Bruce Stadium. I would just like to recapitulate a few events of the last few months. First of all, Chief Minister, you stated quite unequivocally in this Assembly on 18 February of this year:

> The stadium's sales team operates on a commission basis - that is, no sale, no commission. It is quite simple … no sale, no commission.

Subsequently, on 11 March, 25 March and 21 April, I tried to elicit from you, without success as it turned out, the truth about the nature of these payments, by that stage totalling some $774,000, to Nationwide Venue Management, the former marketing contractors. Finally, on 20 May, in response to a question on notice from me, you claimed that NVM did not wish to disclose the information I sought but that the Auditor-General, as part of his major inquiry into the Bruce Stadium fiasco, would have this information disclosed to him. It is a bit odd. It will not be revealed to the Assembly but it will be revealed to the Auditor-General. That was your response. However, since then, as a result of a freedom of information discovery, I think by the Leader of the Opposition, we have now learnt that the contractors were paid at least $900,000 but raised less than $200,000. Chief Minister, during all of that period when I was trying to elicit information from you, is it not a fact that you deliberately and consistently misled this Assembly about payments to the marketing contractors by deliberately withholding information which should have been in the public domain and for which there existed no justification for the secrecy with which you cloaked it?

Mr Humphries: Mr Speaker, I raise a point of order. Mr Kaine has been around here long enough to know that if he wants to raise that issue, even in the form of a question, he needs to put it as a substantive motion.

MR KAINE: Mr Speaker, it is straightforward question. It follows from a number of questions that I have asked repeatedly over a period of months.

Mr Humphries: Mr Speaker, I believe you have ruled in the past that a question of that nature amounts to an allegation, and it should be withdrawn.

MR SPEAKER: I am afraid it does amount to an allegation. There is an allegation that the Chief Minister has deliberately misled the Assembly. If you want to rephrase it, Mr Kaine - - -

MR KAINE: To speak to that point of order: I am not making an allegation. I am asking the Chief Minister a question. Did she not? That is not an allegation. I am asking for her to reply to a question.

Mr Humphries: I understand you have ruled on this question before, Mr Speaker.

MR SPEAKER: Yes, I have.

Mr Berry: I think in the cases you have ruled on you have ruled that the accusation was made in the body of the question. This is merely a question, and the Chief Minister is quite entitled to deny it and that is the end of the matter.

MS CARNELL: Mr Speaker, if that is the question, then the answer is no.

Mr Kaine: The answer is not no. That is the answer that the Chief Minister is going to give.

MR SPEAKER: Just a moment, please. The answer has been given, Mr Kaine. If you wish to ask a supplementary question, proceed. But the fact is that the answer has been given.

Mr Humphries: Mr Kaine has just said that the answer is not no, which means he is not only asking the questions; he is now making an allegation and therefore he should withdraw.

MR SPEAKER: I find it difficult to imagine how Mr Kaine or anybody else could assume that that is not the answer, if the Chief Minister has answered no.

MR KAINE: What I am saying is that question time in this place has become a travesty, but my supplementary question is to the Chief Minister.

Mr Humphries: I have to press my point of order. Mr Kaine has asked a question in which he alleged that there was deliberate misleading of the Assembly. He then confirmed, in response to the Chief Minister's answer, that the answer she gave that she had not misled the Assembly was untrue. To say that it is untrue is directly to say that it is true that she misled the Assembly. I also point out that standing order 117(b)(iv) makes it clear that imputations are not appropriate within a question. The imputation should be withdrawn.

MR SPEAKER: Mr Kaine, the answer is given.

MR KAINE: All I am saying is that I believe it to be untrue.

MR SPEAKER: Mr Kaine, I am sure that lots of us would listen to answers to questions and I guess most members, certainly on the Opposition side, would have doubts about some of the answers given from time to time, but that is not relevant.

MR KAINE: Mr Speaker, my supplementary question is to the Chief Minister. Have you - - -

Ms Carnell: Has there been a withdrawal?

MR SPEAKER: Mr Kaine, I think I heard you withdraw, did I not? You said that that was the way you thought.

MR KAINE: I merely said that I have a belief, but if the Chief Minister is offended by it I will withdraw it. My supplementary question to the Chief Minister is: Have you yet demanded the immediate repayment of at least $700,000 of that money so that the taxpayer can at least come out square on the shonky deal?

MS CARNELL: Mr Speaker, I do not think you can allow this question. As Mr Humphries just said, it is against standing order 117, which relates to imputations in questions. "Shonky deal" is about as heavy an imputation as you would ever get.

MR SPEAKER: Yes, that is a loose term.

MR KAINE: If that is a point of order, Mr Speaker, I will speak to that one too. I cannot imagine how anybody could assert that a company that took $900,000 of taxpayers' money and returned only $200,000 was not the subject of a shonky deal. The taxpayer would reasonably think so.

MR SPEAKER: I do not know whether that is the situation or not, to be perfectly honest.

MS CARNELL: Mr Speaker, in the interests of some accuracy in this question time, I think it is appropriate to answer Mr Kaine's out-of-order questions.

MR SPEAKER: We have in the past ruled that the word "shonky" is unparliamentary.

Mr Kaine: I withdraw "shonky" and insert "questionable".

MR SPEAKER: If you withdraw "shonky", then I can allow the question.

MS CARNELL: Mr Speaker, the amount of money that had been paid to Nationwide Venue Management, acting as a subsidiary of Spotless Service Ltd, was put on the record, as Mr Kaine commented. The amount that was paid - I think even the breakdown of the amount that was paid - was given to Mr Kaine. To suggest for a moment that that information was not made available is simply not the case. In fact, that is where Mr Kaine got the figure of $770,000. It was from information I had given him, with the basic breakdown of where that was spent.

As members would be aware, the Government, Bruce Stadium Operations Pty Ltd and the Territory are very unhappy with the performance of Nationwide Venue Management, acting as a subsidiary of Spotless Services Ltd. BOPL went out to tender. It was an arm's length tender situation. Spotless Services Australia were required to do a number of things under their contract. As information that has already been made available to this Assembly would attest, they simply did not perform.

As a consequence, Bruce Operations Pty Ltd and the Territory served notice of a dispute on Spotless Services Australia on 20 September. This letter established that, under the tender, Bruce Operations Pty Ltd was in dispute with Spotless Service Australia Ltd. The dispute relates to breaches of the contract and, accordingly, no further money will be paid under the contract. Mr Kaine will be aware that the contract was a $1.8m contract, not a $900,000 contract. It is proposed that the entities enter into formal mediation in order to resolve the issues of the dispute. That is required under the contract.

Mr Stanhope asked a question on notice, question No. 176, about this matter and I provided a response recently. All of the information is on the table. We will do what any government should do and protect the interests of the Territory. When a contractor does not perform as per a contract, then this Government will enter into dispute with that contractor. I would hope that those opposite would do the same.

State of the Territory Report

MR HIRD: Mr Speaker, I give an undertaking that I will not raise Kaine. My question is to the Chief Minister, Mrs Carnell. It relates to the development of the ACT's first ever state of the Territory report. Can the Chief Minister explain why the Government has decided to produce such a report and whether it will be the first of its kind in Australia?

Mr Corbell: I raise a point of order, Mr Speaker, under standing order 117(c)(ii). This question seems to ask for an announcement of Executive policy and is out of order.

MR SPEAKER: Thank you, Mr Corbell. I am not aware whether it is Executive policy but, if it is, of course then the question is out of order.

MS CARNELL: Mr Speaker, it has been announced. Obviously, those opposite do not know about it. I think it is something that everybody would be interested in. There are very few in this place who would argue against the notion that the quality of life we enjoy in the ACT is amongst the best in Australia, possibly amongst the best in the world. For example, we have very good infrastructure, relatively high average incomes, low unemployment, good health and education systems, plenty of open green spaces to enjoy and a great environment.

Mr Stanhope: And a good football stadium.

MS CARNELL: And a great football stadium. Mr Kevin Neil from the Raiders said it was one of the great football stadiums of Australia. But are these things necessarily the best and most useful measure of the quality of life that all of us as Canberrans want to enjoy? It is a question that has been occupying my mind and the mind of the Government for some time now. It is true that what seems to make the most impact upon media commentators, certainly some politicians in this place, is the kinds of statistics that are primarily economic in nature - things like unemployment rates, state final demand, building approval figures, and new vehicle registrations, all of which are very good at the moment.

All of these indicators are useful in themselves, in that they reveal how the ACT economy is performing. But they do not help give the Government and the communities that they represent a complete picture of the overall impact of changes and the overall impact on ordinary Canberrans of policies that we make in this place. Nor do they give us much of a guide as to the other factors that are important in the lives of the people we represent - such things as our sense of health and wellbeing, our environment, the quality of the air we breathe and the water we drink, how safe we feel at home or how safe we feel when we are out and about, how active we are as a community in a recreational sense or as volunteers and how these things compare to the rest of Australia.

Those opposite obviously do not care about these issues, but these are the very issues that affect our quality of life and the quality of the city we live in, and they should be things that we as an Assembly are vitally interested in. Until now, of course, we have had no consolidated approach to how we measure these things and how we can improve on how we are performing in these areas. Until now these kinds of measures have failed to rate very highly with commentators and politicians and certainly have failed to rate very highly in debates in this place, which is exactly the reason why this Government has decided to take the bold step - and it is a bold step - of preparing an annual state of the Territory report.

It is worth pointing out that this Government has already taken the lead in developing other social projects such as the quality of life project, which is being conducted in partnership with ACTCOSS, and the poverty inquiry as well. This inquiry is expected to be completed next year and will report to this place. We would not have had to take all these steps if those opposite, in their time in government, had bothered. For all of their talk about caring, about poverty or about quality of life, none of these things were ever done. No poverty inquiry, no quality of life, no state of the Territory report. So much for the rhetoric of those opposite on caring about what this city is like to live in.

You have to laugh when you hear members of the Labor Party talking about social policy. Quite obviously, they do not have any such policies. If they did, they would not be knocking an approach that is an Australian first. State of the territory reports are not unique in a world context. Other governments around the world have already initiated annual reports of this nature, but this is a first for Australia and definitely a first for the ACT.

Mr Quinlan: Very cynical.

MS CARNELL: Mr Quinlan says this is cynical. Not at all. In fact, this is a very definite effort to have a real social policy and social direction for this Assembly. Obviously, those opposite could not care less about that, and that is in line with the approach they took in government. A steering committee which includes a representative from the community sector has already been established within the Public Service to drive the state of the Territory report, which we expect to be completed at the end of this year or early next year. The report is likely to include more than 80 indicators across health, education, the environment, housing, transport, the economy and other key areas.

While we do not expect to have it perfect in our first year of release, it will, however, enable us to set a baseline and measure any changes in the years to come. As I said earlier, it will be a genuine attempt to measure our quality of life so that we can better identify where we are heading and what steps we need to put in place to improve that quality of life for our city in the future.

There is another reason why this Government chose to go down this path. Earlier this year the Estimates Committee produced a report that claimed that there was somehow a growing social deficit in Canberra. The sad but revealing fact is that the committee failed to produce one piece of hard evidence to back up that statement. This was despite the fact that we were able to produce hard evidence that in three key social indicators -

that is, the proportion of low-income earners, wage and salary earnings and welfare dependency - the ACT easily outperformed the rest of Australia. Again, what a great example of the difference between this Government and Labor on social issues.

Mr Speaker, we believe that this is an important approach. I believe it is one that other States will follow. A state of the Territory report will give us social indicators, quality of life indicators, which we will be able to set policy around to determine the future we want for our city in a whole range of areas.

Community Care Support Services

MR WOOD: Mr Speaker, my question is to the Minister for Health and Community Care. It concerns individual support packages and individualised funding arrangements which may be made available to purchase support services for people with disabilities and also for the frail aged. Minister, could you advise how much money has recently been made available for such packages and how many people may have applied for some part of that? Could you also inform the Assembly what process has been used to allocate funds, and when any decisions on that will be announced?

MR MOORE: Thank you, Mr Wood, for the question. You may recall that in the last budget the Government allocated an additional $1m for services for people with disabilities, and additional funding of $250,000 was subsequently made available. Funding of $230,000 was allocated following the budget to fund a limited number of individual packages. In July 1999, $678,845 was issued for 16 individual packages. The department called for expressions of interest via the service provider network in the *Canberra Times*. Previous applicants, those people with applications pending, were also individually invited to apply within the process. Community Connections were engaged to assess and reassess applicants and make recommendations to the department. Fifty-eight applications were received and assessed. Four applicants withdrew because of changed circumstances, leaving 54.

The assessment process recommended funding priorities and identified alternative support mechanisms for some applicants. Packages to a cost of $1.7623m were recommended. Some individuals may have needs met through service expansion or existing services. In consultation with Community Connections, the department is assessing packaging priorities for the $230,000 available.

We are looking at a very significant unmet need in this area. Mr Wood, you would be aware that disability Ministers agreed some time ago that Australia-wide there was an unmet need of some $293m and began to tackle that. Senator Newman announced that her Government would be prepared to put in $100m over two years. In other words, they are prepared to put in a third. Ministers met by teleconference in the last couple of weeks to discuss our response to that, and a letter has been prepared. Ministers felt that they should meet to discuss it further. I offered to conduct that meeting here in late November and I have invited Senator Newman to join us, should she wish, to work out how we can further that. We recognise the unmet need and we are going some way to dealing with it.

Applications are continuing to be received by Community Connections and will be assessed periodically. The sum of $230,000 was also made available from additional budget funds for the provision of community access services. Sharing Places and

Community Options were successful tenderers for these funds. It is expected that some need identified by this process will be addressed through the additional community access services. I hope that answers your question, Mr Wood.

MR WOOD: I ask a supplementary question. Thank you, Mr Moore. I think you did answer my question, except that I am not sure whether those who have applied and been successful and unsuccessful have yet been informed in that most recent activity. Is there a date by which that will be known?

MR MOORE: Mr Wood, I will take that question on notice and get back to you as quickly as I can.

Schools

MR BERRY: My question is to the Minister for Education, Mr Stefaniak. Mr Speaker, the Minister has been urging schools to consider closing on the narrow basis of surplus space in schools. The Minister uses the word "amalgamation", but this is about closures. This is a theme that has also been seized upon by the Chief Minister. On 8 September on ABC radio the Minister estimated savings of $200,000 to $250,000 from the closure of small primary school sites. Minister, will you provide the detailed costings which led to those assumptions? I recognise that you might not have them with you. All I want is an agreement that you will give us the detailed costings which led to those assumptions. I would ask you to include in those an indication of whether this is an annual or one-off saving.

MR STEFANIAK: I thank the member for the question. I think he might have forgotten some previous debates on this issue. I think that figure was used back in 1990 or so in respect of some school closures then. That was for primary schools. For a high school I understand the figure was something more like half a million dollars. It may well be timely, Mr Berry, to see whether there might be some further costs involved. That is certainly a figure that has been used now for eight or so years. I think the P&C did some fairly detailed costings themselves and made that estimate back then, as did the then Alliance Government.

It may well be there are some additional costs. My understanding - this is the way we have always used them - is that they are the annual costs if you cease to operate on a school site. The figure is about the figure you mentioned - $200,000 to $250,000 per year. That is a recurrent cost saved each year if, for example, two primary schools amalgamated from two sites to one.

MR BERRY: I ask a supplementary question. I do not know whether I heard you say you will give us the detailed costings or not. I will ask it again. Will you give us the detailed costings? Is it not a fact that the estimate of space in schools includes the space occupied by tenants of schools and is therefore in use and not really surplus? Will you give us the details?

MR STEFANIAK: Mr Berry, I do not have any problems giving you an update of the estimated savings that occur from the closure of a site. There might be slight differences from site to site. As for the current situation, I would be happy to write an update on what has actually been used. I think you need to be a bit cautious in mentioning tenancies

and space used by tenants. You may well have some details before the committee you are on, in fact vice-chair of, in relation to tenancies in our schools. In one of your inquiries I understand the department provided you with the detail. The money that comes from those tenancies is a very significant factor. As I said earlier, I think you have a list of tenancies in particular schools.

Safe Injecting Rooms

MR RUGENDYKE: My question is to the Chief Minister. Was a motion passed at the ACT Liberal Party branch meeting last month seeking to delay the vote in the Assembly on the proposed establishment of heroin safe injecting places and instead consulting the people of the ACT by holding a referendum on the subject?

MS CARNELL: Mr Speaker, I can only be asked questions on matters I have responsibility for in the Assembly. He is out of order.

MR SPEAKER: Correct. I uphold that. The Chief Minister is not responsible - - -

Mr Osborne: I take a point of order, Mr Speaker. Perhaps Mr Moore, as a member of the Liberal Party, could answer it. I do not know whether it was his motion.

MR SPEAKER: Sit down. The question is out of order because it does not fall within the Chief Minister's portfolio.

Drug and Alcohol Counselling Service

MS TUCKER: My question is to the Minister for Health and Community Care. It relates to the accessibility of services to people who seek counselling and support for drug or alcohol use or to their family members. It is particularly about the restructure of the Drug and Alcohol Unit. I understand that prior to the restructure there was in place a duty counsellor system whereby people seeking such help could drop in to the service and see the duty counsellor the same day on four days of the week. I understand that the restructured service does away with this system as well as doing away with specific other functions such as the health promotion function of the unit. My office has received some worrying concerns about the effects of this new intake system on the accessibility of this service to people, who are often in crisis and often only open to treatment for a critical time, which is when they make their first contact. Concern has also been expressed about loss of expertise in the unit because of the new case management system where broader responsibilities are taken by individuals. My question is: Could the Minister explain how the removal of the duty system will benefit consumers? I am also particularly interested to know what the budget is for training of those individuals who in the restructured system now have different responsibility, what training is actually made available and what qualifications are required for these workers.

MR MOORE: Mr Speaker, there is a series of questions there. I will answer them in the best way I can. First of all, I think it is important to note that whenever change occurs there is always somebody who feels that some part of the change is not particularly good in some way or another, and invariably there is some truth in that. But when a change occurs, you do a cost-benefit analysis to make sure that overall you get much better service delivery for the same amount of money or within the budget that is available.

About 12 months ago we announced that the alcohol and drug service within Community Care would be undergoing significant change, and a process has been under way since then to negotiate the change, to employ new people and to restructure the program. Pertinent in people's minds at the moment would be that one key feature of the new arrangement is a single point of entry assessment and plan for consumers in the program. That particular feature started only yesterday, so there will be concern now about what we lose at the same time as we have gain.

Consumers are now assessed for eligibility and prioritised for an assessment. The categories are crisis intervention, requiring a response from straightaway to two hours; high risk of harm, requiring a 24-hour response; and risk of harm, requiring a 72-hour response. It is expected that the majority of consumers will require their assessment within 72 hours. Then there is a comprehensive assessment of the person to determine their needs and to meet those needs in a fairly structured way.

Ms Tucker, you also asked me specifically about the duty counsellor. Although I have followed the restructure, having been briefed on it on a number of occasions, I do not recall the issue of the duty counsellor. I will get back to you on that, but I presume that in setting up our new system we have a more structured approach than the duty counsellor.

Ms Tucker also raised the budget for training and staff. I do know that a series of advertisements have appeared in the paper for people appropriately qualified for the tasks at hand. I am sure that the appropriate qualifications are there.

It seems to me that in doing a restructure like this there will be a downside. Almost every time there is a downside. But the positive outcomes we get will far outweigh that downside. That is certainly what I expect to be the case. I will come back specifically to answer those parts of your question that I have not answered today.

MS TUCKER: I have a supplementary question. I look forward to receiving the more detailed answers to those questions. Minister, you said that you are hoping or you are sure that it will be an improved service. Are you at this moment keeping statistics on matters such as waiting times and access to counsellors?

MR MOORE: We are keeping statistics on waiting times. The service covers a whole range of areas. We have kept a very close eye on waiting times for methadone treatment, for example, as well as for such things as counselling. I will comment on counselling first. As I explained, Ms Tucker, the system is set up to respond within 24 hours or to respond within 72 hours. We keep records on responses and compare them. We know, for example, that this financial year there have been 131 occasions when people have failed to keep counselling appointments. We also have to pay to follow up a person who does not attend counselling. It is not being done in an ad hoc manner.

This same restructure deals with such things as how the methadone program operates. I think we had a question in the Assembly some time ago about the computer systems in the methadone program. You may have even asked the question, Ms Tucker. The computers now appear to be in place and operating. It has been quite some time since we have had a significant waiting list. In fact, our waiting list has been zero. The waiting time for appointments is dependent upon the availability of a medical officer. It is

something in the order of five days' waiting time, although there is no waiting list in the methadone program. That shows that the restructure is working already in a very effective way.

Event Management Services Contract

MR HARGREAVES: My question is to the Minister for Urban Services. Can the Minister confirm that the specifications for tender No. T99091 - - -

Ms Carnell: He knows that one.

MR HARGREAVES: Do be quiet. You are starting to bore me. Can the Minister confirm that the specifications for tender No. T99091, for the supply of event management services for Canberra's New Year's Eve festivities, contained a mandatory requirement for the successful tenderer to raise $250,000 in corporate sponsorship?

MR SMYTH: Mr Speaker, I do not have the specifications with me. I will get a copy and get back to the member.

MR HARGREAVES: That is the sort of response I expected, not the idiocy that I received before. My supplementary question is: Can the Minister say, after he has done all the research, whether that requirement, if it did in fact exist, was dropped from the contract signed by the Sydney company which won the contract, A Reserve Entertainment, and, if so, why? Was this fundamental change to tender specifications communicated to all parties who had acquired copies of the tender documentation and were considering bids? If not, why not?

Mr Humphries: How is he supposed to know if he has taken the question on notice?

MR HARGREAVES: He can be a responsible Minister and find out.

MR SMYTH: I will find out for the member.

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

Community Care Support Services

MR MOORE: I have just been given the information that I said I would provide to Mr Wood. That letter will go out tomorrow to people who definitely will not be getting funding under the ISP process and those people will be referred by Community Connections t other agencies. Thirty or so applicants identified as having very high needs will be advised by the end of this month.

STUDY TRIPS
Papers

MR SPEAKER: For the information of members, I present reports of study trips undertaken by Mr Corbell to Sydney between 18 and 20 June 1998 and by Ms Tucker to Adelaide in November 1998.

AUTHORITY TO BROADCAST PROCEEDINGS
Paper

MR SPEAKER: Pursuant to subsection 8(4) of the Legislative Assembly (Broadcasting of Proceedings) Act 1997, I present an authorisation to broadcast given to a number of television networks and radio stations in relation to the proceedings of public hearings of the Select Committee on Public Housing on 28 and 29 September 1999.

ANNUAL REPORTS - DIRECTIONS FOR 1998-99
Papers and Ministerial Statement

MS CARNELL (Chief Minister): For the information of members, I present a direction to amend the Annual Reports Directions for 1998-99 under subsections 7(2), 8(2), 8(6) and 8(7) of the Annual Reports (Government Agencies) Act 1995. I ask for leave to make a brief statement.

Leave granted.

MS CARNELL: Mr Speaker, the document I have tabled today amends the Annual Reports Directions issued in April this year. The directions set the framework for annual reporting, supplementing the statutory requirements in the Annual Reports (Government Agencies) Act. For the last two years the reports have required the inclusion of audited financial and performance statements, complementing requirements in the Financial Management Act. As members will realise, the statements and related audit opinions are a crucial part of annual reports for agencies with financial reporting obligations.

The deadlines in the Annual Reports (Government Agencies) Act are tight. This year some agencies found it difficult to complete audit requirements in time for the presentation deadline of 8 September. Unfortunately, those agencies did not realise the possibility of seeking extensions at the required time, that is, 21 days before 8 September. Rather than leave these agencies in breach of a statutory obligation, I agreed to modify the requirement in the directions to complete the audit process by the presentation deadline. This change was intended to facilitate presentations of reports, but with the expectation that the audited performance and financial statements would be included before tabling. These changes do not signify any change in the Government's commitment to comprehensive and timely reporting.

I also table a letter from the chief executive of my department and the Auditor-General. I think this letter adds some further context to the minor changes to the Annual Reports Directions tabled today. I would be interested in taking up this matter with any members who would like further information, Mr Speaker.

A.C.T. DRUG STRATEGY 1999 - *FROM HARM TO HOPE*
Paper

MS CARNELL(Chief Minister) (3.33): Mr Speaker, for the information of members, I present the ACT Drug Strategy 1999, entitled *From Harm to Hope*. I move:

That the Assembly takes note of the paper.

It is with great pleasure that I present *From Harm to Hope.* As I am sure all members will be aware, drug abuse is a complex issue and one for which there are, unfortunately, no easy answers. At the government level, we have attempted to face the complexity of the problem head on and offer a way forward. The ACT Government has a vision for Canberra as a clever, caring community. With this in mind, the Government is committed to enhancing the health, wellbeing and safety of the community. This includes reducing the harmful consequences associated with the use of all drugs.

We have called the strategy *From Harm to Hope* because we are working very hard to reduce the level of harm caused by drugs. Equally importantly, we want to give hope, both to the community and to the individuals who use drugs, that there is a better future. The health, economic, social and personal harms caused by alcohol, tobacco and other drugs are a major challenge for the ACT. The harms associated with the misuse of drugs are real and costly, both to the individual and to the community.

This strategy recognises that drugs do not just affect the individual drug user; drug use impacts on the whole community. Mr Speaker, I believe it is vitally important that the Government communicate that very clearly and demonstrate the practical steps we will be taking to tackle these issues. The specific goals of the drug strategy are to create the right kind of environment; reduce the supply of harmful drugs; reduce the demand for alcohol and other drugs; and reduce the harms to the individual and society associated with the use and misuse of alcohol and other drugs.

From Harm to Hope outlines broad directions and provides a basis for coordinated action through drawing together the various initiatives to be undertaken in the areas of health, education, law enforcement, community safety and the environment. Mr Speaker, this strategy is truly a collaborative endeavour. We would not have been able to put together such a comprehensive strategy without the enthusiastic cooperation of interested members of the public, peak bodies, consumers, and non-government and government service providers. They have all played a vital role in developing the strategy and deserve our warmest thanks.

Mr Speaker, I truly believe that this document has taken a step ahead. It has provided a new approach to handling the very complex and vexed issue of drugs, both legal and illegal, in the ACT.

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

SUBORDINATE LEGISLATION
Papers

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

The schedule read as follows:

Agents Act - Appointment of specified persons to be members of the Agents Board - Instrument Nos 231 and 232 of 1999 (No. 39, dated 29 September 1999)

Children's Services Act -

Appointment of Chairperson of the Children's Services Council until 30 June 2000 - Instrument No. 218 of 1999 (No. 36, dated 8 September 1999)

Appointments of members to the Children's Services Council until 30 June 2000 - Instruments Nos 219 and 220 of 1999 (No. 36, dated 8 September 1999)

Courts and Tribunals (Audio Visual and Audio Linking) Act 1999 - Notice of commencement (1 September 1999) of remaining provisions (No. 35, dated 1 September 1999)

Cultural Facilities Corporation Act - Appointment of Chair of the Cultural Facilities Corporation until 1 July 2002 - Instrument No. 222 of 1999 (No. 37, dated 15 September 1999)

Evidence (Amendment) Act 1999 - Notice of commencement (1 September 1999) of remaining provisions (No. 35, dated 1 September 1999)

Firearms Act - Firearms Regulations (Amendment) - Subordinate Law No. 17 of 1999 (No. 37, dated 15 September 1999)

Firearms (Amendment) Act 1999 - Notice of commencement (1 October 1999) of remaining provisions (No. 37, dated 15 September 1999)

Food Act - Food Regulations Amendment - Subordinate Law No. 18 of 1999 (S56, dated 16 September 1999)

Gungahlin Development Authority Act -

Instrument of appointment of Chairperson and Deputy Chairperson of the Gungahlin Development Authority (No. 37, dated 15 September 1999)

Instrument of appointment of members to the Gungahlin Development Authority (No. 37, dated 15 September 1999)

Health and Community Care Services Act - Determination of fees and charges - Instrument No. 230 of 1999 (No. 39, dated 29 September 1999)

Health Complaints Act - Appointment of the Community and Health Services Complaints Commissioner - Instrument No. 229 of 1999 (No. 39, dated 29 September 1999)

Independent Pricing and Regulatory Commission Act - Reference for investigation into ACTION fares under section 15 - Instrument No. 202 of 1999 (No. 35, dated 1 September 1999)

Mental Health (Treatment and Care) Act -

Appointment of Mental Health Officer - Instrument No. 199 of 1999 (No. 35, dated 1 September 1999)

Revocation of appointment of Mental Health Officers - Instruments Nos 206 to 213 of 1999 (inclusive) (No. 36, dated 8 September 1999)

Motor Traffic Act -

Motor Traffic Regulations Amendment - Subordinate Law No. 16 of 1999 (S53, dated 3 September 1999)

Drivers' Licence Fees - Instrument No. 223 of 1999 (No. 37, dated 15 September 1999)

Parking charges - Instrument No. 221 of 1999 (No. 37, dated 15 September 1999)

Vehicle Inspection Manual - Instrument No. 227 of 1999 (No. 38, dated 22 September 1999)

Motor Traffic Regulations – Declaration of declared holiday period (from Friday 1 October 1999 to Monday 4 October 1999) (inclusive) - Instrument No. 226 of 1999 (No. 38, dated 22 September 1999)

National Exhibition Centre Trust Act - Appointment of member to the National Exhibition Centre Trust - Instrument No. 217 of 1999 (No. 36, dated 8 September 1999)

Pharmacy Act - Determination of fees - Instrument No. 205 of 1999 (No. 36, dated 8 September 1999)

Public Place Names Act -

Determinations of nomenclature in the Division of Amaroo -

Instrument No. 215 of 1999 (No. 36, dated 8 September 1999)

Instrument No. 228 of 1999 (No. 38, dated 22 September 1999)

Omit one street name in the Division of Dunlop - Instrument No. 216 of 1999 (No. 36, dated 8 September 1999)

Omit one street name in the Division of Barton - Instrument No. 214 of 1999 (No. 36, dated 8 September 1999)

Public Sector Management Act - Management standards - No. 2 of 1999 (No. 36, dated 8 September 1999)

Radiation Act - Determination of Fees - Instrument No. 224 of 1999 (No. 37, dated 15 September 1999)

Roads and Public Places Act - Code of Practice for the placement of moveable signs in public places - Instrument No. 225 of 1999 (S55, dated 13 September 1999)

Taxation Administration Act - Determination of fees - Instrument No. 201 of 1999 (No. 35, dated 1 September 1999)

Water Resources Act - Determination of fees and charges - Instrument No. 204 of 1999 (No. 36, dated 8 September 1999)

ANNUAL REPORTS

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety): I present annual reports in accordance with the list circulated in my name, pursuant to section 14 of the Annual Reports (Government Agencies) Act 1995.

The list read as follows:

Chief Executives, pursuant to section 7 -

Department of Urban Services - Report (2 volumes) and annual reports for 1998-99:

ACT Planning Authority, pursuant to the Land (Planning and Environment) Act 1991

Agricultural and Veterinary Chemicals Coordination Network

Animal Welfare Authority, pursuant to the Animal Welfare Act 1992

Architects Board of the Australian Capital Territory, pursuant to the Architects Act 1959

Conservator of Flora and Fauna, pursuant to the Nature Conservation Act 1980

Bushfire Fuel Management

Electrical Licensing Board of the Australian Capital Territory, pursuant to the ACT Electricity Act 1971

Essential Services Review Committee, pursuant to the Essential Services (Continuity of Supply) Act 1992

ACT Heritage Council, pursuant to the Land (Planning and Environment) Act 1991

ACT Occupational Health and Safety Council, pursuant to the Occupational Health and Safety Act 1989

Plumbers, Drainers and Gasfitters Board of the Australian Capital Territory, pursuant to the Plumbers, Drainers and Gasfitters Board Act 1982

The Surveyors Board of the Australian Capital Territory, pursuant to the Surveyors Act 1967

The Trustees of the Canberra Public Cemeteries, including financial statements and the Auditor-General's report, pursuant to the Cemeteries Act 1933

and financial statements and Auditor-General's reports for:

Department of Urban Services

ACT Housing

ACTION

ACT Forests

Trustees of the Canberra Public Cemeteries

Nominal Insurer of the ACT

ACT Workers' Compensation Supplementation Fund

Public Authorities, pursuant to section 8 -

ACT Electoral Commission - Report for 1998-99

ACT Health and Community Care Service - Report and financial statements, including the Auditor-General's reports, for 1998-99 for:

The ACT Health and Community Care Service

The Canberra Hospital

ACT Community Care

ACTEW Corporation - Report and financial statements, including the Auditor-General's report, for 1998-99

ACTEW Corporation Subsidiary Report - Reports and financial statements, including the Auditor-General's reports for 1998-99, for:

ACTEW Energy Limited

ECOWISE Services Limited

ECOWISE Environmental Limited

ACTEW Investments Pty Ltd

ACTEW China Pty Ltd

Australian Capital Territory Registrar of Financial Institutions - Report and financial statements, including the Auditor-General's report, for 1998-99

Commissioner for the Environment - Report for 1998-99

Gungahlin Development Authority - Report and financial statements, including the Auditor-General's report, for 1998-99

Legal Aid Commission (ACT) - Report and financial statements, including the Auditor-General's report, for 1998-99

Milk Authority of the ACT - Report and financial statements, including the Auditor-General's report, for 1998-99, pursuant to subsection 59(1) of the Financial Management Act 1996

CHIEF MINISTER'S PORTFOLIO - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 10 of 1998 – Government Response and Papers

MR STEFANIAK (Minister for Education) (3.37): Mr Speaker, for the information of members, I present the Government's response to the Standing Committee for the Chief Minister's Portfolio Public Accounts Committee Report No. 19, entitled "Review of Auditor-General's Report No. 10, 1998 - Management of school repairs and maintenance". The report was presented to the Assembly on 1 July of this year. I move:

That the Assembly takes note of the papers.

Mr Speaker, I am pleased to table the Government's response to the report. I am also pleased to point out that the Auditor-General found that repair and maintenance services in government schools were provided efficiently, economically and generally effectively. Whilst the Auditor-General did not identify any significant weaknesses, he did make a number of sensible suggestions which my department is in the process of implementing.

The tenor of this favourable report card from the Auditor-General is reflected in the findings of the public accounts committee, which made three recommendations. Firstly, the committee recommended that the Government ensure that school repairs and maintenance are provided efficiently. The Government supports that recommendation. As the Auditor-General found, we are already doing so. The sensible suggestions made by the Auditor-General, which are being implemented, can only improve my department's and schools' performance in this regard.

Secondly, the committee recommended that the Government ensure that schools have the necessary resources and training to adequately manage their repairs and maintenance responsibilities. Again, the Government supports that recommendation. I refer at this point to the very favourable comments made by the Auditor-General about my department's school management manual. The Auditor-General commented that the manual was:

> ... a comprehensive and informative guide for schools. It is at least comparable to and probably superior to others seen by the audit team.

Mr Speaker, my department will continue to provide in-service training for and support to school staff in facilities management.

Thirdly, the committee recommended that the Government present a policy paper to the Assembly outlining a strategy for dealing with ageing and underutilised school facilities. The Government agrees that the issue of surplus government school capacity and declining enrolments is a strategic one for the Territory. We also think that we have done a lot to raise public awareness of the issue. I think it is now time for all Assembly members to contribute.

Mr Speaker, our response to the committee's report acknowledges the increasing cost penalty in maintaining this surplus capacity at a time when new facilities will increasingly be required in the growth area of Gungahlin. Our response points to the fact that, while enrolments have gradually declined, the number of schools in the Territory has increased. This surplus capacity, which will continue to grow as the demographics of parts of Canberra change, will attract more and more resources in the future to provide for the maintenance of bricks and mortar, and that will be at the expense of quality programs for students.

Our response outlines the measures the Government has taken to increase community awareness of the issue - in particular, the discussion paper "Maximising opportunities for education" which was released earlier this year. At the same time, the Government announced an incentives package consisting of grants of $100,000 each year for two years to any two schools which decided to amalgamate on one site. Furthermore, the Ministerial Advisory Council on Government Schooling has been considering guidelines to assist schools considering amalgamation. I have accepted its advice and will shortly release those guidelines. That will provide another focus for considering strategies for schools with declining enrolments.

Mr Speaker, it is now time for members of the Assembly to make a constructive contribution. They could, for example, consider the discussion paper "Maximising opportunities for education" and provide me with their views. I would welcome such views.

The issue at hand is the public accounts committee's report on the Auditor-General's assessment of how school repairs and maintenance are being managed, but the issue is also about how available education resources can best be used in the future. It is a significant strategic issue for the Territory and I encourage all members to inform me of their views and suggestions.

Finally, I would like to thank the committee for its contribution to this important debate. I commend the Government's response to the committee's report to the Assembly. In doing so, I table a document entitled "Maximising opportunities in ACT Government schools - Information for schools considering amalgamation", which was meant to be included in the actual response.

MR QUINLAN (3.41): I do not suppose the debate allows for a question to be asked; but, as the chairman of the public accounts committee, I just did not pick up in the Minister's presentation whether he accepted the notion of regular inspections of schools to ensure that standards are at least maintained. We can do all the positive things in relation to the schools themselves. However, the Auditor-General did observe that there were varying levels of performance in the management of maintenance within schools.

I believe that the committee recommended in the body of its report that there ought to be instituted some regular inspection by the department to ensure that at least this dimension of school-based management has not broken down in some schools. I would express concern to ensure that that recommendation is picked up so that we do not have the odd school falling into disrepair because school-based management has not worked or that a particular school just has not been able to find the resources either to oversight or to carry out any work within the school.

Question resolved in the affirmative.

URBAN SERVICES - STANDING COMMITTEE
Report on Draft Variation to the Territory Plan - Red Hill Section 56, Block 1 (Federal Golf Club)

MR HIRD (3.43): Mr Speaker, I present Report No. 31 of the Standing Committee on Urban Services, entitled "Draft Variation to the Territory Plan No. 94: Red Hill Section 56 Block 1 (Federal Golf Club)", including a dissenting report and an annexure, together with the minutes of proceedings. This report was provided to you as Speaker for circulation on 11 October this year. I move:

That the report be noted.

Mr Speaker, I am pleased to table this report, which includes a dissent from my colleague Mr Corbell. I am joined in the majority report by my colleague Mr Rugendyke. The report has taken three months to produce. It involved extensive consultation with the community, including 173 submissions from the public, a petition with 480 signatories from the golf club, and two public hearings. It also involved an inspection of the course in the company of PALM officers and golf club officials in the first instance and then, separately, with local residents.

The committee took a great deal of evidence and most of the key documents have been reproduced in a separate document tabled with this report. The document is an annexure. We have taken this course of action because it is important for the public to have access to this material.

The report comments on the diversity of issues raised by the draft variation with, in some cases, the same issue being seen completely differently by proponents and objectors. Our report gives several examples of these trends. The report contains seven recommendations, leaving aside the one dealing with a petition. Whilst most attention no doubt will be focused on the last one - that the draft variation be endorsed - I think it is very important to take the other seven into account.

We have made some important points, such as that the Government should ensure that the land off Kitchener Street in Garran remains as open space, that no further housing should be permitted on the Federal Golf Course other than the 59 units currently proposed, that the Government should ensure that no road is ever constructed to link Brereton Street in Garran to the existing access road to the golf club, and that several dams should be constructed within the club's existing boundary rather than just one big dam partly occupying land outside the golf course.

There was a lot of hysteria. I noted this morning in today's press that one person objected because she thought that there would be the removal of some very fine pine trees in this area. That shows that in some cases those involved did not have their facts completely correct. Overall, the majority report reflects the conclusion that the club has tried to minimise the impact and size of the proposed housing development - they are to be commended for that - and that, given the many precedents for this type of development and the need for the club to adjust to the new water charging regime, it is reasonable to allow the proposal to proceed.

I urge members to bear in mind that when this matter was first brought before this place there was a proposal for 150 dwellings and the membership of the club objected to it; so it was back to the drawing board. Subsequently, a number of other suggestions were put to the membership and the one before you is the one that was agreed to overwhelmingly by the membership of the club. I urge members to support the recommendations of my committee.

MR SPEAKER: Before I call Mr Corbell, I note from the committee's report as presented that the petition referred to was not referred to the committee by the Assembly. The petition was only presented to the Assembly this morning. Under our standing orders, any committee consideration of a petition should be by way of referral by the Assembly itself. I remind members that the proper procedures should be followed in these matters. Where a petition is forwarded to a committee, the petitioners should be advised of the need for a member to arrange for its presentation to the Assembly in accordance with standing orders. A motion to refer a petition to a committee can then be moved pursuant to standing order 99 if that is the course proposed. That was for the information of all members and all committees.

Mr Hird: Mr Speaker, I take a point of order. The petition was delivered to the committee, as I recall, while the house was out of session; so there was no opportunity for us to be able to bring the petition before the house.

MR SPEAKER: Never mind. It would require an amendment to standing orders to correct that.

MR Hird: How else could we do it?

MR SPEAKER: We would have to amend the standing orders, otherwise the relevant standing order has to be followed whether we are sitting or not.

MR CORBELL (3.50): As the chairman of the committee, Mr Hird, indicated in his statement, I have lodged a report dissenting to the committee's recommendations in relation to this draft variation. Mr Speaker, it is not often that I take the course of action that I have taken in relation to this draft variation. Most draft variations are dealt with in a tripartisan approach by the Urban Services Committee and often there is only a call, if there is any disagreement, for some additional comments or a small dissent in some respect of a particular inquiry. In this case, though, I would have to say that the majority report of the Standing Committee on Urban Services in relation to draft variation No. 94 is completely inadequate. I felt I had no choice but to present a dissenting report.

Mr Speaker, the proposal to allow the development of 59 dwellings on the Federal Golf Club's lease is a longstanding and contentious issue. Contrary to the comments made earlier by Mr Hird, the original proposal for 150 dwellings was not presented to this place. In fact, the previous proposal was for only 61 dwellings. There was, in fact, a proposal before that for 150 dwellings. But neither of those proposals was presented to the Assembly. Indeed, this is the first occasion on which the Assembly has been asked to consider the issue of housing on the Federal Golf Course.

The majority report of the standing committee has not given any recognition to the fundamental issues relating to the proper administration of leasehold in the ACT which this draft variation brings about, nor has it properly addressed inconsistencies with the principles of the Territory Plan highlighted during the inquiry by witnesses - or, indeed, the threats to Canberra's formal and informal open space areas which are also raised by this draft variation.

I want to comment, first of all, on the issue of the number of witnesses and the strength of public concern about this draft variation. There were 173 submissions lodged with PALM when the draft variation was first released for public consultation earlier this year. There were 408 submissions to PALM on the development application and the preliminary assessment. If I recall correctly, there were around 150 submissions to the Urban Services Committee on the draft variation itself when the committee commenced its inquiry.

On each occasion, a clear majority of those submissions on this proposal were opposed to it. But both the ACT Government and the majority of members of the Urban Services Committee have failed to respond genuinely to that level of public concern. In fact, one witness made the comment during the public hearing that the community will lose trust in the processes by which decisions are made in the Territory if this draft variation proceeds.

Mr Speaker, why would people think that? People could only think that if they felt that a government had made a commitment to reject this proposal and then had changed its mind. We had to consider that issue in relation to this committee report. It is a pity that the majority of members failed to do that. It is a pity that the majority of members failed to recognise that in 1997 the then planning Minister, Mr Humphries, made the following commitment:

> ...the Government will reject this proposal and not consider it again...

Of course, as we know, the current planning Minister, Mr Smyth, has now put forward this variation to allow this proposal to proceed. The fact that the current proposal is effectively the same - 59 residences instead of 61 - only highlights why residents generally wonder why they should continue to have faith in planning decision-making processes, yet this fact has been completely ignored by the majority report. Equally ignored by the majority report is the issue of allowing a change to a concessional lease to provide for residential purposes. That is the effect of this draft variation; that is what would occur if this variation were to proceed.

The lease is, of course, a concessional lease. The club pays $7,000 a year in rent for the land and it was, in fact, granted at a peppercorn rental. It was, of course, deemed to be in the public interest to grant the land to the club because the community believed that it was appropriate to provide a golf course in that area. But that does not mean that the club has any presumptive rights to develop the land for any other purpose. That is a right that can only be exercised by the Territory; yet this issue has been ignored by the majority report of the standing committee.

There seems to be an acceptance that because it has occurred in other instances it can occur here; yet PALM, in their advice to the committee, said that precedence was not an issue for consideration. PALM said that each planning proposal and each change to the Territory Plan is considered on a case by case basis; so there is no basis for advocating this proposal on the ground that it has occurred with regard to other concessional leases.

Equally, the issue of betterment to be charged for the development at the Federal Golf Club, should this proposal proceed, at 75 per cent, is in direct contradiction with the recommendations of the Stein inquiry, which recommended that there be no remissions for concessional lessees who propose changes to a lease purpose clause which add value to the land and which would be, for all purposes, different from the original grant. Again, there is no comment in the majority report relating to this very substantial issue of leasehold administration policy.

Mr Speaker, a range of other contradictions came out in the public hearings of the Urban Services Committee which were not in any way addressed by the majority report. I find it difficult to believe that the majority report did not at least pick up on those and seek some clarification. The first relates to the consistency of this draft variation with various principles of the Territory Plan, key principles relating to residential development and the maintenance of open space systems in the ACT. Mr Speaker, it was brought to the committee's attention that this proposal was quite inconsistent with principle 3.2 of the Territory Plan, which highlights that:

> Residential development will continue to be arranged in distinct suburbs and urban precincts, each containing appropriate commercial, community and recreation facilities.

This principle is intended to prevent development of precisely the nature proposed at Federal; yet this development would be a small, isolated residential enclave that would be inefficient to service and would rely entirely on road transportation. The draft variation document itself indicates that it would rely entirely on the private motor vehicle as its primary form of access and there would be no public transport access. That was further confirmed by the proposal's preliminary assessment, which indicated that the development would be a residential island; yet in the questioning of PALM officials in relation to whether this proposal was consistent with that principle we had a contradiction. During the first public hearing PALM officers indicated that the proposal is for "an isolated precinct in the sense that it does not have other social facilities within it". Yet in the second public hearing we were advised:

> The location of the land in relation to the wider metropolitan area is highly accessible and achieves efficiencies in terms of distances to be travelled.

That is conflicting advice on the notion of a precinct and its access, and to suggest that it is both isolated but highly accessible suggests that principle 3.2 is certainly not being interpreted in any consistent manner. Further, there was the principle of the appropriate location of higher density housing types. Principle 3.6 of the Territory Plan highlights that:

> While encouraging a wider range of housing types in all density housing will be adjacent to town centres, principal public transport routes and group and local shopping centres.

In the first public hearing PALM confirmed that the development proposal was of a high density. Yet in subsequent public hearings PALM advised that "the proposed development could not be considered high density". Here we have a direct contradiction from PALM officers who were meant to be briefing the committee on the consistency of the proposal in relation to the Territory Plan. In the first public hearing, yes, it was of high density. In the second public hearing, the proposal could not be considered to be of high density. Mr Speaker, it is of considerable concern to me that the majority report has not picked up this inconsistency and it is of even greater concern that PALM was unable to properly define the density level of the proposed development in any consistent way, let alone deal with the consistency of placing a high-density or higher density development away from public transport routes and appropriate commercial, retail and social facilities.

Finally, Mr Speaker, there is the issue of open space. It is of major concern that the majority report has not taken into account in any way the recognition and the advocacy from almost every single submission opposed to this proposal that it would impinge on an area which is seen to be part of the open space system under the Territory Plan. In fact, Mr Speaker, the Territory Plan itself says:

> In addition to the areas of land indicated on the Territory Plan as Urban Open Space there are other areas of open space in the City. These areas include the hills and ridges around Canberra, golf courses and incidental open spaces which may fall into other Land Use Policies.

Note, Mr Speaker, that golf courses are mentioned in the Territory Plan as areas of open space which complement the formal national capital open space system. In fact, PALM in evidence to the committee said that the proposal would occupy an area which could be interpreted as contributing to the intertown open space and, as such, as impacting on the separation between Canberra central and Woden.

Mr Speaker, we have PALM themselves saying that it could impact on the open space system and therefore be in contradiction to the principles of the Territory Plan. Yet the Government and PALM then go on to say that it is irrelevant to consider this particular principle and that the proposal would not have an impact on open space. Either it would or it would not, Mr Speaker, and it needs to be interpreted in some consistent way. It certainly has not been. That inconsistency, again, was not addressed in the majority report of the Urban Services Committee.

Mr Speaker, I have made a series of recommendations which are contrary to the recommendations in the majority report. The first of these is that this variation should not be endorsed, and I have outlined in detail in my dissenting report the reasons for making that recommendation. I have also recommended that the area of public land outlined in draft variation No. 94 which is proposed to be expanded by 9.2 hectares to incorporate land currently included in the restricted recreation land use policy be incorporated instead into Red Hill nature reserve because of its environmental values. It is land which the club itself acknowledges is of environmental significance and which PALM and Environment ACT recognise is of environmental significance, but propose instead simply to put in place a land management agreement. This recommendation is not dissimilar to recommendation 2 of the majority report, which recommends that such an option be explored.

Mr Speaker, I have also made the recommendation that the area of 4.7 hectares proposed for the 59 dwellings not be changed to residential and instead remain for the moment as restricted access recreation land use.

Finally, in my dissenting report I have outlined that the Government should be exploring further options for incorporating the 4.7 hectares of the north-eastern part of section 56 into the Red Hill nature reserve under clause 6(c) of the Federal Golf Club's lease so as to protect the integrity of the formal and informal open space network in the area.

It was highlighted by the committee that the Government does have the option under the golf club's lease to withdraw the land proposed for housing to make it part of the open space network which the golf club effectively makes up. To build houses on that land would fundamentally disrupt the integrity of that network. I hope that the Government will take account of these recommendations and decide not to proceed with this draft variation.

MR HIRD: I wish to exercise my rights under standing order 47, Mr Speaker.

MR SPEAKER: Proceed.

MR HIRD: I have just been informed by the Clerk that I may have inadvertently misled the house inasmuch as Mr Corbell indicated that I had said in my address to the chamber that there were to be 150 dwellings under a proposal that came before the previous parliament. In fact, that is not so. What happened was that the proposal went before a formal meeting of the members of the club and it was thrown out; so it did not go anywhere. If I did cause any undue stress to members, I do apologise, but it was not intentional. I know that my colleagues opposite would understand, particularly Mr Wood.

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

JUSTICE AND COMMUNITY SAFETY - STANDING COMMITTEE
Scrutiny Report No. 11 of 1999 and Statement

MR OSBORNE: I present Scrutiny Report No. 11 of 1999 of the Standing Committee on Justice and Community Safety performing the duties of a scrutiny of Bills and subordinate legislation committee. I ask for leave to make a brief statement on the report.

Leave granted.

MR OSBORNE: Scrutiny Report No. 11 of 1999 was circulated on 21 September 1999 when the Assembly was not sitting, pursuant to the resolution of appointment of 28 April 1998. I commend the report to the Assembly.

URBAN SERVICES - STANDING COMMITTEE
Report on National Conference of Parliamentary Public Works and Environment Committees

MR HIRD (4.07): Mr Speaker, I present Report No. 32 of the Standing Committee on Urban Services, entitled "Report on attendance of the Standing Committee on Urban Services at the National Conference of Parliamentary Public Works and Environment Committees in Hobart on 13-15 September 1999", together with a copy of extracts of the minutes of the proceedings. I move:

> That the report be noted.

Mr Speaker, the report is about the committee's attendance at the annual conference of parliamentary public works and environment committees, which was attended by the committees of the Commonwealth and all States except Victoria. The Northern Territory was represented at the conference by its environment committee. The conference was hosted this year by the Tasmanian public works committee and held in Parliament House in Hobart.

The report demonstrates the committee's accountability to this parliament. It enables members to see what we have done and to share our insights. We highlight four specific insights. First, Tasmania has a comprehensive and easily accessible database on all land-holdings in the State, called LIST. It uses the Internet, is controlled by the Tasmanian Department of Primary Industry, Water and Environment, and gives up-to-the-minute information on land titles, valuation details, property sales and the registry of deeds. Contaminated sites are also indicated. The committee recommends that the Government establish a working party to investigate the use of the LIST system in the ACT because it offers great benefits to all those needing accurate and speedy information on land details, including government officials, householders, lawyers, real estate agents and valuers.

Secondly, several of the committees attending the conference are changing the way they report to their parliaments. They are doing so for two reasons. The need to reduce operating costs is one. The second is the need to produce a large number of reports in a short timeframe. The Urban Services Committee fits the latter description perfectly.

We had 16 inquiries current at the time this report was prepared and some have tight deadlines set by this parliament. We feel that we have to do something different to cope with this pressure, so we are changing the format of our reports. We are putting out conclusions and recommendations right at the front of our reports, where they are readily visible, and we are shortening our analytical material in the body of the report. We welcome feedback on this style of reporting.

Thirdly, we point out that several public works committees are pushing the bounds of what public works committees traditionally do. They are increasingly considering environment issues as well as issues associated with whether the proposed works represent value for money. Fourthly, our report gives examples of the diverse range of inquiries being conducted by parliamentary public works and environment committees around Australia at the moment.

Finally, on behalf of my members, Mr Rugendyke and Mr Corbell, and of the secretary, Mr Rod Power, I wish to thank our host committee for their splendid hospitality. I also wish to thank the Tasmanian Governor and his wife for hosting a delightful reception for delegates at Government House in Hobart. The parliament must not forget that these types of meetings give committees such as ours the opportunity to meet members of similar committees from around Australia and, in some cases, from overseas. It is a wonderful opportunity to learn. We believe that some of the areas that I have outlined may well assist not only this committee, but also other committees in their workloads and their reporting systems. I commend the report to the house.

Question resolved in the affirmative.

URBAN SERVICES - STANDING COMMITTEE
Report on Draft Variation to the Territory Plan - Charnwood Section 96

MR HIRD (4.12): Mr Speaker, I present Report No. 33 of the Standing Committee on Urban Services, entitled "Draft Variation to the Territory Plan No. 116 relating to Charnwood section 96", together with a copy of the extracts of the minutes of proceedings. This report was provided to you as Speaker for circulation on 29 September this year. I move:

> That the report be noted.

Mr Speaker, the draft variation proposes to vary the Territory Plan by changing the current boundaries of the residential and urban open space land use policy areas and adding a defined land overlay. This will facilitate redesign of the subdivision's original Radburn planning. The committee obtained copies of, and took into account, three submissions to PALM in April-May of this year. On 24 September of this year, the committee conducted a public hearing in relation to this matter. Officers of PALM briefed the committee. No member of the public asked to address the committee on this subject. On 28 September 1999, the committee deliberated in private and resolved on the recommendation outlined in this report. I commend the report to the house.

Question resolved in the affirmative.

LAND (PLANNING AND ENVIRONMENT) ACT – VARIATIONS NOS 94 AND 116 TO THE TERRITORY PLAN
Papers and Ministerial Statement

MR SMYTH (Minister for Urban Services): Mr Speaker, for the information of members, pursuant to section 29 of the Land (Planning and Environment) Act 1991, I present variation No. 94 to the Territory Plan, relating to Red Hill section 56, block 1, better known as the Federal Golf Club, and variation No. 116 to the Territory Plan, relating to Charnwood section 96. In accordance with the provisions of the Act, these variations are tabled with background papers, a copy of the summaries and reports, and a copy of any direction or report required. I ask for leave to make a statement.

Leave granted.

MR SMYTH: Mr Speaker, variation No. 116 to the Territory Plan proposes to change the current boundaries of the residential and urban open space land use policy areas and add a defined area overlay to enable ACT Housing to undertake property improvements and subdivision redesign to vary the original Radburn planning concept. The site was originally developed in 1982 and consists of 47 detached two-, three- and four-bedroom dwellings, three aged persons units, one special eight-bedroom dwelling, and one undeveloped residential block which was levelled after a fire destroyed the home in 1994. All but one of the blocks are leased by ACT Housing. ACT Housing is now proposing to undertake improvements to its housing stock and to rationalise its property holdings.

In general, the development proposal includes enhancement of the front entrances of dwellings to provide a conventional presentation to the street; where possible, relocation of car accommodation to behind a dwelling rather than abutting the street; relocation of service ports to areas behind the dwellings; and rationalisation of the use and security of backyards.

Mr Speaker, the Standing Committee on Urban Services considered the draft variation and in Report No. 33 of 28 September 1999 endorsed the variation. I would thank the committee yet again for their work. Report No. 33 for this year is a tremendous effort on behalf of the committee. The chairman and his members get through a tremendous amount of work and they are to be congratulated for it. I table variation No. 116 to the Territory Plan for Charnwood section 96.

Mr Speaker, variation No. 94 to the Territory Plan proposes to allow the development of 59 dwellings on a 4.7-hectare site within the Federal Golf Club's lease on block 1, section 56, Red Hill, and expand the area of public land nature reserve by 9.2 hectares to incorporate land currently included in the restricted access recreation land use policy. The draft variation was released for public comment on 12 March 1999, with the closing date for comment being 27 April 1999.

There were 173 submissions received on this variation, including one from the Federal Golf Club containing a petition including 399 signatures. The Standing Committee on Urban Services considered the draft variation and, in Report No. 31 of October 1999, endorsed the variation on a majority decision and made seven other recommendations.

Mr Speaker, it is noted that this recommendation was made on a 2:1 decision of the committee. Mr Corbell considers that the draft variation should not go ahead, and I noted his words previously forewarning his disallowance motion for the notice paper.

I turn to the Government's response to the committee's seven other recommendations. Recommendation 1 reads:

> The committee recommends that the Legislative Assembly note the petition from the Federal Golf Club that is addressed to the Speaker and Members of the Assembly and which was tabled at the public hearing conducted by the Standing Committee on Urban Services on 3 September 1999.

The Government notes the committee's recommendation to the Assembly. Recommendation 2 reads:

> The Committee recommends that before making a decision on the draft Variation, the government carefully re-examine the proposed arrangements for managing the 9.2 hectares of environmentally significant land to be designated as Public Land (Nature Reserve). While accepting that the proposed arrangements give greater protection to the land than currently exists, the committee considers that the government should assess whether the area deserves the even greater protection offered by incorporating it into Red Hill Reserve.

Mr Speaker, the Government intends to incorporate the 9.2 hectares of environmentally sensitive land into the Red Hill nature reserve and will enter into negotiations with the Federal Golf Club about the management of that area. The third recommendation reads:

> The committee recommends that the Urban Open Space land off Kitchener Street, Garran - at the south-western boundary of the Federal Golf Club (Section 10 Block 74, Garran) remain as Urban Open Space.

The land use policy in the Territory Plan for this area is urban open space. Any changes to this policy would require a draft variation with public consultation, consideration by the Urban Services Committee and tabling in the Assembly. The Government is not considering any variation for this area. The fourth recommendation reads:

> The committee recommends that, whatever the outcome of the present draft Variation process, further housing on the Federal Golf Course should not be permitted.

That is noted. The Government notes that the revised land use policies applying to the area would not permit further housing on Federal Golf Course. Again, any change to this policy would require a draft variation with public consultation, consideration by the Urban Services Committee and tabling in the Assembly. Recommendation 5 reads:

> The committee recommends that, should the draft Variation be endorsed by the government, the Federal Golf Club indemnify the Territory against any possible accidents that may arise from wayward golf balls in the area set aside for housing.

Again, Mr Speaker, this recommendation is noted. It is proposed that the assessment of the development application will address the safety issues associated with wayward golf balls, firstly, by designing to minimise the risk and, secondly, by the golf club indemnifying the Territory against any claim. Mr Speaker, the sixth recommendation reads:

> The committee recommends that the government institute appropriate planning actions to ensure that a road is not constructed linking Brereton Street, Garran, and the present access road to the Federal Golf Club off Red Hill Drive.

Mr Speaker, again this is noted. The construction of such a link from Brereton Street to Red Hill Lane would need to pass through a designated area on the National Capital Plan, and would require approval from the National Capital Authority. The Government does not propose to pursue the possibility of such a link with the National Capital Authority. Finally, Mr Speaker:

> The committee recommends that all dams for the Federal Golf Course be located within the Club's boundary; and that a series of dams of moderate wall height replace the single large dam once envisaged on land near existing houses.

Again, this recommendation is noted. The Government supports the objective of this recommendation and will address the issue through the assessment of the development application for the proposed dams.

As I mentioned earlier, Mr Corbell did not endorse the variation and submitted a minority dissenting report raising two principles of concern: Firstly, the appropriateness of allowing a change to a concessional lease to provide for residential purposes and associated issues and, secondly, consistency with the principles of the Territory Plan and maintenance of Canberra's formal and informal open space system. Mr Speaker, the first issue is one which relates to the legislation rather than the Territory Plan and it is not considered appropriate for it to be used as a means of delaying or rejecting a proposal which is considered to be reasonable under the terms of the Territory Plan.

The second issue raised by Mr Corbell really distils down to being a matter of interpretation. His view is that the proposal is not consistent with the principles of the Territory Plan. PALM, on the other hand, presented its view that the proposal is consistent with the principles of the Territory Plan. The committee, in endorsing the draft variation, chose to accept PALM's interpretation rather than that of Mr Corbell.

Mr Speaker, I now table variation No. 94 to the Territory Plan relating to the Federal Golf Club.

GAMBLING LEGISLATION AMENDMENT BILL 1999

Debate resumed from 22 August 1999, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR QUINLAN (4.22): Mr Speaker, the Opposition does not have any great problem with this Bill. It is generally a tidy-up of provisions relating to gambling and gambling venues in the ACT, including the suitability of casino licensees, control over the sale of the casino, disciplinary action that might be taken, ranging from censure to cancellation of a licence, the grounds for disciplinary action, directions to the casino on operations in terms of layout and maintenance so that we do not have a total dive in the ACT, times of operation and the exclusion of people. It also relates to the provision of gaming machines and changes governing approved suppliers, technicians and attendants. The good news for the Government is that, as a function of this legislation, they get to keep unclaimed jackpots.

Mr Smyth: It is good news for the community.

MR QUINLAN: It is good news for the Government, as I said. It also embraces some necessary provisions for interactive gambling. While I am on my feet, I am aware that Ms Tucker intends to move some amendments which effectively relate to one of the provisions about disciplinary action and adherence to codes of practice which have already been debated and approved within this Assembly in relation to previous gambling legislation in the last sitting. I give notice that we have no problem with those amendments either. So, basically, we are nice guys all round. Thank you, Mr Speaker.

MS TUCKER (4.24): The Greens are also supporting this legislation. It is relatively straightforward. It tightens up some of the conditions for the casino and gaming machine and internet gambling licences. These conditions seem appropriate, given the nature of gambling industries and the need for strong regulatory controls on how each industry conducts its business.

I support the new disciplinary powers of the commission proposed for the Casino Control Act and the Gaming Machine Act. These new provisions are an improvement on the old all or nothing disciplinary provisions. Under the old regime, regulators had a limited range of tools with which to discipline gambling licensees. They could either suspend or cancel a licence, depending on the extent of the licence breach. Under the Government's proposed amendments, the commission has a greater spread of tools to discipline licensees, ranging from the issuing of censures, varying licence conditions and fines to full-blown licence cancellation, depending on the seriousness of a licence breach.

This leads me to the amendments I am proposing today. My amendments to the Gambling Legislation Amendment Bill flow directly from the functions and responsibilities of the newly established Gambling and Racing Control Commission. As members will recall, the new Gambling and Racing Control Act requires the Gambling and Racing Control Commission to perform its function "in a way that best promotes the public interest", including, as far as practicable, promoting consumer protection, minimising the risks and costs to the community and to individuals of problem gambling.

As this Assembly has heard before, problem gambling is a major issue of concern to the Australian community. As a result of Greens' amendments supported in the last sitting period, the new Gambling and Racing Control Commission can mitigate against negative social effects of gambling and of problem gambling in a number of ways.

The amendments to the Government's Bill that I am proposing today relate to the commission's powers to develop and review codes of practice to apply to the licensees which deal with the social effects of gambling and to make recommendations to the Minister for appropriate regulations describing these codes of practice. My amendments come out of the unanimous recommendations of the Assembly's Select Committee on Gambling in the ACT and also the key findings of the Productivity Commission's draft report into Australia's gambling industry.

The select committee said that it believed that the club industry in particular "can and should do more in implementing responsible gambling practices". The select committee recommended unanimously that the currently voluntary code, entitled "Responsible Gaming; a Voluntary Code of Practice for the ACT", be replaced with a mandatory enforceable code of practice for responsible gambling. This recommendation came out of information presented to the select committee that the voluntary code of practice for the ACT club industry in particular was not being enforced, according to agencies such as Lifeline, and in fact was subject to breaches, according to other submissions presented. The select committee also heard advice from gambling experts such as Professor Jan McMillan from the Australian Institute of Gambling Research that if gambling industry codes of practice are to work they should be mandatory.

The Productivity Commission's draft report also stated in its key findings that "existing regulatory arrangements are inadequate to ensure the informed consent of consumers, or to ameliorate the risks of problem gambling". The Productivity Commission argued:

> The principle of informed consent should apply with particular force to the gambling industries, given the potential for consumer losses. The Productivity Commission found a lack of even basic information about the price and nature of some gambling products, let alone the dangers from "excessive consumption". Effective consumer protection measures are needed in a number of areas.

The Productivity Commission also noted deficiencies in the control of advertising, the availability of ATMs and credit, and self-exclusion arrangements. The Productivity Commission went on to say in its key findings that "self regulatory approaches are unlikely to be as effective as explicit regulatory requirements". So the new Gambling and Racing Control Commission's powers to develop and review codes of practice to apply to the licensees and to make recommendations to the Minister provide one means to address the social effects of gambling and of problem gambling.

Just to remind members, these codes of practice as prescribed in the Act may include, but are not limited to, guidelines about advertising, promotional practices and the offering of inducements; providing objective and accurate information about losing and winning; limiting facilities that make it easy for a gambler to spend more than he or she originally intended, such as automatic teller machines, credit facilities and allowing persons to pay

by cheque or credit card; providing mechanisms to allow problem gamblers to exclude themselves using a licensee's facilities for gambling; training staff to recognise and deal appropriately with people who are problem gamblers or who are at risk; and developing methods of dealing with staff or clients who are problem gamblers or who are at risk.

I am reminding the Assembly of these provisions within the new commission Act because, as I have said, my amendments follow directly from the powers of the commission to develop and to review these codes of practice. Under my amendments the casino licensee and the gaming machine and interactive gambling licensees are required to comply with codes of practice developed by the commission. In addition to requiring licensees to comply with the relevant code of practice affecting their gambling industry, my amendments also make a breach of the code of practice for those licensed under the Casino Control Act and the Gaming Machine Act grounds for disciplinary action. The parliamentary drafter has advised me that these provisions already exist within the Interactive Gambling Act, so I have not provided amendments to this effect.

My amendments will ensure that gambling providers comply with basic consumer protection requirements, requirements that are fundamental to many other industries. In tandem with the Government's amendments which specify a broader range of disciplinary tools open to the commission for breaches of licences, my amendments will ensure that if gambling providers do not comply with basic consumer protection requirements, as specified in the codes of practice to be developed by the commission, those gambling providers will be subject to disciplinary action.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.30), in reply: Mr Speaker, I want to thank members for their support for this legislation. It does take to the next stage a comprehensive review of gambling-related legislation in the ACT and follows hot on the heels of legislation passed recently to establish the Gambling and Racing Control Commission. One of the earliest tasks of that commission that the Assembly has now established will be to undertake a comprehensive review of all gambling and racing legislation in the ACT. In doing so I think it is important that we give the commission the powers to administer the Acts which are amended by this piece of legislation and to rectify operational shortcomings identified in those three Acts.

The three Acts are the Casino Control Act 1988, the Gaming Machine Act 1970 and the Interactive Gambling Act 1988. The Gaming Machine Act and the Casino Control Act are over a decade old. Many changes have occurred in the nature of gambling, particularly with respect to the application of new technology in that time, and, not surprisingly, there are a large number of things that need to be amended to pick up changes in the way that the legislation operates.

It is also important, however, to ensure that we enhance the commission's capacity to undertake its wider review of racing and gambling and its effects in the community, to focus its attention on the mechanics of gambling phenomena and the way in which gambling interacts on our community, and to remove the number of times it is having to attend to technical shortcomings and deficiencies in the legislation. That is basically what this legislation now does. I thank members for supporting it. I believe there will be a significant exercise before the commission, but I look forward to it being able to

produce evidence and information of value to the Assembly as a whole and to the community to ensure that we do carry forward a process of review of the way in which gambling impacts on our community.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 14, by leave, taken together and agreed to.

Proposed new clause 14A

MS TUCKER (4.33): I move:

> Page 8, line 24, insert:
> **"14A Insertion**
> After section 45 the following section is inserted:
>
> '45A **Casino licensee must comply with code of practice**
>
> The casino licensee must comply with the relevant code of practice (if any) prescribed under the *Gambling and Racing Control Act 1999*.'.".

This amendment requires the casino licensee to comply with the relevant code of practice, if any, prescribed under the Gaming and Racing Control Act 1999. The Government's amendments to the Casino Control Act in section 48B(b) make a breach of this provision a ground for disciplinary action.

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.34): Mr Speaker, the Government does not oppose any of the amendments which Ms Tucker is moving, although my advice is that they actually are not necessary. Casino licensees will be subject to the provisions of relevant codes in any case by force of the Gambling and Racing Control Act. The power to vary conditions of a licence referred to in other amendments moved here contains within it the concept of imposing conditions, which is what Ms Tucker seeks to add. However, I do not think it does any significant damage to the legislation, so I do not indicate any opposition to it.

Amendment agreed to.

Clause 15

MR HUMPHRIES (Treasurer, Attorney-General and Minister for Justice and Community Safety) (4.35): Mr Speaker, I move the amendment circulated in my name and I present the supplementary explanatory memorandum. The amendment reads as follows:

Page 8, line 26, insert ", 48A" after "Sections 48".

Mr Speaker, the amendment merely rectifies a minor oversight in the original Bill. The amendment repeals section 48A of the Casino Control Act 1998. A new section 48A is proposed in the Bill in any case.

Amendment agreed to.

MS TUCKER (4.36): I move amendment No. 2 circulated in my name. The amendment reads as follows:

Page 8, line 33, proposed new paragraph 48 (1) (b), omit the paragraph, substitute the following paragraph:

"(b) impose conditions on, or vary the conditions of, the licence;".

Mr Humphries: Kerrie, we can do all the amendments at the one time. There is no opposition to them.

MS TUCKER: Okay. I seek leave to move all my amendments in one block.

MR SPEAKER: Excuse me; first, we will finish dealing with clause 15.

MS TUCKER: Okay. I will not speak to it if everyone is agreed. Just let us call us a vote.

Amendment agreed to.

Clause 15, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole.

MS TUCKER (4.37): I seek leave to move my remaining amendments together.

Leave granted.

MS TUCKER: I move:

New clause -
Page 26, line 6, after clause 38 insert the following new clause in the Bill :
"**38A Insertion**
After section 20 the following section is inserted in Division 1 of Part 4:
'21 **Licensee must comply with code of practice**
A licensee must comply with the relevant code of practice (if any) prescribed under the Control Act.'.".

Amendment -
Clause 42, page 27, line 18, proposed new paragraph 24 (1) (b), omit the paragraph, substitute the following paragraph:
"(b) impose conditions on, or vary the conditions of, the licence;".

New clause -
Page 44, line 11, after clause 71, insert the following new clause in the Bill:
"**71A Insertion**
After clause 31 the following section is inserted:
'31A **Licensed provider must comply with code of practice**
A licensed provider must comply with the relevant code of practice (if any) prescribed under the Control Act.'.".

Amendments agreed to.

Remainder of Bill, as a whole, agreed to.

Bill, as amended, agreed to.

QUESTIONS WITHOUT NOTICE
Supercar Race

MS CARNELL: Mr Speaker, I seek leave to provide some information on a question that was asked in question time.

Leave granted.

MS CARNELL: Earlier today Mr Corbell asked me three questions relating to the company AVESCO and its relationship with the Canberra Tourism and Events Corporation in staging the V8 supercar race in the ACT. I can provide the following information in response to Mr Corbell's question. Firstly, a contract has not been signed between CTEC and AVESCO, although I understand that negotiations are nearing completion.

More importantly, Mr Corbell drew the attention of the Assembly to an investigation of AVESCO by the Australian Competition and Consumer Commission and then cast doubts on whether AVESCO was registered as a company. For the information of members I table the company registration of AVESCO. It is very definitely registered. They have put in their company returns on time and done all the right things. I think it is appropriate that Mr Corbell check his facts before he makes - - -

Mr Stanhope: When was it deregistered?

MS CARNELL: It has not ever been deregistered.

Mr Stanhope: Hasn't it?

MS CARNELL: No, certainly not since 1997, when it was first registered. The ACCC put out a press release today titled "A.C.C.C. ends Australia Vee Eight Supercar Company Investigation". It suggests that the Australian Vee Eight Supercar Company, the controlling body of V8 supercar motor racing events in Australia, has not contravened the Trade Practices Act 1974. I table that for the interest of members. I also table a couple of articles from *Auto Action* and *Motor Sport News* which also run through the issues surrounding the ACCC investigation.

It would appear that the ACCC investigation was to do with two rival V8 entities having, shall we say, some differences of opinion. But the ACCC has found that AVESCO has not in any way contravened the Trade Practices Act. AVESCO is registered, and I think that Mr Corbell should use this opportunity to withdraw any innuendos or any comments that he may have made in this place with regard to AVESCO. Comments about the financial status of the company, its registration and investigations were obviously incorrect, and I think Mr Corbell should withdraw them.

TOBACCO (AMENDMENT) BILL 1999

Debate resumed from 2 September 1999, on motion by **Mr Moore**:

That this Bill be agreed to in principle.

MR RUGENDYKE (4.41): Mr Speaker, the initial version of this Bill caused great problems for me. The intention of the Bill, to reduce smoking and the health problems caused by smoking, was commendable. But the execution of that Bill was certainly lacking. I am pleased that the Health Minister has been willing to compromise and alter elements of that Bill that would have served only as an inappropriate burden on small business.

I am not a smoker, nor am I an advocate of smoking, but I do believe in fair and reasonable terms. The bottom line is that tobacco is a legal product. I do not agree with endorsing means of attacking legitimate small businesses for selling a legal product. If the product was illegal, it would be a different story.

The stringent reforms originally proposed were impossible to take, particularly when you consider that Mr Moore is the same person promoting a soft approach to the smoking of cannabis. On the one hand he has a prohibitionist attitude towards tobacco, and on the other hand he is trying to make other drugs more freely available. This appears to me to be a double standard.

It is not fair to target small businesses when there is no apparent attempt to curb the tobacco black market, which is thriving and certainly does require attention. For example, why is it possible for tobacco shops to sell cigarette tubes - that is, cigarettes without the tobacco? They are clearly sold for the purpose of filling them with black market tobacco.

I am pleased that there has been room for negotiation and for amending the legislation to ensure it is manageable for small business. I must also put on the record that I would like to see the aim of reducing smoking, particularly among our young people, achieved. I will be monitoring the figures to see how effective these point-of-sale restrictions are in achieving this aim in the future.

There is one amendment that I propose to make to this legislation. It has been circulated to members It relates to the number of stack dispenser facings that can be displayed for a single product line. Mr Moore's Bill proposes one facing for each product line. I propose that for a maximum of two products two stack dispenser facings be permitted. I have drafted this amendment to accommodate the security and safety measures for small businesses that would come into question with their fast-moving lines of stock. Businesses such as service stations, which are regular targets of robberies, will have to drop their guard continually to refill the stock of their fast-moving lines, even if they only have to bend down to reach below the counter to pick up stock. That is enough time for an undesirable thief to seize the moment and put the staff member in danger.

I understand that in New South Wales two is the number of facings allowable in their tobacco regulations. These regulations are in operation just across the border. Allowing retailers to display two packs of their two highest turnover stock items will reduce the number of times that staff have to turn their back on customers and will thus reduce the security problems for both staff and stock.

MR MOORE (Minister for Health and Community Care) (4.46), in reply: Thank you, members, for your response to the Bill, both now and at the previous sitting. Before I make general remarks, I would like to explain once again, particularly for Mr Rugendyke, the consistency of our position. Mr Rugendyke, if you care to read *From Harm to Hope*, you will see that the Government has a very consistent position on the way it deals with drugs, whether they are legal or illegal products. Do not forget, Mr Rugendyke, that there are other legal products that we put severe restrictions on. One of those is cocaine. It is legal to use cocaine under prescription and dispensed through pharmacies. We have very strict conditions on how that is sold. It is a very useful drug, as indeed are morphine, diazapines and amphetamines. They all fit into this category. They are legal products but we put very stringent restrictions on their advertising and display. So stringent are the conditions that these drugs must be held in safes. It is nothing out of the ordinary for this particular drug, tobacco, to have restrictions put on it. It is a normal process. Our approach to these drugs and other drugs is consistent in that in every single thing we do we seek to reduce the use and to reduce the harm associated with them. That is why our document *From Harm to Hope* is so pertinent in this area.

It is a privilege for me to stand up here and deal with my responsibilities in this area. Tobacco use is the single greatest cause of premature death and preventable disease in this country. More than 18,000 Australians die every year because of tobacco use, and countless others have their quality of life severely diminished because of smoking-related diseases and conditions.

When I put up legislation such as this, people say to me, "But you might put somebody out of a job". The people I would like to put out of a job are the people who work in my own department, the oncologists, the oncological nurses and those people who treat cancer. I would like to be able to put them out of a job, because I would like to reduce

the misery and death. If in doing that we also manage to reduce tobacco smoking so much that some retailers have to find other things to sell if their work is not to disappear from around them, that is a minor consequence compared to 18,000 deaths and to the incredible suffering that occurs.

The significant burden that tobacco imposes on our health care system represents abnormal personal and social costs which are borne not only by the community but also by individual families. I know all members agree with that. There are now more ex-smokers than current smokers in Australia. I think that is a fantastic achievement. Most people who do smoke would like to quit. Smokers and non-smokers alike are dismayed and outraged when they perceive that not enough is being done to discourage children in particular from smoking. I know all members agree with that.

The ACT, together with other States and Territories, has endorsed the new national tobacco strategy. The national strategy emphasises the approach that this Territory has long taken, a comprehensive approach encompassing measures aimed at both reducing demand and controlling supply. The approach also fits within the harm minimisation framework and characterises our sensible and realistic approach to licit and illicit drugs.

Harm minimisation accommodates a range of strategies which need to be considered in terms of various factors. These include the legal status of the drug, the personal and social context of its use, the health risks to the individual, the nature and extent of the effects on the wider community, and the realistic options for reducing the harms. This means that there will be different responses to different types of drugs.

It should be a matter of pride for every member of this Assembly that throughout the years and throughout the various governments the ACT's leadership in tobacco control has been acknowledged by health organisations and by other States and Territories. It started with Wayne Berry when he was the Health Minister and continued through Mr Humphries, Wayne Berry again and Mrs Carnell. Now I am delighted to have the privilege to be able to lead the Territory on this particular issue. But it is, and has always been, a shared issue in this Assembly, except of course for the dissenting voice of Dennis Stevenson, who so often made a point of taking a position at odds with the prevailing views of the Assembly.

I believe that all quarters of this chamber welcome initiatives designed to reduce the harm associated with the use and exposure of tobacco products. Of course there will always be some minor issues on which we have slight differences of opinion. But the overall thrust of what is occurring in this Assembly has always been within that context. It would be a shame if the present opportunity to continue public health leadership ever went back to the Stevenson era. We have to be careful to ensure that does not happen.

In addition to multiparty support in this Assembly, there has been strong community support for tobacco control measures It is important to acknowledge and build on that support now. The ACT's smoke-free areas Act, which has gradually extended smoke-free environments to a range of enclosed public places over the past five years, has received strong support from customers and from proprietors alike. There are constant stories about the surprise and disbelief of ACT residents when they travel interstate or, even worse, overseas and are forced to breathe other people's smoke in

restaurants, shopping centres and hotel lobbies. Although several jurisdictions have recently taken action to protect people from tobacco smoke, this protection is still a long way from being systematic and universal throughout Australia.

It is all too easy to take our achievements for granted. In the years ahead our children will be amazed to learn that people were not always expected to find a special smoking area or to step outside of a workplace or public place when they wanted to smoke. I will relate an event that occurred recently. A long-term friend reminded me how I had asked her not to smoke in my motor vehicle and how shocked she was at the time. I am talking about the early 1970s. Look at the attitude of people now. No smoker I know would dream of smoking in somebody's car without first asking. They probably would not even ask, I would imagine.

I expect that in the years ahead our children will also have to think hard to remember that supermarkets, petrol stations and other retail outlets were once festooned in tobacco advertising, including giant mock-up cigarette packets, stacks of colourful cartons taking up entire windows, cigarette brand banners draped from the ceiling, cardboard racing cars with cigarette brand logos in the window, posters of long sandy beaches and women's legs and cute little dogs, perspex display cases with mock-ups of cool, fresh-looking snow-covered mountains, and row after row of in-your-face cigarette packets not only behind the counter but above it, on top of it, inside it and in front of it.

This legislation is designed to reduce children's exposure to tobacco products and to tobacco product advertising and promotion. It is also designed to make it much more difficult for children to obtain tobacco products, and it emphasises the responsibilities that tobacco retailers have if they choose to sell tobacco products. The proof of age requirements are a particularly important element of this legislation. Tied into the tobacco licensing system, these requirements will ensure that responsible retailers will be supported in their compliance measures. Non-complying retailers will face the prospect of having their tobacco licence suspended or revoked.

Research has shown that denormalising the use of tobacco products and reducing children's exposure to tobacco advertising and promotion are crucial in reducing the likelihood of children taking up smoking. Without these things, health messages from parents and educators can be easily undermined by what children see around them. The proposed legislation does not prevent adult purchasers from being given the product and price information they need to make a tobacco purchase.

This legislation is eminently reasonable and timely. These provisions have been developed as a result of extensive consultation with health groups, business groups and other States and Territories, and I am confident they will be practicable, workable and effective.

Several issues have been raised with respect to whether the Government's proposed approach will do what they have set out to do in a reasonable, practical and effective way. I would like to comment briefly about some of those issues. First, given that this is tobacco control legislation, there is nothing startling in the claim that health groups say the legislation does not go far enough and that the tobacco lobby, particularly the retailers, say it goes too far. This is reminiscent of the debate over the smoke-free areas Act, when health interests favoured a complete and immediate ban on smoking in all

indoor environments and hospitality industry groups wanted no legislation at all. Total agreement on such legislation is unlikely, which means that the Government must chart a course which it believes is most likely to lead to the achievement of public health objectives, without imposing unjustifiable costs on the community or on certain sectors of it. This is precisely our intention with this legislation.

The second issue concerns enforcement. Reference has been made to comments on the Bill by the scrutiny of Bills committee. The Government's responses to the committee's two reports provide explanations of the approach taken in the proposed legislation. Where warranted, we accept the changes proposed by the committee. Additionally, Mr Stanhope has proposed some amendments in this area, and the Government is prepared to accept them.

The Government's response emphasised the need for legislation to be in force which requires authorised officers to have certain powers. However, following concerns raised by the committee, the amendments now stipulate that an authorised officer may request a person in a public place with regard to an alleged offence only if that person gives his or her consent. There does appear to have been some misunderstanding about what the legislation proposes in respect of the powers of authorised officers. The legislation says that the specific powers it grants to authorised officers who are police officers are additional to the powers they possess as police officers. Authorised officers who are public health officers do not have police powers, only the powers granted to them by this legislation. Far from being untrained public servants, the health officers to be authorised under these provisions are environmental health officers and similar professional officers who also exercise a range of powers as authorised officers and inspectors under health legislation. This is health legislation, and public health officers carry the primary responsibility for monitoring and enforcement. This will be impossible without the basic powers set out in the proposed legislation.

I am also concerned that certain members have termed breaches of the Tobacco Act minor offences and petty transgressions with no identifiable victims. I believe the community takes a decidedly dim view of people who illegally sell to children a product which, when used as they intend, is likely, at least in the long term, to kill them. In public health terms these are significant breaches of the law and under legislation to be introduced later this year will also constitute grounds for suspension or revocation of a tobacco retail licence.

The third issue is a question of costs. Specifically, allegations have been made that compliance with the proposed product display provisions will be costly for businesses. Most types of changes do involve costs. The process of change means that we need to adjust to a new way of doing things. There are usually costs inherent in this. In this case experience suggests that predictions of dire economic consequences may be greatly exaggerated. Just as certain hospitality industry groups predicted the demise of the local hospitality and tourism industries as a result of the smoke-free areas Act which was passed in 1994, we are now asked to believe that the present legislation will result not only in grave damage to small business but also in an increase in criminal activity. Perhaps groups who support tobacco distribution have cried wolf once too often.

The costs involved in complying with these provisions are minimal. We believe that the cost estimates suggested by some retailers are overestimates that may be based on substantial refits which are not required by the legislation, although retailers may wish to do them. The requirements are only that the products must be located behind the counter, at least a metre from the customer service counter, which is already the case in many, if not most, retail outlets and that only one facing of each pack of each product line be displayed. The tops and sides of other packs may be visible behind the facing pack where these are angled away from the customer. This recognises how displays work in the current system.

The provision limiting the display of cigars may impose costs in relation to humidors, depending on the number and location of the cigars to be displayed. There is nothing in the provision which limits where products can be stored or which limits employee access to the stock. Overhead units may still be used for product storage. There is no limit on the number of pack facings that may face the employee's side of the same counter.

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 MOORE: Glass display cases below customer service counters may also be used to store the products in the same way they are now, except that the products must not be publicly displayed. Retailers seeking to make efficient use of display space will have a number of options, depending on the arrangement in that outlet. Shopfitters will only provide quotes based on plans, and we are yet to see any plans prepared for any retail outlet which involves doing what is necessary to comply with the proposed requirements.

There is evidence of a range of lucrative arrangements between tobacco companies and tobacco retailers in relation to support for various tobacco marketing schemes. It may be that the costs that worry retailers are the losses they will experience when certain advertising promotional practices are no longer permitted. *(Extension of time granted)* Tobacco retailers have given health groups information about payments they have received to display particular promotional items in their shops. I do not think it is an unusual process in retailing.

Health groups have also been informed that tobacco companies offer free cigarettes and tobacco packs with promotional items to retailers to display cigarette packets and other materials in shop windows or on the counter. Payments by tobacco companies to retailers have been alluded to in industry magazines, and it was recently revealed that in New Zealand a tobacco company associated with an Australian tobacco company had entered into agreements with milk bar owners under which rental payments were made in exchange for retail space, with some milk bar owners receiving up to $2,000 a year.

In the USA, tobacco companies, including those associated with Australian tobacco companies, are currently involved in legal action concerning an arrangement whereby retailers prominently display one company's products on 100 per cent of the shop's visible shelf space for three months of the year. In return, the retailers are paid to sell that company's products at a discount. In Australia, one tobacco company recently ran a promotion in which the more stock the retailer purchased, the greater his or her chances

of winning a number of prizes, including a trip to an international formula one grand prix. I think these practices speak for themselves in explaining why retailers may be interested in maximising stock holdings and product displays.

In summary, the real issue is not about whether this legislation should be enacted but about how we can justify failing to take every appropriate measure to arrest the spread of the greatest public health epidemic of our time. I am delighted, Mr Speaker, to commend this legislation to you, and I look forward to the detail stage, where we can sort out a few of our minor differences. Members had a round table discussion on them. From my perspective, in terms of the whole legislation, they are minor. There is only a slight difference of opinion. I appreciate the fact that members in this Assembly are working towards the goal of reducing the amount of harm and the amount of tobacco in our community.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1 agreed to.

Clause 2 postponed.

Clause 3 agreed to.

Clause 4

Amendment (by **Mr Moore**) proposed:

> Page 2, line 19, paragraph (b), proposed new definitions, insert the following definitions:
>
> " 'carton' means a package containing packages of a tobacco product, or a package designed to contain packages of a tobacco product, but does not include a package containing individually-wrapped cigars (unless the package contains a further package or packages of the cigars);
>
> 'cigar'—
>
> (a) means a roll of cut tobacco for smoking that is enclosed in tobacco leaf or the leaf of another plant; and
>
> (b) includes any other tobacco product prescribed as a cigar under the regulations;
>
> 'display', of a tobacco product at a point of sale display at a retail or wholesale outlet, means display to customers of the retail or wholesale outlet;
>
> 'price ticket'—see section 3A;
>
> 'product line' means a kind of tobacco product distinguishable from other kinds by 1 or more of the following characteristics:

(a) brand;

(b) flavour (including menthol flavour);

(c) nicotine or tar content;

(d) the number of items in the immediate package in which it is sold;

(e) in the case of cigars—by the fact that the cigars of the type in question are sold individually (whether or not cigars of the same type are also sold, packaged in multiples, in a different product line);

'wholesale outlet' means premises where tobacco products are available for sale exclusively by wholesale.".

MR STANHOPE (Leader of the Opposition) (5.04): I move the following amendment to the Government's amendment:

Paragraph (b), proposed new definition of "product line", omit from the definition "1 or more", substitute "2 or more".

Just before speaking to this amendment, Mr Speaker, I acknowledge my agreement with much of what the Minister said. The Labor Party is supportive of this legislation. I am supportive of much of what the Minister said in relation to this Assembly's attitude to the use and misuse of tobacco and tobacco products and the need for communities everywhere to remain vigilant and to incrementally advance programs aimed at reducing the use of tobacco and tobacco products, particularly by younger people but certainly by everybody who does use the substance.

I think members may be aware that in its first draft of the Tobacco (Amendment) Bill the Government proposed a different scheme for limiting the extent of display that a tobacco retailer or a seller of tobacco products could provide at the place of sale. That proposal restricted the area of display of tobacco products to a square metre. The proposal we are now debating provides a different formula. It provides a formula that allows for display of the full range of a product line. My amendment to the Government's proposal restricts the display of the product somewhat. The definition of "product line" which the Minister proposes and which I seek to amend reads:

'product line' means a kind of tobacco product distinguishable from other kinds by 1 or more of the following characteristics:

(a) brand;

(b) flavour … ;

(c) nicotine or tar content;

(d) the number of items in the immediate package in which it is sold;

(e) in the case of cigars …

The Minister's definition of a product line that may be displayed means any product distinguishable by any one of those characteristics. My proposal is that we reduce the number of tobacco products that might be displayed by requiring that a product line have two of those characteristics. That is, in addition to, say, brand it has to have another characteristic such as flavour, nicotine content or the number of items in the immediate package. That will restrict the number of product lines. I do not know by what percentage it will reduce it, but it will reduce somewhat. I cannot quantify it, but that will bring the area of display back somewhat to the Minister's original proposal, namely, one square metre. It is another way of reducing the area of display. I think it is commendable. I do not think it inhibits the tobacco retailer in displaying the range of products that he has. It simply limits his capacity to display every single item. For an item sold in quantities of 20 or 35, he is restricted to displaying either the 35 packet or the 20 packet.

Mr Moore: He has to make a choice about that.

MR STANHOPE: Yes, he has to make a choice. He cannot simply display every one and thereby enhance the range or the size of the display. It seems to me that it does not inhibit his capacity to display the full range of product, though perhaps it has some other administrative disabilities in that he has to display in some way, if he wishes, the fact that he has a particular product in a package of a different size. That is my proposal. It tightens the controls. It reduces the area of display. I do not think it unduly inhibits the tobacco retailer in displaying the wares he is selling. I commend my amendment to the Assembly.

MR RUGENDYKE (5.10): Mr Speaker, for what it is worth, this first amendment of Mr Stanhope's is the only one that I am not minded to support. As a simple example of why it should not be supported I mention Winfield Red and Winfield Blue. Adult people have a legitimate and legal right to choose to purchase these products. To move away from one or more of these characteristics severely limits that right of choice by adult members of our community. The rest of Mr Stanhope's amendments I agree with.

MR MOORE (Minister for Health and Community Care) (5.11): The Government, somewhat reluctantly, will be opposing Mr Stanhope's amendment. I understand the thinking behind it, and I do not for one moment question the attempt to narrow the scope of tobacco display. Our difficulty is that we negotiated with a range of different groups within the community and on a number of occasions said, "We demand this but we will give that". I think this interferes with that negotiation.

We should continue our consultation on the process if this does not get up in the Assembly. We should not dismiss it. We should subject it to a consultation process. There is no doubt in my mind that we will be continuing the process of restricting tobacco availability and tobacco products. I do not debate whether the step that Mr Stanhope has suggested is sensible. The question is whether it is sensible following the consultation we undertook. Under those circumstances the Government is unable to support this amendment at this time.

MS TUCKER (5.13): The Greens will be supporting this amendment by Mr Stanhope. It is totally in line with the position that has been put by public health groups. It is about making this a tighter piece of legislation. We are interested in reducing the incidence and uptake of smoking. Obviously, the display issue is significant. In the view of the Greens that is of more significance than the arguments that have been put up in opposition.

Question put:

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

The Assembly voted -

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

Question so resolved in the negative, in accordance with standing order 162.

Amendment (**Mr Moore's**) agreed to.

MR MOORE (Minister for Health and Community Care) (5.20): I seek leave to move amendments 2 to 6 circulated in my name together.

Leave granted.

MR MOORE: I move:

Page 3

Line 7, paragraph (b), proposed new definition of "immediate package", omit the definition, substitute the following definition:

" 'immediate package', of a tobacco product, means a package containing the product—

(a) in the case of a tobacco product other than cigars—not including a package containing a further package or packages of the product; and

(b) in the case of cigars—

(i) including a package constituted by the individual wrapping of a cigar, and a package containing individually-wrapped or unwrapped cigars; but

(ii) not including any other package containing a further package or packages of cigars (whether wrapped or unwrapped);".

Line 16, paragraph (b), proposed new definition of "point of sale", after "retail", insert "or wholesale".

Line 19m paragraph (b), proposed new definition of "point of sale display", omit "section 3A", substitute "Part 1A".

Line 26, paragraph (b), proposed new definition of "retail outlet", at the end of the definition, add "by retail".

Page 4, line 8, paragraph (b), proposed new definition of "variety of tobacco product", omit the definition.

These are a series of definitions that I think members would be agreeable to.

Amendments agreed to.

Clause, as amended, agreed to.

Clause 5

MR MOORE (Minister for Health and Community Care) (5.21): Mr Speaker, I seek leave to move government amendments 7 to 13 together.

Leave granted.

MR MOORE: I move:

Page 4 -

Line 11, omit "are inserted in Part 1", substitute "and Part are inserted".

Line 13, proposed new section 3A, omit the section, substitute the following section:

" '3A. **Price tickets**

In this Act—

"price ticket", for a product line, means a label that—

(a) includes no information other than any or all of the following:

(i) the name of the product line;

(ii) a bar code or similar identifying code;

(iii) the price of an item of the product line;

(iv) the price of a carton of the product line;

(v) a symbol indicating the country of origin of the product line;

(b) consists of lettering and any graphics in a single colour (including black or white) on another single-coloured (including black or white) background;

(c) is no larger than 35 square centimetres; and

(d) otherwise complies with the regulations, and is displayed in accordance with the regulations.".

Page 5 -

Line 14, proposed new section 3B, definition of "product information notice" after paragraph (b) of the definition, insert the following paragraph:

"(ba) with nothing attached to it (unless necessary for its support);".

Line 15, proposed new section 3B, paragraph (c), definition of "product information notice", omit the paragraph, substitute the following paragraph:

(c) listing the product lines usually available for sale at the point of sale (with or without information about the prices of items or cartons of the product lines, or boxes of cigars);

Line 27, paragraph (d), proposed new section 3C, definition of "sell", omit "and".

Line 31, proposed new section 3C, definition of "sell", paragraph (e), omit the paragraph, substitute the following paragraphs:

"(e) supply for value (or offer or expose for supply for value); and

(f) supply for free (or offer or expose for supply for free), to gain or maintain custom, or otherwise for commercial gain.".

Line 35, proposed new subsection 3D (1), definition of "tobacco advertisement", omit "is writing means", substitute "means writing,".

These amendments fit into a similar range to those that I mentioned before. Through our round table and other discussions, I understand that these amendments are agreed to.

Amendments agreed to.

Amendment (by **Mr Moore**) proposed:

That the following new Part be inserted in the Bill: Page 6, line 22:

" '**PART 1A—POINT OF SALE DISPLAYS**

'3F. **Restrictions on point of sale displays**

At a point of sale display of tobacco products—

(a) the products may only be advertised or displayed in accordance with this Part; and

(b) no tobacco advertisement for the products may be displayed (or broadcast) other than as permitted by this Part.

Note: Paragraph (b) is inserted to emphasise the effect of the prohibition of tobacco advertising under s 10 other than at a point of sale. A display of a tobacco product in a shop is likely to be a 'tobacco advertisement' within the meaning of the definition in s 3D. This is due to the text and graphics on the package of the product, or on cartons of the product.

‘3G. **Availability for sale of displayed products**

‘(1) At a point of sale display, the only tobacco products that may be displayed are those available for sale, or usually available for sale, at the point of sale.

‘(2) If immediate packages of a tobacco product are not available for sale at a point of sale, subsection (1) does not prevent the display of an immediate package of a product line if a carton of the product line is available for sale (or usually available for sale) at the point of sale.

‘3H. **Manner of display**

(1) A point of sale display of a product line of a tobacco product (other than cigars) at a retail outlet may consist of the advertisement or display of the product line at the point of sale in 1 only of the following ways:

(a) by a single representation of an immediate package of the product line in the form in which the package is available, or usually available, for sale (including the representation of an immediate package if only cartons are available for sale)—

(i) no larger than the actual size of the package, with the same appearance as the package; and

(ii) including a representation of the health warning (if any) with which the package is required to be labelled under the Trade Practices (Consumer Product Information Standards) (Tobacco) Regulations of the Commonwealth;

(b) by the display of a single immediate package of the product line in the form in which the package is available, or usually available, for sale (including the display of an immediate package if only cartons are available for sale);

(c) by means of a stack dispenser for immediate packages of the product line that complies with subsection (3).

‘(2) A point of sale display of a product line of cigars at a retail outlet may consist of the advertisement or display of the product line at the point of sale in 1 only of the following ways:

(a) by a single representation of an immediate package of the cigars in the form in which the package is available, or usually available, for sale (including the representation of an immediate package if only cartons are available for sale)—

(i) no larger than the actual size of the package, with the same appearance as the package; and

(ii) including a representation of the health warning (if any) with which the package is required to be labelled under the *Trade Practices (Consumer Product Information Standards) (Tobacco) Regulations* of the Commonwealth;

(b) by the display of a single immediate package of the cigars in the form in which the package is available, or usually available, for sale (including the display of an immediate package if only cartons are available for sale);

(c) by means of a stack dispenser for immediate packages of the cigars that complies with subsection (3);

(d) by a single representation of 1 of the cigars in the form in which the cigar is available, or usually available, for sale (including the representation of a cigar if only packages of the cigars are available for sale), no larger than the actual size of the cigar, with the same appearance as the cigar;

(e) by the display of either or both of the following:

(i) up to 13 of the cigars in an open box, or in any other manner;

(ii) a single closed box full of the cigars in the form in which the box is available for sale.

‘(3) The display of a product line by means of a stack dispenser for immediate packages of the product line is permitted at a point of sale if—

(a) in the case of packages stacked directly behind each other (from the point of view of the customer’s side of the customer service area) (‘an angled stack’)—the most that is displayed at the front of the stack is the face, or any part, of a single package;

(b) in the case of an angled stack—only the following parts (if any) of the other packages in the stack are displayed:

(i) the tops;

(ii) the sides;

(iii) the bottoms; and

(c) in the case of packages stacked on top of each other—no part of more than a single package in the stack is displayed.

‘(4) A point of sale display of tobacco products may not consist of the display of the products, packages of the products, or representations of the products or packages, so as to constitute a tobacco advertisement itself as distinct from the display of each product, package or representation.

‘3J. **Display of cartons**

‘(1) At a retail outlet, a point of sale display of a product line may not include the display of a carton of the product line, or any part of the carton.

‘(2) At a wholesale outlet, a point of sale display of a product line—

(a) may include the display of 1 or more cartons of the product line, but with only the smallest (or 1 of the smallest) sides of the carton (or cartons) facing the customer service area; and

(b) must otherwise comply with this Part.

‘3K. **Location of display**

‘(1) A point of sale display of tobacco products (other than cigars) may only be located—

(a) at a point of sale; and

(b) except in the case of a vending machine—on the seller's side of the point of sale, not less than 1 metre away from any part of the customer service area in relation to the point of sale.

'(2) A point of sale display of cigars may only be located—

(a) for a display of cigars mentioned in paragraph 3H (2) (e)—within a customer service counter at the point of sale, if the cigars or boxes may only be viewed by customers looking down through the (transparent or semi-transparent) top of the counter (and may not otherwise be viewed from the customer's side of the counter); or

(b) for a display of cigars mentioned in paragraph 3H (2) (e), or for any other display of cigars mentioned in subsection 3H (2)—

(i) at a point of sale; and

(ii) except in the case of a vending machine—on the seller's side of the point of sale, not less than 1 metre away from any part of the customer service area in relation to the point of sale.

'3L. **Other display requirements by regulation**

A point of sale display must comply with any requirements prescribed under the regulations additional to those imposed by this Part.'.".

MR RUGENDYKE (5.22): Mr Speaker, I seek leave to move amendments 1 and 2 circulated in my name together.

Leave granted.

MR RUGENDYKE: I move the following amendments to Mr Moore's amendment:

Proposed new paragraph 3H (1) (c), omit the paragraph, substitute the following paragraph:

"(c) by means of—

(i) a single stack dispenser for immediate packages of the product line that complies with subsection (3); or

(ii) if permitted under subsection (1A)—2 stack dispensers for immediate packages of the product line that comply with subsection 93).".

After proposed new subsection 3H (1A), insert the following subsection:

"(1A) A point of sale display of 1 or more product lines at a point of sale may consist of the advertisement or display of the product line (or product lines) by means of 2 stack dispensers for the product line, or 2 stack dispensers for each product line (as the case may be).".

Mr Speaker, these amendments simply allow legitimate business owners to have two facings of their two most fast-moving products on display. I ask members to seriously consider the safety implications in these amendments and give favourable consideration to them.

MR MOORE (Minister for Health and Community Care) (5.23): I will be opposing Mr Rugendyke's amendments because they are unnecessary, for the reason that he gives. Mr Rugendyke indicates that there is a safety question in people having to go out the back or to reach down to restock the dispenser. The legislation does not limit the number of feeder runs. It just limits the number of feeder runs that can be exposed. A person selling will be able to do it whichever way they like. They may have just a roll-down cover over the second run and move that over, so they could still keep the same amount of stock there, or they could keep their boxes next to them to refill the dispenser. I think these amendments are unnecessary. They have the unfortunate consequence of allowing further display of cigarettes when the very thing we are trying to achieve is the reduction of the visual impact of cigarettes without stopping retailers from providing a choice to people. Since Mr Stanhope's amendment was lost, they can still display one element of each product. I think these amendments are unnecessary and therefore the Government will oppose them.

MS TUCKER (5.25): The Greens also will not be supporting these amendments. This was discussed at the round table and it was made clear to retailers, as Mr Moore has already explained, that if they are fearful and they feel they cannot put the extra stock under the counter they can still have a rack there. It just cannot be exposed and displayed, which is the essential aspect of this piece of legislation.

Amendments (**Mr Rugendyke's**) to **Mr Moore's** amendment negatived.

Amendment (by **Mr Stanhope**) to **Mr Moore's** amendment proposed:

> Proposed new subsection 3K (1), omit the subsection, substitute the following subsection:
>
> " '(1) A point of sale display of tobacco products (other than cigars) may only be located at a point of sale.".

MR MOORE (Minister for Health and Community Care) (5.26): Mr Speaker, I think this is the only other one of Mr Stanhope's amendments that the Government will be opposing. The appropriate limitations are put on the point-of-sale display. I think it is fair to say that on the one hand Mr Stanhope is tightening up the Act. On the other hand, there is a quid pro quo. This is the approach I used in allowing a bit of freedom about where the tobacco product would be displayed. I would like to argue, Mr Stanhope, that you lost the first one and therefore you should not give your quid pro quo. I understand that perhaps you will bring that other one back on. Nevertheless, I think we should retain a firm stance on the display. We have a negotiated position about display, and I think that is what we should maintain.

Your other amendments, Mr Stanhope are not about negotiations. They are about issues of power, civil liberties and so forth. They are entirely different issues, which is why we are very comfortable about supporting the further amendments you have. But the Government will oppose this amendment.

MS TUCKER (5.27): The Greens will also be opposing this amendment from Mr Stanhope. We believe, as the Government does, that the time period that has been allowed is adequate. It is more than New South Wales has, and they were able to do it. We will be supporting the Government in opposing this amendment.

MR RUGENDYKE (5.29): Mr Speaker, once again, for what it is worth, I support this amendment.

Amendment (**Mr Stanhope's**) to **Mr Moore's** amendment negatived.

Amendment (**Mr Moore's**) agreed to.

Clause, as amended, agreed to.

Clause 6 agreed to.

Clauses 7 to 13, by leave, taken together.

MR MOORE (Minister for Health and Community Care) (5.31): Mr Speaker, I seek leave to move government amendments Nos 15 to 18 together.

Leave granted.

MR MOORE: I move:

Clause 10, page 10, line 3, proposed new subsection 8 (7), definition of "tobacco product package", paragraph (b), omit "variety of", substitute "product line of a".

Clause 12, page 11, line 8, proposed new section 9A, after "retail outlet", insert "or wholesale outlet".

Clause 13, page 11 -

Line 15, omit "section is", substitute "sections are".

Line 30, after proposed new section 9B, insert the following section:

" '9C. **Health warnings at point of sale displays**

'(1) An occupier of a retail outlet or a wholesale outlet must display a health warning notice that complies with this section at or adjacent to each point of sale display at the outlet—

(a) so as to be clearly visible from the customer service area in relation to the point of sale; and

(b) so that the lowest point of the notice is at least 1 metre above the floor, as measured from the highest point on the seller's side of the point of sale.

Penalty:

(a) for an individual—50 penalty units;

(b) for a body corporate—250 penalty units.

‘(2) A health warning notice must—

(a) have an unbroken flat surface, coloured white, with an area of at least—

(i) 10% of the total display surface area of the point of sale display, or 1 square metre, whichever is smaller; or

(ii) if regulations are made prescribing a different minimum area—the area prescribed under the regulations;

(b) display 1 of the following health warnings in Helvetica Medium capitals, in black letters in a single line:

(i) “SMOKING KILLS”;

(ii) “SMOKING IS ADDICTIVE”;

(iii) any other text prescribed under the regulations;

(c) display immediately beneath the health warning the following words in Helvetica Medium lower case type, with initial capitals, in black letters of at most half the height of the letters of the health warning, in a single line:

“Government Health Warning”;

(d) display no other text or graphics unless required or permitted under the regulations; and

(e) have nothing attached to it (unless necessary for its support).

‘(3) The area of the smallest rectangle that can be drawn around the text (and any graphics) in the notice must represent at least 80% of the total area of the notice.

‘(4) In this section—

‘point of sale display’ does not include a vending machine;

‘total display surface area’, of a point of sale display, means the total surface area of all the following elements of the display (not including any intermediate areas within the point of sale):

(a) representations of immediate packages of tobacco products;

(b) the displayed faces of immediate packages of tobacco products;

(c) the transparent top (or front, if the cabinet is mounted vertically) of each display cabinet or humidor of tobacco products at the point of sale display;

(d) the area of the lid of each open and closed cigar box on display, unless contained within a display cabinet or humidor;

(e) for a wholesale outlet—the area of the displayed side of each carton of a product line on display.’.”.

These amendments continue the process of clarification which I understand members have agreed to.

Amendments agreed to.

Clauses, as amended, agreed to.

Clauses 14 to 17, by leave, taken together.

MR MOORE (Minister for Health and Community Care) (5.32): I seek leave to move government amendments 19 to 21 together.

Leave granted.

MR MOORE: I move:

Clause 15, page 12, line 27, paragraph (c), proposed new paragraph 10 (2) (ca), omit the paragraph, substitute the following paragraphs:

"(ca) a single product information notice at or adjacent to a point of sale;

(caa) a single price ticket at a point of sale display for each product line on sale (or usually available for sale) at the point of sale;".

Clause 17, page 15 -

Line 31, proposed new subsection 11A (7), definition of "object", omit the definition, substitute the following definition:

" 'object' does not include a tobacco product.",

Line 32, after proposed new section 11A, insert the following section:

" '11AA. **Tobacco product giveaways**

'(1) A person must not supply a tobacco product for free if the supply promotes the sale of any tobacco product for value.

Penalty:

(a) if the offender is a natural person—50 penalty units;

(b) if the offender is a body corporate—250 penalty units.

'(2) In a prosecution for an offence against subsection (1), for the purpose of establishing whether the supply of a tobacco product for free promotes the sale of any tobacco product for value—

(a) it is sufficient to prove—

(i) that any material published (or caused, permitted or authorised to be published) by the defendant in relation to the supply would be likely to cause a reasonable person to believe the sale of any tobacco product for value to be promoted, or intended to be promoted, by the supply; or

(ii) that there are other reasonable grounds for believing the sale of any tobacco product for value to be promoted, or intended to be promoted, by the supply; and

(b) the sale of any tobacco product for value may be found to be promoted by the supply irrespective of the actual belief of the defendant.

'(3) In this section—

"promotion", of the sale of a tobacco product for value, includes the inducement of the sale of the product for value;

"supply", of a tobacco product for free, includes the offer or exposure of the product for supply for free.".

Amendment 19 is about the information on a notice adjacent to a point of sale. Amendment 20 is about the definition of "object" Amendment 21 is about tobacco product giveaways.

Amendments agree to.

Clauses, as amended, agreed to.

Proposed new clause 17A

MS TUCKER (5.33): I move:

That the following new clause be inserted in the Bill: Page 16, line 40:

"17A Prohibition of sponsorships

Section 12 of the Tobacco Act is amended by omitting subsections (3), (4), (4A) and (5) and substituting the following subsections:

'(3) This section does not apply in relation to a scholarship given, or agreed to be given, by a manufacturer or distributor of a tobacco product to an employee, or a member of the family of an employee, of the manufacturer or distributor.

'(4) This section also does not apply in relation to a contract, agreement, undertaking or understanding mentioned in paragraph (3) (b) of this section, as in force immediately before the day the *Tobacco (Amendment) Act 1999* was notified in the *Gazette*.'.".

This amendment is about the right of the Minister to make an exemption for sponsorship. We are putting up this amendment because we think it is important to have this in the legislation. It is the view of the Greens that there is the possibility of very influential events having tobacco sponsorship, particularly in light of the information regarding the habits of adults and when they started smoking. It has been found that most adults take up the habit of smoking during adolescence, starting between the ages of 12 and 16, and 80 per cent of new smokers are children. It has been put to me that the Government should be able to give sponsorship exemptions for sports teams. The example given was the Indian cricket team. That just flies in the face of all the evidence about what will influence young people. If one thing will influence young people, it is their sporting heroes wearing a cigarette logo and promoting cigarettes. It is quite unacceptable to have that ability left in the legislation. We believe that in the interests of progressing the cause of reducing the uptake of smoking in young people this amendment should be supported.

MR STANHOPE (Leader of the Opposition) (5.35): Mr Speaker, the Labor Party will not be supporting the Greens' amendment, not because we do not accept much of the sentiment that Ms Tucker has just expressed, but for a couple of reasons, one of which is that we probably have not had sufficient notice of the proposal. We have not discussed it with anybody. Another reason is that I think there is potential for a range of circumstances to arise in the future, circumstances that we cannot foresee, that would make the prohibition of the advertising of certain tobacco products perhaps unfortunate. There is potentially a range of circumstances that we cannot foresee at the moment in which we would wish the Minister perhaps to exercise a discretion. I think it is a possibility. I do not think we should deny the exercise of a discretion in those circumstances, particularly when we cannot truly foresee what they might be. I regret that the Labor Party will not support the amendment.

MR MOORE (Minister for Health and Community Care) (5.36): Mr Speaker, once again I am reluctant in some ways but I will not support the amendment, and the Government will not support the amendment put up by Ms Tucker. We understand the intent of what she is trying to achieve. But I assure members that I will be reluctant to sign any such exemption, as indeed Ms Carnell and Mr Berry were when I moved disallowance on their exemptions. We did identify problems at the time. I seem to remember one of them signing something and the exemption coming into operation before it appeared for disallowance in the Assembly.

I am prepared to assure members of the Assembly that I will circulate any exemption that I am proposing to make and make sure that there is majority support in the Assembly before I sign any such exemption, so that that circumstance does not go against the will of the Assembly. Of course nobody would want to sign those sorts of exemptions, but decisions are made on the priorities of the health of a nation, its sport and so forth, as against the insidious nature of tobacco and the style of tobacco advertising sometimes used in Third World countries. Ms Tucker, it is only a matter of time before this sort of amendment you are putting up does get up, but I do not think the time is here yet.

Amendment negatived.

Clause 18

MR MOORE (Minister for Health and Community Care) (5.38): Mr Speaker, I seek leave to move government amendments Nos 22 to 25 together.

Leave granted.

MR MOORE: I move:

> Page 18, line 39, proposed new subparagraph 12D (2) (b) (i), after "product information notices,", insert "price tickets,".
>
> Page 19, line 5 -
>
> Proposed new subparagraph 12D (2) (b) (ii), omit "or" (last occurring).

After proposed new subparagraph 12D (2) (b) (ii), insert the following paragraph:

(iia) to impose conditions relating to the sale of tobacco products to under 18 year olds; or".

Page 21, line 27, after proposed new section 12G, insert the following section:

" '12GA. **Exercise of powers by authorised officers who are police officers**

The powers conferred by this Part on an authorised officer who is a police officer are additional to the powers the officer may exercise in his or her capacity as a police officer.".

Mr Speaker, these amendments continue the process of looking at price tickets and they impose conditions relating to the sale of tobacco products to under-18-year-olds. Amendment 25 is about the exercise of power by authorised officers who are police officers. I know that on this issue of the exercise of power there will be some amendments coming from Mr Stanhope. We will look at those.

Amendments agreed to.

MR STANHOPE (Leader of the Opposition) (5.39): Mr Speaker, I seek leave to move together amendments Nos 3 to 5 on amendment schedule 1, the blue schedule, circulated in my name.

Leave granted.

MR STANHOPE: I move:

Page 22, line 3, proposed new paragraph 12J (1) (a), omit the paragraph, substitute the following paragraph:

"(a) enter the premises of any retail outlet or wholesale outlet at any time at which tobacco product are available for sale at the outlet;".

Page 22, line 26, after proposed new subsection 12K (2), insert the following subsection:

"(2A) In proceedings for the purposes of this Act, evidence obtained as a result of the entry onto any premises by an authorised officer under paragraph 12J (1) (b) is inadmissible unless an acknowledgment under subsection (2) is produced in evidence.".

Page 23, line 11, proposed new paragraph 12L (1) (f), omit "any person on the premises", substitute "the occupier of the premises, or any person whom the officer has reasonable grounds for believing to be an employee or agent of the occupier (if present in his or her capacity as employee or agent), or otherwise to be concerned in the occupier's business at the premises.".

Mr Speaker, these amendments go to some of the detail of the powers vested in authorised officers in relation to the administration of the legislation. At the conference which the Minister convened today, we had some discussion about the appropriateness of

the range of powers the legislation vests in authorised officers. It is the view of the Labor Party that to some extent the powers vested by the Bill in authorised officers are perhaps unnecessarily broad.

I noted that in closing the debate at the in-principle stage the Minister commented that we are dealing with a particularly serious health issue. There is no doubt about that. The Minister made some comment about the seriousness of some of the offences under the Tobacco Act, particularly those in relation to ensuring that minors and people under age are not sold tobacco products, are not enticed to use them, and do not use them. I agree with the Minister in relation to that.

The issues we raise here in these amendments, issues going to the powers of authorised officers, always raise those questions of judgment. These are questions of fine judgment - the extent to which one does authorise a whole range of officials to undertake certain activities, to enter premises, to search, to ask questions. That range of issues in relation to the powers of public officials vis-a-vis our communities, our governments or an administration's attempts to control certain behaviour are always difficult issues. They are always issues of fine judgment. In relation to this particular legislation controlling the sale of tobacco products, the Labor Party has a view about where to draw the line with those powers.

I note the points the Minister makes in relation to the appropriateness of public health officials under tobacco legislation having the same power as, or more extensive powers than, police officers. There is no intended slight of public authorised officers under this legislation in suggesting that there are a range of functions that more appropriately might be vested in, or exercised by, police. We do not intend in any way to slight authorised officers, health officers who work under this legislation.

The amendments I propose go to the entry by authorised officers of retail premises. We are suggesting that those powers of entry should be exercised only at times at which tobacco products are available; that they not be exercised out of hours, in other words; that search warrants not be executed at midnight or something like that; that if it were decided to enter a premises it be done during normal business hours.

I am proposing in my amendment No. 4 that evidence obtained as a result of entry onto premises by an authorised officer be inadmissible unless an acknowledgment under subsection (2) is produced in evidence. That goes simply to the formal requirements which we believe should be imposed on an authorised officer seeking to take information or a statement from a person they suspect, on reasonable grounds, to be involved in an offence under the Act. It goes a little further than the provision the Minister had included in the Bill. It goes one step further.

The Minister did discuss at the conference today the extent to which the Government had moved to accept the recommendations of the scrutiny of Bills committee. The Minister did go some way to meeting those recommendations. This proposal of ours actually goes further and, we believe, more fully implements the recommendations of the scrutiny of Bills committee in relation to the appropriate range of powers that authorised officers should have.

The third of the amendments goes to the range of persons who can be questioned or searched on retail premises. Once again it simply restricts the powers of the authorised officer to those persons on the premises who are the occupiers or employees or agents of the occupiers - namely, the retailer or the retailer's staff. We believe these to be an appropriate range of powers to vest in authorised officers.

MR MOORE (Minister for Health and Community Care) (5.45): The Government recognises that these are quite sensible amendments consistent with the scrutiny of Bills committee report and is quite comfortable about accepting them.

Amendments agreed to.

MR MOORE (Minister for Health and Community Care) (5.46): Mr Speaker, I seek leave to move government amendments Nos 26 and 27 together.

Leave granted.

MR MOORE: I move:

> Page 23, line 2, proposed new subsection 12L (1), omit "(1)".
>
> Page 23, line 16, proposed new subsections 12L (2) and (3), omit the subsections, substitute the following sections:
>
> " '12LA. **Exercise of powers in public places**
>
> '(1) This section applies to offences against the following sections ('tobacco sale or promotion offences'):
>
> - section 4 (Supply of tobacco to under 18 year olds)
> - section 5 (Purchase of tobacco for under 18 year olds)
> - section 7 (Non-smoking tobacco)
> - section 8 (Food and toys resembling or promoting tobacco products)
> - section 9 (Sale of cigarettes in quantities fewer than 20)
> - section 10 (Prohibited tobacco advertising)
> - section 11A (Tobacco product promotions)
> - section 11AA (Tobacco product giveaways)
> - section 11B (Competitions that promote tobacco products).
>
> '(2) If an authorised officer has reasonable grounds for believing that a person in a public place can provide evidence about the commission of a tobacco sale or promotion offence, the officer may, for the purposes of this Act, with the consent of the person, do any or all of the following:
>
> (a) inspect anything held by the person;
>
> (b) take copies of any documents in the person's possession;
>
> (c) take photographs of anything in the person's possession;

(d) open and inspect any package held by the person that the officer has reasonable grounds for believing to contain a thing connected with a tobacco sale or promotion offence;

(e) seize anything held by the person connected with a tobacco sale or promotion offence;

(f) ask the person for information, or ask the person questions, or both.

" '12LB. **Consent to exercise of powers in public places**

'(1) Before obtaining the consent of a person to exercise a power under section 12LA (Exercise of powers in public places), an authorised officer must—

(a) produce his or her identity card; and

(b) tell the person that he or she may refuse to give consent.

'(2) If an authorised officer obtains the person's consent, the officer must ask the person to sign a written acknowledgment of—

(a) the fact that the person has been told that he or she may refuse to give consent;

(b) the fact that the person has voluntarily given consent; and

(c) the date and time when the consent was given.

'(3) An exercise of a power by an authorised officer in reliance on the person's consent is not lawful unless the consent was voluntary.

'(4) If—

(a) it is material, in any proceeding, for a court to be satisfied that a person consented to the exercise of a power under section 12LA; and

(b) an acknowledgment under subsection (2) is not produced in evidence;

the court must assume, unless the contrary is proved, that the consent was not voluntary.

'12LC. **Provision of information—claim of privilege**

If an authorised officer asks a person to provide information, or to answer questions, under subparagraph 12L (f) (ii) or (iii), or paragraph 12LA (2) (f), the person is not required to do so in relation to any information in respect of which he or she is entitled to claim, and does claim, legal professional privilege, or privilege against selfincrimination.".

These amendments are also about exercise of power and are part of recognising the report of the scrutiny of Bills committee. I know that Mr Stanhope has further amendments to move to ensure that we get an agreed position on what those powers should be. I indicate now that the Government will be accepting Mr Stanhope's further amendments to the powers, because we have come to an agreed position as to the right powers for our public health officers to exercise in regard to this legislation.

Mr Stanhope did say to me in the round table meeting that if it appears necessary we would look at them in about six months' time to see whether they are working. I hope that they will be satisfactory. My judgment at this stage is that they will be a satisfactory range of powers.

MR STANHOPE (Leader of the Opposition) (5.47): Mr Speaker, I move:

> Proposed new sections 12LA, 12LB and 12LC, omit the sections, substitute the following section:
>
> "12LA **Provision of information under s 12L (f)—claim of privilege**
>
> '(1) This section applies if an authorised officer requires a person to provide information, or to answer questions, under subparagraph 12L (f) (ii) or (iii).
>
> '(2) The person need not comply with the requirement in relation to any information in respect of which he or she is entitled to claim, and does claim, legal professional privilege, or privilege against selfincrimination.
>
> '(3) Before the person provides the information, or answers the questions, the officer must—
>
> (a) produce his or her identify card; and
>
> (b) tell the person that he or she need not comply with the requirement in relation to any information in respect of which he or she is entitled to claim, and does claim, legal professional privilege, or privilege against selfincrimination.
>
> '(4) The officer must ask the person to sign a written acknowledgment of—
>
> (a) the fact that the person has been told that he or she need not comply with the requirement in relation to any information in respect of which he or she is entitled to claim, and does claim, legal professional privilege or privilege against selfincrimination; and
>
> (b) the fact that the person has, or has not, claimed legal professional privilege, or privilege against selfincrimination, in relation to information specified in the acknowledgment; and
>
> (c) the date and time when the requirement was made.
>
> '(5) In proceedings for the purposes of this Act, evidence obtained as a result of the requirement is inadmissible unless an acknowledgment under subsection (4) is produced in evidence.'.".

I take the point that the Minister has made. At the conference the Minister referred to, there was a discussion about this amendment. The Labor Party is more than happy with, and quite open to, this amendment being assessed at some time in the near future in the light of experience. If it is demonstrably the case that the enforcement arrangements are not working as a result, then the Labor Party will be quite open to suggestions from the Government, in light of its experience, as to how this provision might be improved or tightened.

Amendment (**Mr Stanhope's**) to **Mr Moore's** amendments agreed to.

Amendments (**Mr Moore's**), as amended, agreed to.

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

> Page 24, line 13, proposed new paragraph 12N (1) (a), after "magistrate", insert "by a police officer".

Mr Moore: Mr Stanhope might need to move together amendments 8, 9, 10 and 11 on the blue sheet.

MR STANHOPE (Leader of the Opposition) (5.53): I seek leave to move amendments 8 to 11 on the blue sheet together.

Leave granted.

MR STANHOPE: I move:

> Page 24, line 24, proposed new paragraph 12N (2) (c), omit "subsection 12L (1)", substitute "section 12L".
>
> Page 25, line 2, proposed new paragraph 12N (4) (c), omit "subsection 12L (1)", substitute "section 12L".
>
> Page 25, line 13, proposed new subsection 12P (2), omit "12L (1) (f)", substitute "12L (f)".
>
> Page 25, line 34, proposed new subsection 12Q (4), definition of "seized item", omit "12L (1) (e)", substitute "12L (e)".

Amendments agreed to.

Clause, as amended, agreed to.

Clauses 19 and 20, by leave, taken together and agreed to.

Clauses 21 to 23, by leave, taken together and agreed to.

Clause 24 agreed to.

Clause 2 agreed to.

Title agreed to.

Bill, as amended, agreed to.

ADJOURNMENT

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

> That the Assembly do now adjourn.

Canberra Institute of Technology - Indigenous Art

MR WOOD (5.56): A month or two ago I visited the workshop at the Canberra Institute of Technology where indigenous art is being taught and being carried out at a very high level. It is an area of interest to me and, I am sure, to many others in this town and in this Assembly. I was very encouraged by what I saw at the institute, with a high level of artistic skill being applied by people very early in their training. The work on display when I went there was very good to see. It is a program that I trust the institute will carry on for some considerable time, that will expand and that will bring more and more indigenous artists into its fold.

I was very pleased to see the workshop they had, which showed all the signs of great activity, very encouraging activity, although I guess space was fairly cramped. They could do with more space. I am sure that is one of the things Mr Stefaniak will look at in the future. Perhaps most encouraging of all about my visit was the absolute enthusiasm of all people there, both staff and students, towards the projects they are carrying out. It is that level of enthusiasm more than anything which will ensure the success of that course. Other members from time to time might like to turn up at the institute to see the quality of work and what is happening, and we might encourage them in these quite important creative endeavours.

Nara Women's University Scholarship

MR HIRD (5.58): Mr Speaker, I would like to inform the house that Belinda Brice, a student of the Canberra University, has won a scholarship with the Nara Women's University under the sister city arrangements which were negotiated by the Chief Minister and the former Government. I am delighted to inform the house that Belinda is the first student to be chosen under these circumstances. Belinda has taken the community's best wishes and an ACT flag to present to the Nara university. I am particularly proud for her parents and other members of the Belconnen community and for the University of Canberra. She is a bright, intelligent lady who will do well in her studies during the 12 months she is in that university in Nara.

Question resolved in the affirmative.

Assembly adjourned at 5.59 pm.